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## I

(Resolutions, recommendations and opinions)

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

500TH EESC PLENARY SESSION, 9 AND 10 JULY 2014

**Opinion of the European Economic and Social Committee on ‘European immigration policy and relations with third countries’**

**(exploratory opinion)**

(2014/C 451/01)

Rapporteur: **Panagiotis Gkofas**

Co-rapporteur: **Luis Miguel Pariza Castaños**

On 6 December 2013, in accordance with Article 304 of the Treaty on the Functioning of the European Union, the Greek presidency of the EU decided to ask the European Economic and Social Committee to draw up an exploratory opinion on:

*European Immigration policy and relations with third countries.*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion by 64 votes to 1 with 4 abstentions.

**1. Conclusions and recommendations**

1.1 The purpose of this opinion is to feed into the work of the Greek presidency, and also to give continuity under the Italian presidency, to ensure that the external dimension of the EU's immigration and asylum policy is strengthened. Immigration is a particularly complex issue that calls for cooperation between many stakeholders and joint, comprehensive management by the EU, at both international and European levels <sup>(1)</sup>.

1.2 The EU has to stop treating immigration policy as an almost exclusively internal matter. It is this erroneous idea that lies at the root of some of our mistakes. The EESC considers that Europe should manage immigration as part of a global approach that embraces both **internal** and **external** aspects: internal management of migration flows and cooperation with third countries must be seen as components of a single policy, if it is to be effective.

1.3 We must also adopt a global approach to the **challenge of human mobility in a globalised economy**. Immigration and mobility are closely interlinked. International dialogue on the mobility of people and migration should tie in with other aspects of European policy such as trade, development cooperation, human rights and security.

1.4 As EU Member States cannot adequately manage immigration and asylum individually, the Treaty lays the foundations for a common policy that must be established on the basis of harmonised legislation. The principle of solidarity and fair sharing must be strengthened.

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<sup>(1)</sup> See REX/375 and REX/351.

1.5 The EU must take responsibility for monitoring its external borders, which are the borders of the entire European Union in the Schengen area. Frontex should become an European border guard service. The EU should increase solidarity between the Member States and improve the sharing of responsibilities.

1.6 Some European regions face specific problems because of their geographical location as they are mid-way points for irregular immigration and sometimes receive more immigrants than they can cope with. The European Union should put in place procedures for better sharing responsibilities, and for the provision of financial, operational and reception support.

1.7 In a globalised world, Europe must work together with third countries and the international institutions to promote an international legal framework for migration and mobility.

1.8 Here, the EESC believes that immigration must be addressed in three inter-related locations: in the immigrants' **countries of origin**, in **transit countries** and in the **countries of destination**, in this case the EU, **as only in this way will it be possible to address migration flows effectively**.

1.9 Immigration and asylum policy needs to be better coordinated with the EU's external policy. The European External Action Service (EEAS) should carry out its role and cover immigration, border and asylum policies, in order to ensure greater consistency. The EESC, which has contributed to the work of the Greek presidency, welcomes the inclusion of the external dimension of migration, asylum and border management in the strategic guidelines to adopted by the European Council on 26—27 June 2014. The European Parliament should also be given a greater role in these matters.

1.10 Under a Global Approach to Migration and Mobility (GAMM), the EU should conclude agreements with third countries, especially neighbouring countries, immigrants' countries of origin and transit countries.

1.11 The Committee proposes that, to this end, dialogue be stepped up with these countries, with a view to concluding new mobility and migration partnerships with broader content, as set out in points 1.3 and 5.1.6.

1.12 Mobility partnerships have a number of limitations that will need to be overcome in the next few years, because they are not binding on the contracting parties. Their flexibility helps secure political agreements without imposing legal obligations, but in the EESC's view, they should be converted into binding international agreements.

1.13 Mobility partnerships' priorities should include aspects relating to economic migration and mobility: in addition to security, repatriation and border surveillance, greater priority should be given to the organisation of legal migration and visa policy, recognition of qualifications, social security rights, and migration and mobility's contribution to development.

1.14 The EESC proposes setting up EU migration offices in countries of origin, run by the European Commission and staffed by officials from the EEAS, DG HOME and DG EMPL. The EU's immigration web portal is a useful but inadequate tool. It should be available in more languages and be more interactive.

1.15 Cooperation needs to be improved with countries of origin and transit and irregular migration must be anticipated and prevented. Information campaigns also need to be launched, and criminal networks illegally trafficking or smuggling migrants effectively tackled. Police and judicial cooperation is crucial to the fight against criminal networks. In order to make their unlawful profits, traffickers and smugglers endanger people's lives and safety. Mobility partnerships should develop new forms of cooperation on border surveillance and on assisted return.

1.16 Equally crucial are financial assistance and development programmes based on the **positive conditionality principle (more for more)**, simultaneously addressing the various factors involved in immigration, including a return and readmission policy. Similarly, it is important to strengthen civil society organisations and their involvement in the mobility partnerships.

1.17 The EESC also advocates cooperation between Frontex and Europol to combat organised crime, particularly trafficking and smuggling of migrants and close cooperation with human rights organisations, such as the International Organisation for Migration, the United Nations High Commission for Refugees (UNHCR) and the International Centre for Migration Policy Development. Equally, the EESC supports the Commission's Regulations for more flexible management of the Asylum and Migration Fund and the Internal Security Fund from 2014 onwards.

1.18 At EU level, an appropriate and cohesive common European policy on immigration should be established, and based on the mutual support and commitment of all Member States. The EU must adopt an effective return policy based on international treaties pertaining to repatriation and readmission. The EU's borders, including the sea borders of the Mediterranean EU Member States, are the borders of all EU Member States and, this being the case, it is the responsibility of all Member States actively to ensure their protection, in accordance with the treaties.

1.19 The human rights of irregular immigrants should be respected at all times, during their rescue or reception, until they acquire protection status, when they are in an irregular situation 'without papers' or when being sent back to their countries of origin. Additional and better temporary residence and reception centres for immigrants should be established in all Member States, with support from the entire European Union, taking into account conditions regarding health and medical assistance provision, as well as faster examination of asylum or social assistance applications. The EESC reiterates its opposition to holding asylum seekers and irregular immigrants in detention centres, especially children, minors who are unaccompanied, pregnant women and those with serious illness.

1.20 The Committee is concerned to note that intolerance, racism and xenophobia towards immigrants are on the rise in Europe and is also alarmed because in some Member States the protection of people's fundamental rights is being eroded.

1.21 All Community institutions have reiterated immigration's importance for the EU, for reasons of both economics and demography. The Europe 2020 strategy also makes this point. As the EESC has repeatedly stated, European immigration policy must therefore be proactive and protect human rights, combat labour-related and social discrimination and further develop the integration agenda.

1.22 The EU should set up a common asylum system based on harmonised legislation. The Dublin Convention should be replaced with a more inclusive system within the EU that takes account of asylum seekers' wishes and that ensures a more proportionate distribution of responsibility among the Member States.

1.23 The new regulation on the **Asylum, Migration and Integration Fund** focuses particularly on emergency and crisis situations. The EESC agrees with the Commission's proposal to ensure that the EU has the capacity to act flexibly, with sufficient financial resources to tackle emergencies. The arrival of many people from Syria and other war zones in Africa means that the EU has to take action, because these are humanitarian emergencies.

## 2. Introduction

The absence of a common European immigration policy, the recent and on-going tragic events with respect to deaths at sea off Libya, Malta, Greece, Italy and Spain, the ever growing numbers of refugees arriving at the borders of Syria, the complexity of the problem and the sheer volume of people, are all factors putting considerable pressure on the ability of the Mediterranean countries in particular to respond. For this reason, we welcome the fact that immigration issues will continue to be a priority for Italy, the Member State currently holding the EU presidency, as it was for Greece, the outgoing presidency.

### 3. Europe and the international governance of migration

3.1 In the 21st century, both migration flows and people's mobility will increase. Currently, only 3 % of the world's population live outside their country of birth, but trends suggest that these movements will grow in future (the annual growth rate stands at 3 %). It should be pointed out, furthermore, that migration flows are increasing between the countries of the South, especially to what have come to be known as the emerging countries. Mobility between EU Member States <sup>(2)</sup> and within the European Economic Area is also on the rise.

3.2 Poverty, unemployment, demographic trends, lack of opportunity, conflicts, environmental disasters and climate change are some of the causes of international migration.

3.3 The EESC has proposed that, under its external policy, the EU should promote an international legislative framework for migration and mobility that will alleviate pressures on Member States. This international legal framework should include the main ILO conventions and the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which has not yet been ratified by the EU Member States <sup>(3)</sup>. The EESC calls on the European Commission to draw up a report on the measures Member States are taking, in order to pave the way for ratifying the convention in the very near future.

3.4 The main objective of this opinion is to examine and highlight the main issues raised by immigration in all its aspects, as indicated, so as to seek comprehensive solutions that will secure an immigration policy that is effective but which also respects immigrants' rights.

### 4. The internal dimension: the EU's common immigration, asylum and integration policy

#### 4.1 *Common immigration policy*

4.1.1 Over the last ten years, the EU has gradually adopted a **common legal framework** for such aspects as long-term resident status and family reunification. Entry conditions have been harmonised for students and researchers, and there is the Blue Card for highly qualified migrants. Cross-cutting legislation has also been adopted, with the single permit for migrant workers and the Directive on the admission of temporary workers and the Directive for the admission of intra-corporate transferees.

The EU needs to give a boost to the common policy on labour immigration and equip itself with a legal framework that is coherent, comprehensive, cross-cutting and guided by respect for workers' rights, equal treatment, the needs of companies and the legal employment of migrant workers. Legislation and cooperation with the countries of origin are needed, allowing labour immigration through channels that are legal and transparent, for both highly skilled workers and those working in less skilled jobs.

A comprehensive and coherent immigration, asylum and border management policy is needed, together with legislative harmonisation, actively involving the Member States, the European Commission administration, the EEAS and the relevant European bodies.

4.1.2 The EESC and the Commission are cooperating closely on **integration policies**. Under the umbrella of the Common Basic Principles, the EU is developing an agenda for integration that also entails a financial fund. The EESC and the Commission will continue to work together in the European Integration Forum.

#### 4.2 *A common asylum system*

4.2.1 The EU is establishing a **common asylum system** and legislation for harmonisation, but the situation is still far from adequate, because the Member States have different policies and laws in place <sup>(4)</sup>.

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<sup>(2)</sup> See SOC/373.

<sup>(3)</sup> OJ C 191, 29.6.2012, p. 134-141.

<sup>(4)</sup> The EU has obligations vis-à-vis asylum policy under the Treaty on the Functioning of the EU, the Charter of Fundamental Rights and international conventions.



4.2.2 The Committee has criticised the EU for showing little solidarity when it comes to asylum, as 90 % of requests have been processed in just ten Member States. In relative terms, it is the smaller countries, such as Malta, Cyprus and also Greece, that are facing the greatest pressure.

4.2.3 The **Dublin Convention** determines which Member State is responsible for examining an asylum application but, in the EESC's view, this system does not make for solidarity between the EU Member States. Asylum seekers should be able to submit their request in any Member State. In the medium term, the EU must be given new powers to ensure that it and not national authorities manage requests. In this way, requests would be examined more quickly and the conditions for granting asylum would also improve. In short, the Dublin Convention should be replaced with a more inclusive system within the EU that takes account of asylum seekers' wishes and ensures a more proportionate distribution of responsibilities among the Member States.

4.2.4 In order to help the Member States develop the new asylum system, the **European Asylum Support Office** (EASO) has been set up, and will also provide technical and operational assistance. EASO should have the task of assessing national asylum systems and their compliance with European and international law and fundamental rights.

4.2.5 The EESC proposes that **resettlement programmes** be expanded to transfer refugees from outside the EU and to resettle them within its borders, in cooperation with third countries and the UNHCR.

4.2.6 The Committee also suggests expanding the **relocation programmes** within the EU, providing financial incentives for Member States adhering to it. In the Committee's view, there is currently very little solidarity between Member States when it comes to the resettlement and relocation of beneficiaries of protection and asylum seekers.

4.2.7 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>(5)</sup>.

### 4.3 Preventing irregular immigration

The EESC believes that greater solidarity is needed within the EU. Some European regions face specific problems because of their geographical location as they are often mid-way points for irregular immigration and sometimes receive more people than they can cope with. The EU should put in place procedures for the provision of financial, operational and reception support, taking account, among other things, of the economic and social situation in the individual Member States.

4.3.1 The link made in some politicians' speeches between immigration and crime does not reflect the reality of the situation and encourages xenophobic attitudes. Most immigrants whose situation in the EU is not regular entered lawfully on a short-stay visa and extended their stay, or have a temporary immigration permit and do not leave when this expires.

4.3.2 Many of these people are working under unfair employment conditions, when not completely outside the scope of labour law, or in the informal economy, and find themselves socially excluded. In the light of certain situations of this nature, civil society organisations and the EESC have supported processes to regularise the situation of irregular immigrants and have more generally called on the EU to adopt proposals, recommendations and measures to prevent such situations from arising.

4.3.3 The rights of irregular immigrants must be upheld in all circumstances, from the time of their rescue or arrest until they receive protection or are returned to their countries of origin. Irregular migration by sea often results in the loss of life. Against this backdrop, the EESC stresses the importance of upholding fundamental human rights in all situations.

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<sup>(5)</sup> EUREMA is an EU pilot project for the relocation of beneficiaries of international protection from Malta within the EU, endorsed in the European Council Conclusions of 18-19 June (document 11225/2/09 CONCL 2).

#### 4.4 External borders and visas

4.4.1 The EU needs a common **external borders policy** that is credible, effective, legitimate and subject to democratic checks. Member States in the Schengen area do not carry out checks at their shared borders. They thus have to cooperate and share responsibility for managing their external borders. The **Schengen Borders Code** regulates the crossing of borders and checks, taking account of the requirements which non-EU nationals must meet in order to enter and stay for up to three months. The EU draws up lists of countries whose nationals need **visas**.

4.4.2 The EESC considers that the role of Frontex should be stepped up, developing it over the medium term into a European border-guard service comprising a European body of border guards. Its main function would be to apply the common rules laid down in the Borders Code. The EESC believes that **EU solidarity with the Member States should be stepped up**, in line with their geographical location.

4.4.3 The illegal trade and trafficking of persons must be combated whilst guaranteeing that victims are protected by international humanitarian law and by the European conventions on human rights. Under Article 6(2) of the Schengen Borders Code, border guards may not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation and under Article 13, third-country nationals refused entry have the right to appeal.

4.4.4 The Committee supports the Commission proposal to amend visa legislation. Cooperation with third countries is crucial to visa policy, which often involves reciprocity.

#### 4.5 Return

4.5.1 The mobility partnerships should provide for return procedures based primarily on voluntary return with support systems put in place<sup>(6)</sup>. However, in the event that the forced return procedure is implemented, the human rights of repatriated people must be given the utmost respect, in accordance with the Council of Europe recommendations<sup>(7)</sup>.

4.5.2 Any agreements with third countries must be based on the principle of positive conditionality, offering financial assistance and setting up development programmes in order to prevent irregular immigration.

4.5.3 The repatriation of immigrants who entered the EU on an irregular basis must be treated in accordance with the established rules. In this regard return agreements with third countries are crucial in ensuring that the rights of returning migrants are fully respected.

4.5.4 The Charter expressly prohibits collective expulsions and ensures that no one may be removed, expelled or extradited to a country where there is a serious risk that they would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment — the *non-refoulement* principle. However, several NGOs have condemned instances of collective expulsion and expulsion of irregular immigrants and asylum seekers to countries where human rights are violated. The EESC points out that the European Convention on Human Rights and the Charter contain provisions that are applicable to any European policy on irregular immigration — with particular focus on protection in the event of return, expulsion or extradition.

4.5.5 The ECHR has interpreted Article 3 of the European Convention on Human Rights to mean that persons with serious illness may not be detained or expelled, as they are in need of medical care, and the same applies to pregnant women. The situation of minors also requires specific attention and protection, especially where they are unaccompanied.

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<sup>(6)</sup> In cooperation with the International Organization for Migration.

<sup>(7)</sup> *Twenty Guidelines on Forced Return*, CM(2005) 40.

4.5.6 The EESC reiterates its opposition to holding asylum seekers and irregular immigrants in **detention centres** as a matter of course, as this must remain an extraordinary measure<sup>(8)</sup>. The Committee calls for greater transparency concerning detention centres within and outside the EU and for the UNHCR to be kept informed of the situation of persons detained in them.

## 5. The external dimension of immigration and asylum policy

### 5.1 The global approach to migration and mobility

5.1.1 The first step in the process was taken by the European Council, which adopted the **Global Approach to Migration (GAM)** towards the end of 2005. In order to further develop the external dimension of European migration policy, the Commission has put in place a number of initiatives.

5.1.2 **Mobility partnerships** are the most important political instrument for implementing the GAMM. The pilot phase is now over, and the Commission carried out a political assessment of their implementation in 2009<sup>(9)</sup>.

5.1.3 The Commission recommended addressing new challenges to immigration and asylum policies (such as war and population movements in the Mediterranean region) by establishing a dialogue for migration, mobility and security in the EU, in its communication entitled *A dialogue for migration, mobility and security with the southern Mediterranean countries* COM(2011) 292. The EU then opened dialogues with a number of countries.

5.1.4 Six mobility partnerships have been concluded with the following countries: Cape Verde (May 2008)<sup>(10)</sup>, Moldova (May 2008)<sup>(11)</sup>, Georgia (November 2009)<sup>(12)</sup>, Armenia (October 2011)<sup>(13)</sup>, Azerbaijan (December 2013)<sup>(14)</sup> and Morocco (June 2013)<sup>(15)</sup>. Mobility Partnership negotiations with Tunisia have been completed and a joint declaration was signed on 3 March of this year. Negotiations have begun on a Mobility Partnership with Jordan and should be completed before the end of the Greek presidency, while new dialogues on migration, mobility and security are about to start with other southern Mediterranean countries such as Egypt, Libya, Algeria and Lebanon. The EU-Africa Summit's declaration on migration and mobility<sup>(16)</sup> has a global approach, which the EESC endorses.

5.1.5 The Commission published an assessment of the global approach to migration<sup>(17)</sup> in 2011, calling on the EU to strengthen its external migration policy, and presented a revised Global Approach to Migration and Mobility (GAMM) based on four pillars: 1) organising and facilitating legal migration and mobility; 2) preventing and reducing irregular migration and human trafficking; 3) promoting international protection and enhancing the external dimension of asylum policy; and 4) optimising the development impact of migration and mobility.

<sup>(8)</sup> See EESC opinion of 16 July 2009 on *Minimum standards for the reception of asylum seekers*, rapporteur: An Le Nouail-Marlière, adopted at the plenary session of 15 and 16 July 2009.

<sup>(9)</sup> European Commission (2009), *Mobility partnerships as a tool of the global approach to migration*, Commission staff working document, SEC (2009) 1240, Brussels, 18 September.

<sup>(10)</sup> Council of the European Union (2008), *Joint declaration on a mobility partnership between the European Union and Cape Verde*, 9460/08, ADD2, Brussels, 21 May.

<sup>(11)</sup> Council of the European Union (2008), *Joint declaration on a mobility partnership between the European Union and Moldova*, 9460/08, ADD1, 21 May.

<sup>(12)</sup> Council of the European Union (2009), *Joint declaration on a mobility partnership between the European Union and Georgia*, 16396/09, Brussels, 20 November.

<sup>(13)</sup> Council of the European Union (2011), *Joint declaration on a mobility partnership between the European Union and Armenia*, 14963/1/11, Tuesday, 11 October, 2011.

<sup>(14)</sup> [http://europa.eu/rapid/press-release\\_IP-13-1215\\_en.htm](http://europa.eu/rapid/press-release_IP-13-1215_en.htm) 5.12.2013.

<sup>(15)</sup> Council of the European Union (2013), *Joint declaration on a mobility partnership between the European Union and Morocco*, 6139/13, 3 June 2013.

<sup>(16)</sup> EU-Africa Summit 2—3 April 2014, Brussels.

<sup>(17)</sup> Commission Communication on *The Global Approach to Migration and Mobility*, COM(2011) 743 final, 18.11.2011.

5.1.6 The mobility partnerships have certain limitations which the EESC believes must be overcome in the next few years. From a legal point of view they are a form of 'soft law'. They are joint declarations between the EU, a group of relevant Member States and a third country, but do not bind the parties. Their flexible nature makes it easier to attain political agreement, but not legal responsibility. As the EESC has already pointed out <sup>(18)</sup>, mobility partnerships should be international agreements that are binding on the contracting parties.

5.1.7 The mobility partnerships should develop their mobility and migration strands in a more comprehensive and balanced way, and this should be a priority for them. Their priorities have so far focused on security, return, readmission of irregular migrants and border surveillance. The Commission communication on the dialogue stated that 'increased mobility' would be subject to specific conditions to be met by third countries. The EESC believes that the EU should offer these countries opportunities for immigration via legal and transparent procedures <sup>(19)</sup>.

5.1.8 The EESC proposes that the EU offer partner countries channels to facilitate mobility, visa acquisition and the admission of new immigrants. The Committee <sup>(20)</sup> supports the inclusion of other matters in the new agreements, such as:

- capacity-building for matching labour supply and demand;
- recognition of academic and professional skills and qualifications;
- development and implementation of legal frameworks for better portability of pension rights;
- enhanced access to information on job vacancies in the EU;
- measures to improve cooperation on matters related to skills and how to better match labour supply and demand, building upon the work already done by the European Training Foundation.

5.1.9 The establishment of immigration centres by the EU in the countries of origin will enhance the EU's presence in those countries while also eliminating misinformation spread by smuggling rings and encouraging legal immigration applications. Special attention must be paid to strengthening local civil society, or creating it where it does not yet exist.

5.1.10 In humanitarian crises caused by massive population displacements in transit territories, the establishment of immigration and temporary residence centres could be financed by the EU, taking into consideration the principle of positive conditionality. Cooperation with the UNHCR and the IOM in these centres will guarantee protection under the international asylum system for those who require it.

5.1.11 The EU must forge agreements with transit countries, and pay special attention to requirements regarding human rights principles and repatriation.

5.1.12 The signing of agreements could also extend to cooperation with **Frontex** and **Europol**. Combatting organised smuggling rings is the key to preventing and reducing irregular immigration. People who fall victim to exploitation by smugglers should be considered to be innocent victims.

5.1.13 Following the disaster in Lampedusa, the JHA Council of 7 and 8 October 2013 set up the Task Force Mediterranean. The group's work culminated in the publication of a Communication on the work of the Task Force Mediterranean (COM(2013) 869), putting forward a package of short-, medium- and long-term measures in five main fields: measures in cooperation with third countries; regional protection, resettlement and improved legal avenues to Europe; the fight against human trafficking, smuggling and organised crime, reinforced border surveillance and assistance and solidarity with Member States dealing with high migration pressure.

<sup>(18)</sup> See REX/351.

<sup>(19)</sup> See REX/351.

<sup>(20)</sup> See SOC/268 and REX/236.

5.1.14 The EESC deems it essential that short-term measures be complemented by long-term measures aimed at addressing the root causes of involuntary migration.

5.1.15 The December 2013 European Council endorsed the measures proposed and reiterated the need to act with determination in order to prevent loss of life and to avoid future tragedies. It confirmed the priority of working together with third countries to prevent such occurrences.

Brussels, 9 July 2014.

*The president  
of the European Economic and social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on ‘Completing EMU — The proposals of the European Economic and Social Committee for the next European legislature’**

**(own-initiative opinion)**

(2014/C 451/02)

Rapporteurs: **Mr VAN IERSEL** and **Mr CEDRONE**

On 19 September 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:

*Completing EMU — The proposals of the European Economic and Social Committee for the next European legislature.*

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 19 May 2014.

At its 500<sup>th</sup> plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion by 195 votes to 8 with 9 abstentions.

**1. A Roadmap for the next European legislature**

Having regard to the tremendous challenges the EU's economic and monetary union is facing, the EESC considers that:

- the goal of EMU, as a cornerstone in any further development of the EU, is to promote, quality of life, prosperity and stability for the European citizen. Confidence-building and favourable conditions for the real economy are prerequisites for growth, employment, competitiveness and investment. These aspects underscore the significance of EMU for euro area and non-euro area members alike;
- the unpredictability of developments forces the euro area urgently to put the right conditions in place, as in today's globalised context no single European country is able to guarantee its own liberty of action. This has major consequences for the governance of EMU as well as for its policies;
- the EMU does not stand on its own. It was initially conceived as the accomplishment of an internal open European space and the Single Market. Besides fiscal discipline, flanking economic and social policies for growth and jobs as key factors underpinning successful consolidation must be worked out simultaneously by the EU and the Member States <sup>(1)</sup>;
- profound adjustments in economic and structural policies, until recently largely held as exclusive national domains, will be necessary to ensure a process of convergence between Member States in a number of areas. Common confidence building must replace mistrust and tensions. A closer union affects the whole of society. Social and civil dialogues at all levels should be ensured.

In view of the above considerations, the EESC calls on the next European legislature to establish urgently a roadmap to tackle the pressing problems.

To this end, the EESC proposes:

- I. The **completion of EMU**, ensured by a robust governance and management structure of the euro area and based on:
  - i. a **monetary and financial pillar**, including the implementation of a fully-fledged EU-driven Banking Union to bring about a pan-European capital market, while also protecting taxpayers from excessive risk-taking and disorderly defaults;

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<sup>(1)</sup> See EESC opinion ECO/336 on 'Economic policies — Member States of the euro area', rapporteur: Mr Delapina, point 1.6 (OJ C 133 of 9.5.2013).

- ii. an **economic pillar**, reflecting the increasing interdependence of Member States both at macro and micro level, to strengthen the decision-making process in economic policy, thus fostering growth, employment, competitiveness, convergence and European solidarity;
  - iii. a **social pillar** to take properly into account the social effects of economic adjustments;
  - iv. a **political pillar**, including greater accountability and democratic legitimacy, to foster credibility and confidence.
- II. The launch, as a matter of urgency, of a real **European plan for growth and employment** based on a substantial investment programme that is driven by public and private investment triggering a fiscal impulse. The rebalancing and **proper implementation of existing instruments**, notably Six-pack, Two-pack and the European semester, should be ensured;
- III. The establishment of a timeline and arrangements for the **launch of political Europe** as a whole, including through a reflection process on its institutional set-up in the context of a new European convention;
- IV. The launch of a **communication and simplification** strategy on EMU, as a joint effort by the Commission, EP, Member States and civil society.

## 2. EMU, a cornerstone

2.1 The EESC underlines that the impact of a complete and successful EMU goes far beyond budgetary, monetary and banking arrangements. Focused leadership should inspire citizens and economic agents to believe in the common mission and the sense of belonging to Europe.

2.2 The coming five years are crucial to developing the still fragile architecture of EMU to maturity. This calls, most importantly, for ownership, openness and transparency; therefore, we need effective policies, as well as plain and clear speaking — no double-talk! — by the governments of the Member States of the euro area, by the Council and by all other EU bodies.

2.3 In agreement with the plea of some outstanding European politicians, the EESC sees political union as an orientation point on the horizon <sup>(2)</sup>. In line with their argument, the EESC considers political union not only as a final accomplishment of the EMU in se, but also in view of the broader international context of today's globalised world, which challenges fundamentally the Westphalian order and the regulatory capacities of individual states.

2.4 In the globalised world of today, no individual European state can survive on its own. Consequently, state sovereignty is better guaranteed in a common political and economic framework.

2.5 The report of President Van Rompuy *Towards a genuine EMU* and the corresponding Commission Communication of November and December 2012 presented a draft roadmap with concrete measures along the same lines. The EESC welcomed this <sup>(3)</sup>. The main issue is that, despite substantial progress, the separation between running a common currency and intergovernmental economic governance creates unsurmountable tensions. The EESC insists that the Van Rompuy report remain the policy basis for the legislative initiatives over the coming period.

2.6 The economic and financial crisis has affected the euro area in particular and revealed the current limitations of EMU. Rather than being a building block of European integration, the euro has been perceived by many as a wedge that divides countries and civil society, posing a risk to the very future of the Union. This misperception does not acknowledge that the crisis — with its origins largely outside the euro area — would have been deeper without the single currency.

<sup>(2)</sup> See Dr Wolfgang Schäuble notably in his address in the Paulskirche, 3 October 2011, and in the Karlspreis address, May 2012, and the speech of Giorgio Napolitano at the European Parliament, 3 February 2014.

<sup>(3)</sup> See EESC opinion ECO/340 on 'A deep and genuine Economic and Monetary Union', rapporteur: Mr Cedrone (OJ C 271 of 19.9.2013).



2.7 For the moment the existing imbalances and economic differences between groups of countries, which have been in place since 1991 and have never been addressed, are a brake on progress in the integration process. Even dangerous divisions and renationalisation trends are cropping up.

2.8 The future becomes unpredictable like this. Signals of recovery sustain optimism and remove the crisis mode. However, partly due to the incomplete EMU and fragmentation of the European financial market, low/moderate growth rates are expected for quite some period. Given the volatility of the economy and potential backlashes in the coming years, the EESC warns against complacency on these issues.

2.9 Against this backdrop, recent decisions, including Six Pack, Two Pack and Banking Union, though limited, were badly needed and urgent. However, these new governance mechanisms are based, to a great extent, more on budgetary and stability concerns than on concerns for people, which is why growth and social measures were left out. In addition, the lengthy process of decision-making and the complexity of the system entail resistance, whether tacit or overt, in Member States and in the Council as a consequence of political mistrust and emphasis on national sovereignty. This situation has already led to economic and social costs for the Union and worsens its international standing, making confidence building fundamental to overcoming obstacles.

2.10 Therefore, the EESC insists on a convincing roadmap for the next European legislature setting out with precise deadlines further steps that must focus on accomplishment of EMU in close relation with the targets of the EU2020 strategy and its flagship initiatives. This opinion proposes some of the essential elements for such a roadmap.

2.11 Differentiated integration within the EU, already successfully applied to a number of policy areas, should continue to be a key principle. Many of the decisions necessary to complete EMU can be taken under existing law and/or through enhanced cooperation, whilst others will require a new treaty and/or changes to the existing ones. Such decisions would make it possible to make up for the delays in the completion of EMU and to take a series of rapid measures, without neglecting long-term perspectives, given that the euro area, too, needs genuine structural reforms at institutional level alongside those to be carried out in individual countries.

### 3. First steps: a real plan for growth and jobs under existing legislation

3.1 An initial, immediate step in the roadmap for the next European legislative term would be to sign and implement a real pact for growth, jobs and stability to boost the recovery and create the conditions for debt to be repaid (a European New Deal). Such a plan would need to consist of at least the following points:

- *Eurobonds issued by the EIB and the EIF* (already implemented in part through project bonds), without increasing countries' debt, to finance SMEs and projects in infrastructure, health, education, urban regeneration, the environment and trans-European networks. Such targeted actions of the EIB and the EIF will be a signal of active European commitment to improving the financial environment for private investments <sup>(4)</sup>;
- *public investment*, including in the social sector <sup>(5)</sup>, by Member States to add to EU public investment via a system of commonly agreed parameters which, in combination with the right structural reforms, would also foster private investment (golden rule);
- *the dilution, or temporary suspension during the crisis, of austerity policies*, which are among the main causes of the recession, the reduction in demand and the increase in unemployment, and have delayed the onset of recovery. In other words, the shift from austerity alone to jointly agreed reforms enabling sustainable growth, job creation and increased productivity has to be ensured <sup>(6)</sup>;

<sup>(4)</sup> See EESC opinions ECO/307 on 'Restarting growth' (OJ C 143 of 22.5.2012), ECO/334 on 'Where is the euro headed?' (OJ C 271 of 19.9.2013) and ECO/340 on 'A deep and genuine Economic and Monetary Union' (OJ C 271 of 19.9.2013), rapporteur: Mr Cedrone.

<sup>(5)</sup> See EESC opinion SOC/496 on 'Impact of social investment', rapporteur: Mr Greif (OJ not published yet).

<sup>(6)</sup> See EESC opinion ECO/336 on 'Economic policies — Member States of the euro area', rapporteur: Mr Delapina (OJ C 133 of 9.5.2013).



- agreed *accompanying measures on growth, employment and social aspects* to be included in the implementation of the Two-pack, the Six-pack and the Fiscal Compact;
- *better application of the European Semester*: on the way to an economic union, the four year-old Semester has an indispensable role in the process of convergence and adjustment of the economies. Although being a fruit of the soft method of coordination, it can bear good results. However, it should be correctly implemented as well as being more transparent and duly communicated. The involvement and engagement of social partners and civil society organisations, both at European and national level, must be ensured;
- *proper compliance with the NRPs*: governance is crucial. The way national administrations work is decisive for this and the required improvements, where appropriate, should be clearly highlighted. The implementation of NRPs, including as regards the quality of national administration, should be reviewed by all stakeholders and closely monitored by the Commission;
- *full ownership by the Member States*: the Semester process, as currently provided for, is still too technocratic, which is hampering its implementation. National Parliaments should be integrated in the process by discussing the semester properly, along with the social partners and other civil society organisations<sup>(7)</sup>.

#### 4. Deepening and completing EMU within the next legislative term

##### 4.1 The monetary and financial pillar

4.1.1 With regard to monetary policy, in line with strengthened macroeconomic governance in the euro area, the ECB's mandate should be completed so as to put it on an equal footing with other central banks outside Europe and those of European countries outside the EU and the euro area, enabling it, amongst other things, to act as a lender of last resort and as an equal partner in international fora, while also respecting its full autonomy. The ECB should be fully enabled to avoid liquidity crises in a way that favours investment (SMEs).

4.1.2 However, the ECB alone cannot be held responsible. On the way to a fiscal and economic union a full *Banking Union* is essential<sup>(8)</sup>. Due to a persistent linkage between governments and banks, Member States remain reluctant to create the necessary political and economic conditions, resulting in postponement of the most suitable and effective decisions<sup>(9)</sup>. This hampers also an effective ECB supervision of all banks, which should counteract financial fragmentation, cut undesirable links between national politics and banks, and create favourable conditions for cross-border mergers of banks.

4.1.3 During the negotiations with the Council on Banking Union, the European Parliament successfully reached an agreement on the progress towards a Single Resolution Mechanism and a Single Resolution Fund<sup>(10)</sup>. The EESC fully supports the view of the EP. In the next future the decisions should contribute to a unified European capital market, comparable to the one of the United States.

4.1.4 A complete Banking Union requires a well-structured Single Resolution Mechanism, harmonised Deposit Guarantee Schemes in the Member States and an ESM which allows direct bank recapitalisation<sup>(11)</sup>. The related decision-making system should be efficient and must ensure quick action. The process of establishing and implementing these elements has to be speeded up.

4.1.5 Banking Union alone is insufficient to stimulate the economy and investments. With a view to making the *European financial sector* more resilient, the agenda for the coming years must also focus on full implementation of Basel III, on the Financial Stability Board and on finding a solution for 'too-big-to-fail' banks in line with international agreements (G-20).

<sup>(7)</sup> See EESC opinion EUR/006 on 'Annual Growth Survey 2014', rapporteur: Ms Pichenot (OJ not published yet).

<sup>(8)</sup> See EESC opinion ECO/339 on 'Banking Union Package', rapporteur: Mr Trias Puntó (OJ C 11 of 15.1.2013).

<sup>(9)</sup> See European Council Conclusions of 19—20 December 2013.

<sup>(10)</sup> See the agreement on SRM reached between the Council and the EP on 20 March 2014.

<sup>(11)</sup> See EESC opinions ECO/333 on 'Recovery and resolution of credit institutions', rapporteur: Ms Roussenova (OJ C 44 of 15.2.2013) and ECO/350 on 'Single Resolution Mechanism', rapporteur: Mr Mareels (OJ C 67 of 6.3.2014).

4.1.6 Commissioner Barnier's recently published voluminous legislative package on banks and financial markets can deliver an important contribution to the proper functioning of financial markets in Europe as well as to create a stable and reliable banking sector. This is paramount for the real economy. The latest Council decisions in this field go only partially in the desired direction.

4.1.7 Adequate credit is a top priority for the recovery and growth of the economy and for development. This means that EU legislation has to strike a balance between ensuring strict framework conditions for banking and promoting sufficient opportunities for operational banking activities, especially in view of facilitating investments, which are indispensable to any growth policy. It goes without saying that satisfactory arrangements in favour of start-ups and SMEs are crucial<sup>(12)</sup>.

#### 4.2 *The macroeconomic and budgetary pillar*

4.2.1 In this domain, the laborious discussion in the European Council on binding economic reform contracts is significant and disappointing<sup>(13)</sup>. Therefore, the EESC insists that the Commission further develop its proposal on such contractual arrangements which ask for a further discussion on their form, financing and democratic legitimacy<sup>(14)</sup>.

4.2.2 Partnerships based on a system of mutually agreed contractual arrangements and associated solidarity mechanisms could contribute to facilitate and support sound adjustment policies. These arrangements would contribute both to Member States' ownership within a common framework and to reforms in all areas related to sustainable growth, competitiveness and employment, all three of which will reinforce the EU as a whole<sup>(15)</sup>. Such framework may help to provide an EU response to country-specific asymmetric shocks, which would be a form of EU solidarity.

4.2.3 Partnerships of this kind could promote cohesion and confidence among the population which is crucial to overcome the concerns related to national sovereignty. This in turn will contribute to European communality which will be an indispensable basis for the development of EU instruments such as a euro area budget, a European solidarity fund and Eurobonds.

4.2.4 The convergence of economic systems including tax systems<sup>(16)</sup>, accompanied by a solidarity instrument, represents a key factor to gradually overcome the macro and microeconomic disparities between countries. In the medium term, even if it requires treaty changes, this instrument is bound to become an economic compensation mechanism to rebalance and integrate the euro area countries' economies. It could eventually become part of a common euro area budget. The structural and cohesion funds could also be used in this perspective.

4.2.5 The new Commission, as a primary player in the process, has to take responsibility for making legislative proposals, in accordance with the method followed by Commissioner Barnier for the regulation of the financial system, in areas where the debate has been dominated so far by the Member States, in order to stimulate fruitful discussions in the Council on the basis of concrete proposals.

4.2.6 So far the Commission has underused this method. Examples of cases where it could be used include the ex-ante coordination of plans for major economic policy reforms, the economic reform contracts accompanied by a solidarity mechanism, the establishment of a European debt redemption fund and Eurobills. When these proposals require Treaty changes, the Commission should make this clear to the euro area members.

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<sup>(12)</sup> See EESC opinions ECO/347 on 'Long-term financing — financial services sector', rapporteur: Mr Smyth (OJ C 327 of 12.11.2013) and ECO/365 on 'Long-term financing — follow-up', rapporteur: Mr Smyth, co-rapporteur: Mr Farrugia (OJ not published yet).

<sup>(13)</sup> See European Council Conclusions of 19–20 December 2013.

<sup>(14)</sup> See EESC opinion ECO/348 on 'CCI/Major economic policy reforms', rapporteur: Mr Croughan (OJ C 271 of 19.9.2013) and EESC opinion EUR/006 on 'Annual Growth Survey 2014', rapporteur: Ms Pichenot (OJ not published yet).

<sup>(15)</sup> See also the speech of the President of the Eurogroup, Mr Dijsselbloem, in the same spirit: 17/2/2014 at the OECD seminar in Brussels 'The Euro Area at the crossroads'.

<sup>(16)</sup> See EESC opinion ECO/336 on 'Economic policies — Member States of the euro area', rapporteur: Mr Delapina (OJ C 133 of 9.5.2013). Other relevant tax aspects should also progressively be taken into consideration.

4.2.7 Such approach will compel the Council to take a position on these proposals. It will highlight transparency and clarity about the different political positions and it will prove the only method to overcome the intergovernmental stalemate in the current architecture. This has also to be communicated properly by the Commission to the different stakeholders, including the general public.

4.2.8 Hence what is needed in the medium term (as it has been needed since the Treaty of Maastricht) is *economic governance* for the euro area as regards micro and macroeconomic policies, moving from the current method of coordination, which has so far produced poor results, to shared decision-making on the 'fundamentals' of those policies. The euro area cannot afford to continue having the same currency whilst having separate economic policies, which therefore need to be integrated so as, among other things, to facilitate the ECB's task.

4.2.9 A *redistributive mechanism* to be used in case of asymmetric shocks: the principle of responsibility (not only of states but also of citizens) must not be separated from that of solidarity. Therefore, concrete measures should be taken, for a limited period, for the most vulnerable groups of the population. It is a responsibility incumbent on every citizen and every country.

4.2.10 In the same vein, we need to be moving towards an appropriate *own budget for the euro area*, with jointly agreed rules; this is the only way to take steps towards a common fiscal policy and absorbing any shocks that might occur in the future. This could be financed for example through a targeted tax, a financial transaction tax (provided that this is extended to the whole of the euro area), a carbon tax, a temporary levy on balance of payment surpluses exceeding 6 % and, finally, by issuing joint bonds.

4.2.11 *Sovereign debt*: a mechanism should be created that, without removing countries' responsibility for their debt, removes this from the hands of financial speculators. National debt, gradually converted up to a maximum of 60 % (as proposed by the EESC <sup>(17)</sup>) or, for the part exceeding 60 % (in accordance with the proposal for a Debt Redemption Fund put forward by the Commission <sup>(18)</sup>), could be held in a consolidated debt account and serviced pro rata by the different Member States. Alternatively, a Temporary Eurobill Fund could be created via an intergovernmental treaty which would allow the issuing of short-term euro area debt instruments and would thus eliminate the risk of a euro area government liquidity crisis. Following the conclusions of its expert group, which was established with the specific mandate of analysing the merits and risks of the different options for joint debt issuance, the Commission should now make a concrete proposal as to which instruments to use and under what timeframe.

### 4.3 The microeconomic pillar

4.3.1 Microeconomic policies also need a lot of attention, especially industrial and sectoral policies, which are vital to the growth of the European economy, where a piecemeal approach will no longer do. Some policies (and the corresponding decision-making procedures) which have an indirect impact on national budgets therefore need to be pooled in order to arrive at a shared vision and joint action by the Commission and the Member States, in particular as regards:

- the completion of the Single Market;
- the creation of favourable conditions for enterprises to stay in, or come to, Europe, notably by eliminating market fragmentation;
- a common industrial policy <sup>(19)</sup> that reinforces the basis for existing and innovative and sustainable economic performances across the continent;

<sup>(17)</sup> See EESC opinion ECO/307 on 'Restarting growth', rapporteur: Mr Cedrone (OJ C 143 of 22.5.2012).

<sup>(18)</sup> See COM(2012) 777 final/2.

<sup>(19)</sup> See EESC opinion CCMI/108 on 'Industrial Policy (review)', rapporteur: Mr van Iersel, co-rapporteur: Mr Gibellieri, (OJ C 327 of 12.11.2013).

- a common energy policy which is badly lacking, but paramount for equal and stable economic conditions in the EU;
- large-scale common infrastructural projects and transport policies to improve connectivity;
- convergence of corporate taxation;
- services, including business services;
- the labour market and worker mobility;
- research policy.

#### 4.4 *The social pillar*

4.4.1 The EESC insists on concrete measures concerning the social dimension of the EMU<sup>(20)</sup>. The rate of youth employment remains damagingly low. Together with Member States, the new Commission should take responsibility for improving living and working conditions:

- by sustaining job creation and start-ups;
- by proposing adjustments to education policies at all levels across Europe, as well as to healthcare policies where appropriate;
- by putting the right conditions in place for cross-border labour mobility;
- by tax proposals aimed at facilitating job creation;
- by proposals aimed at upholding consumer rights;
- by ensuring gender equality;
- by making social investments<sup>(21)</sup>.

4.4.2 Proper social dialogue at all levels is needed. This means that obstacles to effective consultations in and among Member States have to be overcome. The EU should be of great help in bringing together stakeholders from various countries to discuss successful practices and to map plans for improvement of conditions for job creation.

4.4.3 If the Union, and in particular the euro area, is to be completed, it cannot ignore the social consequences of current economic policies by leaving them entirely up to individual countries. Both economic and social measures should take into account not only the parameters of the stability pact, but also a wider range of macroeconomic parameters (e. g. the unemployment rate, growth rate, balance of payments, employment rate, poverty rate, distribution of incomes and wealth, etc.). It is impossible to ensure the stability of EMU without any social mechanisms for the euro area that can deal with the consequences of severe economic recessions and/or imbalances. Some of these may require Treaty changes. They could include in the medium term:

- creation of a common system of unemployment insurance, alongside national systems, possibly linked with the creation of common rules for the euro area labour market and with labour mobility;
- provision of an adequate minimum income for some groups of people below the poverty line and creation of common rules for welfare and assistance.

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<sup>(20)</sup> See EESC own-initiative opinion SOC/494 on 'Strengthening the social dimension of the Economic and Monetary Union', rapporteur-general: Mr Dassis (OJ C 67, 6.3.2014).

<sup>(21)</sup> This includes also raising people out of poverty. In this regard, see EESC opinion SOC/496 on 'Impact of social investment', rapporteur: Mr Greif (OJ not published yet).

4.4.4 Other policies that enhance the public's sense of belonging and facilitate the free movement of people should also be pooled in the public interest. These include:

- mutual recognition of qualifications and diplomas;
- the quality and the delivery of public goods and services in the euro area to ensure their continuity, especially in times of crisis, etc.

#### 4.5 *The political pillar*

4.5.1 Such a broad programme can only be carried out with the necessary democratic legitimacy of the decision-making process. Respecting fully the considerable progress over the last few years, the EESC is of the opinion that a further leap forward during the next term can only be made by giving special attention to accountability, legitimacy, democracy, transparency and communication.

4.5.2 There is an increasingly sharp political debate across Europe on the integration process. At EU level political parties have to define clearly their options which must foster the viewpoints of the various political groupings in the EP and contribute to more visibility of European political parties. Transnational European elections involving cross-border political formations would strengthen and facilitate very much the European debate.

4.5.3 Co-ownership and the need for public support require much more commitment from national Parliaments to the European debate. EU legislative proposals and NRPs should be duly discussed in Parliaments. Interactive consultations on strategic issues between the EP and national Parliaments should be foreseen, leading also to increased dynamics between national Parliaments.

4.5.4 The Commission should apply the Community method as effectively as possible in presenting legislative proposals and measures, also in cases of shared competences with Member States. As in the past, a proactive and courageous attitude will pay off.

4.5.5 At the request of Parliaments and/or civil society, the Commission should be invited to national debates on European issues.

4.5.6 The European Council and the Councils, notably the Ecofin Council, are central decision-makers and essential for accountability and legitimacy. Therefore, more transparency is necessary as it responds to democratic requirements.

4.5.7 Members of the Council who represent national interests, as well as co-deciders at European level, often speak with different tongues at home and in Brussels, which usually creates considerable confusion and hampers agreement. Double-talk is not acceptable. Member States should agree on and support the agreed common political messages at all decision-making levels.

4.5.8 The Member States are both subject and object in the architecture of EMU. Convergence to European methodology while preserving national administrative procedures and traditions is possible, but it will require considerable adjustments in a number of countries. Reliable political and administrative practices will turn out to be crucial for building confidence.

4.5.9 The EESC underlines that civil society also has to play its often underestimated role in the future architecture of the EU and of a more integrated euro area. There are many areas in which progress depends partially or completely on non-governmental actors. Civil society should be fully involved. In too many countries civil society is still side-lined, while it must be given the necessary instruments to connect to institutional decision-makers. Civil society must take its responsibility and must participate in the EU decision-making process in order to enlarge its democratic basis. Without its active commitment EMU can never be successfully accomplished.

4.5.10 For the social partners in particular it would be quite useful to examine the results of a consensual model in Member States, which the EESC strongly favours. Exchange of practices is to be recommended.

4.5.11 The EESC believes that it has become obvious that the current rules are not adequate and have not worked as expected, and that intergovernmental action is not up to the challenges facing EMU. Nor should we delude ourselves that, as the crisis recedes, the stabilisation mechanisms hurriedly put in place as the storm was raging will be sufficient to move forward and prevent new crises.

4.5.12 The only way to avoid a recurrence of such situations is to change the rules and the decision-making process governing the euro area so as to make it more transparent and democratic:

- put someone in charge of the euro who can speak with a single voice, by institutionalising the euro group. To improve governance of the euro area, the euro group should be able to take quick decisions and intervene in the event of a crisis. This would make the decision-making process more democratic and transparent, starting with the abolition of the right of veto;
- by having a redistribution mechanism and/or genuine budget for the euro area, as suggested in points 4.2.9 and 4.2.10 by means of a step-by-step process to guarantee the provision of public goods, a fairer distribution of resources to support the processes of reform, to reduce disparities between countries, with the possibility of common policy on taxation, etc.;
- by having a single presence in international organisations;
- the actions of this governing body should be supported and voted on by members of the EP from the euro area (Euro-parliament), which other members could also attend but without the right to vote.

## 5. In the long term: launch political Europe as a whole

5.1 As well as completing EMU as set out above, it would be helpful, over the next parliament, to start a serious reflection process on deepening the EU as a whole and the functioning of its institutional organs as well as selecting policies that ought to be shared. In the EESC's view, the reflection should concern the aspects described below.

5.2 Subject the Commission's activity to the approval of the EP, which could also share the right of initiative. The EP could be elected on the basis of European lists constituted by European parties.

5.3 In order to promote visibility, democratic legitimacy and the division of powers, abolish the diarchy of the president of the European Council and the president of the Commission, who would be elected by the EP or directly by the people, provided his role is also changed. The current Council could become 'the senate of the States' with new rules of procedure.

5.4 With regard to the policies that should be run in whole or in part by the EU and over which it should have decision-making power, these could include foreign policy and the international role of the Union, including a single presence in international organisations, defence policy — for the willing — energy policy, research policy, asylum and immigration policy, and compliance with standards and rights, with the power to take action when states violate these, as is already the case for economic issues and budgetary rules.

5.5 The new institutional set-up, which cannot be achieved through enhanced cooperation alone, and the role of the Parliament, the Council, the Commission, the EESC and the CoR, could be determined by a new Convention, which should finish its work before 2019, when the next European elections after those of 2014 will be held.

## 6. Communication and simplification

6.1 In the process of regaining confidence, good communication is indispensable. The EESC is convinced that the best communication is ensured by good policies and practices that present a long term perspective for all European society.

6.2 There is a need to foster and improve communication to the public. Communication breeds interest, which breeds understanding. This lesson has not been taken enough into account, a shortcoming for which the Commission and the Member States are to blame. The whole spectrum of social media should be used.

6.3 EMU and related areas have often been presented as a technical affair. They are not, as they are fundamentally political and of great influence to every citizen's life. It is, however, rarely discussed, let alone communicated, from that perspective, which also explains largely the huge gap between the EU and the ordinary citizen.

6.4 Different traditions and situations show painfully day by day the lack of a 'common EMU language' which is sometimes very confusing and damages public support. In the EESC's view, the Commission is the only authority that is able to present a solution due to its right of initiative in the EU legislative process. This must be seen in the perspective of a more political Commission and EP than previously.

6.5 As co-responsible actors, civil society and social partners have to play their proper role in communication, which is so far often underdeveloped. Civil society and the social partners should convey the concerns of citizens and enterprises to the authorities and should cooperate in addressing them. The exchange of views should run both ways.

6.6 Europe should no longer give the impression of being an ivory tower as felt by large part of public opinion. The merits of European integration, the concrete steps forward and the benefits that result from it, notably for investments, job-creation and consumers, have to be clearly explained to the citizen. The so-called new narrative for Europe should start with a shared communication and simplification strategy by the Commission and the Member States, which are key players alongside political parties and civil society.

Brussels, 9 July 2014.

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

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**Opinion of the European Economic and Social Committee on 'Finance for business: an investigation of alternative supply mechanisms'**

**(own-initiative opinion)**

(2014/C 451/03)

Rapporteur: **Mr SMYTH**

On 22 January 2014 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:

*Finance for business: an investigation of alternative supply mechanisms*

(own-initiative opinion).

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 17 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July 2014), the European Economic and Social Committee adopted the following opinion by 141 votes in favour and 4 abstentions.

## **1. Conclusions and recommendations**

1.1 After more than six years of financial and economic upheaval, the normal channels of funding for businesses, particularly SMEs, remain partially blocked. Banks, the traditional source of most SME funding, are less willing to lend due to a number of factors such as ongoing deleveraging, higher capital and liquidity ratio requirements, bad debt provision and risk aversion. This fragmentation of financial markets and funding channels has been one of the most persistent features of the financial crisis in Europe.

1.2 The decline in working capital lending to SMEs is a chronic form of market failure which demands an appropriate response from EU policymakers. To date this response has not been proportionate to the problem.

1.3 The ECB's LTRO initiative <sup>(1)</sup> was successful in averting the collapse of the banking system but most of its funding has not been transmitted through to the real economy. Instead, it has been used to consolidate banks' balance sheets and it represents a missed opportunity because businesses continue to be starved of working capital.

1.4 The EIB, which has been very active in supporting SMEs across Europe has been substantially recapitalised and has enhanced its lending to SMEs. SME support represents the single largest policy priority of the EIB Group, accounting for more than 20 % of the EIB annual lending volume and 100 % of EIF activities. Even though the EIB is a significant provider of development finance for SMEs its share of total business lending in the euro area remains small.

1.5 The EESC supported last year's Green Paper on long term financing of the economy <sup>(2)</sup> and this has been followed by a recently published package of measures <sup>(3)</sup> to promote long-term finance in general and to target funding for SMEs in particular. The package comprises measures to boost the use of securitisation of SME loans. The Commission also proposes new rules to encourage pension funds to invest in financial assets and thus to support the financing of longer term growth in the real economy <sup>(4)</sup>. There are also proposals to create a liquid and transparent secondary market for corporate and other types of bonds. The EESC welcomes these proposals and believes that they can, in time, contribute to a reformed and more efficient market for SME finance.

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<sup>(1)</sup> Longer-term refinancing operation, providing eurozone banks with low-interest loans.

<sup>(2)</sup> OJ C 327 of 12.11.2013, p. 11.

<sup>(3)</sup> COM(2014) 168 final.

<sup>(4)</sup> COM(2014) 167 final.



1.6 Several other initiatives are under way to remove impediments to more accurate assessment of credit worthiness and risk by lenders. They include greater use of digital repositories with standard submissions for business registers, statistics offices, bank credit assessments and other lenders and the eventual establishment of a European central credit registry. Better, more up-to-date information on SME financial performance should enable better risk assessment by lenders and more appropriate pricing of risk.

1.7 A number of other proposals to improve access to SME finance are now either underway or under consideration. The EESC supports this more proactive response from policymakers but they will take time to implement. The challenge remains what to do now and in the short-term to improve SME access to finance.

1.8 A 'one size fits all' solution may not be suitable in all Member States. Some Member States have developed approaches that are suited to their national financial structures and regulations. One of the most interesting initiatives is the Funding for Lending Scheme in the UK <sup>(5)</sup>. It was extremely successful in boosting mortgage lending and lending to households in the UK over the past two years and is now solely at boosting SME lending. The scheme incentivises participating banks to increase the net lending to SMEs by reducing the cost of funding. Supporters of the scheme argue that lending to SMEs would be much lower if the scheme were not in operation.

1.9 The EESC sees the Funding for Lending Scheme as an example of good practice and recommends that the ECB give serious consideration to the introduction of a similar initiative in the euro area. On 5 June 2014 the ECB announced a set of liquidity measures to boost bank lending to SMEs <sup>(6)</sup>. The EESC is pleased to note that the ECB's main proposal, called Targeted Longer-Term Refinancing Operations (TLTROs), is similar to the FLS as outlined in this opinion. It is also good to note that the work of the EESC in this opinion has preceded the evolving thinking of policymakers.

## 2. The crisis in business lending in Europe

2.1 The debate about business lending and finance has tended to focus on the supply and demand for development or investment capital, especially for SMEs. Lenders tend to point out that there is a shortage of new projects and hence in the demand for development finance. Representatives of SMEs and mid-cap businesses often complain about both the supply of development finance and the cost of such credit, claiming that banks have been overpricing risk finance. Both points of view may contain elements of truth. Either way, the stock of lending to businesses both large and small has been at best static and at worst falling sharply across member states of the EU.

2.2 For the purposes of this EESC opinion, the focus is not on development capital or finance for new businesses or start-ups or innovations. Rather the opinion deals with the issue of access to working capital — overdraft facilities and rolling credit facilities that are the lifeblood of most businesses. Trends in lending for working capital are difficult to identify precisely due to the lack of data, but the broad trend can be seen in the ECB data of lending to non-financial businesses. These data have been falling for the past four and five years and only in the last few months show some signs of recovery.

2.3 One of the most enduring dimensions of the financial and economic crises of the past six years is the severe decline in finance for business. As European banks have struggled to reduce their exposure to impaired loans and worthless debt, the normal supply of working capital for business, particularly smaller businesses and micro-enterprises, has declined in both nominal and real terms. This decline in lending to business could be described as a chronic form of market failure. In addition the fragmentation of European financial markets has led to a two-tier structure of lending rates. Small businesses in Italy and Spain for instance face much higher interest charges than similar businesses in Germany and the UK. To date the response from EU policymakers has not been proportionate to the problem and there is some evidence that the effects of enhanced EU and international banking regulation may have exacerbated the business lending problem by making banks more risk averse.

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<sup>(5)</sup> <http://www.bankofengland.co.uk/markets/Pages/FLS/default.aspx>

<sup>(6)</sup> [http://www.ecb.europa.eu/press/pr/date/2014/html/pr140605\\_2.en.html](http://www.ecb.europa.eu/press/pr/date/2014/html/pr140605_2.en.html)

### 3. The response of policymakers

3.1 EU policymakers have struggled to deal with the fallout of the financial crisis and its impact on the real economy. The fragility of the EU banking system has become a major constraint on economic recovery. To help alleviate this fragility the European Central Bank (ECB) in 2012/13 embarked upon an unprecedented initiative to give EU banks access to over EUR 1 trillion of relatively low-cost money. This initiative was termed the longer-term refinancing operation (LTRO). It was a response to the threat of a banking freeze or a banking collapse as banks struggled to repair their balance sheets and achieve compliance with tougher regulatory capital ratios. LTRO was successful in averting the collapse but most of this funding was not transmitted through to the real economy. Instead, it has been used to consolidate banks' balance sheets. In one sense this outcome was predictable and understandable. The priority for most European banks was and continues to be survival. In another sense this outcome represents a missed opportunity because businesses continue to be starved of working capital.

3.2 In March 2013, the European Investment Bank (EIB) was substantially recapitalised. Its paid-up capital was augmented by a EUR 10 billion cash injection from shareholders. The EIB expects to be able to expand its already substantial lending to SMEs by up to EUR 40 billion over the next three to four years. The recapitalisation has helped the EIB to enhance its lending to SMEs. SME support represents the single largest policy priority of the EIB Group, accounting for more than 20 % of the EIB annual lending volume and 100 % of EIF activities. EIB lending to SMEs, however, tends to be used mainly for development capital, innovation and new projects. It is understood that the provision of working capital lending is under consideration by the EIB and it will be interesting to note the outcome of these deliberations. Even though the EIB is a significant provider of development finance for SMEs its share of total business lending in the euro area remains small.

3.3 In the UK and US, monetary authorities have resorted to some unorthodox measures such as quantitative easing in order to provide liquidity to the banking system. This policy involves the purchase of very large amounts of sovereign and corporate bonds by central banks and the creation of new money into the banking system. It has helped to avert the freezing up of money markets and the monetary transmission mechanism in both the US and the UK. There is some evidence that in the US the quantitative easing programme has helped to expand credit and finance in the real economy. The US monetary authorities are now contemplating tapering it as economic recovery becomes more entrenched. In the UK, the forward guidance of the Bank of England suggests that once economic recovery becomes well-established, the policy of quantitative easing will also be ended.

3.4 The Commission published a Green Paper on long term financing of the economy in March 2013<sup>(7)</sup> and has followed this up with a package of measures to promote long-term finance in general and to target funding for SMEs in particular<sup>(8)</sup>. At the core of this package are measures to boost the use of asset backed securities (ABS) of SME loans. Wider use of ABS would free up banks and other financial institutions to engage in greater volumes of lending to business. The Commission also proposes new rules to encourage pension funds to invest in financial assets such as ABS and thus to support the financing of longer term growth in the real economy<sup>(9)</sup>. There are also proposals to create a liquid and transparent secondary market for corporate bonds and to improve the attractiveness of covered bonds and private placements. There is a communication on crowd funding<sup>(10)</sup>, which aims to promote best practices, to monitor the development of crowd funding markets and to facilitate the emergence of a quality crowd funding label.

3.5 Several other initiatives are relevant here. Impediments to more accurate assessment of credit worthiness and risk by lenders usually revolve around the cost and lack of relevant financial information. The Institute for International Finance (IIF) proposes a series of measures to lessen these impediments. They include greater use of digital repositories with standard submissions for business registers, statistics offices, bank credit assessments and other lenders. These national repositories of credit risk data should be consolidated with the European Data Warehouse, eventually leading to a European central credit registry. The IIF calls for the setting of Europe wide standards for information collection and reporting so as to enable cross company and cross national analyses. Better, more up-to-date information on SME financial performance should enable better risk assessment by lenders and more appropriate pricing of risk.

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<sup>(7)</sup> COM(2013) 150/2 final.

<sup>(8)</sup> COM(2014) 168 final.

<sup>(9)</sup> COM(2014) 167 final.

<sup>(10)</sup> COM(2014) 172 final.

### 3.6 Other proposals to improve the flow of finance to SMEs include:

- measures to enable mutual, cooperative and collective institutions to lend to SMEs by supporting them directly from public funds;
- moving away from the fiscal bias towards debt by making new equity finance tax-deductible;
- giving Regional Development Agencies a formal role in risk assessments while making appropriate adjustment for optimism bias;
- encouraging greater reliance on credit insurance where it is cost-effective, so as to insure portfolios of unsecured SME loans that banks could then sell to non-bank investors;
- providing incentives to private equity and venture capital investors to expand investment in SMEs and address gaps in funding;
- using tax incentives to broaden the investor base in SMEs and SME funds;
- educating SMEs about alternative funding options and the relative benefits of alternative funding mechanisms;
- enhancing credit guarantee schemes and sharing knowledge and best practices to help improve existing national guarantee schemes;
- greater use of trade finance, business to business lending, factoring and leasing instruments.

Progress is being made towards the implementation of many of the proposals outlined above, but the challenge remains as to what can be done now and in the short-term to improve SME access to finance.

## 4. An alternative business finance channel

4.1 The task of designing a scheme to encourage greater access to finance right across the Union is not straightforward. Some Member States have developed solutions that are suited to their national financial structures and regulations. A 'one size fits all' approach may not be suitable in all Member States. One of the most interesting initiatives is the Funding for Lending Scheme (FLS) in the UK and it is worth a closer look.

4.2 The UK Treasury and the Bank of England introduced the FLS in July 2012, in an attempt to boost lending to the real economy<sup>(11)</sup>. The Treasury, as shareholders of the Bank of England, have oversight of the operation of the FLS. The FLS offers participating banks a cheap source of funding and these lower funding costs should allow banks to increase the availability of credit by cutting the interest rates they charge. The scheme incentivises banks to increase their lending and so enable them to draw down additional funds from the scheme. Since its inception, the FLS has contributed to a substantial fall in bank funding costs and this has fed through in the form of improved credit conditions. It is fair to say that most of the success of FLS to date has been in stimulating lending to households and mortgage lending in particular. It was less successful in boosting business lending and so in November 2013, the authorities adjusted the FLS to concentrate only on stimulating lending to SMEs.

4.3 The FLS is a scheme designed to give a commercial incentive to participating banks to increase their net lending (i.e. gross lending minus repayments). The scheme offers discounted funding to all banks, even to those banks which are deleveraging. The scheme has no upper limit as to the amount of funding banks can tap into. To illustrate, if a participating bank has a stock of business lending of EUR 100 billion at the start of the scheme, it could draw down at least EUR 5 billion in funding. If the same bank then increased its net SME lending by a further EUR 1 billion, it would be entitled to draw down a further EUR 5 billion from FLS. This five to one ratio of drawdown to new net lending to SMEs, together with the cheaper cost of funding, provides powerful incentives to banks to expand lending<sup>(12)</sup>.

<sup>(11)</sup> <http://www.bankofengland.co.uk/markets/Pages/FLS/default.aspx>

<sup>(12)</sup> For a comprehensive description of the operation of the FLS see R. Churm and A. Radia 'The Funding for Lending Scheme' BoE Quarterly Bulletin, 2012 Q4 <http://www.bankofengland.co.uk/publications/Documents/quarterlybulletin/qb120401.pdf>

4.4 The Bank of England is monitoring the amended FLS. Most UK financial institutions are participating in the FLS. The revised scheme aimed solely at boosting business lending has been in operation since November 2013 and it is probably too early to draw any meaningful conclusions about its effectiveness. Some of the biggest banks in the UK and in the euro area continued to deleverage quite rapidly and this probably accounts for much of the decline in business lending. Supporters of FLS argue that the credit situation in the UK would be much worse without the availability of FLS funding.

4.5 The EESC believes that a similar scheme to FLS should be implemented across the euro area. A euro area FLS-type scheme could, over a limited period of up to two or three years, contribute to a restoration of finance for business to more normal levels while facilitating the ongoing deleveraging process.

4.6 On 5 June 2014 the ECB announced a set of liquidity measures to boost bank lending to SMEs <sup>(13)</sup>. The EESC is pleased to note that the ECB's main proposal, called Targeted Longer-Term Refinancing Operations (TLTROs), is similar to the FLS as outlined in this opinion.

4.7 Most of the proposals to improve access to finance for SMEs put forward by the Commission have been welcomed by the EESC but they are mostly set in a medium to longer term timeframe and may require new legislation and/or institutions. Meanwhile the funding crisis in working capital for business is immediate, pressing and arguably getting worse. The EESC believes that EU policymakers should do more to provide shorter term solutions such as the incentive schemes (FLS or LTRO) outlined above. Any heightened financial or reputational risks must be weighed against the 26 million unemployed people (5.6 million aged under 25) in the EU.

Brussels, 9 July 2014.

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

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<sup>(13)</sup> [http://www.ecb.europa.eu/press/pr/date/2014/html/pr140605\\_2.en.html](http://www.ecb.europa.eu/press/pr/date/2014/html/pr140605_2.en.html)

**Opinion of the European Economic and Social Committee on ‘The digital society: access, education, training, employment, tools for equality’**

**(own-initiative opinion)**

(2014/C 451/04)

Rapporteur: **Isabel Caño Aguilar**

On 22 January 2014 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

*The digital society: access, education, training, employment, tools for equality.*

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 18 June 2014.

At its 500th plenary session held on 9 and 10 July 2014 (meeting of 10 July) the European Economic and Social Committee adopted the following opinion by 128 votes to none.

**1. Conclusions and recommendations**

1.1 The European Union must stop being merely a digital user and become a designer and producer too, and in order to do this it must promote talent. Informing, training and educating are thus priorities.

1.2 The EESC considers that access to the digital society must be a priority objective for the whole of European society. The policies implemented in this field are insufficient for tackling the digital divide, which is continuing to widen.

1.3 The EESC points out that appropriate measures must be taken to ensure that people with disabilities have access to the digital society and enjoy equal conditions in relation to new technologies.

1.4 The digital society must not be an additional cause for exclusion. The EESC lays particular stress on the need to adopt appropriate policies to ensure that older people are not excluded and can make full use of the technologies that are now part of daily life.

1.5 The EU and national authorities should act jointly to ensure that IT programmes and equipment are available at more affordable prices and respect multilingualism.

1.6 European education policy should prepare people for life. The EESC stresses that professional organisations from the education sector should be consulted.

1.7 Within Member States' financial possibilities, the EESC considers that support for public education is essential for achieving equality.

1.8 The EESC stresses the importance of public libraries when it comes to education and training in the digital society.

1.9 The EESC advocates the promotion of models for Open Innovation and Open Standards. Care must be taken to avoid unjustified measures to protect intellectual property when these could restrict innovation processes in the digital economy.

1.10 The EESC suggests following the recommendations of the European Foundation for Quality in e-Learning (EFQUEL) with regard to education.

1.11 The EESC reiterates the important role of vocational training and education in combating the economic crisis and fostering recovery, and stresses the role played here by Cedefop. The EESC therefore advocates:

- paying more attention to initial and further training for teachers;
- promoting language teaching;
- channelling open educational resources into vocational training.

1.12 The Horizon 2020 initiative must help to strengthen Europe's position in the digital technology field, where businesses post a lower level of investment than their competitors in Asia and the USA.

1.13 The EESC considers it essential to promote Europe's small and medium-sized enterprises (SMEs) in the information and communication technology (ICT) sector, as they can drive innovative projects that are vital in a constantly changing industry. The resulting measures and improved funding facilities for SMEs will also do much to help combat the economic crisis.

1.14 Support for start-ups in the digital technology sector can help boost the EU hardware and software industry. The EESC appreciates the move to support high-risk programmes under the Digital Agenda, but calls for greater support from the financial system.

1.15 The EESC proposes a series of measures to improve women's participation in the digital society.

## 2. Background

2.1 There are a number of political decisions, programmes and initiatives taken by the EU which relate to the use of ICTs in education. They include:

- the eLearning programme (2004-2006);
- the Lifelong Learning Programme (2007-2013), which makes promoting ICTs in education a cross-sectoral priority, through the Comenius, Erasmus, Grundtvig and Leonardo subprogrammes;
- the Erasmus+ programme — which falls under the Europe 2020 strategy, the Education and Training 2020 strategic framework and the Rethinking Education strategy;
- the Communication on new technologies and open educational resources (Opening up Education: Innovative teaching and learning for all through new Technologies and Open Educational Resources, COM(2013) 654 final).

2.2 The Digital Agenda for Europe (2010), which is a key EU strategy for meeting the objectives of Horizon 2020, provides for a wide range of measures, including measures relating to:

- interoperability and standards;
- ultra-fast broadband;
- e-learning;
- access for people with disabilities;
- literacy, e-skills and digital inclusion.

2.3 The EESC has addressed these aspects in various opinions <sup>(1)</sup>.

2.4 This own-initiative opinion discusses issues relating to access to the digital society, learning, equality and employment.

## 3. General comments

### 3.1 Access to the digital society

3.1.1 The tools provided by ICTs are being used more and more in people's lives. Access to the digital society is a right and a source of opportunities which should be fully exploited.

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<sup>(1)</sup> OJ C 271, 19.9.2013, p. 127; OJ C 318, 29.10.2011, p. 9; OJ C 214, 8.7.2014, p. 31.

3.1.2 The EESC has frequently noted the importance of broadband for European society and for the EU economy <sup>(2)</sup>, and it thus welcomes the extension of satellite broadband to the 28 Member States. However, many causes of the digital divide still remain, and have been worsened by rising poverty which in turn has been increased by the economic and social crisis.

3.1.3 The digital divide is not closing, for reasons relating to factors including: education (people who have completed higher education are three times more likely to be internet users than the 33 % with a lower educational level), age (internet use is frequent among young people and almost universal among students, but is much more limited among older people), the high price of IT, the fact that most information is in English, and differences between rural, urban and island regions.

3.1.4 Public authorities often face serious problems financing the cost of IT in education in a context of budgetary austerity, which seems to have been worsened by the Stability Pact. One possible financing method — charging the user — could undermine accessibility and equality in education.

3.1.5 Accessibility is a human right <sup>(3)</sup>. It should also be noted that in Articles 20, 21 and 26, the Charter of Fundamental Rights of the European Union, an integral part of the Lisbon Treaty, prohibits any form of discrimination on account of disability and recognises the right of persons with a disability to benefit from specific measures; for its part, the United Nations Convention on the Rights of Persons with Disabilities commits member states to take adequate measures to ensure access for people with disabilities, on an equal basis, to information and communications technologies, including the internet <sup>(4)</sup>.

3.1.6 People with disabilities are twice as likely to be unemployed, and new technologies (including the internet) are a gateway to leisure, education, culture and many other public and private services; they also encourage participatory democracy. Accessible ICTs are thus vital for allowing people with disabilities to compete under equal conditions in a growing digital market and be part of the digital society.

3.1.7 The digital society must not be an additional cause for exclusion. Instead, it must provide vulnerable individuals with a means of overcoming their exclusion.

## 3.2 *Education in the digital society*

3.2.1 The digital society demands a commitment to openness to institutional changes. The EU must promote education and training systems that are universally accessible and serve to develop people's knowledge and skills across a wide range of subject areas, social, civic and cultural skills, taking in the ability to learn as well as creativity, innovation and teamwork skills.

3.2.2 All those responsible for the education system must cultivate an atmosphere in schools that is conducive to innovation, quality and cooperation in educational practice; all students must be stimulated during the educational process, with dissemination of good practice, civic participation and experiences at school, together with a culture of evaluation.

3.2.3 EU education policy has not adequately motivated national authorities to ensure educational use of ICTs by teachers, starting during their basic training, and in educational establishments, especially primary and secondary schools, and vocational education. In particular, it has not sufficiently encouraged the Member States to make the investment required for a high-quality modern and innovative education system based on ICTs.

3.2.4 Education ministries should schedule specific training for teachers and encourage rethinking of the way people learn.

3.2.5 The EESC stresses the importance of public libraries when it comes to education and training in the digital society.

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<sup>(2)</sup> OJ C 67 of 6.3.2014, p. 137.

<sup>(3)</sup> OJ C 177, 11.6.2014, p. 15.

<sup>(4)</sup> OJ C 271, 19.9.2013, p. 116.



3.2.6 From their earliest schooldays, children could be introduced to the workings of computers and perhaps to programming as a 'fun' activity, so that as soon as possible, Europeans can stop being mere users of ICT and become creators and producers of it too. The EU has centres of research excellence (e.g. research into electronic nano-components), but further progress is needed.

3.2.7 European education systems provide examples of high-quality education from primary education to vocational training and university. However, changes in curriculum are needed to incorporate the use and evaluation of ICTs in education.

3.2.8 The EESC advocates the promotion of models for Open Innovation and Open Standards. Care must also be taken to avoid unjustified measures to protect intellectual property when these could restrict innovation processes in the digital economy.

3.2.9 The SPI (Simple Publishing Interface) protocol, which was developed by the European Committee for Standardization (CEN), is intended to facilitate communication from tools that produce materials to applications that persistently manage learning objects and metadata.

3.2.10 Interoperability can also facilitate use of the enabling technologies which people with disabilities need in order to access ICT.

### 3.3 *Training. A tool for tackling the economic crisis*

3.3.1 Education and vocational training enrich people's lives and provide them with skills which are necessary in a democratic society. Social and economic development are heavily dependent on vocational training, as it gives access to skills and entry routes into the labour market. For underprivileged and marginalised groups in particular, it can help to bring a better life. However, vocational training is not just a bridge between education and employment: it is of considerable importance in itself. UNESCO's Institute for Statistics has noted the correlation between economic development and vocational training.

3.3.2 Erasmus Plus is the EU's main strategy in this field and, as the EESC has noted, 'should be a key instrument for increasing support for education and training in order to enhance citizens' skills [and] help tackle the high levels of youth unemployment in many Member States'. However, it is up to the Member States — who have responsibility for this field — to make the effort to give vocational training the requisite resources and prestige within the education system.

3.3.3 The EESC points out that Cedefop's work on lifelong learning and vocational training addresses issues such as adult education, qualifications and skills, accreditation and quality guarantee procedures that are crucial for those who have most difficulty entering the labour market. Cedefop should be allocated more resources.

3.3.4 The EESC advocates:

- upgrading vocational training;
- paying more attention to initial and further training for teachers;
- promoting language teaching, as this is crucial for worker mobility;
- channelling open educational resources into vocational training.

### 3.4 *The digital economy and employment*

3.4.1 The EU has a high unemployment rate but at the same time — as the Commission has pointed out — it faces an immediate shortage of 900 000 skilled workers to fill vacancies in the ICT sector.

3.4.2 ICTs have a significant impact on employment, and the success of the Digital Agenda is tied to the existence of high-tech companies: in 2008 ICTs brought EUR 574 billion of value added to the EU and employed 8,3 million people. European companies face problems such as fragmented markets and insufficient funding, and need to strengthen their position vis-à-vis the titans that dominate world markets, most of which are North American.



3.4.3 Like any technological development, ICTs have a dramatic effect on employment. This must be looked at with a view to creating occupations, qualifications, skills and forms of certification both for people excluded from employment because of ICT and for those whom ICT can help to become integrated.

3.4.4 The Grand Coalition for Digital Jobs launched by the Commission in March 2013 addresses the main problems (training and matching of courses with jobs in the digital sector; mobility; accreditation; awareness-raising; innovative education and training), but it does not have a specific budget line. Other initiatives exist under the Digital Agenda, such as the e-Skills strategy, Employment Package, Opening Up Education initiative, Rethinking Education strategy, Youth Opportunities Initiative and the EU Skills Panorama.

3.4.5 This Coalition should include industry, but also the education world, so that work-experience periods in companies bring closer contact with the ICT sector.

3.4.6 It should be noted that these programmes do not take sufficient account of the special needs of people excluded because of disabilities, particularly when it comes to mastering e-skills and digital literacy and gaining a place in the digital work market.

3.4.7 Although Europe's big high-tech companies invest in R&D, they do so far less than Asian and US companies. The EESC hopes that Horizon 2020, with its EUR 78,6 billion budget, will help to strengthen Europe's position on the world markets.

3.4.8 The EESC considers it essential to promote European SMEs in the ICT sector, as they can drive innovative projects that are vital in a constantly changing industry. To help tackle the crisis, solutions must be found to the financing problems faced by small businesses and innovative projects (start-ups) involving technological innovation.

### 3.5 *Society in the digital age must be inclusive*

3.5.1 Currently, only 30 % of the 7 million or so people working in the ICT sector are women; women are under-represented at all levels and above all in decision-making positions. Although a higher proportion of women than men complete higher education, they are still at a disadvantage compared to men when it comes to jobs, pay, working conditions and access to positions with more responsibility.

3.5.2 A change in policy is made particularly necessary by the drop in the number of women ICT graduates: currently, only 29 in every 1 000 women holds a postgraduate degree in an ICT subject, and only four in every 1 000 will be employed directly in the sector;

3.5.3 Although greater female participation in the ICT sector could increase the euro area's GDP by EUR 9 billion, there are a number of reasons (for example, cultural stereotypes and traditions) for their insufficient participation in this sector, which is a problem not just in Europe but also in the wider world.

3.5.4 The EESC therefore suggests:

- expanding research to determine which factors are implicated in the paucity of women in the ICT sector in general and why fewer women choose studies in the fields of science, mathematics and technology;
- considering the adoption of plans and robust measures, with funding, that address the issue of gender equality;
- considering the situation of women and girls with disabilities, who often face discrimination compared to their male counterparts when it comes to access to education and employment; they also have more difficulty entering the labour market, which makes it harder for them to lead independent lives;
- identifying career paths and models that can provide inspiration for women and girls;
- revising the status of the European Code of Best Practices for Women in ICT;

- analysing successful campaigns in social media;
- teaching children to use computers and introducing them to programming at an early age (from primary school), as this would help girls to become more involved with ICTs.

#### 4. Specific comments

4.1 Accessibility must be a priority objective not just for the authorities but for the whole of society, supported by all economic and social players. However, EU policies and, in general, those of many Member States have proved inadequate.

4.2 The EESC suggests that the Union and national authorities promote joint projects to achieve a substantial reduction in the cost of online materials — including promoting the use of free, or open-source, software such as Linux — and to provide European content for information and knowledge.

4.3 An appropriate policy for the EU in the 21st century requires a mentality that is open to change. The main purpose of European education and training systems should be not just to meet specific labour market needs (something which the European Commission has made a central plank of its education policy), but also to prepare people for life. European associations of teachers and educational establishments should be involved in framing EU education policies, which is not happening at the moment.

4.4 Bearing in mind that the Member States face budget constraints and that, through their democratic institutions, they are taking the decisions that they consider best for their citizens, the Committee notes the imperative need to invest in public education to achieve the goal of equal access to education regardless of students' social background and their financial means.

4.5 The Commission should insist that educational metadata be free and regarded as of general interest, and not subject to proprietary patents held by private companies. The importance of eContentplus, a Commission metadata programme, should be noted in addition to the European SPI standardisation programme.

4.6 Control of educational content should rest with teachers and educational establishments, so as to guarantee the quality and suitability of education and training provided. The EESC thinks that the recommendations of the European Foundation for Quality in e-Learning (EFQUEL) should be taken into account with respect to legislation, harmonisation, intellectual property rights, etc.

4.7 The EESC has already expressed its dismay at the slashing of the Digital Agenda budget for the 2014-2020 period, from the EUR 9,2 billion initially proposed to the EUR 1,14 billion finally approved.

4.8 The EESC welcomes the financial support for high-risk innovative schemes carried out by SMEs, which was established under Horizon 2020. Measures to ensure that SMEs and start-ups receive more funding not only from the public authorities but also from the markets and the financial system are extremely important.

4.9 The EESC calls for accessibility aspects to be included in all initiatives in the digital field, ensuring that e-learning programmes, ICT, materials and tools (both online and offline) are accessible to people with disabilities and to all vulnerable individuals. Special care must also be taken to include people with disabilities in the new ICT posts which the EU intends to fill.

Brussels, 10 July 2014.

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

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**Opinion of the European Economic and Social Committee on ‘Cyber attacks in the EU’****(own-initiative opinion)**

(2014/C 451/05)

Rapporteur: **Mr McDonogh**

On 27 February 2014 the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on:

*Cyber attacks in the EU.*

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 18 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 135 votes to 1.

**1. Conclusions and recommendations**

1.1 The Committee would like to see an EU-level authority for cyber security created, analogous to the central authority in the aviation industry, the European Aviation Safety Agency (EASA), to provide the strength of leadership required at EU-level to deal with the complexities of implementing an effective Europe-wide cyber security policy.

1.2 Informed and empowered citizens are critical to strong cyber security in Europe. The education of citizens in personal cyber security and data protection should be a fundamental part of school curricula and workplace training programmes. Furthermore, the EU should drive public information programmes and initiatives across the Union on these topics.

1.3 Businesses should be required by law to have a proactive approach to protecting themselves from cyber attacks, including secure and resilient information and communications technology (ICT) and training for staff on security policies, just as there are on health and safety issues.

1.4 Every Member State should have an organisation whose job it is to inform, educate and support the SME sector on issues regarding cyber security best practice. The large firms can easily acquire the knowledge they need but SMEs need support.

1.5 The mandate of the European Network and Information Security Agency (ENISA) should be extended and funding provided to take more direct responsibility for cyber security education and awareness programmes especially targeted at citizens and small and medium-sized enterprises (SMEs).

1.6 Businesses and organisations need to heighten the awareness of responsibility for cyber security at Board-level. The potential corporate liabilities resulting from inadequate cyber security policy and actions should be explicitly communicated to the directors of all organisations.

1.7 Because of their critical role in the provision of online services, all Internet Service Providers (ISPs) in the EU should have special responsibility for protecting their customers from cyber attacks. This responsibility should be defined and enshrined in legislation at EU level.

1.8 To ensure that the great potential for economic growth from the dynamic expansion of cloud computing is quickly realised<sup>(1)</sup>, special security requirements and obligations should also be imposed at EU level on the providers of cloud services.

1.9 The Committee considers that voluntary measures are not enough, and so there need to be strong regulatory obligations on Member States to ensure harmonisation, governance and enforcement of European cyber security. Legislation is also needed to make notification of significant cyber security incidents mandatory for all businesses and organisations, not just for critical infrastructure providers. This would help increase Europe's response to threats, as well as increase the knowledge and understanding of cyber attacks so that better defences can be developed.

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<sup>(1)</sup> OJ C 24, 28.1.2012, p. 40; OJ C 76, 14.3.2013, p. 59.

1.10 The Committee strongly recommends that the EU takes a design-led approach to tackling the menace of cyber attacks, by ensuring that all the technology and services used in Europe to provide Internet connectivity and online services are designed to provide the highest possible levels of security from cyber attacks. Design considerations should especially focus on the man-machine interface.

1.11 The EESC wants to see substantial cyber security standards developed and disseminated for all ICT networking technology and services by European Standardisation Organisations. These standards should include a compulsory code of practice to ensure that all ICT equipment and Internet services sold to European citizens conform to the highest standards.

1.12 The EU must act without delay to ensure that every Member State has a fully functioning Computer Emergency Response Team (CERT) in place to protect itself and Europe from cyber attacks.

1.13 The Committee demands that the European Cyber Crime Centre (EC3) at Europol receives the additional funding it requires to fight cybercrime and to strengthen cooperation between police forces in Europe and with forces outside the Union, to increase Europe's capability to capture and prosecute cyber criminals.

1.14 To sum up, the EESC considers that EU cyber security policy needs to deliver in particular on the following points: strong EU leadership; cyber security policies that enhance security while preserving privacy and other fundamental rights; awareness raising among citizens and encouraging proactive protection approaches; comprehensive Member State governance; informed and responsible business action; deep partnership between governments, the private sector and citizens; adequate investment levels; good technical standards and sufficient R&D&I investments; international engagement. To this end, the Committee reiterates its recommendations concerning cyber security policy as voiced out in many previous opinions <sup>(2)</sup> and calls on the Commission to follow-up on the actions demanded therein.

## 2. Scope of the opinion

2.1 The Internet economy generates over one fifth of GDP growth in the EU and 200 million Europeans buy online each year. We depend on the Internet and connected digital technology to support our vital energy, health, government and financial services. However, the critical digital infrastructure and services that play such an essential role in our economic and social lives are vulnerable to a growing risk of cyber attacks that threaten our prosperity and quality of life.

2.2 The Committee believes that the Union's increasing dependency on the Internet and digital technology is not sufficiently matched by practices and policies that provide an adequate level of cyber security across Europe now and into the future. The purpose of this opinion is to highlight the gaps that the Committee sees in EU cyber security policy and to recommend enhancements that would increase the mitigation of cyber attack risks.

2.3 The motivations for cyber attacks can range from the very personal, for example revenge against a person or a company, to cyber spying by nation states and cyber war between countries. While preparing this opinion, it was decided to narrow the scope to deal purely with criminally motivated cyber attacks, so as to focus the recommendations on the problems of primary concern to the majority of the Committee. The complex political debate on cyber attacks by Member States against citizens and other states might be a topic for a future opinion.

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<sup>(2)</sup> OJ C 97, 28.4.2007, p. 21;  
OJ C 175, 28.7.2009, p. 92;  
OJ C 255, 22.9.2010, p. 98;  
OJ C 54, 19.2.2011, p. 58;  
OJ C 107, 6.4.2011, p. 58;  
OJ C 229, 31.7.2012, p. 90;  
OJ C 218, 23.7.2011, p. 130;  
OJ C 24, 28.1.2012, p. 40;  
OJ C 229, 31.7.2012, p. 1;  
OJ C 351, 15.11.2012, p. 73;  
OJ C 76, 14.3.2013, p. 59;  
OJ C 271, 19.9.2013, p. 127;  
OJ C 271, 19.9.2013, p. 133.

2.4 This opinion deals only with cyber attacks by cyber criminals motivated by money, which account for the vast majority of attacks. By putting in place cyber security policies and practices to deal effectively with cyber attacks for criminal motives, the risks from cyber attacks motivated by political or more personal motives are also reduced.

2.5 Whereas the EU has made good progress with the implementation of the Trust and Security actions in the Digital Agenda and has developed a wide-ranging cyber security strategy that addresses most of the objectives outlined above, more needs to be done.

### 3. Cyber attacks and cyber security

3.1 A cyber attack is any type of offensive action that targets computer information systems, infrastructures, computer networks, and/or personal digital devices by various means of malicious acts to steal, alter, or destroy a specified target. The target can be money, data or information technology.

3.2 Cyber criminals launch cyber attacks to steal money or data, to commit fraud, criminal espionage or extortion. Cybercrime attacks can damage the essential networks and services that we depend on for health, safety and economic well-being, including government, transport, and energy networks.

3.3 The threat from cyber attacks is keeping pace with our growing dependence on the Internet and digital technology. According to a recent report from Symantec, the total number of data breaches in the world increased by 62 % in 2013, amounting to more than 552 million records exposed. These breaches often exposed real names, birth dates, or government ID numbers, medical records or financial information. Furthermore, 38 % of mobile users have experienced mobile cyber crime in the past 12 months.

3.4 Cyber attacks can have a major impact on individual companies and on Europe's wider economy:

- An industry report in 2011 suggests that victims of cyber attacks lose about EUR 290 billion each year worldwide, making it more profitable than the global trade in marijuana, cocaine and heroin combined.
- Citizens are under constant threat from identity theft from cyber attacks. In May 2014, a database containing the personal details of 145 million account holders on eBay were stolen in a single attack. According to a 2013 cyber security survey of the University of Kent, in just one year (2012/13) more than 9 million adults in Britain had their online accounts hacked, 8 % of the population lost money because of cyber crime, and 2,3 % of the UK population lost more than £10 000 due to cyber crime.
- In 2011 a British government report estimated that the overall cost of cyber crime to the UK economy was £27 billion:
  - Online fraud £1,4bn;
  - Identity theft £1,7bn;
  - Intellectual property theft £9,2bn;
  - Espionage £7,6bn;
  - Customer data loss £1bn;
  - Online theft (direct) from businesses £1,3bn;
  - Extortion £2,2bn;
  - Fiscal Fraud £2,3bn.

- Cyber attacks cause huge economic damage in Europe each year. The cost has to take into account:
  - The loss of intellectual property and sensitive data;
  - Opportunity costs, including service and employment disruptions;
  - Damage to the brand image and company reputation;
  - Penalties and compensatory payments to customers (for inconvenience or consequential loss), or contractual compensation (for delays, etc.);
  - Cost of counter measures and insurance;
  - Cost of mitigation strategies and recovery from cyber attacks;
  - The loss of trade and competitiveness;
  - Distortion of trade; and
  - Job losses.
- According to the 2014 Information Security Breaches Survey, a UK Government publication, 81 % of large companies and 60 % of SMEs suffered a security breach in 2013.
- The same government report estimated that the average cost to a large organization of its worst cyber-security breach could be up to EUR 1 400 000 and to EUR 140 000 for a SME.
- Even if attacks do not succeed, the cost of mitigating them is rising fast. In 2014 worldwide information security market growth will accelerate to 8,6 % and exceed \$73 billion.

### 3.5 Cyber attack techniques are constantly evolving:

- A cyber attack usually involves the use of an attack vector by which a cyber criminal can gain access to online identity credentials, a computer or network server in order to achieve a malicious outcome. Common attack vectors include USB devices, email attachments, web pages, pop-up windows, instant messages, chat rooms, and deception, such as a phishing attack.
- The most common forms of attack involve the deployment of malware. Malware is software that hijacks a digital device to achieve a criminal objective, for example to steal user credentials or money, or to spread itself to other devices. Malware includes computer viruses (including worms and Trojan horses), ransomware, spyware, adware, scareware and other malicious programmes. For example, ransomware is a particular type of malware which locks access to the computer system that it infects and demands a ransom for the lock to be removed.
- Malware can also convert a computer into a bot connected to a cyber criminal's botnet or zombie network, which the criminal controls to attack victims.
- A spam attack occurs when a criminal sends unsolicited bulk emails, frequently to deceive a victim into spending money on counterfeit products. Botnets are used to send most spam messages.
- Phishing attacks are attempts to steal usernames, passwords and credit card details by pretending to be a trustworthy entity, so that the criminal can gain control of a victim's email accounts, social networks and bank accounts. Phishing attacks are particularly effective for the criminal because 70 % of Internet users choose the same password for almost every web service they use.

- Cyber criminals sometimes use a denial-of-service (DoS) attack to extort money from companies or organisations. A DoS attack is an attempt to make a machine or network resource unavailable to its intended users by saturating the target with external communications requests so that it cannot respond to legitimate traffic, or responds so slowly as to be rendered essentially unavailable. Again, botnets are commonly used by criminals in DoS attacks.

3.6 There is common agreement among cyber security organisations on the priority actions that citizens and businesses should take to protect themselves from cyber attacks. These practices should be the communicated in every cyber security awareness and education programme:

a. Citizens

- use strong, memorable passwords;
- install anti-virus software on new devices;
- check privacy settings on social media;
- shop safely online, always ensuring to check online retail sites are secure; and
- download software and application patches when prompted.

b. Businesses

- application whitelisting;
- use of standard, secure system configurations;
- patch application software within 48 hours;
- patch system software within 48 hours; and
- reduce the number of users with administrative privilege.

3.7 Small companies often lack sufficient IT support to keep abreast of potential cyber threats; so they need special help to protect themselves from cyber attacks.

3.8 Disclosure of cyber attacks and system vulnerabilities is essential to combatting cyber attacks, especially when tackling so-called zero-day attacks, i.e. new varieties of attacks not previously known to the cyber security community. However, businesses often do not publicise cyber attacks because of reputational and liability fears. This lack of disclosure hurts Europe's ability to respond speedily and effectively to cyber threats, and to improve general cyber security through shared-learning.

3.9 Citizens and businesses buy Internet access and services through Internet Service Providers (ISP). Because of their critical role in the provision of online services it is vital that ISPs provide the highest possible level of protection from cyber attacks to their customers. In addition to ensuring that their own services and infrastructure are designed and maintained to provide the highest levels of cyber security, the ISPs should provide excellent advice on cyber security to their customers, and should have special protocols in place to help identify and combat cyber attacks on customers as they occur. This responsibility should be defined and enshrined in legislation at EU level.

3.10 Accelerating the adoption of cloud computing by citizens and business in Europe is very important to the economy of the EU <sup>(3)</sup>. As the reliance on cloud computing for personal and business applications increases, it is important for Europe to especially ensure the cyber security of cloud service providers. Uncertainty about the security of cloud services is negatively impacting the rate of adoption of this dynamic technology. The Committee would like the EU to impose special security requirements and obligations on the providers of cloud services to support the growth of cloud computing in Europe.

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<sup>(3)</sup> OJ C 24, 28.1.2012, p. 40; OJ C 76, 14.3.2013, p. 59.



3.11 Special efforts must be made to recruit employees for Europe's cyber security industry. The demand for graduate-level information security workers is expected to grow by more than twice the rate of increase for the overall computer industry. In this context, the Committee draws the attention of the Commission to the success of competitions in the US and in some Member States, at raising cyber security awareness and cultivating the next generation of cyber security professionals.

3.12 One of the best strategies for protection from cyber attacks is to take a design-led approach by ensuring that all the technology and services used in Europe to provide Internet connectivity and online services are designed to provide the highest possible level of security from cyber attacks. Design considerations should especially focus on the man-machine interface. This would involve collaboration between technology manufacturers, Internet service providers, the cyber security industry, EC3, ENISA, the national defence and security agencies of Member States, and citizens. The organisation of this design approach to cyber security could be organised at EU-level by the Commission and perhaps coordinated by ENISA.

#### 4. EU Cyber Security Policy

4.1 The EU is developing a comprehensive strategy <sup>(4)</sup> to increase cyber security for Europe's citizens:

- The Digital Agenda's Trust and Security pillar includes 14 actions targeted at increasing cyber security and data protection.
- The Cyber Attacks Directive <sup>(5)</sup>, which must be transposed into national law by 4 September 2015, sets out instructions concerning definitions of criminal offences in this field and the sanctions for those found guilty of them.
- To increase cyber security knowledge and to facilitate cross-border collaboration between Member States, the EU has strengthened the mandate of the European Network and Information Security Agency (ENISA).
- The European Cybercrime Centre (EC3) has been created within Europol to tackle cyber crime.
- The policy initiative on Critical Information Infrastructure Protection (CIIP) focuses on the protection of Europe from cyber disruptions, including attacks, by enhancing cyber security and resilience across the EU.
- The Strategy for a Better Internet for Children, aims to create a safe environment for children on the Internet and to combat child sexual abuse material online and child sexual exploitation.
- The proposed Directive on Network and Information Security (NIS) requires Member States to put in place a set of NIS capabilities, e.g. a well-functioning Computer Emergency Response Team (CERT). It also specifies network security and reporting requirements for critical infrastructure providers.

4.2 The EESC reacted forcefully to the Commission's proposal for the Directive on Network and Information Security (NIS) <sup>(6)</sup> because the proposed measures were considered too soft and would not push Member States sufficiently to protect their citizens and business against cyber attacks. However, while adopting the proposed Directive, the Parliament further weakened its usefulness by strictly limiting the Directive's application to providers of 'critical infrastructure', thus removing its application to search engines, social media platforms, Internet payment gateways and cloud computing services providers.

4.3 The proposed NIS Directive will not now be sufficient to provide the legislation required to enhance threat awareness and responsiveness to cyber attacks in the Union. The Committee would like to see new legislation enacted to make notification of all significant cyber security incidents mandatory, not just for critical infrastructure providers. The lack of mandatory reporting helps cyber criminals thrive on the ignorance of vulnerable targets.

<sup>(4)</sup> JOIN/2013/01 final.

<sup>(5)</sup> OJ L 218, 14/8/2013, p. 8-14.

<sup>(6)</sup> OJ C 271, 19.9.2013, p. 133.



4.4 The EU should consider expanding the mandate of ENISA to strengthen cyber attack threat awareness and response across the Union. Perhaps the role of ENISA could be expanded to take more direct responsibility for cyber security education and awareness programmes especially targeted at citizens and SMEs.

4.5 The European Cyber Crime Centre (EC3) was established at Europol in 2013 to increase Europe's ability to fight cyber crime. EC3 acts as a central hub in Europe for criminal intelligence and it supports Member States' operations and investigations of cyber attacks. However, in its first annual report EC3 warns that its current resources are already constraining the progress of investigations and that EC3 will not be able to cope with the level of major investigations coming-into it.

4.6 The EU should request the European Standardisation Organisations — CEN, CENELEC and ETSI — to develop cyber security standards for any software, ICT hardware or Internet-based services for sale in the EU. These standards should be continually updated to keep pace with new threats.

4.7 Legislation is needed to make notification of significant cyber security incidents mandatory for all businesses and organisations, not just for critical infrastructure providers. This would help increase the mitigation response to live threats as well as increase knowledge and understanding of cyber attacks being perpetrated, thus helping authorities, the cyber security industry, businesses and citizens to improve cyber security and to combat threats. To encourage the sharing of cyber attack information, any legislation should provide appropriate anonymity for businesses and organisations providing notification of an attack. Considerations should also be given to the provision of liability protection where appropriate.

4.8 Despite the initiatives undertaken by the EU, the Member States have very different levels of capabilities and preparedness, leading to fragmented responses to cyber attacks across the EU. Given the fact that networks and systems are interconnected, those Member States with a very weak approach to cyber security weaken the overall ability of the EU to deal with cyber attacks. Action is needed to bring all Member States up to an acceptable level of cyber security. Special attention is needed to ensure that every MS has a fully functioning Computer Emergency Response Team (CERT) in place.

4.9 As advised in previous opinions <sup>(7)</sup>, to increase EU protection from cyber attacks, the Committee believes that voluntary measures do not work and that there need to be strong regulatory obligations on Member States to ensure harmonisation, governance and enforcement of European cyber security.

4.10 In summary, to put itself in a position to provide real and updated protection to citizens and businesses from cyber attacks, that EU cyber security policy should focus on the following actions:

- strong EU leadership that puts in place the policies, laws and institutions to support high levels of cyber security across the Union;
- cyber security policies that enhance individual and collective security while preserving citizen rights to privacy and other fundamental values and freedoms;
- high awareness among all citizens of the risks of using the Internet, and the encouragement of a proactive approach to protecting their digital devices, identities, privacy and online transactions;
- comprehensive governance by all Member States to ensure that critical information infrastructures are secure and resilient;
- informed and responsible action by all businesses to ensure that their ICT systems are secure and resilient, to protect their operations and the interests of their customers;
- a proactive approach by ISPs to the protection of their customers from cyber attacks;
- a deep partnership approach to cyber security across the EU between governments, the private sector and citizens, at strategic and operational levels;
- a design-led approach to build-in cyber security when developing Internet technologies and services;

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<sup>(7)</sup> OJ C 255, 22.9.2010, p. 98; OJ C 218, 23.7.2011, p. 130; OJ C 271, 19.9.2013, p. 133.

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- adequate levels of investment in cyber security knowledge and skills development to grow a strong cyber security workforce;
  - good technical cyber security standards and sufficient investment in RD&I to support the development of a strong cyber security industry and world-class solutions;
  - active international engagement with non-EU states to develop a coordinated global policy and response to cyber security threats.

Brussels, 10 July 2014.

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

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**Opinion of the European Economic and Social Committee on 'Enhancing the transparency and inclusiveness of the EU accession process'**

**(own-initiative opinion)**

(2014/C 451/06)

Rapporteur: **Marina Škrabalo**

At its plenary session of 22 January 2014, the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an own-initiative opinion on:

*Enhancing the Transparency and Inclusiveness of the EU accession process.*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 June 2014.

At its 500th plenary session, held on 9–10 July 2014 (meeting of 10 July 2014), the European Economic and Social Committee adopted the following opinion by 132 votes in favour with 2 abstentions.

## **1. Conclusions and recommendations**

1.1 The EU's enlargement policy, while perhaps not the most popular EU policy area, is among the most successful political projects of the EU. In recent years, there have been a number of improvements to the transparency and inclusiveness of the accession process, as has been apparent in the current processes in Serbia and Montenegro. The strategic shift of the EU institutions towards the fundamentals — the rule of law and economic governance — creates an opportunity to foster participatory democracy within, rather than in parallel with, enlargement policy as a whole.

1.2 Nevertheless, there are several challenges ahead. Greater consistency is needed to ensure that both the EU institutions and the governments concerned adopt a transparent and inclusive approach throughout the accession process, across all policy areas and in all candidate and potential candidate countries. There is a need for tighter policy integration as regards (1) the actual negotiations (2) fostering civil society development and social dialogue and (3) institutional capacity building, all of which should be more appropriately reflected in the funding of pre-accession assistance.

1.3 The EESC recommends that the European Commission, the Council of the European Union and the European Parliament:

- Substantially increase its financial support for building institutional capacities and developing citizen engagement in the accession process, as well as for strengthening the professionalism and independence of the media.
- Encourage both stronger civil and social dialogues in enlargement countries and link this more closely to the accession process.
- Increase its communication efforts to explain the benefits and challenges of enlargement policy to EU citizens, in cooperation with civil society organisations.
- Disclose all key documents for accession negotiations i.e. screening reports, translations of the EU *acquis* and opening and closing benchmarks and that these documents be published on the websites of the EU Delegations.
- Make it compulsory for enlargement countries to adopt and implement legislation on public access to information, public consultations and ensure that this is an integral part of the progress monitoring process.
- Apply the *DG Enlargement Guidelines for EU Support to Civil Society in Enlargement Countries 2014-2020* <sup>(1)</sup> equally in all enlargement countries and revise these guidelines in order to address in more detail the specific challenges faced by the social partners in the context of social dialogue.

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<sup>(1)</sup> [http://ec.europa.eu/enlargement/pdf/civil\\_society/doc\\_guidelines\\_cs\\_support.pdf](http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf)

- Aim to fully implement the *DG Enlargement Guidelines for EU Support to Media Freedom and Media Integrity in Enlargement Countries, 2014-2020* <sup>(2)</sup>.

1.4 The EESC recommends that the national governments of negotiating countries:

- Adopt and publish a written policy on access and disclosure of negotiation-related information, ensuring that:
  - negotiation structures, procedures and timetables are transparent and publicly available;
  - national negotiation positions are available to members of parliament and that their summaries are, at the very least, available to the public.
- Invite representatives of civil society, including the social partners, to take part in all expert groups, chapter working groups and meetings of the core negotiation team whenever they are affected by accession issues.
- Define their national priorities prior to starting the negotiation process in order to help the core negotiation team to defend priority sectors more effectively and thus achieve better negotiation results.
- Carry out regulatory impact assessments (RIA) when preparing national negotiation positions and legal harmonisation in order to identify adjustment risks; to engage non-state actors, including the business community, trade-unions and representatives of affected social groups when carrying out RIAs.
- Involve the social partners and business associations more closely in economic governance and labour market reforms and in calculating the social and economic costs of harmonisation, ensuring that concerns for social cohesion and competitiveness are taken into account.
- Involve economic and social councils when programming pre-accession assistance aimed at addressing the social partners' needs.
- Include the social partners and other relevant stakeholders, such as business associations, in technical assistance and in the funding schemes available to civil society.
- Ensure that national parliaments play a proactive, deliberative and supervisory role in the accession process in a timely and strategic manner.
- Refrain from reverting to direct nominations for joint consultative committees but instead use inclusive and transparent procedures involving economic and social councils and national consultative bodies for civil society when selecting candidates.

1.5 Recommendations for the EESC:

- Joint consultative committees (JCCs) should attempt to fill 'empty niches' which are not covered by other bodies in the negotiation process and focus on a select number of areas, in particular the four overarching themes of the current enlargement strategy— the rule of law, economic governance, strengthening democratic institutions and fundamental rights, as well as the enhancement of both civil and social dialogues.
- JCCs should maximise their outreach to national and other level stakeholders, through public hearings, online consultations, and cooperation with national TACSO <sup>(3)</sup> advisers and key policy monitoring projects.
- Exchange of information should be improved between JCCs and the Commission, the Council and the European Parliament's relevant bodies in order to facilitate communication between the EU institutions and civil society stakeholders in the enlargement countries.
- To take urgent measures to encourage and facilitate a better gender balance of EESC members serving on JCCs.

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<sup>(2)</sup> [http://ec.europa.eu/enlargement/pdf/press\\_corner/elarg-guidelines-for-media-freedom-and-integrity\\_210214.pdf](http://ec.europa.eu/enlargement/pdf/press_corner/elarg-guidelines-for-media-freedom-and-integrity_210214.pdf)

<sup>(3)</sup> TACSO is an EU funded technical assistance project for civil society development in enlargement countries, <http://www.tacso.org/>

## 2. Key features and changes in the EU's enlargement policy over the past five years

2.1 While some of its long-term societal and political effects are open to question, the EU's enlargement policy has clearly been instrumental in accelerating changes in national governance structures towards market economies and democracies, as well as in fostering regional cooperation in the post-war Western Balkans. In terms of the scope of the EU accession negotiations, the transition periods for implementing EU legislation are a key issue, as are the related financial costs for both the EU and the candidate countries. As the opening and closing of each negotiation chapter is subject to a unanimous vote at the Council, the pace and timing of negotiations can be highly unpredictable in view of the potential impact of national politics in one or more Member States.

2.2 The EU has proved to be open towards improving and adjusting the negotiation process in line with changing political circumstances. It is important to note that the current negotiation methodology has greatly evolved over the years, based on this 'learning by doing' approach.

2.3 As announced in the Commission's *Enlargement Strategy and Main Challenges 2013-2014* <sup>(4)</sup>, 'a key lesson from the past is the importance of addressing the fundamentals first', starting with the rule of law, which has been 'placed at the heart of the enlargement process'. This represents a significant strategic shift from specific policy adjustments to the broad issue of democratic governance, finally understood as prerequisites for meaningful and sustainable policy harmonisation with the EU *acquis*. Accordingly, during the ongoing accession negotiations (Montenegro, Serbia, Turkey) the Commission intends to keep Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security) open throughout the accession negotiations, the pace of which may well depend on the progress made in these two critical chapters.

2.4 On the one hand, changes in the negotiation methodology used in the accession process are an indication of the EU's flexibility and its genuine concern for ensuring the effectiveness of negotiations. The greater attention given to 'evidence-based' enlargement has strengthened the position of non-state actors, whose independent information is valuable for the regular assessments made by the Commission in its progress reports. On the other hand, the changes introduced may be perceived as primarily reflecting the EU's selective need for evidence while ignoring the administrative burdens they impose on negotiating countries, unless there are clear procedures for data collection and stakeholder engagement.

2.5 The *Negotiating Framework with Serbia* <sup>(5)</sup> is the first negotiating framework to refer explicitly to the principles of inclusiveness and transparency: 'In order to strengthen public confidence in the enlargement process, decisions will be taken as openly as possible so as to ensure greater transparency. Internal consultations and deliberations will be protected to the extent necessary in order to safeguard the decision-making process, in accordance with EU legislation on public access to documents in all areas of Union activities.' This is an important lesson learned from the case of Croatia — where voter turnout in the EU referendum was the lowest ever (43 %) — and represents a step towards the formalisation of a number of improved practices in the case of Montenegro.

2.6 The EU's stronger focus on economic governance envisages the introduction of national economic reform strategies and action plans for public financial management, in the hope that more timely information and macroeconomic surveillance might help prevent a protracted economic recession and an excessive deficit, which occurred in Croatia immediately after its accession. Accordingly, it is planned that enlargement countries will undergo scrutiny comparable to that of the EU Member States under the 'European Semester'. It is essential to ensure the timely preparation of the business sector in order to help companies become more competitive and face the challenges of the EU's single market, while the involvement of social partners is critical for assessing and agreeing the social dimension of the economic reforms.

2.7 According to the *DG Enlargement Guidelines for EU Support to Media Freedom and Media Integrity in Enlargement Countries, 2014-2020* <sup>(6)</sup>, a vibrant civil society is critical for stimulating pluralism and participatory democracy. EU support for civil society should therefore focus on (1) achieving an environment that is conducive to civil society activities and (2) to building the capacity of CSOs so they can function as effective and accountable independent actors. These guidelines would appear to be a useful tool for the integration of civil society provided that their implementation is in line with their level of ambition.

<sup>(4)</sup> COM(2013) 700 final.

<sup>(5)</sup> <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=AD%201%202014%20INIT>

<sup>(6)</sup> See footnote 2.

2.8 So far, enlargement policy has failed to fully respond to the challenge of informing EU citizens about its vital importance for the security and prosperity of the entire continent, which could help allay the fears of further enlargement that can surface along with other forms of xenophobia, especially in times of economic crisis. As the memories of the Balkan wars fade, the current crisis in Ukraine can act as a reminder that a lack of peace and democracy can affect us all.

### 3. Public access to negotiation documents

3.1 Although the accession process does not provide for conditionality in the area of transparency and inclusiveness, public expectations in this area are increasing in those countries negotiating their EU accession. In the case of Croatia, there was a lack of information about the technical procedures for negotiations: although a protocol on internal policy coordination on EU negotiation positions was adopted, it was never actually published in the official gazette. All EU negotiation related documents produced by the Croatian Government, other than legal drafts, were discussed and adopted during government sessions held *in camera*. This meant that the public could not even request non-classified documents as there was no formal information about their existence. It took several years of civil society pressure before the government began to publish basic information about the documents discussed during the sessions.

3.2 In terms of parliamentary oversight, Slovenia's good practice was unprecedented — the national parliament had the right to veto negotiation positions<sup>(7)</sup>, which were also disclosed to the public. While the Croatian Parliament acted competently as a guardian of the political consensus throughout six years of cumbersome EU negotiations, it fell short of catalysing the broader engagement of parliamentarians, experts and general public in policy deliberations. Negotiation positions and reports were restricted to government officials and selected groups of members of the National Committee for Monitoring the Accession Negotiations, resulting in the virtual exclusion of the vast majority of MPs, let alone the general public. This scenario should not be repeated in the forthcoming rounds of negotiations.

3.3 Timely insight on the part of non-state actors and the media and the independent monitoring of the negotiation process were also hindered by the fact that the documents produced by the European Commission and the Council, such as EU Common Positions, were not the property of the Republic of Croatia. As a result, the Croatian government claimed that it had no authority to disclose them. This was accompanied by a lack of proactive disclosure on the part of the EU institutions<sup>(8)</sup>.

3.4 There has been a clear improvement in the disclosure of negotiation-related documents in the case of Montenegro. The Commission has published all screening reports on its website, which may serve as valuable diagnostic tools for all stakeholders on the non-compliance of national legislation with the EU *acquis*. Furthermore, the Council has proactively published the EU Common Positions for Chapters 23 and 24 in view of the significance and public interest in the reforms involved. It remains to be seen if this good practice will translate into a policy to be followed in the case of Serbia and Turkey or with regard to those chapters already open. In addition, there is no formal reason why the Council should not be able to publish the opening benchmarks in full once they have been unanimously approved. Timely access to these key documents for negotiations is crucial for civil society input and contribution, informed media reporting and independent monitoring of the governments' actions to meet their obligations.

3.5 Drawing on the lessons learned from past rounds of enlargement, the Commission has become more sensitive to the vital role of independent and professional media, as evidenced by the organisation of two conferences entitled *Speak-Up* in 2011 and 2013 and by the adoption of the *Guidelines for EU Support to Media Freedom and Media Integrity in Enlargement Countries, 2014-2020*, which should also serve as a basis for funding allocations. One challenge that remains, however, is how to ensure media outreach to EU-based audiences, who also need to be aptly informed about the meaning and dynamics of enlargement policy.

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<sup>(7)</sup> <http://www.ijf.hr/eng/EU4/marsic.pdf>

<sup>(8)</sup> In practice, the Council has released accession-related documents upon demand, upon extraction of sensitive information mostly related to the positions and documents owned by the Member States, on the grounds that they require intergovernmental consultations and concern international relations, in line with Article 4 of Regulation (EC) No 1049/2001 of 30 May 2001. The classification policy of the Council also restricts access to accession-related information in the European Parliament, where special rooms are set aside for storing and viewing classified documents.



#### 4. The role of civil society in the accession process

4.1 Civil society engagement in the accession process consists of (1) direct involvement in the actual negotiations (i.e. screening, preparation of national positions, oversight of progress) (2) social and civil dialogue related to policy formulation and legislative harmonisation with the *acquis* (3) participation in the programming of pre-accession funding (4) independent monitoring of progress and social effects of the reform processes. The performance of these roles requires adequate financial support, through national government and EU pre-accession funding.

4.2 The Croatian and Montenegrin working groups for the preparation of negotiation positions included a high proportion of civil society experts (over one third of all members). In both cases, open calls for applications were organised and the names of all working groups' members were published. Yet, in the case of Croatia, the scope of involvement was largely dependent on the leadership style within each group: in some cases, civil society members did not have an opportunity to see the draft negotiation positions required. Accordingly, civil society input primarily concerned the initial screening phase, with little impact on the design of the negotiation strategy and early assessments of social and economic costs and benefits.

4.3 The EU institutions have provided several channels for consultation with civil society in order to collect evidence on the progress of accession-related reforms, including online correspondence, annual civil society consultations in Brussels, in-country meetings, briefings and public events during visits by EU officials. The Commission has also been open to independent monitoring reports prepared by civil society organisations. Yet the Commission has admittedly been much more proactive towards NGOs than towards trade unions and business associations. This is evident in terms of both the level of contact as well as the scope and purpose of pre-accession funding schemes for capacity building and policy monitoring.

4.4 If we look back at Croatia's accession process, it represents a missed opportunity to strengthen social dialogue in the country in connection with its EU accession, which could have helped to ensure more effective and sustainable conditions for Croatia's EU membership, as had happened in Bulgaria. National economic and social councils were not sufficiently used to debate the social and economic adjustment costs and support measures, nor for the programming of pre-accession assistance. A very low proportion of pre-accession funding was directed towards strengthening social dialogue structures and the organisational capacities of the social partners. The capillary structure of the business associations and trade unions should be used more fully as key platforms for the deliberation of the accession costs and benefits and the timely preparation of the economy.

4.5 In terms of policy formulation, in the case of Croatia and in line with negative trends in the previous rounds of accession, over 80 % of *acquis*-related legislation was fast tracked, often without any public consultation, with a minimum scope of regulatory impact assessments (RIAs), damaging the quality and transparency of the legislative drafting<sup>(9)</sup>. On a more positive note, the programming of the Instrument for pre-accession assistance (IPA) was inclusive, especially as regards the civil society component, and was steered by the Council for Civil Society Development, with technical support from the Government Office for Civil Society. This led to the development of highly relevant grant schemes, supportive of independent policy monitoring in several critical reform areas and allowed for the important intervention of social partners in allocating funding for strengthening competences for social dialogue. The inconsistency between the two processes described above should be avoided and the inclusive approach in policy-making should always prevail in the forthcoming accession processes.

#### 5. The EESC's role in facilitating civil society engagement in the accession process

5.1 As a strong supporter of enlargement policy, the EESC has set up joint consultative committees (JCC), which bring together CSOs in order to draw up recommendations for the political authorities on both sides and to foster public debate on EU integration in enlargement countries. These structures have enabled informed discussions about the negotiations, based on multiple perspectives, and made it possible to identify the consequences of adopting the EU *acquis* for different sections of society, supporting civil society engagement in the process. In addition to the JCCs, the Western Balkans Civil Society Forum serves as a regional platform for addressing political authorities and provides opportunities for networking among WB CSOs, while analysing the major problems of civil society in the region.

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<sup>(9)</sup> SIGMA Assessment Croatia, May 2011.



5.2 The following list includes some of the challenges identified in the work of the JCCs:

- governments tend to exert too much influence on the nomination processes for JCC members;
- there have been disruptions in terms of work and relations due to significant changes in the EESC's members in individual JCCs; equally, however, too little turnover on the part of the partners countries may well have prevented outreach to new organisations;
- JCCs have limited organisational capacities to reach out to a wider circle of local civil society organisations, outside the capital and urban centres;
- JCCs tend to engage more male EESC members, with a current average ratio of 78 %. This represents a serious gender imbalance and the EESC is urged to seek and implement measures to remedy this unsatisfactory position.

5.3 Increasing awareness about the role of civil society and including social partners in the accession process has been both a mission and a challenge for the EESC. In some countries, governments have maintained a negative attitude towards civil society and, as a result, JCC recommendations have had little resonance. Nevertheless, JCCs have created opportunities for direct exchanges between civil society, EU and national politicians and officials, even if they have had little impact on government policies. With this in mind, JCCs would benefit greatly from stronger backing and closer cooperation with the Commission, the Council and the EP, ensuring that key concerns about the national realities of accession, stemming from the civil and social dialogue in the countries, may be heard in all relevant policy-making arenas.

Brussels, 10 July 2014.

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

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## III

*(Preparatory acts)*

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

500TH EESC PLENARY SESSION, 9 AND 10 JULY 2014

**Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on structural measures improving the resilience of EU credit institutions**

COM(2014) 43 final — 2014/0020 (COD)

(2014/C 451/07)

Rapporteur: **Edgardo Maria IOZIA**

On 25 February and 27 March 2014 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 Regulation of the European Parliament and of the Council on structural measures improving the resilience of EU credit institutions.*

COM(2014) 43 final — 2014/0020 (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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion by 97 votes to 1 with 3 abstentions.

**1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) expresses its firm support for the structural reform of the banking system, considering it to be the most crucial of the many legislative initiatives introduced as a consequence of the financial crisis. The EESC stresses the fact that this reform is the first to undertake a deep regulatory overhaul at the heart of the banking system and to complete the banking union. Moreover, it can make an important contribution to restoring confidence among businesses and the public, and, in the interests of proper financing for the economy, to strengthening the European banking system and reducing the risk of contagion.

1.2 The EESC is convinced of the absolute necessity of this regulation, which will redefine the management of a complex range of banking and financial services. It is clear to the Committee that the proposed regulation will not be enough to avoid another crisis. This requires a major change in financial culture and the endorsement of ethical principles in the everyday activities of the financial sector. All direct stakeholders should be involved in the construction of a new financial and economic system in order to create a sustainable and resilient finance sector and to find the best balance possible between the interests of all concerned. To this end, the EESC supports and encourages a broad agreement to boost the economy and restore trust in the financial institutions, and calls on the Commission to promote a European Social Pact for Sustainable Finance. Employees, management, shareholders, investors, families, SME's, industries, commercial customers should find a stable and fair agreement in order to create a financial services industry that is geared to developing prosperity, supporting the real economy, growth and good jobs, and to respecting the environment and avoiding undesirable negative social consequences.

1.3 The EESC draws attention to the need to ensure that the national authorities use uniform criteria and recommends that this legislation be applied uniformly at EU level, and possibly be agreed with the national authorities of third countries.

1.4 The Committee expresses doubts about the decision to allow the coexistence of various national regulations and, at the same time, the EU regulation. The EESC believes that such a framework might not guarantee the uniform application of the new rules. It welcomes the fact that this derogation has been established solely for legislation that pre-exists the proposal for a regulation, provided that complete equivalence with the regulation under consideration is guaranteed.

1.5 The EESC considers the Commission's proposal for a regulation to be a valid and effective response aimed at separating commercial banking activities from investment activities. Indeed, the chosen solution, as compared with the alternatives taken by some countries, is based on dialogue and assessment, which makes it possible to avoid contradiction with the universal banking model by preserving it and acting solely on the excessive risks associated with this model.

1.6 The EESC stresses that the impact of the proposed legislation on jobs has not been given appropriate consideration. Hundreds of thousands of jobs could be lost due to the overall regulation of financial services and it is unacceptable that no measures have been planned to reduce the substantial direct and indirect social impact. This regulation may have a limited direct impact but the influence it could have on the assets of businesses would reverberate throughout the financial system. However, it has to be acknowledged that the reduced banking risk would benefit the real economy as a whole, with unquestionable benefits for employment in general.

1.7 There are serious concerns that the costs will be passed on to employees. Although the Commission has taken this aspect into account in its impact assessment, it seems to have given little space to this problem in the reform. Although it is true that the activities affected by the reform are the least labour intensive, the indirect effects of the reform will lead to cost-cutting policies that could result in further job cuts, as key banks have forewarned.

1.8 There are many forces (financial lobbies, large Member States, consumers and investors, households, large and small businesses, associations, etc.) and widely differing interests at play. The lesson derived from a time when the financial system's rules prevailed should be clear by now: it is the public interest that must prevail. The Committee therefore advocates a change of tack that places the common interest at the centre, in a way that balances the interests of all stakeholders, since it is convinced that this is the only way in which the reform can work effectively.

1.9 The EESC is convinced that in order to ensure a sustainable financial system, we need 'patient finance' which stops seeking short-term profits at all costs and prioritises efficiency and long-term stability. This regulation proposes a change in the business model.

1.10 The EESC believes that the Commission should give greater attention to investors and employees, who have hitherto received little attention in the reform. In the long term, the system's sustainability is ensured by the renewed confidence injected by a more secure environment for investors as well as employees, who play an active part in the risk management process.

1.11 The EESC believes that flexibility in the application of the regulation is a valid and appropriate principle. The 'biodiversity' <sup>(1)</sup> of banking businesses is in fact a guarantee of the system's stability and efficiency. Nevertheless, the EESC would point out that this must not be confused with the arbitrary application of rules.

1.12 The EESC advises the Commission to include in its Impact Assessment a detailed assessment of the interaction of the key proposals of the current regulation with other recently undertaken initiatives such as CRDIV, BRRD, SRM, etc., as well as an assessment of the risks of migration towards shadow banks.

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<sup>(1)</sup> OJ C 100, 30.4.2009, p. 84.

1.13 The EESC recommends that oversight activities be carried out in close cooperation and coordination between the EBA and the national authorities, which are well-acquainted with the markets and which will play a key role in managing the new reformed European finance.

## 2. The proposal for a regulation

2.1 According to the Commission, this proposal represents a critical part of the Union response to tackling the 'Too-Big-To-Fail' dilemma. It aims at preventing unmonitored and unmanaged risks in the Union banking system. It will curtail the expansion of activities of a purely speculative nature.

2.2 The regulation seeks to prevent systemic risk, financial stress or failure of large, complex and interconnected entities in the financial system, in particular credit institutions, and to meet the following objectives:

- (a) to reduce excessive risk-taking within the credit institution;
- (b) to remove material conflicts of interest between the different parts of the credit institution;
- (c) to avoid misallocation of resources and to encourage lending to the real economy;
- (d) to contribute to undistorted conditions of competition for all credit institutions within the internal market;
- (e) to reduce interconnectedness within the financial sector leading to systemic risk;
- (f) to facilitate efficient management, monitoring and supervision of a credit institution;
- (g) to facilitate the orderly resolution and recovery of the group.

This proposal for a regulation lays down rules on:

- (h) the prohibition of proprietary trading;
- (i) the separation of certain trading activities.

2.3 Other types of additional financial services/products (securitisation, corporate bonds, derivatives, etc.) should therefore continue to be allowed.

## 3. Preliminary considerations

3.1 The Commission estimates that the financial crisis cost EU governments around EUR 1,6 trillion (13 % of EU GDP) in state aid as a result of bailouts in the financial sector.

3.2 The EU banking sector is highly concentrated: 14 European banking groups are listed as global systemically important financial institutions (SIFIs), and 15 European banking groups own 43 % of the market, in terms of asset size, and represent 150 % of EU-27 GDP, with 65 % in the hands of the first 30 groups!

3.3 The financial crisis, which began in the United States but had a tsunami effect on the European system, had many causes, but the main ones may be considered to be excessive risk-taking, excessive leverage, inadequate capital and liquidity requirements and the complexity of the overall banking system.

3.3.1 In October 2012, the Liikanen group made the following statement: 'It is necessary to require legal separation of certain particularly risky financial activities from deposit taking banks within the banking group. The activities to be separated would include proprietary trading of securities and derivatives, and certain other activities closely linked with securities and derivatives markets' <sup>(2)</sup>.

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<sup>(2)</sup> [http://ec.europa.eu/internal\\_market/bank/docs/high-level\\_expert\\_group/report\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/high-level_expert_group/report_en.pdf)

3.4 Through this proposal, the Commission seeks to reduce risk margins in the banking system and bring potentially speculative operations under control. This should be considered jointly with the related regulation on securities financing transactions <sup>(3)</sup>, which seeks to make so-called 'shadow banking' less opaque. At the end of 2012, global shadow banking assets accounted for EUR 53 trillion, representing about half the assets of the international banking system, and were mainly concentrated in Europe, with around EUR 23 trillion, and in the United States, with around EUR 19,3 trillion. These figures are impressive when compared to the total EU-28 GDP, which did not exceed EUR 13,071 trillion in 2013 (Eurostat).

3.5 The European Parliament's McCarthy resolution <sup>(4)</sup> sets out a number of key principles, and states, inter alia, that 'the core principle of banking reform must be to deliver a safe, stable and efficient banking system that serves the needs of the real economy, customers and consumers (...) structural reform must stimulate economic growth by supporting the provision of credit to the economy, in particular to SMEs and start-ups, provide greater resilience against potential financial crises, restore trust and confidence in banks and remove risks to public finances; (...) an effective banking system must deliver a change in banking culture in order to reduce complexity, enhance competition, limit interconnectedness between risky and commercial activities, improve corporate governance, create a responsible remuneration system, allow effective bank resolution and recovery, reinforce bank capital and deliver credit to the real economy'.

The new oversight of international markets has emerged stronger, more far-reaching and, above all, with more powers than previously held, with less discretion and better guarantees for the market and end users.

#### 4. The key points of the hearing

4.1 The Committee believes that the Commission is on the right track but thinks that it would be useful to present it with certain views that emerged during discussions with the various stakeholders and which may not have been given sufficient thought. The EESC therefore draws its attention to some of the key points raised by stakeholders. These do not fully represent the views of the EESC but nevertheless deserve to be reported faithfully.

4.2 The reform under consideration was generally well-received. In fact the majority considered the prohibition of proprietary trading and the separation of traditional activities from trading to be the right instruments to curb speculation on financial products and to boost bank lending, a key source of finance for SMEs which has fallen considerably in recent years due to policies concerning speculation on trading.

4.3 It is important for the application of the reform to accommodate the wide range of business models in order to ensure that local banks can continue to serve local economies.

4.4 The business model of mutual and cooperative banks deserves special consideration. The reform is not believed to be particularly adapted or adaptable to their specific network. The main concern expressed was that the reform could impair the way they worked and their capacity to be present on the ground on a daily basis in order to support the real economy. The recommendation is therefore to preserve their specific character and different ways of doing business.

4.5 The reform, alongside the numerous measures taken by the Commission in recent years, will improve the transparency of individual transactions and the banking system in general, but will also increase their overall costs at various levels. In this regard, the discussion clearly revealed the need for an overall impact assessment of the financial regulatory reforms despite awareness of the complexity of such an evaluation.

4.6 There were concerns that these costs would, as often occurs, be passed on to the end consumer of financial services. There was discussion as to whether the positive effects which the new measures were expected to have, for instance in terms of the banking system's stability, might be outweighed by the detrimental effects.

4.7 Regarding the whistleblower protection system, the Committee and those social partners that mentioned the issue praised the Commission for the system of rules which it had put forward. There were calls for the term 'appropriate protection' to be more clearly defined (Article 30) and to clarify the extension of the proposed rules to all employees, encouraging and motivating them to report any breaches.

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<sup>(3)</sup> COM(2014) 40 final.

<sup>(4)</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-506.244+01+DOC+PDF+V0//EN&language=EN> (2013/2021(INI)).

4.8 With regard to the sanctions referred to in Articles 28 and 29, it is advocated that liability for any breaches should be established primarily at the level of the institution, in relation to governance, and not the individual.

4.9 On the other hand, with respect to the remuneration system, an explicit reference to the provisions of Article 69 of the Capital Requirements Directive (CRD) IV is advocated.

## 5. EESC comments

5.1 The EESC welcomes the measures set out in the Commission's proposal and agrees that a regulation is the right choice of legal instrument since it fits the purpose of harmonising the single market in order to avoid regulatory arbitrage and return to an efficient and productive banking system which serves the public and the community, supports the real economy, households and balanced and sustainable social development and which is far-sighted and knows how to combine innovation with security.

5.2 The EESC has been determined in its support of the ensuing reforms, which have started to bear their first fruit. The regulation under consideration addresses one of the most complex and sensitive aspects of the entire system: the resilience and legal structure of financial firms, some of which have assets that exceed the GDP of many Member States. The total assets of the top ten European banks exceed the GDP of EU-28 <sup>(5)</sup> (over EUR 15 trillion).

5.3 The proposed regulation aims to cut right through the Gordian knot created by the size, interconnections and complexity of some so-called 'systemic' institutions, meaning those that can trigger a systemic crisis. 'Too-big-to-fail' has now become a mantra which conceals actions that are not only in breach of the most elementary ethical principles, but also constitute fraud and breaches of law, as recent and very recent financial scandals unfortunately continue to show. These practices are euphemistically covered by the term 'moral hazard'!

5.4 Commissioner Barnier launched the proposal by announcing that the objective was to prevent the existence of banks that were 'too-big-to-fail, too-costly-to-save, too-complex-to-resolve'.

5.5 The EESC believes the proposed measures are on the right track, reducing the risk that taxpayers will have to step in again to save failing banks. Following the repeated bailouts, the EESC had warned against the disastrous effects they would have on sovereign debts and consequently the harmful effects of a recession that was clearly inevitable. Unfortunately, these forecasts materialised with even worse consequences than had been predicted, due to the unbelievable mistakes over the impact of a growing number of budget consolidation policies resulting from national requirements or a short-sighted and misguided EU policy, which was blind to the need for flexibility and compensatory anti-recessionary measures.

5.5.1 It is only now that we can fully appreciate the damage caused by this policy and we must acknowledge that it was only the European Central Bank's enlightened management of the Eurozone that prevented the worst and saved the euro, and ultimately the Union. Had the EESC's advice been heeded, much of this damage might have been avoided!

5.6 The Commission has rightly given the European Banking Authority (EBA) a decisive role for the purposes of this regulation. The EBA will be consulted in the event that some of the decisions envisaged in this proposal need to be adopted. Furthermore, it will be tasked with preparing draft regulatory technical and implementing standards and will have to update the Commission on the implementation of the regulation by submitting reports. The EESC had on several occasions pointed out that despite the undisputed existence of expertise, the Commission was not providing this important authority with sufficient responsibilities and resources.

5.7 In 1999, a law was adopted in the United States repealing the Glass-Steagall Act, and in particular the separation between commercial and investment banking. Unfortunately, the EU also followed the US administration's disastrous decision. The EESC notes that the current provisions effectively reinstate the separation between these two areas of activity and go even further since, barring a few exceptions, they prohibit credit institutions that take deposits from dealing in investments as a principal and holding trading assets.

5.7.1 It is crucial that the EU works closely with third countries, especially the USA, in order to proceed to a common substantial approach to the regulation. The EESC urges the Commission to strengthen the international cooperation.

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<sup>(5)</sup> <http://www.relbanks.com/top-european-banks/assets>

5.8 The proposal for a regulation leaves the relevant authorities considerable room for discretion. It is vital for them to take action and base their assessments on clear, harmonised and foreseeable criteria that define when a bank is no longer able to manage its own levels of high-risk trading activities. Without a common reference framework, the risk of subjective interpretations could lead to the opposite of the desired effects, which are consistent with the provisions of Article 114 of the TFEU.

5.9 The EESC welcomes the Commission's ultimate decision to opt for an ex-post rather than an ex-ante separation of market and other proprietary trading activities: the technical standards rightly entrusted to the EBA are therefore essential. In view of the application of the rules on resolution and, in particular, the establishment of the resolution authority, approved by the Ecofin Council in December 2013, the EESC advocates the immediate development of arrangements for the coordination and identification of the national and European authorities' responsibilities, in order to avoid the risk of duplicate decisions or, worse still, of conflicting interpretations and assessments by the relevant authorities. As soon as the single resolution authority is set up, it should participate in developing the mechanism, as well as in defining the technical standards alongside the EBA.

5.10 The EESC does not agree with the criticisms levelled at the Commission concerning the relative importance of activities that might be subject to separation. In some credit institutions, their weight was extremely substantial and the lack of specific rules exposed them to a very high risk that could have led to a systemic crisis far worse than the one that actually occurred, with predictably disastrous effects on settlement systems and the economy in general. Disaster was only averted by fresh injections of taxpayers' money and the ECB's reaction capacity.

5.11 The EESC welcomes and supports the Commission's inclusion of explicit provisions to protect financial sector professionals who are exposed to severe repercussions for making public interest disclosures of irregularities but are then faced with retaliatory mobbing or even dismissal. This internal monitoring, referred to as whistleblowing must be encouraged and supported. Regulatory compliance is often lax, circumvented or even breached, exposing banking institutions and their staff to incalculable risks. Recently exposed practices, which breach all standards or laws, by sometimes well-known and highly respected firms could only have happened with the active collaboration of people working for them!

5.11.1 The EESC calls on the Commission to develop specific monitoring of the Member States' obligations to adopt legislation providing adequate protection and to present a report on the issue within two years of the regulation's entry into force.

5.12 The EESC is very aware of the issues surrounding relations with third countries, especially with regard to reciprocity and regulatory compliance by all entities operating in the EU. It considers the Commission's approach to be balanced and supports the arrangements it puts forward in this connection. It advocates pursuing and stepping up cooperation with the United States, especially in the area of financial regulation, in order to develop systems that are as homogeneous as possible and which take a uniform approach to the same problems.

5.13 Furthermore, the EESC welcomes the fact that the Commission's regulations have started to provide an adequate response to one of the points that the Committee has frequently emphasised in the past, in this instance, with regard to administrative sanctions, since criminal sanctions are outside the Commission's scope of action. The Commission's proposals appear proportionate, appropriate and dissuasive.

5.14 The EESC has expressed its reservations about the use of delegated acts on many previous occasions. Although it acknowledges the importance of adapting legislation over the years, the EESC points out that the use of delegated acts introduces elements of uncertainty that are inadvisable in this area.

Brussels, 9 July 2014.

*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 — A roadmap for completing the single market for parcel delivery — Build trust in delivery services and encourage online sales**

COM(2013) 886 final

(2014/C 451/08)

Rapporteur: **Daniela RONDINELLI**

On 16 December 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 — A roadmap for completing the single market for parcel delivery — Build trust in delivery services and encourage online sales.*

COM(2013) 886 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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 107 votes to 2 with 6 abstentions.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) welcomes the roadmap for completing the single market in delivery of products sold online, which has great potential for growth and jobs. Efficient, reliable delivery services constitute an essential pillar for promoting e-commerce and strengthening trust between sellers and purchasers.

1.2 In the EESC's view, completing the single market in delivery services and closing the significant gap between expectations, protection and actual availability requires: shared responsibilities, tracking and tracing, and interoperability; access to the widest possible choice throughout the EU including the island territories; certainty of rights and responsibilities of those involved — particularly SMEs and consumers — especially as regards complaints and returns; simple and comparable data collection; and a strong social and educational dimension.

1.3 The EESC reiterates <sup>(1)</sup> that this objective ought to be based not just on voluntary agreements and codes, desirable though these are, but also on a minimum European regulatory framework, which can respond efficiently and in a flexible way to the unresolved shortcomings in the market which discourage consumers and SMEs to buy e-commerce, and can resolve the problems relating to:

- shared responsibility of operators along the entire online supply chain;
- traceability of deliveries;
- explicit compliance with the European rules on protection of personal data;
- a clear choice between several delivery options;
- common definitions of concepts and full interoperability;
- access to a universal service at an affordable cost;
- collection of comparable and broken down statistical data, simplified for smaller operators;
- a requirement for uniform application of VAT procedures;

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<sup>(1)</sup> OJ C 161, 6.6.2013, p. 60.

- mutual cross-border acceptance of network systems of the national problem solving centres and ODR/ADR systems <sup>(2)</sup>;
- the obligation to guarantee fair working conditions;
- transparency regarding the conditions and pricing of the service;
- continuing vocational training of staff;
- penalties for non-compliance with requirements relating to the RAPEX-IMI alert system <sup>(3)</sup>;
- creation of a European trust mark based on technical and regulatory standards, to be tasked to the CEN <sup>(4)</sup>, setting quality indicators;
- measures favouring small and medium-sized enterprises in terms of simplifying access to the market and to web platforms on a level playing field.

1.4 The EESC calls for the roadmap to give clear timescales and a set timetable for implementation, both of legislation and of self-regulation, to optimise levels of confidence amongst all the relevant stakeholders and, in particular, the European public, whilst fully respecting and protecting their reciprocal rights.

1.5 The EESC calls for the roadmap to provide for two additional measures: one on accessibility of the service at an affordable cost and another on the social dimension of the market.

1.6 The EESC recommends to the Commission, the EP and the Council that:

- a European regulatory framework should enable all operators in the sector to access the delivery market and ensure that particular attention be given to the issues surrounding universal service at an affordable cost, especially as regards remote, mountain, island and disadvantaged areas;
- the lack of a detailed, comparable statistical framework on the chain from the online order to the cross-border delivery of products be addressed with simplified procedures in accordance with the 'one size fits all' principle;
- an open, common architecture be created based on shared definitions with the agreement of all stakeholders, especially SMEs, for the interoperable management of interactive, user-friendly web platforms, under the supervision of the European Commission (EC);
- clear guidance be given on EU financial instruments relating to: technological research and innovation; the environment and climate, energy and transport; new professions and training; cohesion, territory and small businesses;
- sufficient support be given to SMEs in implementing the roadmap by putting in place tangible measures and appropriate funding to promote their participation in e-commerce on a level playing field;
- in the spirit of the Small Business Act, work be done on regulations that address the issues faced by SMEs throughout the transport and logistics sector, with input from their representative bodies;
- a mandate be given to the CEN, as a matter of the utmost urgency, to draw up standards for quality indicators for a European security and quality mark for delivery services. This would ensure quality and reliability, sustainability and social and security guarantees;
- a sound, consistent social dimension be put in place that can guarantee broad European social dialogue; access to appropriate vocational training measures; decent pay and working conditions; and the elimination of insecure and undeclared work, which is particularly prevalent in outsourced 'last mile' tasks.

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<sup>(2)</sup> ODR: online dispute resolution; ADR: alternative dispute resolution directive.

<sup>(3)</sup> IMI: Internal Market Information System.

<sup>(4)</sup> European Committee for Standardisation.

1.7 The EESC calls on the EC to present — with the support of EUROFOUND — a biennial report on employment and working conditions in the sector, on the conditions for consumers and operators along the entire chain, and their prospects for development, to be submitted to the EESC, the Parliament (EP), the Council and the social partners.

## 2. From the Green Paper to the roadmap

2.1 In Europe, e-commerce is a potential driver of economic growth and rising employment estimated at over 10 % between 2013 and 2016 <sup>(5)</sup>. 45 % of EU citizens have made online purchases in the last 12 months and have confirmed that the majority of problems arose from deliveries or delays in delivery <sup>(6)</sup>.

2.2 The EC has identified <sup>(7)</sup> the ‘main obstacles to the Digital Single Market and [...] an action plan to remove them’, but ‘10 % of people [...] do not buy online <sup>(8)</sup> because they are concerned about the cost of delivery services, in particular cross-border delivery, and about service quality’.

2.3 In its opinion on the Green Paper <sup>(9)</sup>, the EESC asked for a directive to be drawn up to define a joint regime for online sellers, tracking and tracing of deliveries, the obligation to offer a choice of delivery options, a European network of national problem solving centres, the obligation to provide fair working conditions, and transparency regarding conditions and prices.

2.4 Following the debate on the Green Paper, the communication on the roadmap for completing the single market in parcel delivery for online sales was published in December 2013 <sup>(10)</sup>.

2.5 According to recent worldwide surveys <sup>(11)</sup>, the most difficult issues affecting the development of business-to-consumer (B2C) e-commerce are:

- the impossibility of immediately knowing the delivery options and having certainty of the total cost of the online purchase;
- the lack of updates on the status of packages and their traceability;
- long delivery times and/or a lack of specification/flexibility of delivery times;
- the management of returns and exchanges, which is complicated and expensive;
- deficiencies in customer service involving real-time contact with a person.

2.6 The EC states that there is still a lack of ‘relevant market data on domestic and cross-border parcel flows from all postal service providers active on the B2C and B2B parcel markets, including intermediaries, consolidators and alternative operators’ <sup>(12)</sup>.

2.7 Various studies confirm that ‘the potential for anticompetitive behaviour appears higher is [sic] some segments of the postal sector than in others so that particular regulatory vigilance may be more appropriate in, for example, [...] business to consumer (B2C) markets compared to business to business services (B2B); cross-border services compared [to] domestic postal services’ <sup>(13)</sup>.

2.8 The EESC is pleased that a significant proportion of the problems raised in its opinion on the Green Paper have been taken up. The Council <sup>(14)</sup> and the EP <sup>(15)</sup>, too, have called upon the Commission to identify the current barriers to cross-border parcel delivery services and to adopt appropriate measures to address them, and the European Parliament has also called <sup>(16)</sup> for accessible, affordable, efficient, and high-quality delivery services and for platforms for cooperation and information exchange between delivery operators with rapid, low-cost dispute and complaint handling.

<sup>(5)</sup> MEMO-13-1151, EC.

<sup>(6)</sup> *Special Eurobarometer 398 Internal Market survey* — October 2013.

<sup>(7)</sup> COM(2011) 942 final, 11.1.2012.

<sup>(8)</sup> Eurostat, Household survey 2009.

<sup>(9)</sup> OJ C 161, 6.6.2013, p. 60.

<sup>(10)</sup> COM(2013) 886 final.

<sup>(11)</sup> UPS worldwide study, *Pulse of the Online Shopper*, 2013.

<sup>(12)</sup> COM(2013) 886 final.

<sup>(13)</sup> WIK Consult Final Report 8/2013.

<sup>(14)</sup> Competitiveness Council — conclusions on governance of the single market and the digital single market, 30.5.2012.

<sup>(15)</sup> EP resolutions 4.2.2014 2013/2043(INI), 11.12.2012 and 4.7.2013.

<sup>(16)</sup> EP resolution dated 4.2.2014.

### 3. General comments

3.1 The EESC considers important to restore SMEs' and online consumers' trust with interoperable networks and systems for rapid, low-cost management systems within an appropriate framework of regulation and self-regulation accepted by all operators in the chain to have a free and open internal market, avoiding any unnecessary overregulation. Therefore it calls for the roadmap to be implemented within a clear timescale according to a set timetable of 18-months foreseen.

3.2 The EESC considers that the EU should complete the single market in parcel delivery in such a way as to ensure speed, quality, reliability and affordability for consumers, workers and all operators, including SMEs in the e-commerce, transport and logistics sectors, thus putting right the current deficiencies and anomalies in the single market.

3.3 However, the EESC expected that the Communication would also make specific reference to the situation of geographically challenged regions such as islands, outermost regions and mountains, since the Committee understands that these regions pose specific challenges difficult to overcome, particularly due to economic feasibilities: a truly complete single market for parcel delivery can be achieved only if these regions are given due consideration and action is taken accordingly.

3.4 The EESC considers that, in essence, the framework of the actions proposed is based exclusively on voluntary self-regulation, on the rules governing national postal services, on the action of the European Regulators Group of Postal Services and on principles of proper implementation of existing European law without setting out a unified framework for all operators and without stipulating precise deadlines within the specified 18 months.

3.5 The EESC notes that the roadmap does not yet make provision, alongside self-regulation processes, for the need for a **directive** — already requested by the EESC <sup>(17)</sup> — that could **fully, consistently and completely** meet the requirements of completing the single market in cross-border parcel delivery for all operators in the sector.

3.6 The EESC considers that the EU must provide a European solution in the form of promoting self-regulation and regulation to address unresolved problems in the market and to protect consumers and SMEs (B2B) relating to:

- **joint and several responsibility of all operators along the online supply chain** towards purchasers;
- a requirement for **full traceability of deliveries**;
- explicit compliance with rules on security and on **protection of personal data** in accordance with Directive 95/46/EC;
- the obligation to offer consumers the choice of **several delivery options**;
- the obligation to have common definitions of concepts and full **interoperability**;
- the requirement to provide a **universal service at an affordable cost to all free market operators**, taking into account the relevant laws, including the Postal Directives and other relevant EU laws;
- collection of comparable and broken down **statistical data**;
- a requirement for uniform application of VAT procedures;

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<sup>(17)</sup> See footnote 1.

- **mutual cross-border acceptance** of network systems of the national problem solving centres and ODR/ADR systems;
- the obligation to guarantee **fair working conditions**;
- an obligation for **transparency regarding the conditions and pricing of the service**;
- obligation for continuous **vocational training** of staff to ensure **professionalism** when faced with new technology being introduced into the sector;
- **penalties** for non-compliance with obligations detected via a RAPEX-IMI alert system, and penalties based on quality indicators;
- **measures to help SMEs** in terms of cutting red tape and of market access and participation in the joint creation of shared applications, new technologies, and web portals and platforms.

3.7 Although the proposals refer to compatibility with the 2014-2020 EU financial framework, the EESC considers that the roadmap cannot omit explicit guidance on **relevant EU financial instruments** for:

- technological R&I (Horizon 2020, the Galileo and ISA programmes and the Digital Agenda) for interoperability, traceability and security;
- environment and climate, energy and transport (seventh environment action programme, the 2030 Energy and Climate Framework, and the *EU Transport GHG: Routes to 2050 II* programme) with regard to the impact of the last mile;
- SMEs: with EIB support for innovative businesses, the COSME programme and all the European resources available for competitiveness on an equal footing with other operators;
- territorial cohesion: (new structural funds programming period 2014-2030 and support for island, rural and outermost regions);
- employment and training (*Agenda for new skills and jobs*; the European Consumer Agenda — Boosting confidence and growth; Erasmus Plus 2014-2020; Education and Training).

3.8 The EESC recommends that the EC proceed with mandating the CEN to draw up European technical and regulatory standards with the full involvement of all interested parties, particularly SMEs and consumers. It also considers that **indicators for a European security and quality mark** for delivery services should be drawn up so as to ensure quality and reliability, sustainability and social and security guarantees.

#### 4. Specific comments

4.1 The EESC sees the need to provide for two further actions in relation to guaranteeing accessibility and to the social dimension of the market.

##### 4.1.1 Action — Affordable market access and availability

4.1.1.1 The EESC requests that the award of the quality mark should include a requirement to guarantee affordable market access and availability in all of the EU. The EESC is disappointed to see that the peripheral areas and islands have not been given specific consideration and therefore expects the new regulation to cover the target of geographic vulnerability in the e-commerce market because a substantial percentage of European citizens lives in these areas.

4.1.1.2 The EESC considers that **all operators** should be given full access to information bodies and resources used in supplying parcel delivery services to protect the interests of users and/or to promote effective competition.

4.1.1.3 The EESC asks that the Commission review the 1998 *Notice* on the application of competition rules to the sector in the light of regulatory and market developments that affect cross-border services and standard costs, towards more liberal and cost-oriented policies<sup>(18)</sup>, in accordance with the provisions of Protocol No 26 appended to the Treaty of Lisbon, particularly with regard to universal access to and affordability of services of general economic interest.

<sup>(18)</sup> Common position EU & US in the Doha Round — WTO, 2006.

#### 4.1.2 Action — The social dimension of the market

4.1.2.1 The EESC calls for a sound and consistent social dimension that is capable, in combination with the innovation efforts made by the industry, of providing high quality skilled jobs, not least by ensuring access to suitable opportunities for basic and further training.

4.1.2.2 The EESC reiterates the need for fair and decent pay and working conditions so as to eliminate insecure and undeclared work, particularly in outsourced 'last mile' tasks. It stresses the terms of Regulation (EU) 1071/2009 on access to the profession, of Decision 2009/992/EU and of Regulation (EU) no 1213/2010, which establish a definition of 'employment relationship' that enables action to be taken against bogus self-employment, as recalled in a recent EESC opinion <sup>(19)</sup>.

4.1.2.3 The Committee recommends the establishment of an enlarged sectoral European social dialogue involving the representative social partners of the sectors involved in the entire chain of online sales and parcel delivery (commercial, postal, transport and logistics) to deal with issues relating to employment and working conditions, the prospects for development, innovation, and optimisation of human resources.

4.1.2.4 The EC should draw up, with the support of EUROFOUND, a biennial report on employment and working conditions in the sector and the prospects for development, to be submitted to the EESC, the EP, the Council and the social partners.

#### 4.2 Action 1: Information for consumers on the characteristics and costs of delivery and return

4.2.1 The EESC considers that voluntary codes of conduct and the sharing of best practices are complementary avenues that can be pursued at EU level only if they are drawn up and accepted by all the parties involved in the e-retailing market and within the context of an EU regulatory framework governing all the issues raised by the cross-border delivery of online products so as to protect consumers, small operators and SMEs on an equal footing and without placing unsustainable burdens on them.

#### 4.3 Action 2: Information for e-retailers on delivery services

4.3.1 The drafting of joint definitions of basic service concepts by delivery operators and online retailers without consumer and SME representatives risks overlooking important points for consumer choice and limiting the range of possible options.

4.3.2 The EESC asks that, jointly with all interested parties, a shared open interactive architecture following the example of the e-freight project <sup>(20)</sup> be established.

4.3.3 The Committee asks the Commission to make sure that the proper management of the web platforms is monitored on the basis of objective, predefined consumer-friendly criteria as part of the regulatory framework requested by the EESC.

#### 4.4 Action 3: Transparency of delivery markets, integrated services and quality standards

4.4.1 The lack of a detailed, comparable statistical framework on the chain of transactions and interested parties from the online order to the cross-border delivery of products should be addressed by means of the acquisition by customs, postal and tax authorities and by the commercial sector of relevant, homogeneous and comparable data on cross-border flows of parcels amongst all service providers in the market place, on universal service provision, on returns and the makeup of complaints.

4.4.2 The collection of data should take place in accordance with the 'one size fits all' principle without bureaucratic burdens and duplication. The EC should examine the appropriateness and costs of fixed-fee, low cost insurance for transnational deliveries connected with the award of a European quality mark.

#### 4.5 Action 4: Interoperability of parcel delivery operations

4.5.1 It is appropriate that delivery operators and online retailers develop on a voluntary basis solutions to link information systems and open interfaces with an efficient, affordable system of deliveries and returns for the 'last mile'.

4.5.2 However, the EESC considers that such developments should take place on the basis of predefined interoperability criteria within a common regulatory framework.

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<sup>(19)</sup> OJ C 161, 6.6.2013, p. 14.

<sup>(20)</sup> The e-freight project 2010-2014 within the EU's seventh framework programme for research, with 31 partners from 14 European countries, aims to network all those involved in logistics via user-friendly interactive web platforms. Recommendations included: 'The EU Commission should issue a Directive or similar as soon as possible which secures that the interface to National Single Windows that are put to use from now on are using the Common Reporting Schema (CRS), developed in e-freight, as the input format.'

#### 4.6 *Action 5: Enhance consumer protection*

4.6.1 The EESC supports the initiative of mandating the CEN with standardisation and of giving guidance to the Member States on the full and uniform implementation of Directive 2011/83/EU to encourage greater use of alternative dispute resolution mechanisms under the scope of the ADR directive 2013/11/EU.

4.6.2 The EESC considers it insufficient that resolving the issue of complaints should be based solely on the idea that 'Delivery operators, e-retailers and consumer associations should jointly ensure better co-operation with regard to complaint handling and consumer protection systems.' The Committee considers such cooperation to be a good thing provided that it takes place within a common regulatory framework.

Brussels, 10 July 2014.

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

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## APPENDIX

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

The following amendment, which received at least a quarter of the votes cast, was rejected during the discussions (Rule 39 (2) of the Rules of Procedure):

**Point 1.6**

Amend as follows:

1.6 *The EESC recommends to the Commission, the EP and the Council that:*

- ~~at the European regulatory framework, including the Postal Directives, should enable all operators in the sector~~ guarantees ~~to~~ access to the delivery market and guarantees ~~ensure~~ that particular attention be given to the issues surrounding universal service at an affordable cost, especially as regards remote, mountain, island and disadvantaged areas;.

**Outcome of the vote:**

For: 35

Against: 67

Abstentions: 10

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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 reporting and transparency of securities financing transactions’**

COM(2014) 40 final — 2014/0017 (COD)

(2014/C 451/09)

Rapporteur: **Edgardo Maria IOZIA**

On 25 February and 27 March 2014 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 Regulation of the European Parliament and of the Council on reporting and transparency of securities financing transactions.*

COM(2014) 40 final — 2014/0017 (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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 June), the European Economic and Social Committee adopted the following opinion by 183 votes, with 3 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC **welcomes** the proposal for a regulation presented by the Commission, which is intended, in combination with the very closely related draft regulation on banking reform, to constitute a package of measures to make the European financial system more transparent and resilient where securities financing transactions (SFTs) are concerned.

1.2 It is in the eminent interest of the market and the economy as a whole to have more even information coverage across the entire market, to monitor the risk of ongoing operations and to reduce the scope for non-transparent and unregulated banking operations.

1.3 On this last point, the EESC finds the phrase ‘shadow banking’ misleading and a source of needless misunderstanding among the general public. It is **certain banking operations** that banks and non-banking entities perform that are ‘shadowy’ and not the banks themselves — or, to be more precise, financial institutions, since the operators in this particular market are often not actually banks. They include hedge funds, sovereign funds and finance companies specialising in money market funds or in structured and complex derivatives. All these operators are known; what the State does not know is some of their unregulated operations.

1.4 The EESC stresses the importance of this regulation, which serves to **bring market movements and pockets of excess risk out into the open**. These help market supervisory authorities to constantly monitor the situation and intervene pre-emptively to rein in activities generally deemed to be unduly risky. On the one hand, the regulation thus provides the market with information not available to the State and, on the other, gives the authorities an additional analysis and information tool.

1.5 Equally important is **regulation of rehypothecation** — the temporary use of securities entrusted to the operator. The requirement to obtain the explicit consent of investors owning the securities enables these investors to spurn taking on unforeseen risks which are not made clear in the contract. Counterparty risk becomes part and parcel of evaluation in a way that eliminates, or at least greatly hampers, operators who are not conspicuously trustworthy. All of this contributes to the overall resilience of the system in general and of businesses with a bigger market presence.

1.6 Given all the Commission’s initiatives to return the financial system to its natural role as a driver of the economy and of household and business prosperity, the EESC believes that now is the time to launch a major **‘social pact for sustainable finance’** in which all interested parties would be involved in redefining goals and instruments. The plummeting reputation of the banks, manifest in innumerable polls and probes over the last few years, should encourage all those involved to turn over a new leaf once and for all and hold themselves accountable to society. Households, businesses, citizens, workers and society in general are all calling for an efficient and reliable financial system that contributes to development and jobs and is highly attentive to the social and environmental impact of investments.

1.7 The EESC acknowledges the Commission's strong commitment in fulfilling its promises to present the 48 measures in the work programme of the new regulation. There is no doubt that the Directorate-General for the Internal Market has put in a great deal of outstanding work in very difficult circumstances. The guiding principles have been balance and efficacy. The EESC readily acknowledges this as one of the Commission's success stories, appreciating in particular its admission of 'regulatory gaps, ineffective supervision, opaque markets and overly-complex products'.

1.8 The EEC believes that, when adopted, the regulation will greatly lessen the risk of regulatory arbitrage and it encourages the Commission to continue pursuing the goal of **minimising unregulated operations in what are the peripheries** of Europe's financial system.

## 2. The Commission proposal

2.1 The proposal aims to improve the transparency of SFTs in three ways in particular:

- monitoring systemic risks linked to SFTs: the proposed regulation requires all SFT operations to be reported to a central database. This would enable inspection authorities to better identify links between banks and shadow banking operators, thereby casting light on some of the latter's fund-raising operations;
- providing information to investors whose assets are being used in SFTs: under the proposal, SFT operations performed by investment funds and other equivalent financing structures must be described in detailed reports. This would improve transparency for investors, who can then take more informed decisions;
- rehypothecation: the regulation seeks to improve the transparency of rehypothecation of financial instruments (any pre-default use of collateral by the collateral taker for their own purposes) by setting minimum conditions to be met by the parties involved, including written agreement and prior consent. This would ensure that clients or counterparties have to give their consent before rehypothecation can take place and that they make that decision based on clear information about the risks the operation might entail.

## 3. Introduction

3.1 As well as the proposal for structural reform of the EU's banking sector, the Commission has also proposed consolidating measures intended to boost transparency of SFTs and prevent banks sidestepping some of the rules by shifting such activity to the shadow banking sector. This is one of the Commission's main concerns.

3.2 SFTs cover a variety of transactions that have similar economic effects. Prime among these are securities lending and repurchase agreements (repos).

3.3 Securities lending is primarily driven by market demand for specific securities and is used, for instance, for short selling or settlement purposes. Repos/reverse repos are generally motivated by the need to borrow or lend cash in a secure way. This practice consists of selling/buying financial instruments against cash, while agreeing in advance to buy/sell back the financial instruments at a predetermined price on a specific future date.

3.4 SFTs are used by fund managers to earn additional returns or to secure additional funding. For example, repo transactions are often used to raise cash for additional investments. At the same time, however, these operations can create new risks, such as counterparty risk and liquidity risks. Generally, only a part of the additional earnings is attributed to the fund, but the entire counterparty risk is borne by the fund's investors. Therefore, the use of SFTs may lead to a significant alteration of the fund's risk-reward profile.

3.5 The link between this package of measures and the proposal on structural reform of the European banking sector is clear. The latter would ban or put constraints on certain activities of banks. However, its desired impact could be diminished if these activities migrate from regulated banking groups towards the shadow banking sector, where there is less scope for monitoring by supervisors.

3.6 The Financial Stability Board (FSB) has highlighted the fact that the disorderly failure of shadow banking entities can carry systemic risk, both directly and through their interconnectedness with the regular banking system.

3.7 The FSB has also suggested that unduly stringent banking regulation could shove some banking activity into the shadow banking system <sup>(1)</sup>.

#### 4. General comments

4.1 The EESC welcomes the proposal for a regulation on transparency and reporting requirements for SFTs, which, in combination with the regulation on structural reform of the banking system, seeks to increase the resilience of the banking system, the transparency of operations and the resolution of potential crises without being an additional burden on the public.

4.2 This EESC opinion is closely linked, therefore, to the Committee's opinion on the structural reform regulation.

4.3 The EESC appreciates the Commission's admission regarding 'important regulatory gaps, ineffective supervision, opaque markets and overly-complex products' before the crisis erupted. These are arguments the EESC has been using since the financial crisis began in calling for urgent intervention measures. However, the Commission failed to heed carefully enough the warnings and recommendations that could have forestalled subsequent problems.

4.4 The EESC realises that economic forces, aggressive lobbies and the enormous stakes involved sought to avoid or delay necessary and urgent measures once the crisis had begun. Despite everything, and with the exception of a few decisions that cannot be endorsed, the EESC acknowledges that the Commission has implemented a whole set of measures announced following the release of the reports of the Larosière group and the Liikanen High-level Expert Group.

4.5 The EESC readily commends Commissioner Barnier for having abided by his undertakings and the entire Directorate-General for the Internal Market (which was responsible for the proposals on financial regulation) for its generally excellent work and for having delivered a raft of coherent and closely interlocking measures constituting a body of law marked by exceptional quality and undeniable efficacy. The cumulative effect of the legislative initiatives will be to progressively eliminate the causes behind the financial crises of the last few years.

4.6 The EESC has always espoused the need to have a well-functioning financial system geared to sustaining the real economy (particularly SMEs), to strengthening the social economy and to creating jobs. The credit industry has a crucial role to play in providing a service to society, making itself once again the engine and driver of the real economy in full awareness of the social responsibility it needs to deliver.

4.7 The EESC thinks that a radical change in the relationship between financial institutions and the public can no longer be deferred. The nose-dive in confidence in banks and other entities must be halted, since it could inflict irreparable damage on economic and social development.

4.8 In line with many of its previously expressed views on civil society involvement, the EESC would like to see a '**social pact for sustainable finance**' drawn up in Europe in which all interested parties would participate in framing an efficient, resilient and transparent financial system alert to the environmental and social impacts of its actions.

4.9 The EESC wholeheartedly supports the Commission's initiatives to avoid — on the one hand — the risk of regulatory arbitrage and — on the other — a flight of business towards a barely regulated area such as that of shadow operations, where the increasingly tight rules that are being promulgated are avoided.

4.10 The EESC has stated its own position clearly in its opinions on this matter <sup>(2)</sup>, namely that unregulated areas in the financial sector should be minimised.

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<sup>(1)</sup> OJ C 170, 5.6.2014, p. 55.

<sup>(2)</sup> OJ C 177, 11.6.2014, p. 42; OJ C 170, 5.6.2014, p. 55; and the opinion on Structural reform of EU banks (ongoing).

4.11 In drafting the proposal for a regulation, the Commission has taken on board the need to minimise additional costs for the financial system, seeing possible solutions in infrastructure such as repositories and in existing procedures to achieve transparency in derivatives transactions laid down in Regulation 648/2012. The EESC endorses this approach, which shows the consideration the Commission has extended to operators and end clients, who could most likely have to bear the extra costs entailed in this regulation.

4.12 The EESC contends that financial stability deriving from greater transparency on the activities covered by the regulation, such as securities financing operations, equivalent financing structures and rehypothecation, would be effectively increased, thus boosting the overall resilience of the system and individual operators. The inclusion of all the counterparties operating in the financial markets guarantees comprehensive information about the real nature of transactions and the risk profiles that individual operators take on.

4.13 For these reasons, the present regulation is essential to perfect the effectiveness of the regulation to reform the structure of the banking system, which deals with banking undertakings big enough to be considered as potentially embodying a systemic risk. It also reduces the scope for opting for transfer to non-regulated areas of the financial system.

## 5. Specific comments

5.1 The proposal aims to improve the transparency of SFTs, in three ways in particular:

5.1.1 Monitoring systemic risks linked to SFTs: the proposed regulation requires all SFT operations to be reported to a central database. This would enable inspection authorities to better identify links between banks and what are generally termed 'shadow' banking operators, thereby casting light on some of the latter's fund-raising operations.

5.1.1.1 In the EESC's view, this approach would help supervisors to monitor the exposures to — and risks associated with — SFTs and, if necessary, take better-targeted and timelier action.

5.1.1.2 The EESC wonders whether the proposal to retain data in the register repositories for at least ten years is really appropriate. The EMIR regulation, for example, only requires five years.

5.1.2 Providing information to investors whose assets are being used in SFTs: the logic of the proposal is that there is room to improve transparency for investors about the practices of investment funds involved in SFTs and other equivalent financing structures by requiring detailed reporting on these operations. This would lead to better-informed investment decisions by investors.

5.1.3 Rehypothecation: the regulation seeks to improve the transparency of rehypothecation (any pre-default use of collateral by the collateral taker for their own purposes) of financial instruments by setting minimum conditions to be met by the parties involved, including written agreement and prior consent. This would mean that clients or counterparties gave their consent before rehypothecation could take place. They would also make that decision based on clear information on the risks that it might entail.

5.1.3.1 Since the Lehman collapse in 2008, transparency and the promotion of a 'data culture' have become the order of the day on the financial markets. The EESC entirely endorses this trend and fully supports the transparency enshrined in the mechanism proposed and the involvement of the investor through explicit consent to be given for each operation.

5.2 Financial markets are global and so the systemic risks created by shadow banking entities must be tackled in a coordinated way at international level. The EESC believes it is indispensable to strengthen cooperation with the authorities in the third countries most concerned in order to agree on a joint strategy and coherent and, if possible, equivalent measures.

5.3 The EESC thinks that the proposal is consistent with the Recommendations of the Financial Stability Board. In August 2013, the FSB adopted eleven recommendations for tackling risks inherent in securities lending and repurchase agreements. The proposed regulation is in line with four of these recommendations (Nos 1, 2, 5 and 7) related to the transparency of the securities financing markets, disclosure to investors and rehypothecation.

5.4 The EESC does not consider the administrative burden this regulation imposes on the financial system to be excessive, but it does compound other administrative and management red tape imposed by other regulation. The EESC stresses the risk that it will be households and businesses who bear this burden. This will either make the financial system more onerous for users or cut bank profits, which is undesirable given the already difficult situation in which the European credit system currently finds itself.

5.5 The EESC stresses the importance of including UCITS (undertakings for collective investments in transferable securities) and AIFMs (managers of alternative investment funds) in the communications obligations in relation to their reports, as laid down in Directive 2009/65/EC, which recasts legislation in force, and in Directive 2011/61/EC.

5.6 Another very important point concerns the sanctioning regime, which, as well as being effective, proportionate and dissuasive, must include a series of minimum measures. The Member States have the option of imposing stiffer administrative sanctions as well as introducing criminal sanctions in particularly serious cases. In this event, they must ensure information is exchanged between national authorities, the ESMA (European Securities Markets Authority) and the Commission.

5.7 As with the EMIR regulation, the EESC notes that Article 24, on publication of decisions on the imposition of administrative sanctions, leaves too much discretion to the competent authorities, who could draw different conclusions about the same case, all the more so if they are from different countries. What concrete evaluation could be made as regards possible jeopardy to the stability of the financial markets?

5.8 The EESC thinks it important for the principle of equivalence to be included in the proposal, in keeping with Article 13 of the EMIR, and asks the Commission to effect this.

5.9 While appreciating that the delegated acts envisaged in this regulation are limited in scope and are appropriate, the EESC is concerned that no time is set for the exercise of this delegation. The EESC points out that it has already expressed its reservations on this matter on numerous occasions.

5.10 The EESC endorses Article 15 in its entirety, but notes the risk of possible disputes between counterparties regarding the efficacy and equivalence of a system other than signature and suggests that at least some examples be given of these equivalent alternative mechanisms, for example registration by telephone or electronic certification.

Brussels, 9 July 2014.

*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 'A European Strategy for more Growth and Jobs in Coastal and Maritime Tourism'**

COM(2014) 86 final

(2014/C 451/10)

Rapporteur: **Mr Barros Vale**

On 7 March 2014 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 A European Strategy for more Growth and Jobs in Coastal and Maritime Tourism.*

COM(2014) 86 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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion by 189 votes in favour, with 6 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes this communication, as it did the previous communications, of 2010 and 2012, since it deems initiatives which might contribute to the development of maritime and coastal tourism to be important.

1.2 Conscious of the limits imposed by the Treaty on the Functioning of the European Union, the EESC supports the measures set out in the Commission's communication. However, it would still like to submit some recommendations and sound a few warnings for the purposes of contributing to the smart, sustainable and inclusive growth of coastal and maritime tourism, as advocated in the Europe 2020 strategy.

1.3 Europe has to turn its natural resources to good use and promote its top locations where nature and spatial planning in coastal and maritime areas are in harmony with one another. Since coastal areas are of particular strategic environmental, economic and social importance, steps to tackle problems in these areas need to be part of an integrated sustainable development policy, where spatial planning, the balance between use of renewable energies and other coastal activities and urban planning rules take on particular importance. The recent and future, sometimes destructive, impact of climate change on coastal areas with retreating coastlines should not be underestimated as it involves lengthy, extensive adaptation.

1.4 As it has advocated in the past, the EESC reiterates the idea of setting up a European tourism agency, in which all the interested parties participate, such as tourism confederations, tourist regions, tourism authorities and trade unions in the sector. The creation of such a body could be a driving force for promoting Europe to the world.

1.5 It may now be time to look at creating a proper joint policy for tourism, which, while safeguarding national autonomy, takes an overall view of the sector, creating synergies and coordinating the policies of each Member State. Every year fragmented ideas emerge which go no further because of the lack of coordination and of a joint tourism strategy which can promote a European brand of conventional and non-conventional tourist destinations, historic heritage and gastronomy while, at the same time, dealing with any negative publicity that may from time to time occur.



1.6 The growth of mass tourism, greatly encouraged by the emergence of low-cost airlines, must be exploited, creating or promoting transport networks that link areas served by airports with other, more remote areas, giving continuity to the region by including very remote areas in tourist circuits, making them attractive to tourists, so that visits to urban and coastal destinations can be combined in the same trip. It is essential for information on existing links to be available in one place to encourage mobility. The EESC stresses the urgent need for the legislation on granting visas to be revised, making it easier for non-European tourists to travel, particularly those from China and other emerging markets.

1.7 Remote areas, particularly in the north of Europe, which have excellent environmental conditions, deserve to be given special attention, facilitating transport and providing infrastructure, communications and wi-fi networks that attract tourism and help to keep communities going.

1.8 There is an urgent need for proper management of tourist ports because of the lack of information on marinas and how ports are linked, which makes access difficult for yachts and cruise ships. The fact that ports are not properly managed is a hindrance to the development of tourism and the movement of persons and goods. The Commission could approach this issue from the angle of single market and free movement policies, working on removing the current shortcomings.

1.9 The exponential increase in cruise holidays has been creating new situations whose impact has yet to be studied properly. Although the fact that more tourists are visiting certain ports is important for the development of coastal areas, it is essential to minimise the harmful impact that these peak flows of visitors can cause in the areas visited. Proper preparation is necessary to deal with the risks of water and air pollution from the fuel used by large cruise ships and the environmental risks arising from thousands of people visiting tourist destinations. Efforts are also needed to coordinate information on the ports of call of these ships with local tourism management, in order to avoid a flood of tourists from cruise ships arriving at the same time as others who could organise their visits at different times of day.

1.10 The proposed move to carry out a survey of training needs and set up a 'blue jobs' section in the EURES Portal is an important one; however, it is also essential for the Commission to publicise this extensively and raise awareness in Member States about the need to take on board the survey's outcome in their domestic training policies. The training initiatives to be supported, which should be aimed not only at the staff of companies and institutions in the area of tourism but also at employers in the sector, must include, in addition to topics that help enhance the quality of the tourist service, topics that help promote Europe as a holiday destination. It should be emphasised that raising awareness of the importance of tourism, European heritage and the environment must start in compulsory education so that young people are educated in this from an early age.

1.11 Furthermore, with regard to the issue of cruise holidays, Europe must keep a careful eye on cruise companies' employment policies. European youth employment can and must be protected in a growing sector that has great employment potential.

1.12 The EESC would reiterate the importance of certain provisions which could help meet the challenges facing the tourism sector, and coastal and maritime tourism in particular, such as:

- the promotion of a European platform with integrated information on road, rail, maritime and air links — the mobility difficulties associated with tourist flows block the development of very remote regions with high potential for tourism, especially in the north of Europe, because of lack of information on available transport, difficulties in coordinating transport or even an absence of transport;
- the promotion of nature tourism and sustainable tourism, social tourism, maritime, cultural and sport tourism, business trips, 'well-being' and therapy tourism, history tourism, religious tourism and food tourism;
- incentives for tourism for senior citizens and people with disabilities, reduced mobility or special needs;
- recognition of Europe's cultural legacy and its unique heritage which distinguishes us from other regions, protecting this heritage and promoting it as a tourist destination of excellence;
- an emphasis on promoting the safety which Europe can offer visitors when they are travelling and during their stay, and in relation to water quality and food safety, medical, pharmaceutical and hospital care, personal safety and respect for people and their fundamental rights.

1.13 The EESC is in favour of a study on the preferences of tourists who visit or intend to visit Europe, showing what they did or did not like, the reasons why they would return or which prevent them from doing so, and why they might prefer non-European destinations. The study, which should be disseminated by the various tourist operators, ports and marinas, tourist associations and authorities, governments and European authorities, would tell us about the behaviour and characteristics of tourists, in order to support decision-making and shape joint strategies for the development of the sector.

1.14 The EESC would also ask that, as a part of the debate on tourism and measures to be taken, a link be made between maritime and coastal tourism and river tourism, taking advantage of what rivers and estuaries have to offer, to complement coastal areas' activities. Taking advantage of the possibilities offered by river areas would make it possible to develop new products such as gastronomic cruises, rural tourism and ecotourism, while estuary areas offer great landscape and educational value and are good for bird-watching and observing the biodiversity which is the hallmark of such areas.

## 2. Introduction

2.1 This communication, following that of 2010 <sup>(1)</sup>, in which a strategy for sustainable coastal and maritime tourism was announced, and that of 2012 on 'Blue Growth opportunities for marine and maritime sustainable growth' <sup>(2)</sup>, tackles one of the five blue economy sectors identified for priority intervention: coastal and maritime tourism.

2.2 This sector was already identified as a key value chain likely to generate sustainable growth and jobs. Coastal and maritime tourism is the biggest maritime activity in Europe, employing nearly 3,2 million people, of whom nearly half are young people. Generating 183 thousand million euros of gross added value, the sector is mostly made up of micro businesses and SMEs, and is where more than a third of all Europe's tourism-related businesses operate.

2.3 The communication aims to identify the challenges facing the sector, namely: stimulating performance and competitiveness by improving knowledge, addressing demand volatility and overcoming sector fragmentation; promoting skills and innovation; strengthening sustainability by addressing environmental pressures, promoting an innovative, sustainable and high-quality offer and seeing opportunities in geographical constraints such as insularity and remoteness.

2.4 It also broaches issues relating to the use of EU funding and the integration of EU policies impacting on coastal and maritime tourism.

## 3. General comments

3.1 Blue growth, incorporating traditional sectors and developing and emerging sectors, is a complex, ambitious challenge which has to be tackled using an integrated approach. In the development of coastal areas the interests of the various sectors involved should be taken into account, not forgetting environmental issues, with particular attention paid to spatial and maritime planning aspects, which determine the tourist products on offer. The cross-sectoral approach needed for this issue should be noted, as without safeguarding of land use and environmental protection neither coastal nor any other kind of tourism can be developed. The importance of using renewable energies is clear and should be intensively promoted. However, particular attention needs to be paid to the location of infrastructure so as not to exclude the development of maritime tourist activities. The siting of nuclear energy plants in tourist areas should be avoided.

A dynamic balance has to be struck in coastal areas, since the weather and human activity are sources of constant change. Natural resources provide the foundations for the economies and, together with innovation, should be viewed as pillars for smart, socially inclusive growth.

3.2 The main problems encountered in tourism have persisted over the years: the need to overcome the challenges of seasonal fluctuations, precarious, low-skill employment (especially among young people), a lack of new, innovative products, and difficulties in accessing finance, particularly for micro-businesses and SMEs. It is therefore vital to establish a European political framework for developing tourism, a genuine European tourism policy, which steers joint development strategies while respecting Member States' freedom to develop their own domestic policies.

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<sup>(1)</sup> COM(2010) 352 final — EESC opinion: OJ C 376, 22.12.2011, p. 44.

<sup>(2)</sup> COM(2012) 494 final — EESC opinion: OJ C 161, 6.6.2013, p. 87.

3.3 Countering seasonal fluctuations in coastal and maritime tourism must entail offering new products to attract new consumers, mainly in the low season. Developing new products for tourism for senior citizens or the disadvantaged, harnessing the potential of nautical tourism, be it leisure boating (sailing, motor boating), nautical sports (dinghy sailing, windsurfing, kite-surfing, surfing, bodyboarding, rowing, canoeing, water skiing, power boating, sports fishing, underwater hunting and diving, including wreck diving) or boat trips and cruises, and developing spa-, golf- or nature-related tourism could be a possible way of increasing the number of holidaymakers in low season, helping to enable the population to stay permanently in regions dependent on tourism. Supporting the development, particularly in remote areas, of new tourism-focused industries that use products coming from coastal areas, along with universal access to broadband networks, could help counter seasonal fluctuations and attract young people to these areas.

3.4 Some of these less traditional, nautical activities are already amply developed by local sports clubs whose know-how can be turned to good use. Support for nautical tourism should be made concrete and should be regulated, creating new infrastructures and modernising existing infrastructure, as well as providing new opportunities to allow such activities to be made available, for they are considerably attractive to non-traditional sections of the public.

Maritime and coastal tourism is interlinked in a number of places with river tourism. The close links between the two should not be overlooked, and it is recommended that joint development strategies be drawn up. Pleasure boating is, from this point of view, an activity which should be given a boost, with the development of new products which combine the potential of sea and river activities.

3.5 Tourism cannot be seen in isolation, but rather as a sector affected by a variety of EU policies, especially transport, employment, education, environment, innovation, safety and consumer policies, inter alia. These problems should be tackled using an integrated approach, since the measures flowing from the various policies directly influence the performance of the sector.

3.6 Since it has no powers to intervene directly in tourism, the Commission can remedy some of the problems through measures which do fall within its remit as regards promotion of the single market, namely in relation to the free movement of people and goods, and goals relating to the creation of the single market, dealing with issues that go beyond the sphere of tourism and affect other areas where action would not only be possible, but also desirable.

#### 4. Specific comments

4.1 Information about the tourism sector is quite fragmented, making studies and assessments difficult, because there is either a lack of data or a lack of specific indicators allowing comparisons to be drawn. The EESC welcomes the intention to remedy this shortcoming but points out that, since the 2010 communication when this problem was identified, very little progress has been made on this front.

4.2 The Commission's efforts to promote the high quality tourism which Europe can offer can help mitigate seasonal fluctuations and the associated social and economic problems. Europe is facing competition from new destinations in emerging countries with attractive low prices but not the same safety levels or cultural wealth. Promoting Europe as a tourist destination should be based on the high quality which singles it out and on Europe's greatest assets: a unique cultural heritage, safety, the wide range of services, respect for people's rights, access facilities for people with disabilities and special needs and the availability of telecommunications and wi-fi networks. The importance of Europe's cultural heritage needs to be recognised, and preserving it is key to the development of sustainable, inclusive tourism.

4.3 Special attention also has to be paid to tourism for senior citizens. At a time when populations are ageing throughout the world, there should be special focus on tourism related to health and to cultural and natural heritage when devising strategies for the sector. Lastly, it is tourists over 50 who spend the most and it is senior citizens who have more time to travel and who prefer to do so in the low season.

4.4 The cruise market has grown considerably. Nevertheless, the real impact of port calls on coastal activities is tiny, since such stops are brief and local businesses are not well advertised. Promoting dialogue between cruise operators, ports and coastal tourism stakeholders as proposed in the communication is important, and must take place in the context of development of transnational and inter-regional partnerships, networks, clusters and strategies with smart specialisation offsetting the current fragmentation in the sector. It is genuinely effective to operate in networks, and tourism must make use of this possibility. Such support could be promoted as part of the activities of the European tourist agency proposed above, which would serve as a platform for wide-ranging debate on the problems of the sector and as a basis for networks and cooperation.

4.5 The training of skilled staff is vital for sustainable and inclusive growth. The tourism sector is facing particular difficulties in finding qualified workers, since it employs a large number of young people in seasonal work and precarious jobs, with few opportunities for career advancement. The EESC welcomes the creation of the 'blue jobs' section on the EURES portal and the survey on training needs in the tourism sector. It recommends that the Member States be asked to take on board the survey's results when promoting training opportunities funded by the European Social Fund and other, private sources, and that incentives be given for existing schools to work together in networks and for projects linked to the tourism sector under the Erasmus + programme. Training for employers in the sector should be included which acquaints them with good management practices that they can adopt, keeps them up to date with the legislation in force and the use of information technologies and makes them aware of the environment and specific issues of the tourist sector.

4.6 As regards the problem of Member States requiring different competences for professional yacht skippers, the EESC feels that the Commission is not ambitious enough in its proposals. Although there is no doubt that the Commission's powers are limited in the area of tourism, the same is not true when it comes to the free movement of people and the creation of the single market, which are also concerned by this issue.

4.7 Incentives should be given to use innovative management systems through the *ICT and Tourism Business* initiative portal. It is to be noted that this portal, promoted by the Commission, like many other tourism-related sites such as the Virtual Tourism Observatory, Tourism Link Platform and eCalypso Platform, has not been translated into every language, which could constitute an obstacle or disincentive to their use by users from some countries.

4.8 The sustainability of coastal and maritime tourism has to be based on full respect for the environment, viewing land and sea areas as being interconnected. Stepping up sustainability by means of the proposed measures is most important for the development of new products, including Europe's wealth of heritage and respect for the environment. Again it is clear that measures in other areas such as the environment, sea and transport are connected with tourism; therefore, in its initiatives, the Commission should pay particular attention to consequences for the tourism sector.

4.9 The EESC welcomes the inclusion of tourism in the specific objectives of the 2014-2020 COSME programme, seeing this as a major opportunity for developing the sector by supporting the promotion of international cooperation projects and the adoption of sustainable tourist development models promoted by European Destinations of Excellence. The preparation of an on-line guide with the main funding opportunities also warrants the EESC's support, in view of the potential cross-cutting nature of tourism initiatives. Once again, it should be noted that language barriers may constitute an obstacle to consultation and interpretation of the on-line guide.

Brussels, 9 July 2014.

*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 — Unleashing the potential of Crowdfunding in the European Union**

COM(2014) 172 final

(2014/C 451/11)

Rapporteur: **Juan Mendoza Castro**

On 14 March 2014, 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 — Unleashing the potential of Crowdfunding in the European Union.*

COM(2014) 172 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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July 2014), the European Economic and Social Committee adopted the following opinion by 195 votes to 1 with 5 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the Commission communication and emphasises the growth potential of crowdfunding in the EU as an alternative source of funding.

1.2 The EESC stresses that crowdfunding benefits the economy in terms of investment, innovation and employment and, at the same time, increases the range of consumer credit options.

1.3 Universal access to crowdfunding will ensure that people with disabilities are not excluded from this source of funding.

1.4 Since EU businesses are more dependent on bank loans than their US counterparts, they are hit harder when recessions are compounded by financial crises. Furthermore, many EU countries are unduly restrictive when it comes to SME credit.

1.5 The EESC emphasises the dependence of SMEs on bank loans, a situation that will persist despite the existence of alternative sources which are not always easy to access.

1.6 Crowdfunding benefits the financial ecosystem which will not in itself suffice to address the funding difficulties facing businesses.

1.7 Start-ups, young innovators, and social economy enterprises play a significant role in the 2020 Agenda and the Digital Agenda.

1.8 Crowdfunding with non-financial returns is widespread in the EU. The impact of tax incentives, which vary among the Member States, should be studied.

1.9 European legislation should only cover specific types of financial return crowdfunding, and not donations and other forms of non-profit sponsoring.

1.10 These rules should be based on achieving balance, protecting investors and avoiding excessive regulation. Nevertheless, the regulator's actions are crucial to fostering investor confidence.

1.11 The rules should seek to achieve simple administrative procedures, rapid decision procedures and minimum costs, as well as neutrality, transparency and avoidance of unfair practices, with accessible claims procedures. This is as much in the interest of providers as of consumers.

1.12 Potential investors must receive accessible information that is clear, appropriate, accurate and not misleading.

1.13 The EESC suggests that the EU should supplement action taken by the Member States to support non-profit initiatives that promote values such as employment, solidarity, pluralism, democracy and freedom.

1.14 Crowdfunding should be explicitly recognised in the laws of the Member States as a new form of patronage.

## 2. Introduction

2.1 In recent years, there has been a trend towards certain forms of production moving from businesses to individuals, who have come to be called 'prosumers' <sup>(1)</sup>.

2.2 This process was accelerated by the introduction of the internet, giving rise to the 'collaborative economy', where someone decides to share an asset in their possession with others, sometimes in exchange for money. See EESC opinion on 'Collaborative or participatory consumption, a sustainability model for the 21st century' <sup>(2)</sup> and the European Parliament resolution <sup>(3)</sup>.

2.3 Against this backdrop, a handful of start-ups are flourishing on the Internet, since the net often allows for a process of disintermediation through which individuals may exchange digital and physical goods. Unfortunately, in order to avoid undermining confidence, it is important to be alert to the improper use that 'adventurers' might make of this aspect of the Internet.

2.4 In the financial sphere too, other methods are emerging, such as the issuing of high-yield bonds in the European primary market or locally through the alternative fixed income market (MARF).

2.5 Direct lending allows businesses to finance themselves through bilateral negotiations with specialised market agents and through banking disintermediation; or the most 'alternative' option, crowdfunding, where generally small investors come together through the internet to allocate savings to borrowers.

## 3. Gist of the Communication

3.1 The Green Paper on Long-Term Financing of the European Economy <sup>(4)</sup> initiated a broad debate on the different factors that enable the European economy to channel funding towards the investments needed to ensure economic growth <sup>(5)</sup>.

3.2 According to the Commission, crowdfunding is an open call to the public — usually through a web page — requesting funds for specific projects or business investments. In this way, funding platforms or campaigns put a variety of non-professional investors in contact with project promoters. Nevertheless, their improper use must be prevented.

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<sup>(1)</sup> Alvin Toffler, *The Third Wave*, p. 86 and seq.

<sup>(2)</sup> OJ C 177, 11.6.2014, p. 1.

<sup>(3)</sup> EP resolution on the European Consumer Agenda — 2012/2133(INI).

<sup>(4)</sup> COM(2013) 150 final.

<sup>(5)</sup> See EESC opinion, OJ C 327, 12.11.2013, p. 11.



3.3 The most common forms of crowdfunding are:

- donations;
- sponsorship (publicity in exchange for financing);
- rewards (a good or service is received which is worth less than the contribution);
- pre-sales (receipt of funds to launch a product on the market);
- loans with or without interest;
- investments in businesses (purchase of bonds or shares).

3.4 Advantages: It is an alternative form of funding characterised by flexibility and the participation of society and takes a broad range of forms. Moreover, crowdfunding goes straight to the consumer, facilitates market studies and provides credit to those who have most difficulty accessing it.

3.5 However, it also entails risks and challenges, such as the possibility of fraud or money laundering and the non-existence of a secondary market etc.

3.6 European regulation on this matter covers among other things: the prospectus in public offers for shares<sup>(6)</sup>, MiFID<sup>(7)</sup>, European payment services<sup>(8)</sup>, consumer credit<sup>(9)</sup> and mortgage loans<sup>(10)</sup>.

3.7 The Green Paper sets certain priorities: to create a group of experts to seek advice on various aspects; to increase knowledge and information; and to evaluate the current rules in the Member States in order to assess whether measures are needed at European level.

3.8 The Commission acknowledges that, in the EU, financing through crowdfunding is rather marginal compared to bank lending but is 'promising' compared to other sources such as business angels or venture capitalists.

3.9 In order to develop, crowdfunding must face a number of challenges, such as the lack of transparency of the applicable rules, the role it will play in the internal market and its integration into the financial ecosystem.

#### 4. General comments

4.1 The EESC takes note of the communication and agrees on the need to improve knowledge of a source of funding with potential for growth in Europe. It also agrees that alternative financing models can help start-ups move up the 'funding escalator'.

4.2 The data corroborates the Green Paper's use of the word 'marginal' to describe crowdfunding, which amounted to EUR 735 million<sup>(11)</sup> in 2012, compared with EUR 6 trillion in bank lending to non-financial institutions<sup>(12)</sup>.

4.3 Nevertheless, its growth must be emphasised. Globally speaking, crowdfunding rose gradually from USD 530 million in 2009 to an estimated total of USD 5,1 billion in 2013, representing an annual growth rate of 76 %. Geographically speaking, the biggest market was North America (mainly the USA), representing 60 % of the total, followed by Europe, which accounted for 36 %<sup>(13)</sup>.

4.4 Crowdfunding benefits the economy since it is an alternative to traditional funding sources that promotes investment, innovation and job creation. Its possible impact on the development of the activities of the social economy, craft and micro-enterprises should also be stressed<sup>(14)</sup>.

<sup>(6)</sup> Directive 2003/71/EC (OJ L 345, p. 64) amended by Directive 2010/73/EU (OJ L 327, p. 1).

<sup>(7)</sup> Directive 2004/39/EC (OJ L 145, p. 1).

<sup>(8)</sup> Directive 2007/64/EC (OJ L 319, p. 1).

<sup>(9)</sup> Directive 2008/48/EC (OJ L 133, p. 66).

<sup>(10)</sup> Proposal for a directive COM(2011) 142 final.

<sup>(11)</sup> Massolution (2013), Crowdfunding Industry Report 2012, <http://www.crowdsourcing.org/research>

<sup>(12)</sup> European Banking Federation Facts and Figures (2012): <http://www.ebf-fbe.eu/uploads/FF2012.pdf>

<sup>(13)</sup> <http://www.bruegel.org/nc/blog/detail/article/1330-the-crowdfunding-phenomenon>

<sup>(14)</sup> See EESC opinions on Finance for business/alternative supply mechanisms and on Long-Term Financing of the European Economy (not yet published in the OJ).



4.5 Universal access must be promoted and fostered in order to ensure that people with disabilities can participate in crowdfunding platforms and are not excluded from this new form of financing, which is another opportunity for the third sector.

4.6 The EESC welcomes the decision to include SME representatives in the expert group. This group must include both supply and demand side representatives.

## 5. Financial structure and economic growth

5.1 Financial structure is closely linked to economic growth and the effects of the crisis. Businesses in the USA obtain more financing from the capital markets than those in the EU, where most depend on bank loans. The relative importance of bank financing ranges from less than 20 % in the United States to over 60 % in some EU Member States.

5.2 Banks are more inclined to grant loans during a 'normal' recession, thus mitigating the impact on the economy. However, this is different when an economic crisis is linked to a financial crisis. Thus, recessions in countries more dependent on banking systems are three times more serious than in those that have a market-oriented financial structure<sup>(15)</sup>.

5.3 In the EU, the lack of sufficient financing is the second most significant problem facing businesses (after reaching customers)<sup>(16)</sup>.

5.4 There is no doubt that if the ECB injected liquidity into the financial system to facilitate lending to businesses, it would be of considerable benefit to the European economy.

## 6. Financial return crowdfunding

### 6.1 Financing SMEs

6.1.1 The EESC has already addressed financing difficulties in various opinions, emphasising the importance of SMEs to the European economy<sup>(17)</sup>.

6.1.2 The restriction of credit (credit crunch) threatens the economy and, in particular, the existence SMEs, for which bank loans (often hard to obtain) are a key source of funding. This is one of the reasons behind the steep rise in unemployment which has affected some EU Member States in particular.

6.1.3 Given that it generally involves smaller investments, crowdfunding is essentially geared to SMEs (and micro-enterprises in particular), which represent the overwhelming majority of Europe's business fabric (99,8 % of the total number of non-financial businesses in the EU-28) and whose contribution to employment is crucial as they represent 67,2 % of the workforce<sup>(18)</sup>.

6.1.4 The EESC notes that some people are sceptical about the effectiveness of alternative sources of finance. The Commission communication on the long-term financing of the European economy<sup>(19)</sup> has been considered a step forward, but insufficient, by the European association of SMEs, according to which crowdfunding will be used by a 'small' number of businesses; start-ups represent only 1 % of SMEs<sup>(20)</sup>.

### 6.2 Financing of start-ups

6.2.1 The EESC emphasises the need for the EU and the Member States to promote and support crowdfunding especially in the case of start-ups. Start-ups geared to the research and development of high-tech projects — which are one of the objectives of the Digital Agenda — are of special interest due to their potential capacity to promote growth and jobs. Nevertheless, traditional and craft sectors, which can also be very innovative, must not be excluded.

6.2.2 The EESC also urges the EU and the Member States to promote and support crowdfunding for the development and promotion of social innovation, young innovators and the social economy. Social economy organisations play a key role, within the Europe 2020 Strategy, when it comes to achieving social inclusion and integrating vulnerable groups through job creation, thereby reconciling social and economic values.

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<sup>(15)</sup> Financial structure and growth. BIS Quarterly Review, March 2014.

<sup>(16)</sup> ECB: Survey on the access to finance of SMEs in the euro area, 2013.

<sup>(17)</sup> OJ C 77, 31.3.2009, p. 23; OJ C 27, 3.2.2009, p. 7; OJ C 351, 15.11.2012; OJ C 48, 15.2.2011, p. 33.

<sup>(18)</sup> Eurostat: Structural business statistics overview. December 2013.

<sup>(19)</sup> COM(2014) 168 final.

<sup>(20)</sup> UEAPME, communication of 27/03/2014.

6.2.3 Though insufficient to finance the everyday operations of a business, crowdfunding is especially appropriate for this type of initiative, which in many cases is promoted by young entrepreneurs seeking to develop a specific business project.

## 7. Crowdfunding in the EU's financial ecosystem

7.1 The EESC points out that crowdfunding can play a role of some importance as a source of financing together with other non-traditional forms, such as business angels or venture capitalists, or win-win loans <sup>(21)</sup>, etc. At present, however, the main problem facing the economic and monetary authorities, in addition to the credit crunch, concerns the high collaterals required.

7.2 In the EU, the promotion of non-banking sources of finance may help consolidate the trend — which began 20 years ago — for businesses to turn to the capital markets. Consideration needs to be given to the solvency requirements designed to ensure the repayment of capital invested and providing greater legal certainty for this source of financing.

## 8. Crowdfunding with non-financial returns

8.1 Donations, interest-free loans or free transfers of rights can be used for projects of a commercial nature, but will usually involve solidarity-based contributions to social initiatives promoted by non-profit organisations. Patronage can be used to promote the establishment or continuation of cultural or sporting activities.

8.2 Crowdfunding is a common financing model among social enterprises. The potential of this approach, especially with regard to inclusive entrepreneurship, must be assessed in the wider context of the Social Enterprise Initiative.

8.3 Since there are differences in the Member States' tax treatment of donations and of certain types of investment, the EESC endorses the Commission's proposal to study the impact of tax incentives.

## 9. Specific comments

### 9.1 *The need for European legislation*

9.1.1 Crowdfunding can only be promoted as a viable financing alternative if investor confidence is fostered. The regulator has a key role to play in this respect.

9.1.2 The Commission mentions possible 'future actions' which it will adopt after receiving the opinion of the group of experts. The EESC maintains the view that boosting cross-border crowdfunding will certainly require legislation harmonising the criteria already adopted (or in the process of being adopted) by the Member States. Special attention must be paid to consumer interests and protection in these new markets.

9.1.3 Harmonisation could consist of the adoption of a regulation on crowdfunding platforms for financial return, covering, at the very least:

- arrangements;
- services to be provided;
- caps on amounts;
- information obligations (including potential conflicts of interest);
- exemptions from the scope of application;
- prohibitions (especially prohibition of the acquisition and publication of related projects);
- need for a level playing field;
- financial requirements; and
- compulsory public registration (disclosure and transparency).

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<sup>(21)</sup> <http://www.bofidi.be/en/nieuws-3/recent-posts/148-winwinloananinterestingalternativemethodoffinancing>

9.1.4 Sponsoring and other non-profit activities should be excluded from any potential European legislation as they do not entail the risks associated with activities for financial return. Potential irregularities are already covered by Member States' administrative and criminal law.

9.1.5 The EESC suggests that crowdfunding should be regulated, essentially in the following cases:

- issue or purchase of bonds or shares of joint stock companies;
- issue or purchase of securities of limited companies;
- interest loans (to individuals or businesses).

9.1.6 Future European legislation should be flexible and balanced, avoiding both excessive regulation (which could be an obstacle to the growth of crowdfunding) and a lack of investor protection. In other words, it should be objective, transparent, proportionate to the aims and with a high level of investor protection.

9.1.7 Investors nevertheless need to be realise that there will always be some level of risk.

9.1.8 Simple administrative procedures and minimum red tape are underpinning principles. The following are also necessary:

- a level playing field;
- lower administrative costs; and
- rapid decision procedures.

9.1.9 The rules should guarantee that crowdfunding platforms act in accordance with the basic principles of:

- neutrality;
- diligence;
- beneficence, i.e. acting in the best interests of the clients, who must be well-informed.
- avoidance of unfair commercial practices in their marketing; and
- accessible claims procedures.

9.1.10 Information to potential investors should be:

- clear and relevant;
- timely and complete;
- objective and accurate; and
- not misleading by action or omission.

9.1.11 The intellectual property rights of those who place projects on the web will be protected when the regulation on the creation of the unitary European patent enters into force.

## 9.2 *Promotion of alternative sources of finance*

9.2.1 The EESC believes that public authorities should carry out campaigns to promote crowdfunding to encourage companies to make greater use of capital markets. In particular, SMEs should be provided with relevant information in cooperation with their organisations.

9.2.2 Training for entrepreneurs as well as investors — especially disadvantaged entrepreneurs — will also be crucial to integrating crowdfunding into the European economy. Sufficient resources will also have to be allocated for knowledge transfer, both with respect to the administration of the platforms and the effective assessment of transaction risk.

### 9.2.3 Crowdfunding with non-financial returns

The EESC would point out that:

- they can help promote common European values, such as solidarity, pluralism, democracy and freedom. To this end, it is important that, in this area too, the EU adopt measures to complement the measures adopted by the Member States, supporting the establishment of platforms of European interest for projects geared to boosting economic, social or territorial cohesion, in which employers' organisations, trade unions and other representatives of civil society can play an active role.
- Crowdfunding should be explicitly recognised in the laws of the Member States as a new kind of patronage — in both form and substance — since this is about innovation in products and processes. It is something that needs to be recognised and supported by the Member States.

Brussels, 9 July 2014.

*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 personal protective equipment**

COM(2014) 186 final — 2014/0108 (COD)

(2014/C 451/12)

Rapporteur: **Ms Butaud-Stubbs**

On 2 April 2014 and 24 April 2014 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 Regulation of the European Parliament and of the Council on personal protective equipment.*

COM(2014) 186 final — 2014/0108 (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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion with 191 votes in favour and two abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC supports the European Commission's aim of replacing the 1989 directive on personal protective equipment, i.e. '*any device or appliance designed to be worn or held by an individual for protection against one or more health and safety hazards*' (PPE Directive) by a regulation in order to ensure uniform and compulsory application in all the Member States.

1.2 The EESC feels that most of the proposed changes are positive:

- alignment of product legislation with a common framework,
- clarification of the responsibilities of all private- and public- sector operators involved in procedures to verify PPE compliance with the requirements set out in the proposal for a regulation and its annexes,
- introduction of two new categories of PPE: made-to-measure and individually adapted PPE,
- the new period of five years for the validity of certificates of conformity.

1.3 However, the EESC questions whether some of the proposed changes are necessary:

- inclusion of products for private use providing protection against heat, damp and water,
- the variety of language requirements for different types of information that have to be communicated,

1.4 The EESC also considers that PPE use should be integrated into a general policy on risk prevention at work. In particular, such a policy could cover the following aspects:

- accurately identifying risk factors,
- adapting work stations in order to reduce exposure to risks,
- changing the way in which work is organised,
- training employees in risk prevention, ergonomics, and the wearing and use of PPE.

1.5 Indeed, all of these objectives are central to the new 2014-2020 strategic European framework on health and safety at work adopted on 6 June 2014, and it would be good if the proposal for a Regulation set out in COM(2014) 186 final mentioned this. It should be remembered that 3 million employees were victims of a serious accident at their workplace in 2013.

1.6 It is also a pity that there is no discussion at all of the economic aspects of the growing European PPE market, estimated at EUR 10 billion in 2010. This is a technologically innovative (new fibres, smart textiles, nanomaterials, etc.) market geared not only to meeting protection needs but also social expectations that equipment must be comfortable, easy to walk in, light and aesthetically appealing.

1.7 The EESC is also disappointed that PPE maintenance, checking and review procedures do not take account of the case of PPE used by several persons or second-hand PPE.

## 2. Content of the proposal for a regulation

### 2.1 *Strong points and limitations of the 1989 directive*

2.1.1 The proposal for a regulation of the European Parliament and the Council is based on Article 114 TFEU with the objective of overcoming shortcomings in the functioning of the internal market for personal protective equipment.

2.1.2 Directive 89/686/EEC on personal protective equipment was adopted on 21 December 1989 and became fully applicable as from 1 July 1995.

2.1.3 The directive defines PPE as '*any device or appliance designed to be worn or held by an individual for protection against one or more health and safety hazards*'.

2.1.4 It describes the essential safety requirements which PPE has to meet before being put on the market and freely circulating on the Single Market. PPE must be designed and manufactured in compliance with the requirements of the directive. Manufacturers must affix the CE marking and provide users with instructions for storage, use, cleaning, maintenance, servicing and disinfection of the PPE.

2.1.5 Since 1995, there have been certain difficulties in connection with implementing the directive:

- differences of interpretation in national transposals of the directive, leading to fragmentation of the Single Market,
- poor understanding among manufacturers and notified authorities of certain provisions,
- exclusion of certain categories of PPE, not always for obvious reasons (a given item is considered to be PPE when used by a professional (e.g. gloves used for dishwashing in a restaurant) but not by a private individual).

2.1.6 Furthermore, the European Commission has set itself the objective of simplification, and would like to align the 1989 directive with the new legislative framework establishing a common foundation for EU product harmonisation legislation.

### 2.2 *Content of the proposal for a regulation*

#### 2.2.1 Revised scope of application

2.2.1.1 PPE designed and manufactured for private use against heat, damp and water in non-extreme conditions is now included (e.g. dishwashing gloves, oven gloves, rubber boots). At the same time, safety helmets for users of two- or three-wheeled motor vehicles are now excluded, as they fall within the scope of a UN Economic Commission for Europe regulation.

#### 2.2.2 Alignment with the usual provisions of EU product harmonisation legislation

2.2.2.1 The obligations of all economic operators concerned — manufacturers, agents, importers and distributors — are defined in line with the provisions of EU product harmonisation legislation. Indeed, since 2008 the new legislative framework has been a cross-sectoral Internal Market instrument, intended to make EU product safety legislation (Regulation (EC) No 765/2008 on accreditation and market surveillance and Decision No 768/2008/EC establishing a common framework for the marketing of products) more effective.

### 2.2.3 Compliance evaluation procedures reorganised according to class of risk

2.2.3.1 PPE is divided into three risk categories, each with its own specific certification procedure.

Risk categories	Certification procedures	Examples
<p>Category I</p> <p><b>Minimal risks</b>, arising from superficial mechanical injury, contact with water or hot surfaces (not exceeding 50 °C), exposure to sunlight and to atmospheric conditions that are not of an extreme nature</p>	<p>Self-certification</p> <p>Internal production control (module A — Annex IV)</p>	<p>Dishwashing gloves, oven gloves, sunglasses, etc.</p>
<p>Category II</p> <p>PPE protecting users against risks other than minimal (Category I) and very serious (Category III)</p> <p>Made-to-measure PPE unless intended for protection from minimal risks</p>	<p>EU type-examination (module B — Annex V)</p> <p>Conformity to type based on internal production control (Module C — Annex VI)</p>	<p>Safety helmets, high-visibility clothing, etc.</p>
<p>Category III</p> <p><b>Very serious risks</b>, arising from harmful substances, aggressive chemicals, ionising radiation, high-temperature environments (over 100 °C), low-temperature environments (less than 50 °C), falling from a height, electric shocks and live working, drowning, cuts by chainsaws, high-pressure cutting, bullet wounds or knife stabs, harmful noise, etc.</p>	<p>EU type-examination (Module B — Annex V) + complementary procedure with involvement of a notified body:</p> <ul style="list-style-type: none"> <li>— either conformity to type based on product verification (Module F — Annex VII),</li> <li>— or conformity to type based on quality assurance of the production process (module D — Annex VIII)</li> <li>— Number of the notified body</li> </ul>	<p>Respiratory protection equipment, PPE to prevent falling from a height, etc.</p>

2.2.3.2 Some new risks have been added to Category III, such as risk of injury from knife stabs and harmful noise.

2.2.3.3 It is unclear how individually adapted PPE as defined in Article 3 is to be dealt with: what risk category does it relate to, and therefore which certification procedure is applicable?

### 2.2.4 Limiting the validity of the certificate of conformity to 5 years

2.2.4.1 This is a major change made in response to requests by inspection authorities in some Member States which had detected PPE on their markets with certificates remaining valid despite major changes to standards (for example in the case of lifejackets).

### 2.2.5 Clarifying basic health and safety requirements

2.2.5.1 The regulation deletes sections with requirements relating to three types of risks which have been found to be either irrelevant or confusing:

- protection against mechanical vibration (section 3.1.3),
- protection against the harmful effects of noise (section 3.5),



— protection against non-ionising radiation (section 3.9.1).

## 2.2.6 Closer supervision of notified bodies

2.2.6.1 Member States are to be given stronger supervisory powers over notified bodies. They can object to notification of bodies which have not been active for several years, which are unlikely to have sufficient human and technical resources to issue certificates, or which have issued certificates of conformity for non-compliant PPE in the past.

## 2.2.7 A transition period after entry into force

2.2.7.1 There is a two-year period after the regulation enters into force to allow manufacturers, notified bodies and Member States time to adapt to the new requirements.

## 3. General comments

3.1 Is it feasible to include PPE for private use providing protection against minor risks such as water or damp? How will consumers be made aware of this? It might make sense to specify the conditions for CE marking (legibility, format, etc.), for example in line with the existing specifications for labelling, composition and maintenance instructions for textiles in all private-use PPE for sale, hire or loan. Will these new requirements mean higher prices?

3.2 It is a pity that the text fails to mention technological progress, a particular feature of the sector in areas such as textile fibres and materials (Teflon, latex, neoprene, nitrile, etc.), coating and filtration technology, as well as integrated micro-electronic sensors able to transmit information or energy (smart textiles) enabling superior risk protection performance.

3.3 Nor is there any mention of this market's potential for European PPE sectors (textiles, clothing, footwear, accessories), despite the fact that in 2007 the European Commission identified it as a lead industrial market.

3.4 In addition, the proposal for a regulation does not sufficiently address human aspects. PPE use should ideally be preceded by employee information and training sessions in order to raise awareness of risk, usage requirements, instructions and essential information. Pilot and test periods are also needed to adapt PPE to user morphology and workstations (Annex II, Article 1.3 to be completed, above all on the basis of input from national experience).

3.5 It is true that all of these aspects are relevant to the proposal for a Directive on health and safety of 12 June 1989 (89/391/EEC), intended to improve health and safety at work, which sets out employers' obligations together with employees' rights and duties.

3.6 PPE policy is part of a general policy on reducing exposure to risks at company or sector level. Such a policy should build on accurate identification of risk factors, listing the steps needed to reduce or eliminate such factors, such as considering the option of air filtration systems before using respiratory equipment. Collective risk-prevention solutions should always be considered before resorting to individual protection solutions.

3.7 Risk evaluation should always be carried out in partnership with a company's in-house stakeholders such as staff representatives, staff representation bodies, health and safety committees, etc., as well as external partners such as occupational medicine specialists, consultants and public authorities responsible for improving working conditions.

3.8 Particular attention should be paid to PPE maintenance, checking and review procedures to ensure that this equipment provides the highest possible level of protection from the risks which they were designed for. Maintenance includes inspection, care, cleaning, repair and suitable storage.

3.9 The proposal for a regulation only partially addresses cases of exposure to multiple risks.

3.10 It does not cover the issue of PPE used by several different people (e.g. safety helmets on building sites). Hygiene specifications should be defined.

3.11 Nor does the proposal for a regulation discuss the issue of persons whose capacity to wear PPE is limited — for medical reasons, in the case of some employees. In such rare but genuinely existing cases, how do employers meet their obligation to ensure general safety? e.g. assigning the employee concerned to another post, workstation adaptation.

3.12 The case of second-hand PPE is not dealt with in the text, even though according to certain national sources this market is flourishing, in particular for Category I equipment, due to the economic crisis which has severely affected the sectors where PPE is used most intensively (construction, public works, transport, etc.).

#### 4. Specific comments

4.1 Text of the proposal for a regulation, recital 24: setting the period of validity of PPE certificates of conformity at a maximum of five years makes it possible to ensure that examinations are carried out on the basis of the latest scientific knowledge available, which fits in fully with the prevention and worker health and safety improvement goals targeted by framework directive 89/391 of 12 June 1989. A simplified procedure is envisaged for cases in which standards have not significantly changed.

4.2 Article 3: it would be useful to add definitions here of 'second-hand PPE', the 'market surveillance authorities' mentioned in articles 11 and 13, and the 'notifying authorities' responsible at national level for notification of the bodies authorised to carry out checks on PPE compliance.

4.3 Article 8.3: the requirement to keep technical documentation for 10 years seems excessive, especially given that the certificate of conformity is only valid for five years. Why not set the same five-year validity period for both?

4.4 Articles 8.3, 8.7 and 8.10, Article 9.2 a), Article 10.3, 10.4 and 10.7, Article 11.2, Article 13, Article 15.1, Article 15 (15.2 and 15.3) and Annex II, point 2.12 set different language requirements for the various documents relating to PPE and their compliance with the applicable procedures.

- The text mentions '*a language which can be easily understood by end-users*', which is an expression from ECJ case law, but is rather subjective.
- The language issue is also mentioned in point 2.12 of Annex II: 'The identification markings (...) must be written in the official language(s) of the Member State where the equipment is to be used'.
- whereas in Article 15 (15.2 and 15.3) we have '*the official language(s) of the Member State of destination*', which from a legal point of view is the most precise wording.

The EESC understands the reasons behind the decision to have three separate sets of language requirements, but for the sake of simplification suggests that only the wording of the third option should be used.

4.5 Article 15.3: the expression '*continuously updated*' is liable to be interpreted in different ways at national level. Why not specify this, for example by having annual updating?

4.6 Article 42: the proposed period of two years after entry into force is certainly short in view of the numerous changes that will have to be made, especially in Member States with weaker administrative structures (re-notification of all notified bodies throughout the 28 Member States, changing the validity period of certificates of conformity), but necessary in respect of prevention and working condition improvement goals, particularly as regards the reduction of accidents at work.

Brussels, 9 July 2014.

*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 cableway installations**

COM(2014) 187 final — 2014/0107 (COD)

(2014/C 451/13)

Rapporteur: **Jan Simons**

On 24 and 2 April 2014, respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the:

*Proposal for a Regulation of the European Parliament and of the Council on cableway installations.*

COM(2014) 187 final — 2014/0107 (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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion with 184 votes in favour and 6 abstentions.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) supports the decision to introduce a regulation based on Article 114 TFEU, given the differing interpretations of certain parts of the existing directive.

1.2 The EESC welcomes the fact that the proposal is in line with Directive 2000/9/EC, which is to be aligned with the 'goods package' adopted in 2008, and in particular with the New Legislative Framework (NLF), Decision EC No 768/2008, on which the Committee has already issued a favourable opinion.

1.3 The EESC urges that the terminology, particularly that used in the German-language version, as well as the definitions and the retention of parts of the existing directive whose merit is uncontested — or elements arising from this directive — be examined as closely as possible.

1.4 The EESC has noticed too many shortcomings to list here under conclusions; it instead draws attention in particular to point 4.2 and the subsequent points, as well as to section 5, which also sets out solutions.

## **2. Introduction**

2.1 The EESC issued an opinion <sup>(1)</sup> back in 1994 on a Commission proposal for a directive on cableway installations designed to carry persons, in which it supported the Commission, particularly in its 'perceived objective of ensuring that all Member States act in a coordinated manner and that vital supervision is organised throughout the European Union in order to achieve and maintain a high level of safety and thus reduce the risk of future accidents'.

2.2 It also argued that the result should be 'a broader based and more competitive industry which is better placed to compete in world markets. Since most of the manufacturers for world use are from Europe, any action taken to enhance sales prospects must be a sensible and supportable approach'.

2.3 Cableway installations are principally operated in connection with tourism, particularly in mountain areas, which plays an important role in the economy of the regions concerned and is becoming an increasingly important factor in the trade balances of the Member States <sup>(2)</sup>.

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<sup>(1)</sup> OJ C 388, 31.12.1994, p. 26.

<sup>(2)</sup> This and the following three paragraphs are recitals in the preamble to Directive 2000/9/EC.

2.4 Member States are responsible for ensuring the safety of cableway installations at the time of manufacture, putting into service and during operation. Moreover, they are responsible together with the competent authorities for such matters as land-use, regional planning and environmental protection. National regulations differ widely as a result of techniques peculiar to the national industry as well as local customs and knowhow. They stipulate specific dimensions and devices and particular characteristics. In the light of these circumstances, manufacturers are obliged to redefine their equipment for each market, making it difficult to provide standard solutions.

2.5 The essential health and safety requirements must be observed in order to ensure that cableway installations are safe. Those requirements are to be applied with discernment to take account of the state of the art at the time of placing on the market, installation and use, and of technical and economic requirements.

2.6 Further, cableway installations may straddle frontiers, and the construction thereof may run up against conflicting national rules.

2.7 However, it was only in 2000 that legislation was introduced. Directive 2000/9/EC relating to cableway installations designed to carry persons<sup>(3)</sup> was adopted on 20 March 2000 and entered into force on 3 May 2002. The main types of cableway installations covered by Directive 2000/9/EC are funiculars, gondolas, detachable chair lifts, fixed-grip chair lifts, aerial tramways, funitels, combined installations (made of several cableway types, such as those of gondolas and chairlifts) and drag lifts.

2.8 Today, more than ten years later, the legislation on cableway installations is in need of revision for various reasons.

### 3. Summary of the proposal

3.1 The proposal is meant to replace Directive 2000/9/EC with a regulation and to align the directive with the 'goods package' adopted in 2008, and in particular with Decision EC No 768/2008 on the New Legislative Framework (NLF).

3.1.1 The NLF Decision sets out a common framework for EU product harmonisation legislation. This framework consists of the provisions which are uniformly used in EU product legislation (e.g. definitions, obligations of economic operators, notified bodies, safeguard mechanisms, etc.). These common provisions have been reinforced to ensure that the directives can be applied and enforced more effectively in practice. New elements, such as obligations for importers, have been introduced, which are crucial for improving the safety of products on the market.

3.1.2 The proposal is also meant to address some of the difficulties that have been experienced in the implementation of Directive 2000/9/EC. More particularly, authorities, notified bodies and manufacturers have had different views on whether certain types of installation come under the scope of Directive 2000/9/EC and hence have to be manufactured and certified in line with the directive's requirements and procedures.

3.1.3 Views also differed on whether certain equipment should be considered as subsystem, infrastructure or safety component.

3.1.4 Furthermore the directive does not specify which type of conformity assessment procedure has to be applied to subsystems.

3.2 Those divergent approaches led to market distortions and different treatment of economic operators. Manufacturers and operators of the installations concerned had to modify the equipment or to undergo further certification which led to extra costs and to delays in the authorisation and operation of those installations.

3.3 The proposed regulation is therefore meant to enhance legal clarity about the scope of Directive 2000/9/EC and thereby implement the relevant legal provisions more effectively.

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<sup>(3)</sup> OJ L 106, 3.5.2000, p. 21.

3.4 Furthermore, Directive 2000/9/EC contains provisions on the conformity assessment for subsystems. However, it does not determine the specific procedure to be followed by the manufacturer and the notified body, nor does it offer manufacturers the range of conformity assessment procedures that are available for safety components. The proposed regulation thus aligns the conformity assessment procedures available for subsystems with those already used for safety components, based on the conformity assessment modules set out in Decision No 768/2008/EC establishing a common framework for the marketing of products (NLF Decision). In this context, it also provides for the affixing of the CE marking to indicate compliance with its provisions, in line with the existing system for safety components.

3.5 The proposal takes into account Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European Standardisation<sup>(4)</sup>. The proposal includes:

- the clarification of the scope with regard to cableway installations designed for both transport and leisure purposes;
- the introduction of a range of conformity assessment procedures for subsystems based on the existing conformity assessment modules for safety components as aligned to the NLF Decision; and
- the alignment to the NLF Decision.

Excluded are:

- cableway installations used for leisure purposes in fairgrounds or amusement parks;
- cableway installations for agricultural and industrial purposes;
- all cable-operated installations where the users or carriers are water-borne;

3.6 The conformity assessment procedures for safety components have been kept in the proposal. It however updates the corresponding modules in line with the NLF Decision.

3.7 The requirement for a notified body intervention in the design and production phase of all subsystems and safety components has been kept.

3.8 The proposal introduces a range of conformity assessment procedures for subsystems based on the conformity assessment modules of the NLF Decision. It also introduces the CE marking for subsystems, as there is no reason to treat them differently from the safety components.

3.9 The proposal tightens the notification criteria for notified bodies and introduces specific requirements for notifying authorities. It is necessary to adapt to new technologies so as to enable online notification. It is important to provide for a period during which any doubts or concerns as to the competence of conformity assessment bodies can be clarified before they start operating as notified bodies.

#### 4. General comments

4.1 Given that the provisions of the directive have not always been interpreted consistently, the EESC notes that regulations are a guarantee of consistent interpretation with regard to this type of harmonisation measure<sup>(5)</sup> aimed at promoting the free movement of goods in the single market. The EESC therefore supports the choice of a regulation, and of Article 114 TFEU as the legal basis.

4.1.1 Where monitoring of the Regulation's implementation is assigned to the Member States, the European Commission should ensure that it is carried out uniformly.

4.2 In this case, however, the parts of the existing directive whose merit is uncontested and the provisions and best practices that follow from them should be carried over as accurately as possible<sup>(6)</sup>, and other, new parts of the Regulation carefully worded.

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<sup>(4)</sup> OJ L 316, 14.11.2012.

<sup>(5)</sup> Article 114 TFEU.

<sup>(6)</sup> It is striking that shortcomings were found in various samples of the annexes and articles carried over from Decision EC No 768/2008 (Article R2 et seq.).

4.2.1 It is not obvious why 'designed to carry persons' has been dropped from the title of the regulation, given that recital 8 in the preamble specifically says that the scope of the directive is to be maintained.

4.2.2 Some of the technical terms differ considerably from the set of harmonised standards for cableway installations, and these should be made consistent with each other.

4.2.3 The present draft regulation (Article 2(2)(a)) does not permit a clear delimitation between lifts (in particular inclined lifts) subject to Directive 95/16/EC and funiculars. The related information given in Recital 11 is insufficient and not suitable for an unambiguous classification in practice. It is important that it remain possible to build inclined lifts according to the Lift Directive for various applications in the open air (links between a car park below and a castle or old city centre above, links between ski runs, etc.).

4.2.4 Installations in which the users or their carriers are water-borne are excluded from the scope of the regulation under Article 2(2)(f). Recital 12 was added to avoid misunderstandings and different interpretations, but it does not aid understanding. Article 2(2)(f) should be made clearer by subdividing it into 'cable-operated ferries' — as defined in Directive 2000/9/EC — and 'water ski lifts'.

4.2.5 Cableway installations designed to carry persons — in contrast with other directives (such as the Machinery Directive) — are subject to regulated licensing procedures determined by the Member States. Accordingly, there is no need for the trade name and postal address to be marked on the safety components and subsystems, especially given that the EU statements of conformity<sup>(7)</sup>, which include this information, must be available both at the installation and to the responsible authority. To give some idea of the financial scope of this article, the Committee notes here by way of example that a fixed-grip chair lift would require approximately 500 plates. Article 11 (Chapter II) should therefore be amended by deleting 'on the subsystem or the safety component' and 'or, where that is not possible, on the packaging and' from the first sentence.

4.2.6 Article 2(2)(d) excludes cableway installations used in amusement parks exclusively for leisure purposes from the scope of the regulation. It is not clear what difference it makes in terms of safety conditions and basic requirements if the person travelling in a cableway installation is using it for leisure purposes or transport. The EESC thus recommends that only the reference to 'on-site or mobile equipment for use in fairgrounds' be retained.

4.2.7 Recitals 57 and 58 in the preamble and Article 41 set out transitional provisions, but there is no general statement to the effect that the draft regulation does not apply to installations that are already in use. The wording 'It is not necessary to require all existing cableway installations to be brought into conformity with the provisions applicable to new installations,' which is included in the directive on cableway installations (Recital 28), should be added to Article 9 as a new paragraph 3. In addition, provisions should be included in Article 9, following the current paragraph 3, to allow for the recommissioning of cableway installations. 'Cableway installations may be recommissioned under the following conditions:

- Safety components and subsystems that have undergone a conformity assessment and been placed on the market in accordance with Directive 2000/9/EC or the current Regulation must be used when recommissioning.
- The installation to be transferred should be in a technical condition such that, following recommissioning, the level of safety ensured is broadly equivalent to that of new installations.'

4.2.8 Under Article 36(2), notified bodies are also to provide other notified bodies with positive conformity assessment results upon request. Notified bodies are independent entities with commercial interests. To avoid a transfer of knowledge in such cases, 'and, on request, positive' should be deleted.

4.3 The EESC welcomes the fact that the proposal is in line with Directive 2000/9/EC and reflects the 'goods package' adopted in 2008 and, in particular, Decision EC No 768/2008 on the New Legislative Framework (NLF), on which it has already issued a favourable opinion<sup>(8)</sup>.

<sup>(7)</sup> The Committee assumes that the EC conformity attestations will remain valid.

<sup>(8)</sup> OJ C 120, 16.5.2008, p. 1.



## 5. Specific comments

Comments on other recitals and articles in the proposal.

5.1 In the German-language version of the proposal, the word *konstruiert* or *Konstruktion* is often used in place of *geplant* or *Planung* (as in Directive 2000/9/EC). This usage runs all the way through the German text, with examples including Recital 1, Article 1, Article 2(1), Article 3(1), Article 3(3) and Article 8(1).

5.2 The definition of 'safety component' given in Article 3(4) should be amended by deleting the words 'or a cableway installation', because infrastructure, whose procedures are decided by the Member States, cannot contain the 'safety components' referred to by the regulation — such components are instead known as 'safety-critical components'.

5.3 Under Article 11(9), further to a reasoned request from the Member States, manufacturers are to provide them with all the information and documentation relevant to a conformity assessment procedure. To rule out any possibility of components built according to the set of harmonised standards (and for which there is therefore a presumption of conformity) coming under the scope of this article, the EESC recommends that paragraph 9 be clarified by inserting the following words at the beginning: 'With regard to components not put into circulation according to the set of harmonised standards, manufacturers shall ...'.

5.4 The word *Drahtseilbahn* used in Recital 8 of the preamble of the German-language version is not a recognised term and does not correspond to the Dutch and English-language versions.

5.5 The German-language version of the proposal refers to *Wartung* ('servicing'), for instance in Recital 17 in the preamble. Servicing is only one part of *Instandhaltung* ('maintenance'), which covers inspection, serving and repair. The word *Wartung* should therefore be replaced with *Instandhaltung* throughout the German text. The term 'maintained' used in the English text is correct.

5.6 The term *grundlegende Anforderungen* used in the German-language version of the EU Cableway Installation Directive has been replaced with *wesentliche Anforderungen* (in Article 6, for example) in the proposed regulation. The English version continues to refer to 'essential requirements', as in Directive 2000/9/EC. The entire German-language version of the proposal should be corrected using the term *grundlegende Anforderungen*.

5.7 Recital 19 in the preamble does not correspond to any operative part of the text and should therefore be deleted.

5.8 Recital 23 in the preamble is confusing because it places the free movement of goods and safety analysis in the same context, and should therefore be deleted.

5.9 Article 1 defines the subject matter of this regulation. However, the areas 'design', 'assembly' and 'putting into service' were not carried over from Directive 2000/9/EC. They should be included or the text of the directive inserted.

5.10 The definition of 'cableway installation' given in Article 3(1) is difficult to understand. The definition given in Directive 2000/9/EC should be used instead.

5.11 The term *Schleppaufzug* ('drag lift') in Article 3(8) of the German-language text should be replaced with *Schlepplift*. This correction was also made during revision of the set of harmonised standards, which are related.

5.12 Given that 'entry into service' as mentioned in Article 3(12) need not always refer to the entire installation, for example in the case of conversions, the text should be supplemented with the words 'or its components'.

5.13 The requirements for safety analyses in Article 8(1) have been amended so that they no longer specify responsibilities. Since the safety analysis is the key document for builders, the words 'ordered by the builder or by the builder's agent' should be inserted into the article.



5.14 Under Article 8(2), the safety analysis is to be included in the safety report. However, Directive 2000/9/EC stipulates that a safety report must be drawn up on the basis of a safety analysis, which is an important difference. The EESC recommends that the text of Article 4(2) of the directive be adopted.

5.15 Article 9(4) is difficult to understand and should be replaced with the text used in Article 12 of Directive 2000/9/EC.

5.16 Article 10(1) stipulates that a cableway installation may only remain in operation if it complies with the conditions set out in the safety report. The operating and maintenance manual is an important document, not least for safe operation of an installation. The EESC therefore recommends that the text be amended by replacing 'remains in operation' with 'is operated', and the words 'safety report' with 'documentation specified in Article 9(2)'.

5.17 In accordance with the modules set out in the annex, a manufacturer may only carry out the conformity assessment procedures together with a notified body. The text of Article 11(2) should be adapted accordingly: 'carry out' should be replaced with 'have' and 'or have it' should be deleted.

5.18 The term 'safety information' used in Article 11(7) is ambiguous and should be explained in more detail.

5.19 Article 16 refers to 'the first paragraph', but there is no such paragraph.

5.20 The provisions of Decision 768 on formal objections to a harmonised standard (Articles R9 and R19) should also be inserted into Article 17.

5.21 There is a risk of Article 18(4) also being applied to test trains. To avoid this, 'with the exception of test trains' should be added.

5.22 Article 19(2) could be interpreted to mean that the declarations of conformity of safety components or subsystems already put into circulation also have to be updated. Consequently, the final part of the first sentence, 'shall be continuously updated', should be replaced with 'shall be updated when a subsystem or safety component is put into circulation'.

5.23 Under Article 21(2), subsystems are also to be given a CE marking. Given that there are no subsystems on the market that do not contain at least one safety component, and which therefore carry its CE marking, this requirement should be dropped. The EESC therefore recommends that the words 'the subsystem or' be deleted.

5.24 Annex II also needs to be revised, but this revision should be comprehensive, and absolutely must involve all parties concerned.

Brussels, 9 July 2014.

*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 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement'**

COM(2014) 213 final — 2014/0121 (COD)

(2014/C 451/14)

Rapporteur: **Mr Smyth**

On 16 April and 6 May 2014 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 50 and 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 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement.*

COM(2014) 213 final — 2014/0121 (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 23 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July 2014), the European Economic and Social Committee adopted the following opinion with 188 votes in favour and 5 abstentions.

## **1. Conclusions and recommendations**

1.1 The Commission's proposals to amend the Shareholder Rights Directive should be seen as part of a longer journey towards a more stable, sustainable corporate governance and investment environment in Europe. At the heart of these proposals is the view that if shareholders can be encouraged to take a more long-term perspective, then this will create a better operating environment for listed companies.

1.2 The EESC supports the provisions to the Shareholder Rights Directive, especially those that seek to strengthen the link between the remuneration awarded to directors and the long-term performance of companies.

1.3 The EESC notes that in its impact assessment the Commission argues that its proposals will lead to only a marginal increase in the administrative burden on listed companies. It will be important to assess this balance during the ex post evaluation of the Directive.

1.4 The EESC accepts the argument that, by creating more transparency on the impact of investment policies, investors will make more informed decisions and are likely to become more engaged with their investee companies. This should lead to better long-term performance by listed companies.

1.5 Since the onset of the financial crisis policymakers have embarked on the challenge of changing the culture in the European corporate and financial sectors away from short-term performance towards a more sustainable long-term investment perspective. Insofar as such a culture change can be achieved through regulation, then the Commission is moving in the right direction.

## 2. Background to the Directive

2.1 This proposed Directive from the Commission should be seen in the context of other initiatives to improve the long term financing of the European economy. At its core is the conviction that the encouragement of a more long-term perspective by shareholders will insure a better operating environment for listed companies. These proposals represent part of the outcome of an extensive corporate governance consultation process with stakeholders. In 2010, the Commission issued a Green Paper on 'corporate governance in financial institutions and remuneration policies' <sup>(1)</sup>. This was followed up by another Green Paper 'the EU corporate governance framework' <sup>(2)</sup> in 2011. These consultations then led to the publication in 2012 of the 'Action Plan: European company law and corporate governance — a modern legal framework for more engaged shareholders and sustainable companies' <sup>(3)</sup>.

2.2 The Directive draws upon an impact assessment which addresses shortcomings in the relationship between the main corporate governance protagonists — the so-called principle-agent relationship. This refers to the relationship between agents (directors) and principles (shareholders such as institutional investors, asset managers and proxy advisers). It identifies five of these shortcomings as follows: (i) lack of sufficient engagement of institutional investors and asset managers; (ii) inadequate linkages between pay and performance of directors; (iii) lack of shareholder oversight on related party transactions; (iv) inadequate transparency of proxy advisers; and (v) difficult and costly exercise of rights flowing from securities for investors.

2.3 For each of these issues, the Commission considers the relevant policy options and chooses five sets of policy measures as follows:

- 1) Mandatory transparency of institutional investors and asset managers on their voting and engagement and certain aspects of asset management arrangements;
- 2) Disclosure of the remuneration policy and individual remunerations, combined with a shareholder vote;
- 3) Additional transparency and an independent opinion on more important related party transactions and submission of the most substantial transactions to shareholder approval;
- 4) Binding disclosure requirements on the methodology and conflicts of interests of proxy advisers;
- 5) Creating a framework to allow listed companies to identify their shareholders and requiring intermediaries to rapidly transmit information related to shareholders and to facilitate the exercise of shareholder rights.

## 3. The Directive's measures

3.1 In terms of shareholder transparency the Commission requires institutional investors to disclose how the equity strategy is aligned with their liabilities and how it contributes to the longer term performance of the assets. In addition, if the institutional investor utilises the services of an asset manager, there will be required to disclose the key elements of this arrangement, such as the alignment of the asset managers and institutional investors, investment strategies, the time horizon of the strategy, the evaluation of the asset managers' performance, the targeted portfolio turnover etc. Asset managers will likewise have to disclose to institutional investors every six months, how their investment strategy is operating in accordance with the agreed approach.

3.2 On the link between directors' pay and performance the Commission is concerned that the lack of effective oversight of directors' remuneration may detract from the longer term performance of the business. Boards or Supervisory Boards develop remuneration policy. Listed companies will be required to publish detailed information on remuneration policy and the remuneration of individual directors. Shareholders will have the right to approve the remuneration policy and also the operation of the policy in the preceding year. The proposed Directive leaves the level and conditions of remuneration to the company and its shareholders.

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<sup>(1)</sup> COM(2010) 284 final.

<sup>(2)</sup> COM(2011) 164 final.

<sup>(3)</sup> COM(2012) 740 final.

3.3 The issue of related party transactions centres on the view that shareholders normally do not have access to sufficient information about such proposed transactions nor adequate mechanisms to oppose (abusive) transactions. Listed companies will therefore be required to seek the approval of shareholders in respect of related party transactions which represent more than 5 % of the companies' assets. They will also have to announce such transactions if they are greater than 1 % of their assets and have the transactions audited by an independent third party. There will be exemptions for transactions between a company and members of its group that are fully owned by the company.

3.4 Proxy advisors provide investors with recommendations on how to vote in the general meetings of listed companies. The use of proxy advisors has arisen mainly due to the complex issues involved in equity holdings of investors, particularly on a cross-border basis. Proxy advisors provide recommendations to investors with highly globalised and diversified portfolios, and exert an important influence on voting behaviour and hence on corporate governance. In its impact assessment research the Commission finds evidence that casts doubt on the quality and accuracy of advice provided by proxy advisors as well as their handling of issues relating to conflicts of interest. There is no EU level regulation of these proxy advisors although some Member States have non-binding codes of conduct. Proxy advisors will be required to undertake measures to guarantee that their voting recommendations are accurate and reliable, and based on a thorough analysis of all the relevant information and are not affected by any actual or potential conflicts of interest. It is understood that proxy advisors are currently seeking ESMA approval for a voluntary code of conduct; this is to be welcomed.

3.5 Investors, particularly those with cross-border equity holdings, face difficulties in exercising the rights flowing from their shares. These difficulties stem mainly from the ability of companies to identify investors correctly, the lack of timely transmission of information from companies to shareholders and price discrimination behaviour in cross-border holdings. Member States will be required to ensure that intermediaries offer listed companies the ability to identify their shareholders. Listed companies will be required, if they choose not to communicate directly with shareholders, to provide and deliver information relating to the exercise of rights flowing from shares to an intermediary in a standardised and timely manner. Intermediaries, in turn, are required to facilitate the exercise of shareholder rights, including voting rights, by or on behalf of shareholders, and to inform shareholders accordingly.

#### 4. Comments on the Directive

4.1 The Commission argues that the measures set out in the proposed Directive are likely to lead to only a marginal increase in administrative burden of listed companies. To the extent that they place a requirement on companies to provide timely and relevant information to shareholders, they represent good practice and should therefore be seen in that light. In the case of smaller listed companies, the EESC has concerns about the possibility of an additional administrative burden. Although the Commission commits to undertake an evaluation of the Directive after five years of its operation the EESC believes that, with the likelihood that the proposals will not come into effect for at least another 18 months, such an evaluation should be undertaken earlier.

4.2 On the issue of remuneration policy and the link between pay and performance of directors, the EESC supports the Commission proposals to improve shareholder oversight of directors' remuneration <sup>(4)</sup>. While the level of remuneration to be paid will remain a matter for the Board, the requirement of a shareholder vote should increase the level of engagement between the Board and its shareholders.

4.3 The argument that, by creating more transparency on the impact of investment policies, investors will make more informed decisions and are likely to become more engaged with their investee companies is logical. If they succeed in engendering longer term shareholder engagement, they should help to improve the efficiency and performance of companies.

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<sup>(4)</sup> OJ C 271 of 19.9.2013, p. 70.

4.4 These proposals are consistent with those elements of the Capital Requirements Directive <sup>(5)</sup> and Regulation (CRD IV) <sup>(6)</sup> that deal with remuneration and also complement existing rules governing institutional investors and asset managers under the UCITS Directive, MIFID and AIFM. This Directive should be evaluated in the context of this much broader reformed regulatory environment.

4.5 In addition, these proposals sit well in the overall EU corporate governance framework that allows Member States to operate a framework that is more closely aligned to their individual customs and practices. The explicitly cross-border focus of some of the Directive's proposals underlines the need for a set of EU transparency and engagement rules.

4.6 While accepting that for the most part, the proposed revisions to the Shareholder Rights Directive are aimed at fostering better long-term shareholder engagement, the EESC believes that such long-term engagement should involve all stakeholders, including employees and suggests that the Commission should reflect on how better to involve employees in the building of long-term value <sup>(7)</sup>.

4.7 In its proposals, the Commission states that 'the overarching objective of the current proposal to revise the Shareholder Rights Directive is to contribute to the long-term sustainability of EU companies, to create an attractive environment for shareholders and to enhance cross-border voting by improving the efficiency of the equity investment chain in order to contribute to growth, jobs creation and EU competitiveness', taken together with the ongoing reform of the financial sector. There is a sea change taking place with the emphasis on changing the culture in the European corporate and financial sectors away from short-term performance towards a more sustainable long-term investment perspective. This will not be a simple task. Insofar as such a culture change can be achieved through regulation, then the Commission is moving in the right direction.

Brussels, 9 July 2014.

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

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<sup>(5)</sup> OJ L 176, 27.6.2013, p. 338.

<sup>(6)</sup> OJ L 176, 27.6.2013, p. 1.

<sup>(7)</sup> OJ C 161 of 6.6.2013, p. 35.

**Opinion of the European Economic and Social Committee on the communication from the Commission to the European Parliament and the Council on Long-Term Financing of the European Economy**

COM(2014) 168 final

(2014/C 451/15)

Rapporteur: **Mr SMYTH**

Co-rapporteur: **Mr FARRUGIA**

On 14 March 2014 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 and the Council on Long-Term Financing of the European Economy.*

COM(2014) 168 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 17 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July 2014), the European Economic and Social Committee adopted the following opinion by 139 votes to 2 with 3 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC broadly supports this Communication from the Commission which follows up on the Green Paper on long term financing of the European economy <sup>(1)</sup>. It represents a positive development of the policy debate about how best to meet the long term investment needs of Europe.

1.2 The EESC recognises that the Commission must operate within its areas of competence while at the same time encouraging appropriate institutional and policy changes at global and Member State levels. This is particularly important in the context of national and international regulatory regimes which influence the longer term time horizons of investment decisions. There is, for example, in many Member States a bias in fiscal systems in favour of debt financing of business which incentivises companies to utilise debt rather than equity as a source of funding. For a more diversified and stable long term financing of business, Member States need to be encouraged to promote greater use of equity investment. The Commission should continue to press for this.

1.3 Most of the proposals from the Commission in the Communication are sound and consistent with promoting a longer term investment horizon but they will take some time to implement. New instruments for long term investment (such as EU 2020 Project Bonds) are needed now and the EESC urges the Commission to move rapidly to implementation.

1.4 In the context of promoting greater long term financing of the economy, the completion of a banking union is essential. Monetary policy should be accommodating to long term investment in terms of appropriate interest rates both for investors and savers. The EESC welcomes the commitment from the Commission to investigate the fragmented cross-border flows of savings and also to assess the feasibility of developing an EU-wide savings product.

1.5 The EESC believes that there is now a unique opportunity to articulate, develop and implement an EU framework for long term investment based upon the solid body of analytical work undertaken by, inter alia, the Commission, the International Institute of Finance and the Group of Thirty. The obstacles to sustainable long term finance are well known and need to be overcome. They centre on five main challenges:

- incentivising investors to take a longer term perspective in their investment decisions;
- creating new intermediaries and new instruments geared towards long term investment;

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<sup>(1)</sup> COM(2013) 150 final/1 and COM(2013) 150 final/2.

- developing debt and equity capital markets to broaden the range of financing instruments;
- ensuring that the flow of capital across borders is orderly and supportive of longer term investments; and
- developing better systemic analysis when framing future regulatory policy.

The EESC sees progress towards these objectives in this Communication and urges the Commission to maintain and accelerate this progress in its upcoming proposals on long term finance.

## 2. Follow-up to the Green Paper on long term financing

2.1 This Communication represents a considered response of the Commission to the successful consultation process engendered by the publication, in March 2013, of the Green Paper on long term financing of the European economy <sup>(2)</sup>. It sets out a number of proposals and actions designed to address the obstacles preventing the greater mobilisation of private and public sources of long-term financing. It is the view of the Commission that, while banks will continue to play an important role in the provision of longer term financing, alternative non-bank sources such as public funding, institutional investors (insurance companies and pension funds), traditional or alternative investment funds, sovereign wealth funds, etc. must be encouraged to provide such funding.

2.2 The actions proposed in this Communication focus on:

- i) mobilising private sources of long-term financing,
- ii) making better use of public finance,
- iii) developing capital markets,
- iv) improving SMEs' access to financing,
- v) attracting private finance to infrastructure, and
- vi) enhancing the overall environment for sustainable finance.

The Commission also published a proposal to revise the Institutions for Occupational Retirement Provisions (IORP) Directive <sup>(3)</sup> to support the further development of occupational pensions, an important type of long-term institutional investor in the EU, as well as a Communication on crowdfunding <sup>(4)</sup>, a growing source of financing for SMEs.

## 3. Proposed actions

### 3.1 Mobilising private sources of long-term financing

3.1.1 There is an inevitable tension between, on the one hand, the need for enhanced capital and liquidity requirements on banks to increase their resilience and, on the other hand, the desire not to place excessive restrictions on banks that might discourage them from providing long-term finance to the real economy. Striking the right balance between these two important public policy objectives will not be an easy matter. The Commission will investigate the appropriateness of the capital requirements regulation in relation to long-term financing and review the extent to which the liquidity coverage ratio and the net stable funding ratio proposals may hamper long-term financing by the banking sector.

3.1.2 The Commission's view is that once the banking reforms and the banking union are completed, confidence in the financial sector will be restored and financial fragmentation will be greatly reduced. In particular the recent set of proposals on the structural reform of banks, by separating core real economy financing activities from more risky trading activities, should enable banks to resume their traditional role <sup>(5)</sup>. The EESC in its opinion on the restructuring package is supportive of the Commission's proposals.

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<sup>(2)</sup> COM(2013) 150 final/1 and COM(2013) 150 final/2.

<sup>(3)</sup> COM(2014) 167 final.

<sup>(4)</sup> COM(2014) 172 final.

<sup>(5)</sup> These proposals are considered in the EESC opinion on Structural reform of EU banks (not yet published in the OJ).



3.1.3 Perhaps the most interesting elements of the communication concern the rules of insurance companies and pension funds in long-term investment. A reformed Solvency II comes into force at the start of 2016 and it should enable insurance companies to invest in any kind of asset subject to the 'prudent person principle'. This has the potential to contribute to the development of sustainable markets in securitised instruments. In terms of pension funds, there are proposals to develop, in partnership with the European Insurance and Occupational Pensions Authority (EIOPA), a framework, leading to the creation of a single market for personal pensions in Europe, thereby potentially mobilising greater long-term savings.

3.1.4 In terms of mobilising more private funding for long term investment, the EESC recommends that the Commission also undertakes a feasibility study of utilising sovereign funds alongside more mainstream long term sources such as pension funds and the big insurers.

3.1.5 In its response to the Green Paper <sup>(6)</sup>, the EESC recommended that the Commission investigate the introduction of an EU wide savings account to tap into long-term savings. The Commission will now undertake a study into the impediments to the creation of such a cross-border EU savings vehicle.

### 3.2 *Making better use of public finance*

3.2.1 On the issue of achieving more effective use of public funding for long-term investment, the Commission commits to measures which should encourage greater cooperation between national and regional promotional banks, EIB/EIF and other multilateral development banks, such as the EBRD. The recent creation of the Strategic Banking Corporation of Ireland which is a joint venture between the Irish Government, the EIB and KfW <sup>(7)</sup> bank and which will have around EUR 800 million to lend to Irish SMEs is a good example of this approach. There is also a similar proposal in respect of better coordination and cooperation among national export credit agencies. These proposals are to be welcomed.

### 3.3 *Developing capital markets*

3.3.1 Many of the Commission's proposals address the issue of underdeveloped capital markets in Europe. The Communication notes that although the corporate bond market has been growing in recent years, it remains (along with European equity markets) fragmented and unattractive to SMEs and mid-caps as a source of longer term finance. In response to this fragmentation, there is a commitment to a study into whether further measures, apart from MiFID 2 <sup>(8)</sup>, may be necessary to establish a robust and liquid secondary market in corporate bonds. There is also a commitment to investigate whether UCITS <sup>(9)</sup> could be extended to cover securities listed on SME growth markets.

3.3.2 Since the onset of the financial crisis, the term securitisation has been associated, by default, with sub-prime mortgages in the US and the collateralised debt obligations and credit default swaps derived from them. The catastrophic failure of the derivatives market was not caused by the securitisation of the assets themselves but by inadequate regulation, the lack of understanding and greed on the part of both buyers and sellers. The use of securitisation is now back firmly on the policy-making agenda. Risk retention requirements have been in place since 2011 across the EU and disclosure obligations to allow investors to better understand the financial instruments in which they invest have been reinforced. In the opinion of the Commission there is now scope to establish sustainable securitisation markets with appropriate prudential differentiation of the different asset-backed securities to be traded. While the EESC supports the gradual use of securitisation in principle it urges caution so as to ensure that its use is implemented in a well regulated manner.

3.3.3 The Commission pledges to cooperate with the Basel Committee and the International Organisation of Securities Commissions (IOSCO) to develop and implement global standards on risk retention, transparency, consistency in securitised markets. There is also a commitment to reviewing the treatment of covered bonds in the Capital Requirements Regulation (CRR) by the end of this year as appropriate to the establishment of an integrated covered bond market; in turn this review should accelerate a study on an EU framework for covered bonds.

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<sup>(6)</sup> OJ C 327 of 12.11.2013, p. 11.

<sup>(7)</sup> A German government-owned development bank.

<sup>(8)</sup> Markets in Financial Instruments Directive.

<sup>(9)</sup> Undertakings for Collective Investment in Transferable Securities, Directive 2001/107/EC and 2001/108/EC.

3.3.4 The issue of private placements is reviewed in the Communication and as private placements are seen as a realistic alternative to bank lending and to public corporate bond issuance there is a commitment to an analysis of good practice in private placement markets in Europe and elsewhere and to develop proposals for the more widespread use of such placements in the EU.

### 3.4 *Improving SMEs' access to financing*

3.4.1 The Communication also touches upon the thorny issue of improving SME access to longer term financing. This topic formed part of the Action Plan on SME financing published in 2011 and some limited progress has been made since then. The lack of adequate, comparable, reliable and readily available credit information on SMEs is identified as the chief impediment to greater access to capital markets. One of the causes of these inadequacies is the fragmented nature of national sources of such information.

3.4.2 In a recent influential study <sup>(10)</sup> the International Institute of Finance (IIF) cited these informational asymmetries as a major impediment to SME funding in both the short and long-term. The IIF proposes a series of measures to lessen these impediments. They include greater use of digital repositories with standard submissions for business registers, statistics offices, bank credit assessments and other lenders. These national repositories of credit risk data should be consolidated with the European Data Warehouse, eventually leading to a European central credit registry. The IIF calls for the setting of Europe wide standards for information collection and reporting so as to enable cross company and cross national analyses. Better, more up-to-date information on SME financial performance should enable better risk assessment by lenders and more appropriate pricing of risk. The IIF proposals go much further than the Commission's and the EESC urges the Commission to tackle these national informational/confidentiality issues as a matter of urgency.

3.4.3 The EESC sees merit in giving a role to Regional Development Agencies (RDA) in the assessment of SME riskiness. Most EU regions have such RDAs, some of which already providing equity and debt finance to client SMEs. These RDAs often have better knowledge of SMEs and their owner-operators and management than banks and the EESC recommends that the Commission investigates their potential role as local risk assessors.

3.4.4 There is also a commitment by the Commission to resume the dialogue between banks and SMEs with a view to improving the latter's financial literacy, particularly with regards to the feedback provided by banks on loan applications. The IIF study goes further and recommends the education of SMEs on available alternative funding options and the benefits of participating in alternative funding programs. The EESC endorses this view.

### 3.5 *Attracting private finance to infrastructure*

3.5.1 In terms of infrastructure investment, the Commission identifies the lack of consistency of available data on the performance of infrastructure loans across Europe as an obstacle to greater private sector participation in infrastructure investment. Commercial sensitivity and confidentiality on the part of banks and equity investors often prohibited the wider circulation of relevant information. The Commission commits to an evaluation of the potential for a single portal to make available, on a voluntary basis, existing information on infrastructure investment plans and projects by municipal, regional and national authorities. A similar portal approach to making available comprehensive and standardise credit statistics on infrastructure debt is also proposed. The EESC supports these actions.

### 3.6 *Enhancing the overall environment for sustainable finance*

3.6.1 Aside from the issue specific actions discussed above, the Commission also examines the wider framework for sustainable finance in terms of corporate governance, accounting standards, taxation and the legal environment. It will consider a proposal for the revision of the shareholder rights directive to bring the long-term interests of institutional investors, asset managers and companies into a better alignment. The EESC is supportive of this revision of the shareholder rights directive to encourage longer term shareholder engagement.

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<sup>(10)</sup> Restoring Financing and Growth to Europe's SMEs (2013).

3.6.2 There will also be an assessment of employee share ownership (ESO) and employee financial participation (EFP) schemes across the EU, with a view to identifying impediments to the cross-border implementation of such schemes and formulating actions to address them. There is also a commitment to consider whether the use of fair value in the revised IFRS 9 is appropriate in respect of long-term investing business models. In addition, the Commission will launch a consultation later this year to examine the case for a simplified accounting standard for the financial statements of listed SMEs and the utility of a self-standing accounting standard for non-listed SMEs.

3.6.3 There is recognition in the Communication of fiscal bias towards debt financing of business across most Member States of the European Union. This has the effect of incentivising companies to take on more debt rather than use equity. The Commission has no competence in this area and the Communication merely commits it, through the country specific recommendations of the European semester process, to promote greater equity investment. Finally, the Commission will undertake reviews of the recent recommendation on the early restructuring of viable enterprises and the principle of 'second chance' in respect of bankrupt entrepreneurs, as well as the law applicable to third party aspects of the assignment of claims. There is little to find fault with in these proposals.

Brussels, 9 July 2014.

*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 — An open and secure Europe: making it happen’**

COM(2014) 154 final

(2014/C 451/16)

Rapporteur: **José Isaías Rodríguez García-Caro**

On 14 March 2014, 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 — An open and secure Europe: making it happen.*

COM(2014) 154 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 20 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion by 85 votes to 1 with 7 abstentions.

## **1. Conclusions**

1.1 In keeping with the position long held by the European Economic and Social Committee, as expressed in its opinions on the Communications from the Commission on The Hague Programme<sup>(1)</sup> and the subsequent Stockholm Programme<sup>(2)</sup>, the EESC believes that the foundation and starting point for policies on freedom, security and justice must be protection of the fundamental rights guaranteed by the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. The EESC considers that the policies advocated by the European institutions must ensure a balance between fundamental rights and security. The Judgment of the EU Court of Justice on Directive 2006/24/EC on the retention of data relating to Europeans' electronic and telephone communications for at least six months declares that this directive is invalid on account of the proportionality principle. However, the CJEU considers that the retention of data is a legitimate objective which serves general interests.

1.2 The Committee is concerned to note that intolerance, racism and xenophobia towards immigrants are on the rise in Europe and also that in some Member States the protection of fundamental rights is being eroded. Equal treatment and anti-discrimination policies represent the pillars of integration policies. The EESC proposes that the Commission designate a single dedicated Commissioner to identify, strengthen and adopt measures to protect fundamental rights.

1.3 Similarly, the Committee considers that the European Union must strive towards the consolidation of an international system that facilitates and regulates immigration and mobility, based on the United Nations' human rights conventions, the Convention on the Rights of the Child, the Convention on the Protection of the Rights of Migrant Workers and the ILO's conventions.

1.4 As a representative of organised civil society, the EESC is a partner who must be taken into account and be involved at every stage of the debate between the Commission, the European Parliament and the Council on an open and secure Europe.

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<sup>(1)</sup> OJ C 65, 17.3.2006, pp. 120-130.

<sup>(2)</sup> OJ C 128, 18.5.2010, pp. 80-88.

1.5 The EESC's view is that the Communication from the Commission should have taken a more practical approach. It contains a series of ideas that we believe need more detail and structure. We also consider that the Communication should have concentrated in particular on identifying the main problems currently preventing Europe from being more open and secure.

1.6 Immigrants make a positive contribution to the economic and social development and diversity of Europe, which is facing a major demographic challenge due to the ageing of its population. The EU is in the midst of a serious economic crisis and has high unemployment rates, but even so, the labour markets in a number of Member States are calling for new immigrants. Without a robust migration policy, when the crisis is over and the economic cycle changes, the structural problems caused by the demographic situation may worsen if steps are not taken.

1.7 The EU must set up a common asylum system with harmonised legislation, based on the Treaty's provisions for a common policy in this area. The Dublin Convention should be replaced with a more solidarity-based system within the EU that also takes account of asylum seekers' wishes.

1.8 The EESC considers that a credible focus on irregular immigration and returns requires vigorous action, using all available tools, against organised criminal networks smuggling and trafficking human beings. We are convinced that closer coordination between the Member States is crucial if existing means and instruments are to be put to good use in tackling the criminals who foment and facilitate irregular immigration.

1.9 The EU must take responsibility for monitoring its external borders, which are the borders of the entire European Union in the Schengen area. Frontex should become a European border guard service, prioritising both the protection of people whose lives are in danger, and respect for the laws in force.

1.10 The EESC proposes that Europol become a European agency under a European political or judicial authority, with a remit that extends beyond its current coordinating role, and, as soon as possible, with its own operational capability for investigation across the EU in cooperation with Member States' police forces.

## 2. Introduction

2.1 Although only a few years have passed since the launch of the Stockholm Programme for *An open and secure Europe serving and protecting the citizen*, the implementation of some of the measures proposed in it has enabled the European Union to develop policies aimed at creating a more open and secure society for all of us who live in the European Union's area of freedom and understanding. This is a European Union in which even the slightest hint of discrimination, racism or xenophobia has no place.

2.2 The strengthening of the Schengen area, the agreement on a Common European Asylum System, the improved common visa policy, increased European cooperation on combating those aspects of organised crime which are most dangerous to people (terrorism, human trafficking, cybercrime etc.) and increased cooperation with non-EU countries on migration, although major achievements, are still insufficient.

2.3 In an increasingly interconnected and interdependent world, where information flow is constant and unpredictable challenges requiring a response are emerging, we need to progress towards and develop higher levels of freedom and security, both for EU citizens and for those coming from non-EU countries, wishing to join and be integrated into our society and to contribute to it, thus enriching our values and improving their own living conditions.

2.4 As the lifespan of the Stockholm Programme <sup>(3)</sup>, on which the EESC drew up a mandatory opinion <sup>(4)</sup>, is about to end, we need to answer the question asked in the Commission's communication: how can we make an open and secure Europe happen?

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<sup>(3)</sup> OJ C 115, 4.5.2010.

<sup>(4)</sup> OJ C 128, 18.5.2010, pp. 80-88.

2.5 On 8 April 2014, the Court of Justice of the European Union (CJEU) <sup>(5)</sup> declared European Directive 2006/24/EC <sup>(6)</sup>, requiring Member States to oblige communication network and service providers to retain data on Europeans' electronic and telephone communications for at least six months, to be invalid. The Court took the view that by requiring the retention of those data and by allowing the competent national authorities to access those data, the directive interferes in a particularly serious manner with the fundamental rights to respect for private life and to the protection of personal data. Furthermore, the fact that data are retained and subsequently used without the subscriber or registered user being informed is likely to generate in the persons concerned a feeling that their private lives are the subject of constant surveillance. The Court stated that the retention of traffic data (and implicitly the directive) constitutes serious interference with the fundamental right to respect for private life enshrined in Article 7 of the EU Charter of Fundamental Rights. The Court's ruling of 8 April 2014 confirms that respect for citizens' rights and freedoms is crucial for the European venture. While invalidating the directive because of the proportionality principle, the CJEU considers that retaining data is a legitimate objective which serves general interests.

### 3. The Communication from the Commission

3.1 The communication is the result of a discussion in which all the institutions and bodies concerned with these EU policies took part, making their contributions by means of the *Open and Safe Europe: What's next?* conference held in Brussels in January 2014, to which the EESC contributed, and a very wide-ranging public consultation.

3.2 The communication includes an introduction, briefly summarising progress so far in meeting the ambitious targets of the Stockholm Programme, before moving on to the second part of the document which sets out a series of political priorities.

3.3 The priorities are listed as follows:

- An effective policy of migration and mobility.
- Schengen, visas and external borders.
- A Common European Asylum System (CEAS) in practice.
- Further strengthening the Global Approach to Migration and Mobility (GAMM).
- A Europe that protects.

### 4. Comments

#### 4.1 *An effective policy of migration and mobility*

4.1.1 The EESC has repeatedly voiced its views on migration, mobility and integration policies in its opinions over the years. We reaffirm the validity of these opinions, and particularly of those proposals they contain that have not yet been taken on board. In this context, the EESC could not agree more on maximising the benefits of migration and integration, as they can unquestionably contribute to smart, sustainable and inclusive growth, as the Commission's document points out. It needs, however, to be borne in mind that in a Europe where racist and xenophobic ideologies are on the rise, zero tolerance must be displayed towards such movements. Countering discrimination, racism and xenophobia must be areas for priority action in any measures under consideration to create a more open and secure Union.

4.1.2 Attracting talent and highly skilled workers, attracting and retaining students from non-EU countries who will then stay and work in the EU, facilitating the recognition of qualifications in those countries, assisting potential emigrants in their own countries of origin so as to make it easier for them to enter the Union — these are all important measures which are of great value in enriching the Member States of the Union intellectually and economically and they should, therefore, be supported by the EESC. But first we must realise that it is not the same thing to attract talent and skilled workers away from non-EU countries with a high capacity for generating intellectual value and wealth and from countries which are struggling to emerge and achieve greater levels of wealth and prosperity. The latter case might be an excellent strategy for the EU Member States but it could represent a serious loss of human capital for non-EU countries. The EU and third countries need to cooperate under the Mobility Partnerships.

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<sup>(5)</sup> <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-04/cp140054en.pdf>

<sup>(6)</sup> Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (OJ L 105, 13.4.2006, p. 54.)



4.1.3 The EESC is concerned at the impact of this strategy on developing third countries which need to maintain trained and qualified human capital in order to rise out their current impoverished condition. When framing policies to attract external talent to the EU, ways of drawing upon this human capital while introducing measures to compensate the countries of origin so their growth is not jeopardised must be a priority. It should not be forgotten that the long-term solution for people from under-developed countries to secure a better future is not to attract them into the EU so they can find work and better living conditions, but to work for their countries to achieve such a level of development that their people do not see emigration as their only chance for survival.

4.1.4 The complementary and indissoluble link between integration and immigration was acknowledged in the conclusions of the Justice and Home Affairs Council of June 2007. The EESC has drawn up a number of opinions expressing its views on this subject over the years. In the present period of economic difficulty, it is all the more necessary once again to state that *'equal treatment and anti-discrimination policies represent the pillars of integration policies'*. This recommendation is contained in the EESC's exploratory opinion on the *Integration of immigrant workers* <sup>(7)</sup> drawn up in 2010. That opinion remains entirely relevant and is therefore reflected in the present document.

4.1.5 The European Integration Forum is an ideal platform for civil society and immigrants' organisations. The Committee restates its undertaking to continue cooperating with the Commission in the Forum's activities and in implementing the European integration agenda.

4.1.6 The EESC considers that a credible focus on irregular immigration and returns requires vigorous action, using all available tools, against the organised criminal networks that use people as money-spinning merchandise by bringing them into the EU through irregular channels, against human traffickers who sexually exploit women and children, and against profiteers who use irregular, virtually slave labour. Victims should be guaranteed protection under international humanitarian law and European human rights conventions, as they are vulnerable groups requiring special protection. We are convinced that closer coordination between the Member States is crucial if existing means and instruments are to be put to good use in tackling the criminals who foment and facilitate irregular immigration.

4.1.7 The Committee advocates cooperation with non-EU countries as key to finding a regulated, humanitarian solution to returning to their countries of origin persons who have migrated to the EU Member States irregularly. The Committee supports the recommendations of the International Organization for Migration (IOM) on promoting voluntary assisted return.

4.1.8 To this end, a policy of cooperation is needed with the countries of sub-Saharan Africa, the southern Mediterranean and the Middle East, at least equivalent to that which is being developed with non-EU European and Asian countries. Spain, Greece, Italy Cyprus and Malta are under strong pressure from irregular migration from that part of the world, across the Mediterranean and through the Balkans, leading to tragic events such as those that have occurred on the shores of Lampedusa and which must be prevented by all means. The Committee urges the Commission and the Council to ensure that the European Union becomes more involved in a problem which concerns the Union itself and consequently all the Member States, and not only those located on the external borders, with more solutions and fewer reproaches to individual Member States.

4.1.9 A *Task Force Mediterranean* was set up following the disaster in Lampedusa in October 2013. The Task Force culminated in the publication of a Communication on the work it had accomplished <sup>(8)</sup>, putting forward a package of short-, medium- and long-term measures in five main fields, along similar lines to the priorities set out in the communication from the Commission under discussion in the present opinion. The EESC deems it essential that short-term measures be complemented by long-term measures aimed at addressing the root causes of involuntary migration (poverty, human rights violations, conflicts, lack of economic opportunities, poor working conditions, unemployment, etc.).

4.1.10 Irregular migration, which puts the lives of migrants from sub-Saharan countries at risk, can be more effectively combated in the countries of origin than during transit and/or in the countries of destination. The EESC will support all measures enabling action to be taken in the countries of origin, showing greater decisiveness in situations of humanitarian crisis, improving living conditions in the countries of origin and, essentially, doing what we have so often said we would do but have not done faced with the desperate migration of hundreds of thousands or millions of persons.

<sup>(7)</sup> OJ C 354, 28.12.2010, pp. 16-22.

<sup>(8)</sup> COM(2013) 869 final.



## 4.2 Schengen, visa and external borders

4.2.1 If people associate the name Schengen with anything, it is that it represents free movement of persons throughout the signatory States. The right to free movement and residence for EU citizens is a right protected and regulated by the Treaties. Completing the common visa policy and making it more flexible, assessing each application individually without prejudices based on nationality, establishing consular Schengen visa centres, revising the list of countries for which visas are required. All these aspects are important and deserve joint action to ensure improved support and implementation.

4.2.2 However, the Committee is concerned, in the light of some actions taken by certain Member States, that it will not be credible for the Member States to seek to make it easier for citizens of non-EU countries to enter the EU at a time when some Member States are threatening to send EU citizens back to their countries of origin, because they are unemployed, or quite simply preventing them from entering. The Committee regrets the fact, that in the absence of entirely free movement of Union citizens, it will not be credible to apply it to citizens of non-EU countries.

4.2.3 With regard to the external borders, the EESC wonders if the EU's participation in protecting the Union's southern and eastern border is commensurate with the current situation there. In spite of the stronger role for Frontex brought about by amending Council Regulation (EC) No 2007/2004, it may be asked if integrated management of external borders is possible in the EU. The EESC would reiterate the recommendations made in its opinion<sup>(9)</sup> on the proposal for an amendment to the regulation, and considers that Frontex should become a European border-guard service comprising a European body of border guards.

4.2.4 The 'smart borders' package, on which the EESC drew up an opinion<sup>(10)</sup>, based on a Registered Traveller Programme (RTP), will allow frequent travellers from third countries to enter the EU using simplified border checks following pre-screening and vetting, and an Entry/Exit System (EES) that will record the time and place of entry and exit of third country nationals travelling to the EU. When applied, this will speed up, facilitate and strengthen both border control procedures and border crossing for third country nationals travelling to the EU. The EESC supports the implementation of the package, since it is convinced that the introduction of new technologies will facilitate modern management of the Union's borders. It therefore urges the European institutions to press ahead with the legal instruments to facilitate the rapid implementation of these technologies.

## 4.3 A Common European Asylum System

4.3.1 We believe that major progress has been made in providing the EU with a legislative framework improving access to asylum for people requiring protection, making decisions on granting asylum faster and more reliable. In spite of this, when it comes to transposing European legislation into national law and applying it, the EESC would return to the comment it made in its opinion<sup>(11)</sup> on the Communication from the Commission on the Policy plan on asylum: An integrated approach to protection across the EU<sup>(12)</sup>. With regard to the application of asylum legislation in the Member States, the Committee argued that *'The EU should develop a common legislation without compromising protection standards in any way, so that it will be Member States with insufficient levels of protection that have to change their legislation. The Member States will always have a degree of discretion when implementing EU asylum legislation, but the EESC will only support EU legislation that provides a high level of protection and reduces the scope for interpretation which, as is currently the case, might prevent the legislation from being applied correctly'*.

4.3.2 The Common European Asylum System needs to be consolidated to ensure that all the Member States are applying the same criteria, ensuring legal security for asylum seekers. The EESC believes that solidarity between Member States may be one of the areas requiring greatest effort. Individual Member States may experience particularly strong pressure, as a result of various circumstances. More Europe is needed in this context, as in the case of defending the external borders.

<sup>(9)</sup> OJ C 44, 11.2.2011, pp. 162-166.

<sup>(10)</sup> OJ C 271, 19.9.2013, p. 97.

<sup>(11)</sup> OJ C 218/78, 11.9.2009.

<sup>(12)</sup> COM(2008) 360 final.

4.3.3 However, and in the light of the experience and evidence built up concerning irregular migration, it is legitimate to ask if more solidarity and shared responsibility is possible in this area under current circumstances. For this reason, and to reply to the question of how to foster solidarity and responsibility among the Member States, we share the Commission's view that relocation towards countries experiencing less pressure, and the pooling of reception places, should be encouraged. As the EESC explained in its own-initiative opinion on *Irregular immigration by sea in the Euromed region* <sup>(13)</sup>, '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'.

4.3.4 With regard to managing large numbers of people in crisis situations, as in the case of Syria, and in connection with asylum applications by means of more flexible instruments, as advocated by the Commission in its communication, it is worth pointing out that the EESC previously expressed its support for the introduction of a single common asylum procedure leaving no space for the proliferation of disparate procedural arrangements in Member States <sup>(14)</sup>. The flexibility shown by the Commission should apply only to temporary protection: the authorities must step up their efforts to assess applications from those who are in real need of asylum and separate them from those submitting fraudulent applications.

#### 4.4 Strengthening the Global Approach to Migration and Mobility

4.4.1 Migratory movements of human beings are not only motivated by a desire for a better future. Instability, political upheaval, climate change and many other factors cause and have caused, over the centuries, major movements of people. What differentiates past migrations from those occurring today is guarantees and respect for the fundamental rights of all human beings. The European Union, the largest area of freedom and security in the world, must therefore work with the countries of origin to encourage ordered mobility which guarantees the rights of citizens of those countries and keeps them out of the hands of the organised criminal networks which traffic in human beings.

4.4.2 In its opinion <sup>(15)</sup> on the *Global Approach to Migration and Mobility* <sup>(16)</sup>, the EESC specifically voiced its support for 'the *Global Approach to Migration and Mobility* (GAMM), which closely links immigration and asylum policies to the EU's external policy'. The EESC has stated its position on this matter on numerous occasions, and continues to support developing an ever-closer link between the internal and external dimensions of migration and mobility policy, and greater coherence between EU immigration and asylum policies on the one hand and development cooperation policies on the other.

#### 4.5 A Europe that protects

4.5.1 The Internal Security Strategy adopted in 2010 provides for joint EU action on the main threats to security. It is based on five strategic objectives which, while remaining valid, should be revised and updated with a view to tackling the challenges of the next five-year period, encouraging synergies with other key areas where security is essential for consolidating achievements and making further progress.

4.5.2 The Committee agrees with the Commission that disrupting international criminal networks operating within the EU must be a priority for all the Member States, and coordination of efforts to this end must be an EU objective. Organised crime is always one step ahead of the legal and police resources deployed against it. The internationalisation of organised crime requires a major collaborative effort between states, which must be closely coordinated by the European Union.

4.5.3 We cannot allow criminal networks to avoid being dismantled, or to delay the process, by exploiting disparities in the law and police powers and through a multitude of court applications. If crime can span borders, then we must progress more rapidly towards border-free justice in the Union. The EESC believes that we cannot afford to continue delaying global solutions to organised crime.

<sup>(13)</sup> OJ C 67, 6.3.2014, p. 32.

<sup>(14)</sup> OJ C 218/78, 11.9.2009.

<sup>(15)</sup> OJ C 191, 29.6.2012, p. 134.

<sup>(16)</sup> COM(2011) 743 final.

4.5.4 The Committee considers that training and information are not in themselves sufficient to disrupt crime networks, and consequently urges that, while continuing with the European training programme for law enforcement officials, thought be given to turning Europol into an operational investigative police force with EU-wide powers to pursue cross-border crime, especially trafficking in human beings, upgrading its functions from coordination to full-scale operations. Here, we would highlight the recommendation made in the exploratory opinion on *Civil society participation in the fight against organised crime and terrorism* <sup>(17)</sup>: ‘The EESC proposes that Europol become an European agency under an European political or judicial authority, with a remit that extends beyond its current coordinating role, and with its own operational capability for investigation across the EU in cooperation with Member States’ police forces’.

4.5.5 Constantly mapping out long-term horizons, goals and target dates may end up by wearing people down, as what they want is solutions. We need to achieve greater flexibility and eliminate bureaucracy in these areas too, which are so important to people’s everyday lives — otherwise, we will just swell the ranks of the Eurosceptics.

4.5.6 The Commission’s most recent anti-corruption report to the Council and the European Parliament makes it clear that corruption persists on a European scale. The abuse of power for personal gain must be prosecuted and punished, especially where organised crime plays a part. The EESC gives its full backing to cooperation between the institutions and with the Member States to tackle this scourge, which undermines the credibility of our political system.

4.5.7 The EESC will back all legitimate and democratic initiatives that may be taken to prevent terrorism and to address radicalisation and recruitment. Any legitimate and democratic measures that prevent young people from being indoctrinated by extremist movements or parties and thus directly initiated into and incited to take part in terrorist activities must of course be promoted throughout the Union and beyond its borders. Identifying areas of risk and focal points for the dissemination of extremist ideologies are priorities for ensuring our individual and collective security. There has to be a free flow of information in this area so that radicalisation and recruitment activities can be spotted early on and strong measures taken to nip them in the bud. Here, the Committee would reiterate the recommendations made in its opinion on the Communication from the Commission on *The EU Counter-Terrorism Policy: main achievements and future challenges*.

4.5.8 We must remember that terrorism may come from outside our borders but may also arise at home, as the recent history of Europe teaches us. We therefore have to prevent radicalisation and extremist violence, in street disturbances in European cities, being used as a focal point for recruitment for the future activities of avowedly terrorist groups. Street violence recognises no borders, and violent trouble-makers can often move from one country to another, exploiting events wherever they occur. The Committee therefore points to the need for closer cooperation between the various national police forces, in order to identify and take action against these violent gangs, who might subsequently join terrorist groups.

4.5.9 The EESC would voice its support for the measures being taken to raise levels of security for the public and businesses in cyberspace. In the light of the foreseeable increase in internet crime, the measures being carried out by the European Union to combat cybercrime deserve the strongest possible support. Cooperation with non-EU countries must make it possible to adopt a global approach to crime with a global dimension which does not stop at any border. Prevention is again crucial in this area to avoid being overtaken by cybercriminals in the use of new technologies. The European Cybercrime Centre should receive more resources, including financial ones, even though it has only recently been set up.

4.5.10 The EESC, as a representative of organised civil society in the EU, cannot understand why there are still EU Member States which have not yet ratified the Council of Europe Convention on Cybercrime.

4.5.11 In a Europe which is based, among other freedoms, on free movement of persons and goods, stepping up security through the management of borders must become a common policy activity which guarantees security for all citizens of the Union. The entry of goods through any customs post and their free movement throughout the Union requires sound common instruments for the effective management of the external borders which do not allow some borders to be strict while others are lax.

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<sup>(17)</sup> OJ C 318, 23.12.2006, p. 147.

4.5.12 Common responses to emergencies already happen without the need for regulation, when individual people spontaneously take the initiative to help without any authority needing to ask them. However, coordinated action and a joint response to crises and disasters add value by increasing the effectiveness and efficiency of the response to situations of this kind.

4.5.13 The EESC agrees with the Commission's view that European internal security also means acting beyond our borders, in a global context. In all areas related to freedom and security, cooperation between the Member States, and with non-EU countries, is essential if we are to continue to progress towards a better and fairer world, in which organised crime and terrorism do not endanger the hard-won freedoms and rights which we all enjoy.

Brussels, 9 July 2014.

*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 — The EU Justice Agenda for 2020 — Strengthening Trust, Mobility and Growth within the Union’**

COM(2014) 144 final

(2014/C 451/17)

Rapporteur: **Xavier Verboven**

On 14 March 2014 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 — The EU Justice Agenda for 2020 — Strengthening Trust, Mobility and Growth within the Union.*

COM(2014) 144 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 20 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 72 votes to 1 with 0 abstentions.

## **1. Conclusions and recommendations**

1.1 The Committee has taken note of the Commission's communication and considered it useful to make comments on the policy objectives set out by the Commission, and to make a number of other specific recommendations.

1.2 With regard to the policy objective of ‘enhancing mutual trust’, the Committee considers this to be an appropriate policy priority that is in line with the provisions of the Treaty on the Functioning of the European Union (hereinafter TFEU) under the heading Justice. With regard to the initiatives that might be taken over the next five years to strengthen this mutual trust, the Commission is rather vague and superficial. The Committee considers that the cooperation that was achieved in the past by means of cooperation agreements should be further encouraged by drawing up successor instruments.

1.3 With regard to the policy objective ‘supporting economic growth’, the Committee notes that striving for economic growth is recognised as an important priority, albeit on condition that sustainable growth is meant. Economic growth cannot, however, in itself be viewed as a policy objective of a justice policy that, having regard to the TFEU, is to be aimed at achieving a high level of security and easy access to justice, which cannot be subordinated to economic growth. This does not take away the fact that a properly functioning justice system within the Member States of the European Union can have a positive effect on sustainable economic growth within the Union, specifically by enabling disputes to be resolved more quickly and more appropriately and by enhancing legal certainty in civil matters, and by better tackling criminal matters such as money laundering and organised crime, which are damaging to the mainstream economy.

1.4 With respect to the policy objective ‘supporting mobility’, the Committee points out that supporting mobility within the European Union, in particular by ensuring that citizens of the Union can exercise their rights everywhere, can be linked to the objective set out in the TFEU of facilitating access to justice. It should be emphasised that Title V does not only set ‘freedom’ as an objective, but also security and justice, which can lead to restrictions on freedom. Rather than supporting mobility, the objective must be to ensure access to efficient justice serving citizens who exercise their right to free movement.

1.5 The Committee also notes that the Commission's communication fails to mention a number of things that could contribute to achieving an area of freedom, security and justice.

- Firstly, consideration could be given to introducing magistrates specialising in European law in the Member States with the aim of providing greater legal certainty to citizens in disputes relating to European legislation.
- Secondly, consideration could be given to setting up operational European police forces and inspection services with a view to effectively tackling crimes and fraud with cross-border aspects.
- Thirdly, in the area of criminal law, thought must be given to the extent to which minimum rules should be established concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension, such as terrorism, trafficking in human beings, sexual exploitation, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.
- Fourthly, consideration could be given to the mandatory introduction of collective redress (class action) so as to improve access to justice for EU subjects.
- Fifthly, it is desirable for a scoreboard to be maintained of achievements in the area of justice and, in particular, the implementation of the policy plans.
- Sixthly, it is absolutely essential to appoint a Commissioner responsible for human rights as part of the future make-up of the Commission.

## 2. Gist of the Commission Communication <sup>(1)</sup>

### 2.1 *Context of the Communication*

2.1.1 The European Commission has already taken various legislative initiatives in the area both of criminal and of civil law, which has led to quite a number of steps being taken towards making an area of freedom, security and justice a reality.

2.1.2 The policy direction has been sketched out in five-year programmes such as the Tampere programme, the Hague programme and ultimately the Stockholm programme, the latter of which expires at the end of 2014. Given the expiry of the Stockholm programme, and given the expansion of the Union's competences in the field of justice arising from the Lisbon Treaty, this Commission communication seeks to set out the political priorities that should be pursued in order to make further progress towards a properly functioning European area of freedom, security and justice aimed at trust, mobility and growth by 2020.

2.1.3 This communication seeks to contribute to the strategic guidelines on legislative and operational planning that the European Council defines in accordance with the provisions of Article 68 TFEU with a view to achieving an area of freedom, security and justice, and to the strategic choices that the European Parliament will need to make on the matter <sup>(2)</sup>.

### 2.2 *Gist of the communication*

#### 2.2.1 Challenges for the future/policy objectives

In its communication, the Commission defines three objectives for the future, namely:

##### a) *Mutual trust*

Further strengthening the trust of citizens, law practitioners and judges in court judgments, regardless of in which Member State they were pronounced.

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<sup>(1)</sup> COM(2014) 144 final.

<sup>(2)</sup> COM(2014) 144 final, point 1 'Introduction'.

b) *Mobility*

The obstacles that EU citizens still encounter when taking advantage of free movement must be further dismantled.

c) *Economic growth*

Justice policy must continue to support economic growth, not least by strengthening the enforceability of contracts in cross-border trade and by supporting the digital economy.

2.2.2 The means defined by the Commission to achieve the above objectives are: consolidation, codification and complementing. The Commission points out that complementing existing policy instruments must always be done with the purpose of enhancing mutual trust, boosting growth and facilitating the life of citizens.

### 3. Comments

*Comments on the policy objectives defined by the Commission*

#### 3.1 The Union's competence in matters of justice

3.1.1 The Union's competence in the field of justice is explicitly set out in Title V of Part 3 of the TFEU, which is entitled 'Area of Freedom, Security and Justice'.

3.1.2 Article 67 TFEU provides that the Union is an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

3.1.3 In this context, the institutions of the European Union are tasked with <sup>(3)</sup>:

- ensuring the absence of internal border controls for persons and framing a common policy on asylum, immigration and external border control;
- endeavouring to ensure a high level of security;
- facilitating access to justice.

3.1.4 For the purposes of fulfilling these tasks, the Union is competent in the field of justice, policing, and asylum and immigration.

3.1.5 In the area of justice, the Union has competences both in civil and in criminal matters.

3.1.6 The competences in **criminal justice** include first and foremost the competence, with a view to putting into practice the principle of mutual recognition of court rulings, of adopting measures and establishing minimum rules relating to criminal proceedings. This competence includes, for example, the competence to lay down minimum rules in relation to the rights of individuals in criminal procedure or of victims of crime, as well as the competence to take measures to prevent and settle conflicts of jurisdiction. Secondly, the criminal law competences include the competence to establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension, such as terrorism, trafficking in human beings, sexual exploitation, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. Thirdly, measures can be taken to promote crime prevention. Fourthly, the competence in the field of criminal law includes supporting and strengthening the coordination and cooperation between national investigating and prosecuting authorities. Fifthly, the competence in the field of criminal law includes the competence to establish a European Public Prosecutor's Office for the purposes of combating offences against the Union's financial interests.

3.1.7 The justice competences in the field of **civil law** include the competence to take measures aimed at (1) the mutual recognition and enforcement between Member States of judgments; (2) the cross-border service of judicial and extrajudicial documents; (3) laying down rules concerning conflict of laws and of jurisdiction (international private law); (4) cooperation in the taking of evidence; (5) effective access to justice; (6) the elimination of obstacles to the proper functioning of civil proceedings, (7) alignment of standards applying to the conflict of laws and jurisdiction, and (8) the development of alternative methods of dispute settlement.

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<sup>(3)</sup> Article 67 TFEU.



### 3.2 Conformity of the policy objectives defined by the Commission with the Union's competences in the area of justice set out in the TFEU

#### 3.2.1 Policy objective 'enhancing mutual trust'

3.2.1.1 The Commission is right to set enhancing mutual trust between competent authorities of the Member States in each other's decisions as a policy objective in the area of justice. This deserves to be supported, even if it is more of a means of achieving judicial cooperation rather than an end in itself.

3.2.1.2 According to the TFEU, the Union, both in civil and criminal law, is to carry out a policy aimed at judicial cooperation based on the principle of mutual recognition of judgments, which implies mutual trust in each other's judgments <sup>(4)</sup>.

3.2.1.3 With regard to the initiatives that might be taken over the next five years to strengthen this mutual trust, the Commission is rather vague and superficial. The Committee considers that the cooperation that was achieved in the past by means of cooperation agreements could be further encouraged and supported, for example by drawing up judicial successor instruments.

#### 3.2.2 Policy objective 'supporting economic growth'

3.2.2.1 That the Commission should set supporting economic growth as a policy objective in the area of justice is not obvious. The TFEU confers competences upon the Union in the field of justice to ensure a high level of security and to facilitate access to justice in civil matters.

3.2.2.2 Over recent years, not least due to the financial and sovereign debt crises and in line with the Europe 2020 strategy, EU justice policy has also become a tool for supporting economic recovery, growth and structural reform. The Committee stresses, however, that economic growth cannot in itself be viewed as an objective of justice policy. It must be ensured that future EU justice policy does not in all circumstances prioritise initiatives that are either purely connected with facilitating trade, or are interpreted purely in that context. There is thus a risk that other aspects that are equally or more closely related to achieving an area of freedom, security and justice may not (any longer) be considered, such as the protection of fundamental rights.

3.2.2.3 Striving for economic growth is recognised as an important priority, albeit on condition that sustainable growth is meant. Economic growth cannot, however, in itself be viewed as a policy objective of a justice policy that, having regard to the TFEU, is to be aimed at achieving a high level of security and easy access to justice, which cannot be subordinated to economic growth. In this context, a properly functioning justice system within the Member States of the European Union can have a positive effect on sustainable economic growth within the Union, specifically by enabling disputes to be resolved more quickly and more appropriately and by enhancing legal certainty in civil matters, and by better tackling criminal matters such as money laundering and organised crime, which are damaging to the mainstream economy.

#### 3.2.3 Policy objective 'supporting mobility'

3.2.3.1 The fact that the Commission has set supporting mobility within the European Union as a policy objective in the area of justice, in particular by ensuring that citizens of the Union can exercise their rights everywhere, can be linked to the objective set out in the TFEU of facilitating access to justice.

3.2.3.2 It should be emphasised that Title V does not only set 'freedom' as an objective, but also security and justice, which can lead to restrictions on freedom. Rather than supporting mobility, the objective is ensuring access to efficient justice serving citizens who exercise their right to free movement. Otherwise, we once again end up in a far broader spectrum than justice alone and a very wide-ranging mish-mash of issues can be brought into play, such as cutting red tape for those exercising their right to free movement, such as the rules on divorce and inheritance for people who use their right to free movement, and rules on transferring pension funds for citizens who exercise their right to free movement, the rules on European vehicle inspections, etc.

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<sup>(4)</sup> Articles 81 and 82 of the TFEU.

### 3.3 Specific comments

3.3.1 The Commission's policy plan fails to mention a number of things that could nonetheless contribute to achieving an area of freedom, security and justice.

3.3.2 Firstly, consideration could be given to introducing magistrates specialising in European law in the Member States with the aim of providing greater legal certainty to citizens in disputes relating to European legislation.

3.3.3 The Commission quite rightly stresses the need to train all judges and prosecutors in European Union law. It also calls for training to be taken 'a step further' by inviting all legal practitioners to take part in European training programmes under the Justice 2014-2020 programme. The EESC considers this to be a key point. In line with the objective set by the Stockholm programme of strengthening rights of defence, it considers it particularly important that lawyers, who are also the first points of access to the law, should be able to benefit from such programmes.

3.3.4 Secondly, consideration could be given to setting up operational European police forces and inspection services with a view to effectively tackling crimes and fraud with cross-border aspects.

3.3.5 Thirdly, in the area of criminal law, thought must be given to the extent to which minimum rules should be established concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension, such as terrorism, trafficking in human beings, sexual exploitation, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. With regard to conduct in respect of which the differences between Member States in the area of criminal law are so great as to undermine human rights and legal certainty, it would be useful to look at the extent to which harmonisation of criminal law is necessary<sup>(5)</sup>.

3.3.6 Fourthly, consideration could be given to the mandatory introduction of collective redress (class action) so as to improve access to justice for EU subjects.

3.3.7 Fifthly, it is desirable for a scoreboard to be maintained of achievements in the area of justice and, in particular, the implementation of the policy plans.

3.3.8 Sixthly, it would be useful to include a role of Commissioner responsible for human rights in the new Commission that is to be constituted.

Brussels, 10 July 2014.

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

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<sup>(5)</sup> On this subject, see CESE 1302/2012 European drugs policy.

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision'**

COM(2014) 167 final — 2014/0091 (COD)

(2014/C 451/18)

Rapporteur: **Krzysztof Pater**

Co-rapporteur: **Petru Sorin Dandea**

On 14 April 2014 the European Parliament and on 12 June 2014 the Council decided to consult the European Economic and Social Committee, under Article 304 of the TFEU, on the:

*Proposal for a Directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (recast).*

COM(2014) 167 final — 2014/0091 (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 20 June 2014.

At its 500th plenary session, held on 9–10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by unanimously.

## 1. Conclusions and recommendations

1.1 In view of the need for faster and further development of occupational pensions as part of EU Member State pensions systems, the Committee supports most of the proposals set out in the European Commission's documents on the draft IORP II directive.

1.2 The Committee is pleased that most of the recommendations in its opinion on the White Paper on 'An Agenda for Adequate, Safe and Sustainable Pensions' <sup>(1)</sup> have been taken up in the Commission's proposal <sup>(2)</sup>.

1.3 Seeing the need for — both collective and individual — additional forms of pension savings and particularly given the forecasts of lower public pensions, the EESC stresses that occupational pension schemes, created as a result of decisions by the social partners, can play a very important role in ensuring that employees have additional pension provision.

1.4 However, the Committee has reservations about some of the proposed directive's provisions.

1.4.1 The EESC disagrees with the approach to IORPs purely as financial market institutions, which fails to acknowledge and respect their specific circumstances. IORPs are institutions which perform an important social function. They are to a large extent responsible for occupational retirement provision and have become an indispensable addition to public pensions systems. The proposed directive must take account of the key role played by the social partners in establishing and managing programmes and the fact that the underlying principles of their operations have to reflect national social security and labour law.

1.4.2 A one-size-fits-all approach is not the right way of achieving the Commission's objectives given the numerous fundamental differences between pension schemes in individual Member States and occupational pension schemes, something which has a significant impact on the differing status, rights and expectations of members and beneficiaries of such schemes. For example, the EESC takes a critical view of the proposal to introduce a uniform template for information sent to all members of occupational pension schemes throughout the European Union. Given the broad diversity that exists, the Committee believes it is not possible to create a single form which would provide each of these members and beneficiaries with the information that is most essential and appropriate for them.

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<sup>(1)</sup> COM(2012) 55 final.

<sup>(2)</sup> In the opinion, see OJ C 299/21, 4/10/2012, pp. 115-122. Among other things, the EESC pointed out that 'consideration should be given ... not only to aspects related to pension funds' cross-border activities and worker mobility but also to the issues of pension body supervision and oversight, administrative costs and consumer information and protection'.

1.4.2.1 The Committee emphasises that far-reaching standardisation of occupational pension schemes could be costly, and rather than the further development expected by the EESC, could lead to their gradual disappearance.

1.4.3 The Committee emphasises that the overarching goal of pension schemes, including occupational pension schemes, is to ensure an adequate and stable level of benefits for their beneficiaries. Supporting capital markets, including long-term investments, can only be considered as a secondary objective, conditional on not being detrimental to the interests of scheme members and beneficiaries. While supporting the possibility of IORPs playing a greater investment role in 'instruments that have a long-term investment profile', the EESC is at the same time firmly opposed to the European Commission proposal that *'Member States shall not prevent institutions from ... investing in instruments that ... are not traded on regulated markets, multilateral trading facilities or organised trading facilities'*. Access to ongoing objective evaluation of a scheme's assets as well as to reliable and updated information on the financial situation of an issuer of the securities in which a pension scheme's assets are invested is a fundamental prerequisite for the financial security of the scheme's members and beneficiaries. However, Member States should be free to impose or not to impose any restrictions in this matter after consultation with social partners.

1.4.4 A detailed discussion of the above reservations and the EESC's remaining observations on the proposal for a directive are set out in the following sections of this opinion.

## 2. Commission Proposal

2.1 The Commission's proposal is a revised version of Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (IORP) <sup>(3)</sup>, which has been in force since 2005. It simultaneously codifies the unchanged provisions of the current directive and amends it.

2.2 As the Commission points out, the general objective of this proposal is to make it easier to save for retirement in the form of an occupational pension. The Commission also defines four specific objectives:

- removing remaining prudential barriers for cross-border IORPs;
- ensuring good governance and risk management;
- providing clear and relevant information to members and beneficiaries;
- and ensuring that supervisors have the necessary tools to effectively supervise IORPs.

2.3 The Commission's proposal was published on 27 March 2014 as part of a package of instruments to ensure long-term financing of the European economy. The explanatory memorandum in the proposal repeatedly emphasises the need to strengthen IORP capacity to invest in assets with a long-term economic profile.

2.4 In support of its proposal, the Commission argues, among other things, that unless the European Union sets up an up-to-date regulatory framework now, there is a risk of Member States developing increasingly divergent legal solutions, resulting in barriers to cross-border IORP activity, while failing to deliver a higher EU-wide level of consumer protection or lead to economies of scale. The Commission also believes that a robust regulatory framework for IORPs can foster their development in countries where at present they barely exist.

2.5 The Commission estimates that implementation of the directive will entail average additional costs of EUR 22 per member as well as annual costs of EUR 0,27-0,80 per member.

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<sup>(3)</sup> See: OJ L 235, 23.9.2003.

### 3. General comments

3.1 Reduced levels of coverage under public schemes in many Member States mean that an increasingly important role in ensuring decent pensions will be played by additional solutions, which are often supported by the Member States through tax relief. Occupational schemes are particularly important, as they have characteristics which individual retirement savings lack. These schemes are fully or largely financed by employers, at the same time as being readily available to employees, including those on lower salaries, and having lower unit costs due to economies of scale. Owing to a scheme's internal rules adopted by the social partners, sometimes an additional pension is provided even for periods in which the employee was unable to work (e.g. illness, maternity leave). When formulating an investment policy, the social partners in some schemes introduce not only economic criteria, but also for example criteria of an ethical nature, thus promoting among businesses the values they hold dear. In view of the fact that occupational pension schemes provide an additional pension only for a small proportion of EU citizens (they currently play a significant role only in a few Member States, while they are unknown in many others), the Committee supports initiatives to develop IORPs.

3.2 Occupational pension schemes benefit both employees and sponsors of such schemes, i.e. employers. Pensions rights acquired by employees are in effect an additional form of remuneration for work. For employers, pension schemes are a means of building a long-term relation with their staff. Generally such schemes inspire greater commitment to a company on the part of its employees and reduce staff turnover. The Committee therefore emphasises the need for great caution when adopting new legislation in this field, so as not to diminish the attractiveness of IORPs as a result of imposing additional financial burdens or red tape.

3.3 The EESC is aware that the European Commission currently does not have the tools to obtain comprehensive and objective information on the costs of the planned solutions and must take as its basis the information provided by the relevant IORPs. Furthermore, the EESC finds it regrettable that the costs of the proposed regulations were averaged and, what is more, there is a lack of information about the individual components of these overall costs. As a result, it is not possible to say which costs may arise for employers or employees from each proposal and what differences might emerge between individual countries.

3.4 Given that the proposed directive would introduce new requirements for IORPs entailing additional costs, the Committee would like to see the introduction of possible exemptions from the scope of this directive in the initial phase of an IORP (up to 12 months). This would allow the sponsor to set up a IORP without the need to incur the relatively high administrative costs from the first day of the IORP's operations, and later to take the decision as to whether it wishes to continue its activities by financing its 'own' IORP or whether it prefers to join an IORP which already exists. The EESC believes that this would be a factor in an employer's decision to set up a IORP.

3.5 The Committee wishes to highlight the vital role played by the social partners both in setting up an IORP and in managing it. The Committee feels that the autonomy of the social partners in terms of determining pension scheme solutions must be preserved. The legislative framework should merely establish minimum standards which partners responsible for schemes would be obliged to comply with. The EESC also stresses that in many Member States there are very close links between occupational pension schemes, labour law, social security law and rules determining the role of the social partners. In the proposal under review the EESC feels that there is an attempt to side-line the social partners, who often have many years of experience in developing occupational pension schemes, despite the declaration in Article 21(2) of the draft proposal that the 'Directive is without prejudice to the role of social partners in the management of the institutions'. IORPs cannot simply be seen as financial institutions, as this proposal does. They are also part of the social safety net, actively developed and managed by the social partners. The Committee therefore reiterates the position set out in its previous opinion on the White Paper <sup>(4)</sup>.

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<sup>(4)</sup> In that opinion, the Committee was 'in favour of occupational funded pension schemes, established and administered by employers and employee representatives', and called 'on the Commission to provide support to the social partners to bolster their administrative capacity in this area'.

3.6 The EESC underlines that relations between a IORP and a scheme's members and beneficiaries cannot be treated in the same way as relations between a financial institution and its clients (consumers).

3.7 The Committee welcomes the Commission's decision not to introduce solutions for occupational pension schemes intended to maintain 'a level playing field with Solvency II' <sup>(5)</sup>, as recommended in its opinion on the White Paper <sup>(6)</sup>. The EESC emphasises that, as regards quantitative requirements, aligning provisions in the draft directive with those of the Solvency II directive (methods of evaluating assets, and the requirement for a closer correlation between the amount of capital and risk levels) would have a detrimental impact on occupational pension schemes due to increased capital requirements and operating costs, as well as possible disruption to the allocation of capital.

#### 4. Specific comments

##### 4.1 *Cross-border activities*

4.1.1 The EESC emphasises that all aspects of the cross-border activities of IORPs, specified in Articles 12 and 13 of the draft directive, must be based on the needs of employers setting up a scheme and their employees, and must serve their interests. Therefore decisions on whether to undertake such activities should be taken by the social partners setting up the scheme.

4.1.2 The Committee welcomes the introduction of the possibility to transfer pension schemes to other institutions in other Member States, subject to prior authorisation by the competent supervisory authority of the receiving institution, and approval by the members and beneficiaries concerned.

4.1.3 The Committee is in favour of measures to support cross-border aspects of IORP activity, and emphasises that it is very important to promote and propagate IORPs in countries where this form of pensions scheme is non-existent or is only just beginning to emerge, if the occupational pension sector is to make significant progress.

4.1.4 The EESC feels that allowing IORPs to invest in other Member States purely in accordance with the rules of their home countries is a positive step facilitating IORP activity on a common European market.

##### 4.2 *Management and risk management*

4.2.1 The EESC endorses the proposal for greater transparency in terms of the remuneration of persons holding key positions in IORPs as long as the different types of governance of occupational retirement provision are taken into account.

4.2.2 The Committee believes that in the event that asset management is carried out on the basis of outsourcing, the remuneration rules should be disclosed, as should the amount received by the managing company, but not the remuneration of selected employees in that company. The Committee takes a critical view of the plan to extend the principle of transparent remuneration policies to employees of companies managing schemes on the basis of outsourcing. This could represent a serious barrier to finding companies to take on such tasks, particularly when it comes to managing the assets of a small pension scheme.

4.2.3 The Committee welcomes other proposals to further regulate the outsourcing of pension scheme management and the supervision of this outsourcing, but recommends caution when defining the obligations which have to be met by these managing companies.

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<sup>(5)</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), (OJ L 335/1, 17.12.2009).

<sup>(6)</sup> In its opinion on the White Paper, the Committee was 'seriously concerned about some of the proposals for occupational pensions. As pension schemes are very different from life insurances services, the Committee doesn't support the stated aim of reviewing the IORP Directive, to maintain "a level playing field with Solvency II", but recommends introducing specifically designed measures for securing pension fund assets after previous consultation of the social partners and other stakeholders.'



4.2.4 With regard to the proposal to define criteria for fit and proper persons to actually manage the institution and persons to fulfil other key functions, the EESC considers that these provisions should take into account the specific features of IORPs and the social partners' long-standing role in IORP management (e.g. through the right to appoint their own representatives as members of bodies managing or supervising IORPs). After all, IORPs are not typical financial institutions geared to profit-making, but organisations monitored by employers and employees. For obvious reasons, they are keen to keep organisational costs to a minimum. Skills requirements for IORP management functions should therefore take this into account, because provisions may not restrict the role played by the social partners in the pension scheme management process any more than the current system.

4.2.5 The Committee proposes that the skills assessment carried out for managers be applied to the entire managing or supervisory body, and not individual people. The basis for carrying out this proposal could be a separate definition in Article 23 of the requirements for people managing an institution and people playing key roles in it. Such a solution would allow the continued representation of the social partners in an IORP's managing bodies while at the same time raising the requirements for people directly involved in the IORP's statutory activities.

4.2.6 The Committee emphasises that IORP management requirements must take into account the inherent specific characteristics of occupational pensions. In such schemes, there are three interlinked parties: the employer/sponsor, the employee/scheme member, and the IORP. On the one hand, this ensures a safer system due to mutual supervision by the different parties, while on the other it complicates matters as it means that legislation on financial institutions has to be combined with labour law, social security law and rules on cooperation between the social partners in the individual Member States.

4.2.7 The EESC is pleased to see that the European Commission is aware of the potential problems of tightening up IORP management requirements, and supports the provisions requiring governance systems to be proportionate to the nature, scale and complexity of IORP activities (Articles 22, 24, 25, 26 and 29).

4.2.8 The EESC feels that the priority for IORPs should be to safeguard the financial resources accumulated in pension schemes and an appropriate level of pension provision, to which a properly balanced investment policy contributes. Support for long-term investments should not obscure the main purpose of IORPs, which is to provide members with an income in their old age. The possibility to frequently and objectively evaluate a pension scheme's assets together with access to accurate updated information on the financial situation of issuers of the securities in which an IORP invests are prerequisites for secure investment of these assets.

4.2.8.1 The EESC takes a positive view of the proposal to allow investment of occupational pension scheme assets, without any obstruction on the part of Member States, in instruments that have a long-term economic profile.

4.2.8.2 However, the Committee is firmly opposed to the European Commission proposal that '*Member States shall not prevent institutions from ... investing in instruments that ... are not traded on regulated markets, multilateral trading facilities or organised trading facilities*'. The EESC notes that, in the case of defined contribution schemes, when ongoing assessment of assets value is not possible, such investments would be a very risky solution for scheme members. Any approach based on this type of investment policy would lose transparency due to the impossibility of providing members with accurate information on the value of accumulated funds and the expected benefits on reaching retirement age — something that is especially important for the members who bear the full investment risk. However the EESC believes that Member States should be free to impose or not to impose any restrictions in this matter after consultation with social partners.

4.2.8.3 The EESC is in favour of IORPs being able to invest in long-term infrastructure projects. However, it feels that investment without quantitative restrictions in such projects should be allowed only if publicly traded financial instruments (such as shares or bonds), or financial vehicles openly available on the financial market (e.g. various types of investment funds, publicly traded shares of companies investing directly in long-term projects) are used.



4.2.9 The EESC proposes that the Commission consider the possibility of amending Article 20(1)(d) of the draft directive, which lays down the rules for investing in derivative instruments. In the Committee's view, experience from the crisis justifies the need for a major curtailment of the current, very broad rule, according to which IORPs can invest in derivative instruments in order to 'facilitate efficient portfolio management'.

4.2.10 The Committee fully supports the introduction of depositaries for schemes in which members and beneficiaries fully bear the investment risk, and feels that depositaries are an essential means of safeguarding the assets of collective investment institutions in today's world.

4.2.11 The EESC approves the requirement for an effective actuarial function in schemes where members and beneficiaries do not bear all types of risk.

#### 4.3 *Information for members and beneficiaries*

4.3.1 The Committee welcomes the requirement for a wider range of information to be made available to both members and beneficiaries, in line with its previous recommendations. It also welcomes the introduction of a requirement for IORPs to provide key information at least once every 12 months on e.g. scheme guarantees, total contributions, scheme membership costs, investment profile, past performance and pension projections.

4.3.2 The Committee has serious doubts as to whether the proposed idea of having a two-page statement of standardised information with a clear layout for the recipient is a feasible one. Different occupational pension schemes involve different types of risk for their members, who also have differing expectations of future pensions. Furthermore, rules on paying out the accumulated funds of occupational schemes are often determined by Member State legislation. The information sent to members and beneficiaries of such schemes should reflect these factors. In view of this, the EESC would like the proposed provisions to be amended, so that the process of standardising the information template sent to scheme members is spread over several stages, and the final design can be determined in a flexible way during that process. In the initial phase, work should begin on developing templates containing several types of information (at least two models, based on defined-contribution and defined-benefit approaches). They should then be piloted in selected Member States or IORPs, and only once relevant experience has been gathered would it be possible to begin work on the delegated act mentioned in Article 54.

4.3.3 The Committee believes that ultimately there should be at least two information templates — one for schemes based on defined contributions and one for schemes based on defined benefits. In addition, each Member State must have the possibility to supplement this template with several pieces of information which are vital for scheme members or beneficiaries, based on the specific nature of national rules.

4.3.4 The EESC considers many of the proposed provisions to be insufficiently precise, with the potential to mislead members or beneficiaries rather than providing them with accurate information.

4.3.4.1 The very title of this document (pension benefit statement) is confusing — at most it will be a statement of forecasted pension benefits. The document should therefore be renamed (for example) 'Current pension forecast'.

4.3.4.2 Article 48(1)(a) provides for the possibility of providing members with information on 'full guarantees'. This is a misleading term, which does not give potential members any idea of the pessimistic outlook in the case of the employer/IORP sponsor going bankrupt. Such bankruptcy could result in the pension scheme being unable to pay beneficiaries. At the same time, in Article 48(2)(d) the Commission refers to 'benefit reduction mechanisms' — something which calls into question the existence of a full guarantee.

4.3.5 The Committee urges the Commission to be particularly cautious when drawing up the delegated act mentioned in Article 54, given the potential costs of such a solution. The burden of compiling information for scheme members or additional service costs arising from the need to provide additional explanations in the event of a single European template being inappropriate to the specific circumstances of a given scheme must not be allowed to significantly increase IORP costs. The EESC therefore suggests that when listing information requirements for scheme members, the Commission takes into account the nature of the schemes which they belong to.

#### 4.4 *Supervision of IORP activity*

4.4.1 Given the previous interpretation problems due to differing supervisory practices in the Member States, the Committee welcomes the efforts to more clearly define the areas of financial activity subject to supervision and to separate them from areas falling within the scope of social security and labour law.

4.4.2 The EESC also welcomes the plans to tighten up rules on interinstitutional exchange of information between the competent authorities supervising occupational pension schemes.

4.4.3 The EESC feels that the proposal to step up supervisory powers over IORPs is a rational one; this could involve additional information requirements. The provisions of the proposed directive in this field have achieved an appropriate level of flexibility, enabling specific supervisory measures to be adjusted to individual situations.

Brussels, 10 July 2014.

*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 'EU Quality Framework for anticipation of change and restructuring'**

COM(2013) 882 final

(2014/C 451/19)

Rapporteur: **Mr VAN IERSEL**

Co-rapporteur: **Mr STUDENT**

On 2 January 2014, 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:

*EU Quality Framework for anticipation of change and restructuring.*

COM(2013) 882 final.

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 77 votes with 2 abstentions.

## **1. Conclusions and recommendations**

1.1 Restructuring is an ongoing process driven by a broad range of factors which affect companies day by day. The global economy is once again going through a range of profound and disruptive technological shocks, which are on an accelerating trend.

1.2 In the view of the EESC, companies are at the heart of the process of restructuring, adjustment or anticipation, which calls for the involvement of staff and their representatives via the works council and/or trade unions. This is an aspect of corporate social responsibility, which the EESC strongly endorses. In many cases, and certainly in larger restructuring projects, a wider range of stakeholders is often involved, including public authorities and educational institutions.

1.3 The agreed consultation of representatives of workers at national and European company level must be duly respected and focus on achieving tangible results in rapidly changing circumstances. Restructuring and anticipation — if dealt within the sectoral social dialogue committees — could promote pragmatic solutions on the basis of global facts and figures and trends.

1.4 Engagement at EU level must start from a good understanding of the great variety of circumstances and approaches encountered. An EU quality framework for anticipation of change and restructuring, as proposed by the Commission, could certainly be helpful <sup>(1)</sup>.

1.5 Restructuring and anticipation call for tailor-made solutions in companies and regions; however, as there are many transversal aspects, an EU incentive towards broader partnerships with academics, research institutions, local, regional, and national authorities and regionally based education and training institutions is most welcome. The same goes for the dissemination of good practices. In the same vein, sector councils on employment and skills may be very useful.

1.6 Global technology and value chains mean that anticipating change is a very complicated process. Current smart and tailor-made specialisation once more underlines the need for company-specific approaches and solutions.

1.7 In more general terms, future themes and trends such as 'greening' and (EU) key technologies should be in the foreground. These themes and trends should also be discussed among the social partners and taken on board in national and regional school and training programmes.

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<sup>(1)</sup> EC Communication EU Quality Framework, page 15 *et seq.*

1.8 The state, social partners, and companies must take shared co-responsibility towards vulnerable groups, not least towards the older generation and low-skilled people via social measures which are already in place in a number of Member States.

Common analyses and joint diagnoses result in specific responsibilities for each of the stakeholders. This is already common practice in a number of countries, but currently less well developed in certain other Member States.

1.9 The European Commission can support the development of a common spirit across the Union, by facilitating partnerships between the various stakeholders. It can help to put the right conditions in place by making proper use of European Funds in specific cases. The Commission should emphasise arrangements concerning social dialogue at national and sectoral level as part of the EU Agenda for restructuring and anticipation.

1.10 The EESC agrees with the introduction of the EU Quality Framework as proposed by the Commission on a voluntary basis. It would note, however, that in the future a legal basis for specific framework conditions concerning worker participation may be desirable, without interfering in national competences.

1.11 Interested parties and the Commission should continue to draw full benefit from EU agencies like Eurofound and CEDEFOP in using reliable up-to-date analyses and data. In specific cases, where it is appropriate, the EESC can also be involved in these processes.

## 2. Restructuring and anticipation: context and actions

2.1 In July 2012 the EESC adopted an opinion contributing to the Commission's public consultation on company restructuring and anticipation of change <sup>(2)</sup>. Many of the observations and recommendations in that opinion are equally relevant to the recently issued communication on an EU Quality Framework for anticipation of change and restructuring <sup>(3)</sup>.

2.2 Restructuring is an ongoing process that depends on a broad range of factors which affect companies day by day. The dynamics of 'creative destruction' generate unexpected opportunities, but it is also clear that the crisis and low growth rates, the increasing dependency of national economic performance on global markets, and the increasingly complicated relationships between companies and their suppliers and clients, are putting many businesses — and their staff — under severe pressure. It is crucial to maintain a critical mass of industry anyway.

2.3 The European economy is, in line with global developments, catching up with new technological and innovative waves. These will deeply affect the way economic and social players will organise themselves to foster resilience and ensure continuity.

2.4 Internationalisation, fragmentation of product chains, the blurring of boundaries between sectors, the increasing significance of (transversal) technologies, automation and robotisation, and now digitisation, generation of tailor-made approaches and solutions and, most of all, the generally accepted view that a large percentage of the products and services available today will be replaced by ranges of new products and services within even the foreseeable future, are all good examples of the current situation of continuous industrial change <sup>(4)</sup>.

2.5 Renewal and adjustment test existing views and practices day by day. Not only technology, but first and foremost human creativity, are continuously required from many, if not all, people, whatever their position.

2.6 The EESC has analysed current trends in a number of opinions on specific sectors and processes. Last year it adopted an overall view on desirable policies and points of focus in response to the Commission communication on industrial policy <sup>(5)</sup>. In this overarching view, a number of fields which are closely linked — and certainly the goal of revitalising industry — involve heavily promoting technology and innovation, upgrading skills across the board, and also raising awareness within industry of the potential offered by new services.

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<sup>(2)</sup> OJ C 299, 04/10/2012, p. 54, comments on the Commission Green Paper on Restructuring and Anticipation, 2012.

<sup>(3)</sup> Commission communication of 13 December 2013.

<sup>(4)</sup> One good illustration of current pioneering new developments is the German report *Recommendations for implementing the strategic initiative INDUSTRIE 4.0*, issued by the Forschungsunion and the National Academy of Science and Engineering, and sponsored by the Federal Ministry of Education and Research, April 2013 (4.0 refers to the fourth industrial revolution).

<sup>(5)</sup> OJ C 327, 12/11/2013, p. 82, comments to the EC Communication on Industrial policy, 2013.

2.7 In its 2012 opinion, it also argues that a resilient business sector requires both leadership and broad support from the personnel at all levels of the company as well as from society at large. In many companies employees are participating successfully in change processes. Consensual contexts usually pay off.

2.8 Restructuring processes are varied and complicated. As the opinion argues, in addition to the distinction between restructuring and anticipation, substantial differences can be identified between small, medium-sized and large companies, between sectors (which are affected in different ways by new waves of changes and technology), between regions (densely populated and others), between the degree of maturity of the economic context in countries, and between national cultures.

2.9 Further complexity comes from major changes in labour markets which are partly a consequence of the fallout from the financial and economic crisis and partly a consequence of the new industrial cycle. Existing systems of collective and social partnership must be maintained and strengthened, where applicable.

2.10 Amidst this turbulence and the broad diversified spectrum in Europe, the EESC highlights its basic assumption 'that companies constitute, by definition, the key players in strategies for adapting the units operating on markets, and are therefore at the heart of any restructuring process' <sup>(6)</sup>.

2.11 Of course, companies have to restructure, adjust or anticipate for the future within a certain environment. That means that, in addition to their internal procedures and practices, a number of other stakeholders play a role. Exactly how they do so depends on the kind of change the companies are facing, which may be adjustment of internal organisation or a response to changing market circumstances, or both.

2.12 The primary group of interested people are the company's own employees. Well-organised processes ensure the involvement of the staff and their representatives via the works council and/or trade unions. It is very promising that, according to the responses to the Commission's questionnaire <sup>(7)</sup>, the respondents reacted overwhelmingly in the same way. The EESC advocates trustful dialogues — which in a number of countries are legally established — between management and staff representatives, accompanying the management of change and successful anticipation <sup>(8)</sup>.

2.13 Because companies depend on a variety of qualifications among their staff, the specific qualifications required in increasingly refined value chains must be guaranteed by life-long learning programmes for all. This is in the interest both of the companies and of their employees.

2.14 The EESC notes that there is broad agreement with its position that education and training should be a part of day-to-day life in companies, although there are different approaches between (very) small non-specialised companies and bigger companies.

2.15 In parallel, a radically changing picture of labour markets has also to be taken into account. A growing percentage of mostly younger people are preparing for broad-based careers in technical or other professions, aiming to be sufficiently flexible to change jobs by themselves, be it within the same (large) company or in various companies and sectors. This depends on two factors: demand and supply on the labour market, and the individual's own skills. While well-educated and qualified employees can use restructuring as an opportunity, lower qualified and older employees need special support from the state and companies.

2.16 During the crisis and in the case of large restructuring projects, for instance those concerning regionally based obsolete production capacities, all stakeholders are bound to shoulder their respective responsibilities, first in focusing on viable economic planning for the future and, simultaneously, in improving, as much as possible, the conditions for the workforce in a new environment.

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<sup>(6)</sup> OJ C 299, 04/10/2012, p. 54.

<sup>(7)</sup> Summary of consultation responses to the Green Paper (footnote 1).

<sup>(8)</sup> See OJ C 161, 06/06/2013, p. 35.

2.17 In addition to companies and trade unions, the most important stakeholders in catching up social consequences are regional and local authorities. In large restructuring processes the national government should also be committed. Practical experience, however, proves that in most cases the regional context and community is paramount, as the EESC also argued in its response to the Green Paper. There are a number of regions which have successfully undergone a profound transformation. Regions that postpone inescapable restructuring, usually suffer from serious problems just as companies do. Successful national and European examples should be highlighted.

2.18 In its opinion of 2012 the EESC identifies various ways and means to prepare for anticipation, acknowledging that future developments are currently difficult to predict. Generally, exponential forecasts have proven wrong. Nonetheless, joint efforts by academics and sectorial organisations can be of decisive help. This is increasingly common practice in manufacturing industry. In the services sector the exercise is still more difficult and not (yet) mature. A proactive attitude of business associations as well as other public and private interested parties is needed to inform SMEs about probable developments.

2.19 The paradox is that market dynamics call for anticipation, but such anticipation is hampered by a largely unpredictable future. In the view of the EESC this paradox calls for optimal conditions that make adjustments to probable changes socially acceptable. The main responsibility to design the future falls on the parties most directly concerned, which are management and personnel, represented by works councils/trade unions. In a wider context it is a matter for social partners at various levels, governments, and supportive services such as academics, consultancies, governmental and EU agencies, NGOs as well as the EESC, among others through its Consultative Commission on Industrial Change.

2.20 With regard to entering and re-entering the labour market there are in particular two groups that need special attention: young people, and the older generation who are faced with considerable difficulties in adapting. There are no fast solutions to solve deep-rooted problems regarding matching supply and demand. The adaptability of economies is closely related to their current patterns and output, the variety of the economic structures, and varying cultures of countries and regions. It is generally accepted, as the EESC has also repeatedly argued, that up-to-date education is at the basis of any solution for the future. It should be the basis for sufficiently flexible skills enabling youngsters to prepare for more than one profession. Over the last few years the development of an entrepreneurial spirit in education curricula has risen as a priority. Business must also play a role in the adjustment of education, and invest in lifelong learning. In a number of countries business people actively take part in education programmes.

2.21 As the EESC has extensively argued before, the EU, including the EESC, can certainly be of help in these processes. It points to:

- the support of European agencies like CEDEFOP, Eurofound and others in disseminating data and analyses;
- the support of the Commission, DG Employment in particular, in discussing good practices across Europe in publications as well as in targeted Conferences, notably in the framework of social dialogues, and in disseminating its own analyses and proposals for practices, prepared by European academics and experts;
- focused projects of European Funds: Cohesion and Regional Fund, ESF.

2.22 In restructuring and anticipation the European context is also very desirable as a basis for the development of a common spirit and shared responsibility across Europe, to promote convergence with successful levels of approaches which currently vary widely from country to country, as do outputs. Common and shared experiences may foster better results for companies, for the employees and for the regions.

2.23 A special case in point may also be labour mobility in Europe, which raises concerns, but can equally contribute positively to filling existing vacancies in the industry and to compensating for shortages of unskilled and skilled workers <sup>(9)</sup>. Long-term negative effects of migration for states, regions, and workers must be taken into consideration. A brain drain or migration of qualified people may be damaging for future development. Progressive labour mobility calls for a consistent European regional and social policy to reduce undesirable risks.

2.24 The EU Sector Councils on Employment and Skills, the European Restructuring Forum and observatories as well as Eurofound's studies may be very helpful in facilitating the sharing of good practices across Europe.

### 3. Proposal for an EU Quality Framework

3.1 In the view of the EESC the proposals in the EC Communication <sup>(10)</sup> must start from an understanding of the great variety of circumstances and approaches encountered, as well as from the premises set out above. It is a useful guide for all stakeholders at the levels where each one bears responsibility, and should be used on a case-by-case basis. It is very useful to discuss such diagrams at EU level in order to facilitate a process of sharing perspectives across the Union.

3.2 The EESC agrees with proposals that emphasise ongoing examination of (often subtle) changes and transitions concerning demand and supply on the labour market, and of the desirable competences. This is already common practice in many companies and a continuous point of attention for management and personnel. In cross-border companies and corporations it must be discussed jointly between management and European works councils <sup>(11)</sup>. Current practice, however, is not satisfactory. Timely consultation of workers' representatives in cross-border restructuring must be duly guaranteed. Information to and consultation of SMEs must be guaranteed.

3.3 Given the strategic significance of current dynamics and upcoming changes in production systems, for instance by means of robotics, digitisation, nanotechnology and 3D printing, existing practices must be further fine-tuned and deepened, which is in the interest of both companies and their personnel. The same goes for the concrete proposals on measures targeting individual employees.

3.4 Most companies have tailor-made approaches, but there are many transversal aspects which are illustrative for the current industrial revolution. Therefore broader partnerships are most welcome, as argued above, with academics, research institutions, political authorities and regionally based education and training institutions. In spite of successful practices of business associations and networks of SMEs in restructuring, SMEs are usually not able to organise sophisticated approaches or training facilities. They must be given the opportunity to benefit from targeted national and regional set-ups and support from outside.

3.5 The EESC sets great store by the dissemination of good practices. A number of regions across Europe are managing to organise this preparation for the future astonishingly well, to the benefit of their population and the resilience of the economy. The EU, including the EESC, can be more supportive in this field.

3.6 Sector Councils on Employment and Skills at EU level can equally be of great help. They can also function as platforms for meetings between directly involved stakeholders. The EESC foresees at least three tasks for these Councils: information on needs in terms of education, exchanges of forecasts on future trends/challenges, and information on reasons that have led to the need for restructuring. All this would be beneficial for a continuing exchange of views as well as profitable for convergence to the top. European agencies should also benefit from operational and pragmatic conclusions of these Councils.

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<sup>(9)</sup> See OJ C 318, 29/10/2011, p. 43.

<sup>(10)</sup> EC Communication EU Quality Framework, page 15 and following.

<sup>(11)</sup> (Directive 2001/23/EC).



3.7 Common analyses and joint diagnoses result in specific responsibilities for each of the stakeholders at various levels, as argued extensively in Chapter 2. This is an ongoing process which is already common practice in a number of Member States, but currently less well developed in certain other Member States. Economies where such practices are well applied generally do better than those which in this respect are lagging behind. As said, consensual systems pay off.

3.8 In restructuring the EU can promote satisfactory coordination between the stakeholders involved by fostering effective procedures and processes in companies and regions via financial support from EU funds, where applicable.

3.9 The Annex rightly underlines the role of the individual employee. When the right conditions and facilities are in place, it is up to the individual employee to choose his/her most appropriate approach. Here again, a broad spectrum of individual choices can be identified, from improving skills on the spot to widening competences, and even to taking a new direction. The one-job-for-life practice is progressively being replaced by flexible careers either within (big) companies or in a wider context.

3.10 All stakeholders should take such fundamental shifts into due consideration, paying special attention to vulnerable groups. In various Member States social partners and the state have over the years developed targeted programmes. The EESC points, amongst others, to:

- the Danish labour market model known as flexicurity. After initial problems and criticism a reasonable balance has been struck between costs and output of this model, which combines a flexible labour market and a social welfare state<sup>(12)</sup>, including, amongst other things, intensified surveillance of the labour market, work-sharing agreements, job rotation arrangements, innovation incubators, and a vocational training system;
- the German system of dual learning which includes involvement from companies and a pro-active policy of learning and practical apprenticeships;
- a programme as the Swedish programme 'Knowledge Lift' intended in the past to increase the skill level of low-skilled adult workers to the medium skill level, targeted at people aged 25-55 years old.

3.11 There are more examples. Some of these systems are out of date, others still work well, illustrating how state involvement and engagement of the social partners provide common instruments in response to current dynamics. Others, however, are discontinued since some time. The Commission should, by disseminating systematically good practices, encourage national social partners and authorities in all Member States to identify pragmatic and useful tools.

3.12 The EESC very much supports the fact that the Commission — in line with the standing views of the EESC as expressed in a number of opinions, and also in its reaction to the Green Paper<sup>(13)</sup> — has included an active role for national and regional authorities in anticipation and restructuring processes, on an equal level with companies, employees, and social partners. Their much needed cooperation and co-responsibility is often underestimated. The points of attention presented by the Commission underline the significance of their involvement<sup>(14)</sup>.

3.13 Various layers of government have their own responsibilities. In most countries national administrations are in charge of (legal) framework conditions, while regional authorities can do a lot in organising facilities and in creating a common spirit as can be concluded from a large number of concrete cases. This means that the quality of national and regional administrations is often a decisive factor in the success or failure of such operations. They should be involved in case studies on anticipation and restructuring and on successful practices.

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<sup>(12)</sup> See Anticipating and Managing restructuring — Denmark, International Training Centre ILO, December 2009.

<sup>(13)</sup> See footnote 1.

<sup>(14)</sup> See page 19.

3.14 The European Commission is taking the lead in the organisation of discussions at EU level and in disseminating practices. It can support the development of a common spirit across the Union. It can help to put conditions in place for making good use of European funds. It has also a role in promoting the Social Dialogue on anticipating and restructuring in particular at sectoral level.

3.15 Collection of data regarding restructuring operations — including their economic and social impact — should be made easier, and should lead to analyses. Effective coordination between Agencies like Eurofound and CEDEFOP, the Commission, and interested parties must continuously be guaranteed.

Brussels, 10 July 2014.

*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 'Review of the Community Guidelines on the financing of airports and start-up aid to airlines departing from regional airports'**

C(2014) 963 final

(2014/C 451/20)

Rapporteur: **Jacek KRAWCZYK**

Co-rapporteur: **Nico WENNMACHER**

On 8 May 2014, 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:

*State aid to airports and airlines.*

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion by 183 votes to 3, with 2 abstentions.

## **1. Conclusions and recommendations**

1.1. The EESC welcomes the new European Commission regulation on Guidelines on State Aid for Airports and Airlines. This regulation, long awaited by both airports and airlines, sets out a framework with, in particular, a transitional period addressing some of the important problems of the EU transport sector undergoing profound changes.

1.2. The EESC regrets that, due to unjustified pressures coming from regional lobbies and locally elected politicians, the final regulation adopted by the European Commission does not provide sufficient tools for the substantial improvement of transparency in the European aviation market/sector. Aviation ground infrastructure development needs to be better coordinated at different levels (EU, Member State, regions). The spending of taxpayers' money, including EU budgetary resources, must be well prepared on the basis of a feasibility study not distorted by purely local politics but validated by relevant economic and social demand. This study should also assess the sustainability of the project by integrating land use criteria, the impact on employment, working conditions and the environmental impact. Consistency with EU strategic projects such as the Single European Sky as well as SESAR are to be taken into account as well.

1.3. The EESC is concerned about the growing number of 'competition cases' by the Commission and the inadequate attitude of the Member States as regards the lack of a level playing field in EU aviation. Allowing an extremely long transitional period for airports to achieve profitability is not providing sufficient incentive for meaningful change in this respect.

1.4. The EESC is deeply disappointed that the study which would have presented the ongoing state of public aid and similar practices as regards implementation of the Aviation Guidelines — and which it requested in its previous opinion — was never conducted. Too much room was left for political 'mist' on the subject and not enough hard data was provided to propose reliable solutions. The EESC resubmits its request, which it regards as still relevant and justified. This study should provide information on the amount and type of aid, its actual impact on the development and efficiency of the economy and its impact on employment from a quantitative and qualitative point of view.

1.5. The EESC believes that it is important to stimulate social dialogue and avoid social dumping in this area. It is also important that some sort of arrangement is put in place to ensure that up-to-date data on the evolution of the labour market in aviation is available on an ongoing basis.

1.6. One of the serious problems resulting from the implementation of previous Guidelines was insufficient enforcement. The EESC is concerned that the high number of 'exceptions' in the current regulation — in addition to the extremely long transitional period — will enable weak enforcement to continue in the future, thus undermining the main purpose of this regulation: the creation of a level playing field.

1.7. The retroactive application of the Aviation Guidelines to operating aid should enable those airports and airlines which for years have exceeded the terms set by the 2005 Guidelines to comply with the new rules. Similarly, a retroactive application of the new Aviation Guidelines should prevent market players who did comply with the then applicable Commission Guidelines of 2005 from being penalised.

1.8. A level playing field is necessary to bring back sustainability to the European aviation industry. The public hearing organised by the EESC in 2014 showed clearly that the current 'race for subsidies' is jeopardising the situation of European aviation and seriously undermining its sustainability.

1.9. The EESC acknowledges the approach of the Aviation Guidelines to the regulation of start-up aid to airlines, although it is only implementation and enforcement of the new rules which will ultimately determine whether clarity and simplicity have been achieved.

1.10. Concerning plans for new airlines involving extensive public funding, the EESC considers that awareness programmes and supporting practices are organised for owners and managers of regional airports which are poorly equipped to deal with such issues.

1.11. The implementation of state aid rules within the internal market needs to be followed in third countries too. The EU authorities need to be consistent and adapt their policy when it comes to EU market access, especially for operators who benefit from favourable conditions in their home countries likely to produce unfair competition. The important thing is to ensure a level playing field for all.

1.12. If the EU aviation industry is to meet growing demand in a sustainable manner, it must offer quality jobs and good working conditions to satisfy both travellers' interests and security requirements. As has already been said, it is important to encourage social dialogue and prevent social dumping in the sector. Several groups already exist in the EU aviation sector, for holding discussions with the relevant social partners and for reasons of efficiency they need to be further enhanced and their membership fleshed out by airport representatives. It is also important to further raise awareness among operators and to withhold state aid in the event of non-compliance with the relevant rules, and in particular when the applicable labour laws are breached.

1.13. That is also why it will be extremely important to closely monitor implementation of the 'new' current Aviation Guidelines. The European Commission should review the extent to which the targets have been achieved and report back no later than within 12 months.

## 2. Introduction

2.1. The European aviation industry was designed as a market where demand determines air fares and where users pay for the cost of aviation through fees and charges aiming at establishing a 'competitive and resource-efficient transport system' (White Paper on Transport, 2011). However, state aid to airports and airlines has created fundamental structural deficiencies in the European aviation market which need to be corrected.

2.2. The European Commission envisaged for a long time reviewing the 1994 Guidelines on the application of Articles 92 and 93 of the EC Treaty to state aids in the aviation sector and the 2005 EU Guidelines on the financing of airports and start-up aid to airlines departing from regional airports (further referred as the Aviation Guidelines). Clearer rules had long been needed to allow airports to receive support where really necessary — particularly since it was widely acknowledged that the preceding Aviation Guidelines had not been enforced effectively.

2.3. At its 482nd plenary session, held on 11 July 2012, the European Economic and Social Committee (EESC) adopted an additional opinion on the '*Revision of the 1994 and 2005 EU aviation and airport guidelines*' CCMI/95. In its opinion the EESC presented clearly the development of the European Aviation market as well as the serious obstacles regarding implementation of the existing Aviation Guidelines. It also came up with a series of conclusions and recommendations.

2.4. In this opinion the EESC advocated the need for a standardised EU legal framework for the entire aviation sector, which would prevent uncontrolled subsidy practices and would ensure a level playing field for all market participants, including at local level.

2.5. The EESC pointed out that new Aviation Guidelines must be established through a clear and simple set of rules to achieve legal certainty for the European aviation sector. The EESC underlined the importance of proper implementation of the Aviation Guidelines; enforcement was of the utmost importance.

2.6. According to the previous Committee opinion (CCMI/95) the new Aviation Guidelines to be proposed by the Commission should have aimed at protecting all types of carriers against discriminatory, unclear or distorting financial aid by regional governments or airports. Public funding must not distort competition either between airports or airlines.

2.7. The EESC insisted that state aid for investments in airport infrastructure and start-up aid for airlines should only be possible in strictly defined cases, and be limited according to the period of time and intensity. Moreover, it should only be granted in exceptional circumstances and with due regard to the principles of transparency, equal treatment and non-discrimination.

2.8. Concerning transparency, the EESC concluded that the conditions under which public aid was to be available should be published. There should be full disclosure of the aid available to airports and carriers and the conditions under which aid would be paid.

2.9. As a general principle it was the EESC's opinion that private investment cannot be considered as state aid. At the same time, a public operator can act as a private investor if the investment is commercially justifiable.

2.10. The EESC considered it necessary to prepare a study which would present the on-going state of public aid and similar practises as far as implementation of the Aviation Guidelines was concerned. In particular, in order to evaluate to what extent ongoing practice did or did not distort a level playing field among the airports as well as among the airlines, the study should provide information on the amount and type of aid granted, its impact on real economic development/efficiency and its quantitative and qualitative impact on employment.

2.11. The EESC pointed out that any new guidelines must take into account the interests of employees and travellers. As human resources are an essential component of the quality of an air transportation system, a sustainable civil aviation industry needs to offer quality employment and good working conditions. In this order of ideas it is important to stimulate social dialogue and avoid social dumping in the sector.

2.12. The EESC also called for a long-term policy concerning the development of regional airports. Aviation Guidelines can only be enforced successfully if clear policy priorities for regional airports development are agreed. It should have been the task of the Commission to work out such a political agenda to be prepared without any further delay.

2.13. The EESC called upon the Member States for their strong support and commitment to preparing and implementing new Guidelines. This was particularly relevant as far as the allocation of EU funds in the new MFF was concerned. 'Doing more for less money requires clear priorities. Regional development is very important, but it should not justify the further development of airports, where there is no possibility to create sufficient demand.'

### 3. Aviation Guidelines — current state of play

3.1. On 20 February 2014 the European Commission adopted their Guidelines on State Aid for Airports and Airlines, replacing those which have been in place for almost 10 years (1994 and 2005).

3.2. The new rules allow the granting of operating aid to small unprofitable airports during a 10-year transitional period. After that the airport must be able to cover its own costs. The maximum permissible amount of aid is:

- 50 % of the initial operating funding gap for airports handling less than 3 million ppa;
- 80 % for airports handling up to 700 thousand ppa.

3.2.1. However, it will still be possible to receive compensation for uncovered operating costs of services of general economic interest (SGEI). This will apply to airports with an important role in improving the regional connectivity of isolated, remote or peripheral regions.

3.3. Better targeted investment aid is allowed only if there is a genuine transport need and only when the positive effects are clear. Additional transport capacity should be created only where there is a demand for it. No investment aid should be given when investment would undermine existing airports in the same catchment area, and no investment aid should be granted to areas which are already well connected by other modes of transport.

3.3.1. Maximum permissible investment aid:

- up to 25 % for airports handling 3-5 million ppa;
- up to 50 % for airports handling 1-3 million ppa;
- up to 75 % for airports handling less than 1 million ppa;
- no aid for airports handling more than 5 million ppa (with minor exceptions: i.e. relocating).

The ceiling for investment aid to finance airport infrastructure may be increased by up to 20 % for airports located in remote regions.

3.4. Airlines will be able to receive aid covering up to 50 % of airport charges for new destinations during a three-year period. More flexible arrangements could be justified for airports located in remote regions.

3.5. Arrangements between airlines and airports will be considered free of aid if a private investor, operating under normal market conditions, would have accepted the same terms. If the arrangement is not profitable, the airport/airline deal will be considered as public support to the airline.

Brussels, 9 July 2014.

*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 a new EU forest strategy: for forests and the forest-based sector’**

(COM(2013) 659 final)

(2014/C 451/21)

Rapporteur: **Seppo Kallio**

Co-rapporteur: **Brendan Burns**

On 20 September 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 a new EU forest strategy: for forests and the forest-based sector.*

COM(2013) 659 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 19 June 2014.

At its 500th plenary session on 9 and 10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 111 votes in favour with 5 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the new EU Forest Strategy (EUFS) and the two accompanying Commission staff working documents. Against the backdrop of growing demands on and threats to forests, as well as many EU sectoral policies and associated rules affecting forestry and forests, the new strategy is sorely needed. The EESC therefore urges both the Commission and the Member States to ensure that the strategy is effectively and efficiently implemented.

1.2 In this context, the Committee reminds the Commission that the Treaty on the Functioning of the EU makes no reference to a common EU forest policy and that controlling forest policies should remain in the hands of the Member States.

1.3 The Committee supports the holistic and balanced approach between the three pillars of sustainability (economic, environmental and social), highlighted by the three overarching headings in the EU Forest Strategy, subdivided into a total of eight priorities. The EESC believes that the strategic orientations provided for each priority should be used to ensure that the strategy is implemented swiftly.

1.4 Given the great importance of forests for the development of rural areas and in order to achieve the goals set out in the strategy, the EESC calls for rural development programmes to include forestry-related measures, and for promoting these measures, in order to ensure a higher uptake of available funds.

1.5 In response to the growing needs of the workforce due to increasing levels of mechanisation along the forestry value chain and in response to the challenges of a changing climate and environment, the EESC highlights the need to promote education, training and knowledge transfer at all levels of the forest sector. In this context, the Committee also calls on the Commission and the Member States to instigate research on improving the forestry sector's employment potential and working conditions.



1.6 The EESC believes that the discussion on Sustainable Forest Management Criteria, regardless of the end use of wood, should be based on the widely recognised and accepted criteria and indicators formulated during the FOREST EUROPE <sup>(1)</sup> process and should also take into account Member States' particular characteristics and existing systems and legislation on forests.

1.7 With regard to principles for prioritising the uses of wood, the Committee dismisses any legally-binding rules and supports an open market-based approach and the freedom of market participants.

1.8 To address the challenges posed by climate change, the EESC encourages Member States to cooperate across borders and supports calls to make European forests more adaptable and resilient, including fire prevention and other adaptive solutions to protect against natural hazards. Appropriate efforts should focus on the resilience and multifunctionality of forests.

1.9 The EESC supports the use of forest management plans, but underlines that they should continue to be used on a voluntary basis and kept clearly separate from the Natura 2000 management plans to avoid unnecessary costs and red tape.

1.10 An improved knowledge base is the key to understanding the myriad challenges confronting the forest sector. The EESC therefore considers it necessary to work towards the harmonisation of data and more effective information sharing and transparency, whilst at the same time respecting property rights.

1.11 The EESC supports the promotion of wood and other forest materials including cork as a domestic, sustainable, renewable, climate and environment-friendly raw material and is convinced that the forest sector must play a key role in the success of a future bioeconomy.

1.12 With the aim of fostering the competitiveness of the forest sector, the EESC underlines the importance of making best possible use of current and future funding opportunities to support research and innovation, and highlights the role of initiatives such as the European Innovation Partnership (EIP) <sup>(2)</sup> or the Public Private Partnership (PPP) on bio-based industries <sup>(3)</sup>.

1.13 Given the great potential and the numerous benefits of using wood-based biomass for a green economy, the EESC encourages the Commission and the Member States to actively seek ways to promote active forest management and improved wood use in pursuit of the 2020 targets <sup>(4)</sup>, while acknowledging the boundaries of sustainability.

1.14 The Committee calls on the Commission and the Member States to increase efforts to assess ecosystem services and foster a market for them. The Member States should take coordinated action and create compensation mechanisms in response to the currently existing market failures.

1.15 Strong coordination and communication with all relevant interest groups will be required to successfully develop and follow up on the EU Forest Strategy. The EESC therefore underlines the importance of ensuring and increasing stakeholder participation, which will require relevant civil dialogue groups such as the Advisory Committee on Forestry to be strengthened. Consideration should also be given to creating ad hoc groups including EESC and CoR representatives.

1.16 The EESC urges the Commission, the EU Member States and all other relevant players to resume the negotiations and ultimately to reach consensus on a legally-binding agreement on forests in Europe. Together with the EU Forest Strategy, the LBA would represent a key tool for strengthening the forest sector as a whole. Clear definitions and targets for sustainable forest management on a pan-European level would also have an impact across the globe.

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<sup>(1)</sup> FOREST EUROPE Intergovernmental Negotiating Committee for a Legally Binding Agreement on Forests in Europe; refer also to <http://www.forestnegotiations.org/>

<sup>(2)</sup> In context of forestry and forests the following EIPs are of relevance:  
EIP on Agricultural Productivity and Sustainability: [http://ec.europa.eu/agriculture/eip/index\\_en.htm](http://ec.europa.eu/agriculture/eip/index_en.htm)  
EIP on Raw Materials: <https://ec.europa.eu/eip/raw-materials/en>  
EIP on Water: <http://ec.europa.eu/environment/water/innovationpartnership/>

<sup>(3)</sup> Refer to <http://bridge2020.eu>

<sup>(4)</sup> <http://ec.europa.eu/europe2020/targets/eu-targets/>

1.17 Finally, the EESC will follow and engage with all ongoing and upcoming initiatives based on the EU Forest Strategy or other related documents, including Commission staff working documents.

## 2. Introduction

2.1 Forests and other wooded areas account for more than 40 % of Europe's land mass, and their extraordinary importance is undisputed. There are major differences in the resources, structure, management and use of forests between the regions. Overall, European forest cover is on an upward trend, increasing by around 0,4 % per year over recent decades, and the situation regarding growing stock is also positive, with only around 60-70 % of the annual increment being felled. Around 60 % of woodland is in private hands, while the remainder is publicly owned.

2.2 Across the EU and particularly in heavily forested regions, there is considerable emphasis on multifunctionality, as forests serve social and environmental purposes as well as economic ones. They provide a habitat for animals and plants and have an important role to play in mitigating climate change and in providing other ecosystem services, including hunting, forest fruits or human health, recreation or tourism. Forests are also important in socioeconomic terms, but this is often underestimated. Forestry and related industries provide jobs for more than three million people and are crucial to rural wellbeing and employment.

2.3 Sustainable forestry is not a new idea. The concept of sustainable management originated in the forestry sector 300 years ago; since then, this approach of responsible management has constantly been further developed, and has gradually spread to all branches of the economy. The basic definition of sustainable forest management set out in the 1993 Helsinki Resolution of the Ministerial Conference on the Protection of Forests in Europe was a milestone in this process, and places the principle of sustainability in a global context.

2.4 The European Union has had a strategy for the forestry sector for 15 years now. On the basis of a European Parliament resolution <sup>(5)</sup>, the European Commission published a communication <sup>(6)</sup> implementing this policy guidance in 1998.

2.5 At the Council's request <sup>(7)</sup>, in spring 2005 the Commission published a report on the implementation of the forestry strategy <sup>(8)</sup>, which was then complemented by the development of an EU forest action plan covering a five-year period from 2007 to 2011 <sup>(9)</sup>.

2.6 The ex post-evaluation of the action plan (which served as a means of implementing the 1998 forestry strategy) was undertaken in parallel with the 2011 International Year of Forests.

2.7 Although the Treaty on the Functioning of the EU makes no reference to a common EU forest policy, many sectoral policies and associated rules concerning, for example, energy supply or environmental and climate issues are resulting in the de facto development of a common EU forestry policy. The European Commission published its communication on a new EU forest strategy on 20 September 2013, as a response to the ever-increasing and sometimes conflicting challenges facing forests and the forest-based sector and to the need for a more coherent and consistent policy.

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<sup>(5)</sup> OJ C 55, 24.2.1997, p. 22.

<sup>(6)</sup> COM(1998) 649 final, 18.11.1998.

<sup>(7)</sup> Council Resolution, OJ C 56, 26.2.1999, p. 1, and Council conclusions on an EU Forest Action Plan, 2662nd meeting of the Agriculture and Fisheries Council, 30—31 May 2005.

<sup>(8)</sup> COM(2005) 84 final, 10.3.2005.

<sup>(9)</sup> COM(2006) 302 final, 15.6.2006.

### 3. Outline of the new forest strategy

3.1 The Commission's basic document is accompanied by two additional, more detailed Commission staff working documents, the first focussing on the process, analysis and way forward proposed by the strategy, and the second providing detailed insight into the EU's forest-based industries, i.e. woodworking, furniture, pulp and paper manufacturing and conversion, as well as printing <sup>(10)</sup>. Given their complementary character and importance, the accompanying documents should receive careful consideration. All current and future initiatives based on the EU Forest Strategy or other related documents should be followed and engaged with by the EESC.

3.2 The Commission has chosen to present the strategy's future areas for action under three overarching headings, subdivided into a total of eight priorities.

3.3 The 'strategic orientations' provided for each of the eight priorities ensure that the strategy also essentially lives up to the requirement to propose tangible measures and not just make general statements of intent.

3.4 To enable rapid implementation of the new forest strategy the Commission has not proposed drafting a separate new action plan. Instead, the strategy contains a list of specific measures designed to meet its objectives.

3.5 The new forest strategy was published following the final evaluation of the previous strategy, and not long before the start of the next EU programming period and the multiannual financial framework for 2014-2020.

3.6 The economic and political environment in the EU has altered drastically since the previous strategy was published in 1998. Not least in terms of international commitments, the new strategy is embedded in a completely new regulatory framework.

3.7 The Commission published the new forest strategy to coincide with the negotiations by the FOREST EUROPE Intergovernmental Negotiating Committee to adopt a legally binding agreement on forests in Europe <sup>(11)</sup>. If implemented, this agreement would replace the current recommendations, and would include clear definitions and targets for sustainable forest management to be adopted by the signatory States.

3.8 The EESC has supported several processes relevant to forestry (see Appendix 1), including the new forest strategy from its inception <sup>(12)</sup>, by making recommendations. When the Commission's implementation report was published in 2005, the Committee took the opportunity to produce a comprehensive opinion on the role of forests and forestry in a changed environment. The present opinion serves in part to update the Committee's previous opinion in the light of future challenges.

### 4. General comments on the new forest strategy

4.1 The strategy is based on the fact that the Treaty on the Functioning of the EU makes no reference to a common EU forest policy and thus, the control over forestry policies remains with the Member States. The strategy is also holistic, balancing the economic, social and environmental aspects of sustainable forestry and including the processing industry alongside forests and forestry.

4.2 The strategy emphasises sustainable forest management and multifunctionality, which produces a range of products and services in a balanced way and ensures that forests are protected. At present, only slightly more than 60 % of annual forest growth is felled in the EU; the aim of the strategy is therefore to promote forest-based employment and prosperity in Europe by making the forestry sector more competitive and use of wood more versatile as part of efforts to build a bioeconomy based on renewable raw materials.

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<sup>(10)</sup> SWD(2013) 342 and 343 final, *A blueprint for the EU forest-based industries*, 20.9.2013.

<sup>(11)</sup> For the current negotiating text, see <http://www.forestnegotiations.org/INC/ResINC4/documents>

<sup>(12)</sup> Opinion on the 1998 forestry strategy, CESE 1138/99, NAT/034, OJ C 51, 23.2.2000, p. 97-104; opinion on reporting on the implementation of the EU forestry strategy, CESE 1252/2005, NAT/278, OJ C 28, 3.2.2006, p. 57-65.

4.3 The new strategy represents a holistic approach and an attempt to improve the coordination of forestry in the EU, promoting efficient and effective implementation and endeavouring to avoid pointless red tape and to strengthen the performance of forests and forestry in the EU.

4.4 Forestry and the forest-based processing industry can make a real contribution to the success of the Europe 2020 strategy. However, achieving this means closely linking the forest strategy with pursuing the aims of Europe 2020 by promoting efficient and effective implementation of the former in all relevant policy areas.

4.5 Evaluation of the latest data about the implementation of forestry measures by the Member States under rural development has shown that rural policy instruments were not fully exploited. In order to better achieve the goals set out in the forest strategy, the strategy urges the Member States to give proper weight to forest-related measures in programming and implementation. This is particularly necessary with a view to increasing the involvement and mobilisation of the myriad small family holdings and privately-owned forests, and could be supported by simplifying procedures and cutting red tape.

4.6 In future, the intention is to support the strategy's objectives using the measures and instruments contained in the rural development regulation's forestry package <sup>(13)</sup>.

4.7 The strategy encourages the Member States to develop, in cooperation with the social partners, measures to make better use of the sector's employment potential, to improve the skills of people working in it, and to further improve working conditions. New, targeted research should begin on the workforce employed in European forests, for example in road construction, planting, forest maintenance, harvesting, extraction, transport, information services and environmental services. Overall, the Member States' policies and programmes should help to improve the competitiveness of forestry and the entire forest-based sector, in order to generate growth and jobs over the long term.

4.8 The strategy highlights the versatile role of forests in helping to achieve climate and energy targets. The achievement of these targets can be supported through the active management and use of forests, which would result in better forest growth and carbon sequestration and make it possible to substitute fossil-based energy sources and materials with renewable wood.

4.9 The strategy recognises that forests and their ecosystems require special protection as a result of climate change and other external threats.

4.10 The strategy recognises the importance of improving public information about forests and forestry and about wood as a renewable raw material. This should be supported by targeted campaigns by the Commission and Member States aimed at raising public awareness of the role that forests play for our society and vice versa.

## 5. Specific comments

5.1 The strategy underlines the fact that wood is a sustainable, renewable, climate- and environment-friendly raw material with a wide variety of possible uses. Resource- and energy-efficient and environmentally responsible processes and products contribute to the competitiveness of the forest sector and will, in particular, play a greater role in the EU bioeconomy. This will increase demand and thus the need for increased, sustainable wood mobilisation. It is deemed necessary to re-assess potential wood supply, e.g. via mapping forest ownership structures, and the question of facilitating increased sustainable wood mobilisation. Appropriate solutions for increasing wood mobilisation should be developed in consultation with the entire forestry value chain.

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<sup>(13)</sup> See recital 25 of the EAFRD Regulation, R 1305/2013.

5.2 The strategy requires the Commission to formulate principles for prioritising the uses of wood in cooperation with the Member States and stakeholders. However, legally binding rules on the hierarchy of forest biomass use, defining which wood uses are to be given priority, would clearly be contrary to the open market economy and the freedom of market participants.

5.3 As stated in the strategy, in 2014 the Commission will, together with the Member States, launch a cumulative cost assessment of EU legislation affecting value chains in the forest-based industry. As this is of crucial importance for the entire forest sector, all stakeholders in the forest value chain should be involved in the assessment, ensuring a comprehensive and complete picture of the sector and a coherent approach.

5.4 Forests host a large amount of biodiversity and, as well as wood and various other forest products as a raw material (e.g. cork), they provide a variety of ecosystem services on which rural and urban communities depend. Changes to conditions due, for example, to climate change, the spread of invasive alien species, water scarcity, fires, storms and pests increase the pressure on forests and the risk of natural hazards. Appropriate protection efforts should focus on the resilience and multifunctionality of forests.

5.5 The strategy sets out the objective of ensuring and achieving a balance between sustainable management and the various functions of forests by 2020. In this context, the EU should do more to evaluate ecosystem services and create a market for them. To ensure that such a market can operate more effectively, coordinated Member State mechanisms are needed in response to the currently existing market failures, for example ensuring that landowners receive appropriate compensation in exchange for accepting the restrictions needed to protect ecosystem services.

5.6 Besides wood for timber and energy, there are various other products forests provide, that are given little attention in the strategy. Cork production, for example, is very important in the Mediterranean in particular and has several advantages: it is a natural product made of renewable sources, following an environment-friendly process that does not require the complete harvesting of the trees. The cork industry demonstrates its importance by contributing significantly to job creation while maintaining the ecological stability of the fragile and endangered Mediterranean ecosystem.

5.7 The development and implementation of forest management plans are founded on the principle of sustainability and on good practice. The strategy contains a proposal to include biodiversity considerations, such as Natura 2000 conservation objectives, in forest management plans. Linking forest management plans, which serve as operational planning tools for forest owners, with Natura 2000 management plans, which serve as public planning tools at local authority level, would blur the lines between planning levels and responsibilities. In addition, this would considerably increase the bureaucracy and associated costs of developing a forest management plan.

5.8 The increasing frequency of extreme weather events, as harbingers of climate change, also necessitates an active approach to Europe's forests. The Commission aims to maintain and enhance the resilience and adaptability of Europe's forests. Forest reproductive material of tree species and artificial hybrids which are important for forestry purposes should therefore not only be genetically suited to conditions and of high quality, but also make a sustainable contribution to conserving biodiversity.

5.9 In the strategy the Commission calls for a framework for action to be drawn up to prevent, minimise and mitigate the adverse impacts of invasive alien species on biodiversity and ecosystem services. Such action should also address social and economic damage. However, a holistic and science-based approach should also be taken when prioritising invasive alien species, based on stringent listing criteria. Alien forest reproductive material that does not spread invasively and has no negative impact on the new location should therefore not be included, as — particularly in the light of climate change — it may make a positive contribution to the current and future supply of raw materials and other ecosystem services.

5.10 Under the strategy the Commission is to draw up, with the help of the Member States and stakeholders, a list of sustainable forest management criteria that could be applied regardless of the end use of wood. When formulating the criteria, sustainable forest management is to be considered holistically, regardless of the end use of wood. The criteria should be based on existing sustainable forest management criteria, indicators and principles, such as those framed under FOREST EUROPE, where sustainability is considered from a national and regional point of view. The criteria should also take into account Member States' particular characteristics and existing national legislation on forests.

5.11 The strategy proposes that the relevant interest groups should also continue to be involved in the development and implementation of the forest strategy. Tried-and-tested bodies such as the Advisory Committee on Forestry and Cork and the Advisory Committee on Forest-based Industries should also be included in the platform for future stakeholder cooperation with the Commission. With regard to implementation, forest-related issues and progress on implementing the forest strategy should be regularly addressed by these groups. Where needed, the creation of ad hoc groups including EESC and CoR representatives may also be worth considering.

Brussels, 10 July 2014,

*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 Clean Air Programme for Europe’**

COM(2013) 918 *final*,

the

**‘Proposal for a Directive of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants and amending Directive 2003/35/EC’**

COM(2013) 920 *final* — 2013/0443 (COD),

the

**‘Proposal for a Directive of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants’**

COM(2013) 919 *final* — 2013/0442 (COD),

and the

**‘Proposal for a Council Decision on the acceptance of the Amendment to the 1999 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone’**

COM(2013) 917 *final*

(2014/C 451/22)

Rapporteur: **Antonello Pezzini**

On 13 and 15 January 2014 and 18 December 2013 respectively, the European Parliament, the Council, and the Commission decided to consult the European Economic and Social Committee, under Articles 192 and 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 Clean Air Programme for Europe.*

COM(2013) 918 *final*

the

*Proposal for a Directive of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants and amending Directive 2003/35/EC*

COM(2013) 920 *final* — 2013/0443 (COD)

the

*Proposal for a Directive of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants*

COM(2013) 919 *final* — 2013/0442 (COD)

and the

*Proposal for a Council Decision on the acceptance of the Amendment to the 1999 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-level Ozone*

COM(2013) 917 *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 19 June 2014.

At its 500th plenary session, held on 9 and 10 July (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 82 votes to one with no abstentions.



## 1. Conclusions and recommendations

1.1 The EESC stresses the need to ensure a healthy environment and excellent air quality as basic components of living and working conditions in order to safeguard the well-being of Europeans, and regrets that such an important factor is no longer as high up on the agenda of EU and national political priorities as it needs to be.

1.2 The EESC calls on the new Parliament, the new Commission and the Council to ensure that the EU institutions make it a top priority to safeguard safe and clean air standards in the future, with the full involvement of the social partners and organised civil society.

1.3 The EESC considers air pollution to be among the most serious human health and environmental hazards, with significant adverse effects in terms of respiratory disorders, premature death, eutrophication and the degradation of ecosystems. It welcomes the Commission's initiative to establish a new Clean Air Programme and to reduce loss of life expectancy from 8,5 months in 2005 to 4,1 months in 2030, thereby gaining 180 million life years and protecting biodiversity in another 200 000 km<sup>2</sup>.

1.3.1 The EESC is convinced that achieving the transition to a more sustainable European economy involves setting a 2030 target, with a more certain medium to long term perspective, which businesses and investors need.

1.4 The EESC considers it advisable to step up the application of Euro 6 emissions caps, measured on the basis of 'real driving emissions', and the arrangements for replacing two-stroke engines since it doubts that the application of these measures will be able to achieve the desired results by 2020.

1.5 The EESC supports the Commission's final objective — set out in the Clean Air Programme and the 2020-2030 energy and climate framework — to establish the emissions threshold for 2030 at a 70 % 'gap closure' between the current legislation baseline and the maximum feasible emission reductions (MTFR).

1.6 In order to achieve this objective, which must be enforced and implemented by all the parties involved, the EESC believes that firm action is required, including:

- the introduction of emissions reduction requirements for methane in 2020 and for mercury in 2020, 2025 and 2030;
- more stringent emissions caps for medium combustion plants;
- the refusal of optional derogations from the Industrial Emissions Directive in cases that entail concrete health hazards;
- specific measures to reduce ammonia and methane in the agricultural sector;
- more decisive action on transport emissions, including 'real-world' measurements and the application of related tests in 2014, upon the introduction of the Euro 6 standards;
- the decisive implementation of the IMO's NO<sub>x</sub> and SO<sub>2</sub> standards for ships by 2016, as agreed in 2008, in all European maritime areas, as Emission Control Areas;
- action to adopt stringent standards for particulate matter (PM) for new household appliances;
- the design and development of eco-friendly machinery and plants;
- the full application of product life cycle assessments (LCA);

- medium to long-term predictability, as opposed to overlapping policy measures;
- support for education and training for consumers, workers and young people on the preservation and development of a healthy working, recreational and residential environment;
- the promotion of research and investment in terms of innovative market applications of the best available techniques (BAT), sustainable growth and decent and lasting employment;
- the international dimension of action to achieve environmental sustainability;
- the assurance of consistency between this new strategy and other EU policies and objectives.

1.7 The EESC fully agrees that the amendments to the *Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone* need to be incorporated into EU legislation.

1.8 Although the qualitative long-term objectives of the proposal for a new NERCs directive are undisputed, the EESC regrets that the 2025 objectives are not binding since this would secure their full enforcement.

1.9 The EESC emphasises the need for regional policies to include measures to maintain healthy air quality levels since it is convinced that due to the high level of accumulated pollution and regional meteorological conditions, air quality management will only work if it is supported by EU policies to reduce emissions.

1.10 National governments and local authorities need to show unwavering commitment to planning concrete measures aimed at reducing harmful emissions by developing detailed regional Air Quality Action Plans (AQAPs) with a strong emphasis on the various manufacturing, farming, service and private sectors, and energy production and distribution. The Commission should send a clear message concerning their effective enforcement, with prompt and firm action against non-compliant Member States. The EESC acknowledges however that several Member States have already taken steps in the right direction.

1.11 Initiatives must be held to involve professional organisations, organised civil society, NGOs, the third sector, information centres, at all levels, and research centres, in order to achieve the objective of continuous air quality improvements, which is vital to public welfare and the ecosystem.

1.12 The Committee reiterates its firm belief in the need for Europe to return to a sustainable form of economic development that prioritises quality of life, jobs, public health and environmental protection, tying in closely with all other Europe 2020 policy priorities and fully incorporating a comprehensive transition strategy towards the planet's balance, based on qualitative economic growth, which contributes to eradicating poverty and social injustice and, at the same time, preserves natural resources for future generations.

## 2. Introduction

2.1 Air pollution presents serious human health and environmental hazards: respiratory disorders, premature death, eutrophication and the degradation of ecosystems due to nitrogen deposits and acid substances are only a few of the consequences of this simultaneously local and transboundary issue.

2.2 In recent decades, EU and international policies have already delivered results, reducing some of the problems associated with air pollution, such as a reduction in sulphur dioxide emissions — which cause acid rain — of over 80 %.

2.3 Despite this progress, the EU is still far from meeting its long-term objective, i.e. air quality improvements that significantly reduce human health and environmental risks, and fine particulate matter and ground-level ozone continue to cause serious problems which, according to the Commission's estimates <sup>(1)</sup>, cause 406 000 deaths a year.

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<sup>(1)</sup> COM(2013) 918 final.

2.4 Fine particulate matter and ozone in particular still present serious health risks. Safe levels for these substances are regularly exceeded.

2.5 The Commission estimates the total external health-related cost of air pollution to be in the region of EUR 330 to 940 billion per year, whereas the proposed 2030 objectives would result in benefits ranging in value from EUR 44 to 140 billion.

2.6 According to the Commission, in 2010, air pollution not only caused several hundred thousand premature deaths in the EU but also exposed about two-thirds of its land area to harmful contaminants. And this is due to emissions.

2.7 The health impacts for Europeans are estimated at EUR 4 billion in terms of hospital care and EUR 100 million in terms of lost working days per year.

2.8 Regarding the international situation, in December 2012, the United States decided to review annual air quality standards, setting the limit for fine particulate matter at 12 micrograms per cubic metre, i.e. far lower than the EU limit of 25 micrograms per cubic metre, whereas the government of China has decided to invest EUR 160 billion in air quality regulation, over the next five years, in the Beijing area alone. This means that the EU has not kept pace with international developments.

### 3. General comments

3.1 The EESC endorses the overall objectives of significantly improving air quality by moving towards a low-carbon economy, both in terms of health and environmental protection, as set out in the 2005 strategy on air pollution and reviewed by the Commission in its Clean Air Programme for Europe.

3.2 Emissions reduction goals for each Member State have always been decided on the basis of cost-effectiveness considerations since environmental conditions vary. The required emission reductions differ for each country: 'differentiation versus a flat rate approach'.

3.2.1 Bearing in mind the damage caused by air pollution to health, quality of life and ecosystems, the EESC is concerned that air quality is no longer as high up on the EU and national agendas as it should be. It believes that to achieve the transition to a more sustainable European economy, it is important to set a 2030 target, with a medium to long term perspective, which businesses and investors need.

3.3 **The revision of the strategy** on air pollution seeks to put a stop to current breaches of existing air quality standards and to achieve full compliance by 2020 at the latest by reducing NO<sub>x</sub> emissions from light diesel engines through the application of Euro 6, measured on the basis of 'real driving emissions'. The EESC doubts that these measures could deliver the desired outcomes as early as 2020 since the requirement will not come into effect until 2017 and it might not be possible to replace the current fleet by 2020.

3.4 Furthermore, this strategy relies on the contribution of local and regional action, with all the intrinsic limitations of such measures. Regional measures have not been very effective so far, mainly due to the high level of accumulated pollution and regional meteorological conditions. The EESC is convinced that air quality management, at these levels, will only work if it is supported by EU policies to reduce emissions at source.

3.5 According to the Committee, the Commission should nevertheless take into consideration a range of equally important and relevant factors:

- a cost-efficiency assessment of the proposed measures;
- competitiveness and sustainable innovations;
- the international dimension of environmental sustainability;
- cutting red tape and streamlining of processes;

- consistency and coordination between the EU policies concerned;
- EU and national support for education and training in this area;
- the concentration of EU and national research and innovation (R&I) efforts to apply the best available technologies;
- the decisive enforcement of the new quality standards in all the relevant sectors.

3.5.1 The EESC believes that political priority at the EU and national level should continue to be given to research and innovation and to education and training, which should be geared to restoring growth and sustainable employment and to a qualitative improvement in the re-industrialisation of the European economy, especially for small and medium-sized enterprises and start-ups, within current European budgetary constraints.

3.6 Furthermore, the Committee believes that it is important to ensure that **this new revised strategy is consistent with other EU policies**. Thus, for example, you can see that although residential wood combustion contributes to the emission of PM<sub>2,5</sub>, its use is encouraged as an alternative energy source even though this would require the emissions classification and performance assessment of the equipment.

3.7 In any case, the EESC believes that a set of equally important and relevant factors need to be taken into consideration in the international agreement on climate by 2015.

3.8 The EESC stresses the importance of **encouraging EU-level Public-Private Partnerships (PPP)**, such as the **Clean Sky 2 Joint Undertaking for 2014-2020**, set up to cut aviation emissions and to contribute to the research activities under Council Regulation (EC) No 71/2008 and the Horizon 2020 Framework Programme.

#### 4. Specific comments (I)

##### 4.1 *The 1979 Convention on Long-range Transboundary Air Pollution*

4.1.1 The 1979 Convention on Long-Range Transboundary Air Pollution (the LRTAP Convention) concluded under the auspices of the United Nations Economic Commission for Europe (UNECE) is the main international legal framework for cooperation and measures to limit and gradually reduce air pollution and its adverse effects upon human health and the environment through its eight protocols, including the 1999 protocol.

4.1.2 The EESC agrees that amendments to the protocol should be transposed into EU law.

##### 4.2 *The proposal for a revised directive on national emission reduction commitments (NERCs)*

4.2.1 The proposal for a directive establishes national emission reduction commitments (NERCs) for 2020, 2025 and 2030 for each Member State, expressed as a percentage of annual emission reductions for sulphur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), ammonia (NH<sub>3</sub>), non-methane volatile organic compounds (NMVOCs), particulate matter (PM<sub>2.5</sub>) and methane (CH<sub>4</sub>) as compared to their respective emissions levels for these pollutants in 2005.

4.2.2 In the past 20 years, significant progress in the field of air quality and anthropogenic emissions has been achieved in the EU as a consequence of the air pollution policies and strategies adopted by the EU and its Member States with a long-term objective of reaching air quality levels that do not give rise to significant negative human health and environmental impacts and risks, as set out in the seventh Environment Action Programme <sup>(2)</sup>.

4.2.3 This much is apparent even though progress on air quality has definitely slowed down and the currently proposed targets fall short of what the Member States would achieve through the full enforcement of requirements under existing EU legislation.

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<sup>(2)</sup> COM(2012) 710 final.

4.2.4 Whereas the proposed qualitative long-term objectives are virtually undisputed, the EESC is concerned that the 2025 objectives are non-binding as a consequence of the difficulties identified in securing the enforcement of current standards.

4.2.5 The EESC considers that strengthened platforms for specific interactive dialogue are required **to assess the provisions set out in the proposal for a directive**.

#### 4.3 *Proposal for a directive on emissions from medium combustion plants*

4.3.1 The EESC believes that extending action to control emissions of air polluting substances from combustion plants with a rated thermal input between 1 and 50 MW that are used for a wide variety of applications **must be implemented through straightforward and inexpensive procedures** in order to support and encourage the development of small and medium-sized enterprises and start-ups, not to mention small-scale infrastructure, across Europe.

### 5. Specific comments (II)

5.1 Air pollutants may come from a range of sources and may even be carried long distances.

5.2 In order to ensure the full implementation of the Clean Air Programme for Europe, regions need to draft and adopt **Air Quality Action Plans (AQAPs)**, after consulting the social partners and organised civil society, covering in particular the following considerations:

- road, maritime and air transport and mobility;
- energy production and consumption;
- the production system;
- the tertiary sector;
- the arable, livestock and forestry sectors;
- the private sector.

5.3 The Commission's clean air package follows and builds on the policies already developed in order to pursue the fight against air pollution, in contrast with the political agenda.

5.3.1 The EESC believes that it is crucial for this process to involve the local and regional authorities, alongside the national authorities, together with the social partners and organised civil society.

#### 5.4 *Recommendations for the local transposition of the clean air package*

5.4.1 The local transposition of the clean air package should identify synergies with the various plans:

- **waste**, energy recovery, reduction of per capita waste generation, raw material recovery;
- **transport and mobility**, development of public transport, cycling lanes, promotion of mobility and low CO<sub>2</sub> emissions, integration of transport modes, maritime and air navigation;
- **land and urban management**, land use, development of new settlement models, rehabilitation of housing stock;
- **arable and livestock farming**, wood energy (local sourcing), biomass and biogas, ammonia emissions, carbon sinks;
- **industry**, technological development with a low environmental impact, innovation and quality certification (ISO 14000 and EMAS), attention to ecodesign requirements, environmental quality labelling for products, energy management systems and compliance with the regulations on the consumption of electric motors.

5.4.2 **The local transposition of the package** should also cover the more urgent measures linked to local economies and productivity and set rules for biomass combustion, in addition to requirements and incentives for the replacement of the car fleet.

5.5 **Measures to further cut SO<sub>2</sub> (sulphur dioxide) emissions** are necessary, especially in regions with significant industrial combustion and with energy production and fuel processing plants.

#### 5.6 *Agricultural measures*

5.6.1 Measures should be introduced across the EU — and especially in farming regions — to cut NH<sub>3</sub> (ammonia), N<sub>2</sub>O (nitrous oxide), CH<sub>4</sub> (methane) and VOCs (volatile organic compounds), following the example of the measures already in place in several Member States. The use of nitrogen and slurry fertilisers is the main source (98 %) of NH<sub>3</sub> emissions which, interact with SO<sub>2</sub> and NO<sub>2</sub> to form ammonium salts, the main component of particulate matter.

5.6.2 The following are extremely important: full compliance with the Nitrates Directive (Council Directive 91/676/EEC); a requirement to cover manure storage lagoons; the establishment of recycling systems, through anaerobic digestion, for the production of digestate, with comparable characteristics to artificial fertilisers, the proper management of manure and the dispersal of the ensuing harmful slurry. However, these measures must take into account the balance between economic, social and ecological interests. Reducing emissions in agriculture is a very complex issue that calls for greater investment in research and development.

5.6.3 It is necessary to use farming methods with low particulate emissions.

5.6.4 The EESC underlines the fact that the sector is already governed by a series of regulations that have still to be fully implemented, however, and reiterates its conviction that the Commission has missed an opportunity to establish a consolidated framework to control emissions. Bovine species are still excluded from the scope of this communication. There are, nevertheless, other regulations concerning bovine species, which are the main source of ammonia emissions.

#### 5.7 *Measures in urban centres*

5.7.1 **In conurbations and high-density traffic areas** particular attention must be given to PM<sub>2,5</sub> and PM<sub>10</sub> (fine particulate matter with a diameter of less than 10 micrometres) and CO and CO<sub>2</sub> (carbon monoxide and dioxide) and to reducing NO<sub>x</sub>. Particulate filters in diesel engines — as well as experimental petrol filters — can achieve emission reduction efficiency rates exceeding 90 % (closed loop filters).

5.7.2 It is very important for school and office buildings on streets with heavy traffic to insulate opaque and transparent vertical panels in order to reduce VOC and fine particulate (PM<sub>10</sub> and PM<sub>2,5</sub>) pollution <sup>(3)</sup>.

#### 5.8 *Local, regional, national and EU transport measures*

5.8.1 With regard to commercial and passenger vehicles, steps should be taken to replace Euro 3 vehicles with Euro 5 and 6 vehicles through limits on circulation and incentives. The same approach should be used to replace Euro 1 two-stroke engines (motorcycles, mopeds, chain saws and lawn mowers). This calls for the following local, regional and national action.

5.8.1.1 Appropriate methods for measuring NO<sub>x</sub> emissions from light-duty diesel vehicles should be adopted at EU and national levels as soon as possible — before 2017 — given their adverse effects on urban air quality.

5.8.1.2 The use of methane and LPG (Liquefied Petroleum Gas), hydrogen, liquefied natural gas, ethanol and other advanced biofuels should be promoted at national and regional levels. The development of electromobility and electric charging infrastructure should be speeded up. It should be possible to identify the emissions class of lorries through on-board electronic equipment.

5.8.1.3 The use of methane gas should be promoted by providing businesses and municipalities with EU, national and local financial support to establish networks and/or further develop them.

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<sup>(3)</sup> See Standard EN 15242:2008 — Ventilation for buildings — Calculation methods for the determination of air flow rates in buildings including infiltration.

5.8.1.4 Investment in local public transport (LPT) should be financed through nationally and locally co-financed multiannual EU projects. Buses should:

- be eco-friendly, powered by alternative fuels;
- use bimodal hybrid propulsion;
- be electric (all-electric with battery on board) and equipped with plug-in or inductive (Faraday) charging systems.

5.8.1.5 Potential interactions between fixed structures, information technologies and modes of transport should be exploited. The use of materials containing photocatalytic substances with titanium dioxide (TiO<sub>2</sub>) nanopigments, which split pollutant molecules and render them harmless to health (roads, traffic barriers, plaster and other construction works) should be supported. On this subject, motorway junctions with an Italcementi patented i.active COAT, which clean the air and are highly retro-reflective, are of interest.

Brussels, 10 July 2014.

*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 Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in the educational establishments’**

(COM(2014) 32 final — 2014/0014 (COD))

(2014/C 451/23)

Rapporteur: **Adalbert Kienle**

On 6 February 2014 the European Parliament and, on 19 February 2014, the Council decided to consult the European Economic and Social Committee, under Article 43 and 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 amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in the educational establishments.*

COM(2014) 32 final — 2014/0014 (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 19 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion unanimously by 185 votes in favour with 2 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC supports the creation of a common legal and financial framework for the EU’s school fruit and milk schemes, which until now have been managed and funded separately.

1.2 The EESC especially welcomes the greater emphasis placed on pedagogical support in the scheme, which, if the potential were fully realised, would contribute significantly to tackling child obesity and food waste.

1.3 The EESC expects to see substantial administrative and organisational streamlining; the Member States should be given sufficient scope for their own priorities and specific circumstances.

1.4 The EESC recommends that clear priority be given to sustainable European products that are as fresh, seasonal and regional/local as possible.

## **2. Introduction**

2.1 Separate European school schemes have been established at different times. While originally the chief aim was to promote sales, the focus has since shifted to providing children with healthy food. The school milk scheme was introduced back in 1977 as part of the Market Organisation for milk. Approximately 20 million children annually have taken part in recent years. The school fruit scheme was born of a political commitment in the context of the 2007 reform of the Common Market Organisation for fruit and vegetables, and has recently benefited 8,6 million children. Despite their having similar objectives and target groups, the schemes were subject to different legal and financial conditions, and also differed in design and implementation. Neither scheme has been used to its full extent, with usage varying considerably among Member States.

2.2 In response to unambiguous criticism from the European Court of Auditors and following a detailed assessment of both schemes and public consultation, the European Commission has now proposed a common legal and financial framework for the supply of fruit, vegetables and milk to schoolchildren, which is also meant to address additional flaws and shortcomings. Above all, greater emphasis is to be placed on the schemes' pedagogical aspect.

2.3 The new scheme is to be financed using the increased Common Agricultural Policy 2020 appropriations for school aid schemes, giving it an annual budget of EUR 230 million (EUR 150 million for the school fruit scheme and EUR 80 million for the school milk scheme).

### 3. General comments

3.1 The EESC strongly supports EU-subsidised schemes to supply agricultural products to children and adolescents in schools. The Committee notes that it strongly opposed an earlier Commission plan in 1999 to withdraw EU aid for the school milk scheme.

3.2 The EESC underlines the profound importance of balanced nutrition for children and school pupils. Poverty, which has increased as a result of the financial and economic crisis, is a significant risk factor in terms of children's and adolescents' nutrition. An alarmingly high number of children go to school each day on an empty stomach. Growing obesity and food waste are both serious social challenges.

3.3 Even though Member State participation is to remain voluntary, the EESC hopes to see the new school aid scheme implemented and used to its full extent across all Member States. The EESC is confident that this would bring about a permanent increase in the proportion of fruit, vegetables and milk products in children's diets.

3.4 The EESC particularly welcomes the stronger emphasis on pedagogical support by the EU, and feels that this vindicates the Committee's previous recommendations. Instilling healthier eating habits in children of school age and fostering an understanding of agriculture and food supply chains should be seen by the state as well as by schools, parents, agri-food businesses, civil society and the media as a duty and a civic task to which everyone can contribute.

3.5 Pivotal to the success of these schemes are teachers, an increasing number of whom, happily, are interested and active in them. One particular motivation for them could be the additional support for the schemes provided by national top-ups or sponsors and civil society groups, the latter being particularly useful for controversial social issues. The EESC therefore supports the pilot projects launched by the Commission for disadvantaged and vulnerable social groups.

3.6 The Committee also strongly supports the proposal for more opportunities to foster understanding of the local agri-food sector, including its products, work and social benefits, for instance by creating school gardens, through school trips or product tastings on farms and in craft workshops, or by passing a 'nutritional driving test'. The EESC considers the approach followed in some Member States, whereby farmers deliver milk directly to schools and are thus in constant contact with children, to be exemplary.

3.7 The EESC also welcomes the scope for discussing agricultural products such as olive oil and honey on occasion, as well as issues connected to organic farming. The same goes for issues related to the environment or food waste. The EESC recommends that the support measures be assessed at a very early stage.

3.8 An EU school aid scheme can only be successful if it accounts for national and regional characteristics, circumstances in nurseries and schools, and the expectations of children and parents. The consultations have made clear that excessive administrative and organisational red tape is a common annoyance, and even seen as a reason to opt out of the existing schemes altogether, which is why it is all the more important to the EESC that the practical arrangements for the new scheme include clear synergies. Schools, participating businesses and authorities should have to deal with much less administrative and organisational red tape.

3.9 The extra provision made for subsidising logistics and equipment — for refrigerating fresh foodstuffs for example — is seen as appropriate and important by the EESC.

3.10 The EESC considers it right that the supply of fruit and vegetables, including bananas, and milk should be subsidised via the school aid schemes. The Committee questions the wisdom of limiting the scheme to liquid milk, and feels that it should continue to include a broader selection of dairy products, with thought given to nutritional and pedagogical considerations. The EESC firmly hopes that priority will be given to fresh food products sustainably produced in Europe. As far as possible, the products and activities in the schemes should have a seasonal and regional basis or come under the EU labels for protected designation of origin (PDO) and protected geographical indication (PGI).

Brussels, 9 July 2014.

*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: Internet policy and governance — Europe’s role in shaping the future of internet governance’**

COM(2014) 72 final

(2014/C 451/24)

Rapporteur: **Antonio Longo**

On 7 March 2014, 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: Internet policy and governance — Europe’s role in shaping the future of internet governance.*

COM(2014) 72 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 18 June 2014.

At its 500th plenary session, held on 9 and 10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 180 votes to 8 with 13 abstentions.

## **1. Conclusions and recommendations**

**1.1 The EESC would firstly reiterate the views it has expressed in several opinions over recent years on the importance of the internet as an essential prerequisite for economic growth and jobs, technological innovation and social inclusion.**

**1.2 The Committee fully shares the Commission’s desire to strongly reaffirm the defence and promotion of fundamental rights and democratic values,** as well as the legal concept of a single network, subject to uniform Community rules as in other sectors and not fragmented by different and potentially conflicting rules.

**1.3 It is important to place the internet’s core values at the heart of its future governance, namely its open, distributed nature, its neutrality and universal accessibility and its low barriers of entry.** The Committee notes, however, that the communication **does not sufficiently elaborate on either the concept of cooperative governance to which the EU should contribute, or the tools** and procedures that are intended to secure multi-stakeholder decision-making processes regarding the internet. In particular, more clarification is needed as regards who is to be responsible for oversight of internet governance.

**1.4 As regards ICANN’s current role coming to an end and the IANA’s functions,** the Committee feels that the Commission should be resolute in raising the question of the role that the EU should play in the future transnational body.

**1.5 The European Parliament’s digital habeas corpus and the implementation of the telecommunications package for the European single market in telecommunications** will undoubtedly boost confidence in the internet.

**1.6 Decisions on technical standards** can have a significant impact on citizens’ rights — including the right to freedom of expression, protection of personal data and user security — as well as on access to content. Since its inception, the design of the Internet has fully supported citizens’ right. Threats to rights have come from government action and from operators of web sites, the control of which is independent of the network. Even so, it would still be advisable to **issue recommendations that ensure that those technical choices are compatible with human rights.**

1.7 With regard to **the legal aspects of the internet**, the Committee endorses the Commission's intention to launch a **review of the risks, at international level, of conflicts of laws and jurisdictions**, which are often aggravated by the rules laid down by individual independent regulatory authorities.

1.8 The Committee notes that the Communication makes no reference to a number of technical and operational issues that are of concern to the Committee. The main issues are:

- future internet capacity, given the exponential growth of traffic and the lack of organised capacity planning;
- net neutrality, which is recognised as being fundamental to the Digital Agenda;
- search-engine methodology and results presentations, which is a matter of great concern.

1.9 The Committee stresses **the importance of inclusion**. The EU's contribution to global internet governance must include the promotion of ICT inclusion policies, in order to pave the way for a truly inclusive society (see the Riga Declaration (2006) issued on the fringes of the ministerial conference on 'ICT for an inclusive society', which includes a series of commitments to develop ICT solutions for older people and in the area of eAccessibility in the EU). The Internet is inclusive by design and this is enshrined in ICANN's charter. Access is actually controlled by Communications Service Providers (CSPs) and Internet Service Providers (ISPs), which are regulated by national administrations. The responsibility for inclusiveness rests with these regulators and, in the EU, with the EU Commission.

1.10 Finally, the Committee calls for the IGF to continue strengthening its position as a discussion forum for all internet stakeholders. **The EU needs to play a leading role** in the next IGF in Istanbul, with joint action by the Commission, the Member States and civil society.

## 2. Introduction

2.1 The Internet is a multi-faceted phenomenon with no overall control. The following are the most important elements:

- a) The Internet is by definition a network of networks. Each network is autonomous and many are public companies. With no overall plan to accommodate the exponential growth of Internet traffic, the physical networks probably represent the Internet's greatest vulnerability, with profound implications for the development of the global society.
- b) The administration and registration of domain names (.com) and IP addresses managed on a devolved basis by the Internet Corporation for Assigned Names and Numbers (ICANN) based in California. Participation in ICANN management is the central element of the Commission's Communication.
- c) The World Wide Web standards and protocols are developed by the World Wide Web Consortium (W3C) while the Internet Engineering Task Force (IETF) does the same thing for the Internet.
- d) Internet Service Providers register users and give them access to the Internet.
- e) Browsers such as (Internet Explorer) and Search engines such as Google enable the use of the Web. Some of these services have proved to be highly contentious.
- f) Social networking services such as Facebook, and Twitter have played a conspicuous role in civil disturbance and the struggle for civil liberties in many countries.

- g) Cloud Computing Services and media streaming are driving the growth of Internet traffic. Netflix (Video on demand), which needs high download speeds, has provoked the net neutrality debate in the USA.
- h) The actions required to optimize the benefits and mitigate the dis-benefits from the Internet provide the basis for the EU's Digital Agenda. In addition to driving forward the European Internet economy, it also addresses cyber security, cyber crime, data protection, the digital divide, support for the disabled and the disadvantaged, etc. In many ways, the EU Digital Agenda is more an exercise in EU Governance rather than Internet Governance even though it embodies the most important actions needed for Europe to get the best out of the Internet.

### 3. Content of the communication

3.1 The European Commission has drawn up a series of guidelines to form the basis for **a common European vision for internet governance** that will strengthen the EU's role in the development of the internet, as a fundamental pillar of the digital single market and a driver of innovation and economic growth, as well as of democracy and human rights. The Commission wishes to reaffirm the guidelines set out in its previous communication in 2009 <sup>(1)</sup> and strengthen the multi-stakeholder model.

3.2 To compensate for the fact of no overall control, an Internet Governance Forum (IGF) has been set up under the auspices of the United Nations. The evolution of this Forum is the second theme of the Commission's Communication. Given its IGF concerns and its ambition to be involved in the control of ICANN, it is difficult to avoid the conclusion that this Communication is about political control of the Internet. The EESC is of the opinion that resolution of technical and operational governance issues, such as those highlighted in (a), (e) and (g) above, also needs focus and action.

3.3 This European vision is based on a set of common EU principles such as the defence of fundamental rights and democratic values (as enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the EU Charter of Fundamental Rights), and the promotion of a single, unfragmented network, in which decisions are taken on the basis of principles such as transparency, accountability, and the inclusion of all relevant stakeholders. Among the players specifically mentioned in the communication with whom there should be a high level of cooperation are the Internet Governance Forum (**IGF**) (a body that emerged from the World Summit on Information Society (WSIS), which was promoted by the UN in Resolution 56/183 (21 December 2001)), the Internet Corporation for Assigned Names and Numbers (**ICANN**) and the Internet Assigned Numbers Authority (**IANA**).

3.4 The Commission's approach to internet governance is summarised by the **COMPACT** acronym: the internet as a space of **C**ivic responsibilities, **O**ne unfragmented resource governed via a **M**ulti-stakeholder approach to **P**romote democracy and human rights, based on a sound technological **A**rchitecture that engenders **C**onfidence and facilitates a **T**ransparent governance both of the underlying internet infrastructure and of the services which run on top of it. This approach builds on the Tunis Agenda for the Information Society (18 November 2005); unfortunately, however, the principles that emerged from that agenda seem not to have been embraced globally, but rather supported by individual countries and only in limited geographical areas (for example, OECD Council Recommendation on principles for internet policy making (2011) and the Deauville G8 Declaration (2011)).

3.5 The Commission proposes in particular:

- working with all stakeholders to identify a coherent set of internet governance principles;
- supporting the IGF and clearly defining the role of public authorities;
- establishing a clear timeline for the globalisation of ICANN and the IANA functions, guaranteeing the stability and security of the domain-name system;

<sup>(1)</sup> COM(2009) 277 final.

- launching the Global Internet Policy Observatory (GIPO) in 2014 as a resource for the global community;
- launching a broad public consultation on the participation of all stakeholders in the shaping of the future European policy on internet governance;
- designing structured instruments which will provide for participation in technical decisions, with a view to ensuring that they are compatible with human rights;
- boosting confidence in online activities, with particular reference to data protection and network and information security;
- reviewing the risks, at international level, of conflicts of laws and jurisdictions arising from the internet.

#### 4. Assessment and comments

4.1 The Commission is proposing the establishment of a common European vision for internet governance that will enable the EU to play a major role in an area of crucial importance for the future, not only economically, but also politically and socially. This is a decision of major importance in terms of securing a strong impetus to Member States' economic development, and consolidating the principles of democracy and human rights.

4.2 Sustainable governance must be based on a multi-stakeholder system, as set out in the Tunis Agenda, involving governments, the private sector, civil society, intergovernmental and international organisations and the academic and technical communities.

##### 4.3 *A principles-based approach*

4.3.1 **The EESC would firstly reiterate the views it has expressed in several opinions over recent years on the importance of the internet as an essential prerequisite for economic growth and jobs, technological innovation and social inclusion.** The Committee has always fully and wholeheartedly supported the information society, the Europe 2020 strategy and the digital agenda. It has put forward many proposals and at times expressed critical views.

4.3.2 The objective must be to ensure that the EU is a leading player in the development of digital infrastructure, and primarily high-speed broadband accessible to all; in the creation of a single digital market with a wealth of European content and as an instrument of inclusion; in the bridging of the digital divide through enhanced digital literacy; in the design of European cloud computing<sup>(2)</sup>; and in the framing of appropriate legislation to protect against cybercrime, the invasion of privacy, identity theft and dangers to children, and on the right to be forgotten.

4.3.3 **The Committee fully shares the Commission's desire to strongly reaffirm the defence and promotion of fundamental rights and democratic values,** as well as the legal concept of a single network, subject to uniform Community rules as in other sectors and not fragmented by different and potentially conflicting national rules. This choice is considered necessary for the creation of an accessible, fast and sustainable single European area for local governments, citizens, companies and the non-profit-making sector<sup>(3)</sup>.

4.3.4 In this regard, the Committee shares the Commission's concerns regarding the infringement of freedom of expression that has occurred in Turkey with the blocking of social networks by its agency for information, technology and communication, as well as regarding the measures concerning freedom of expression contained in the package of anti-terrorism legislation recently adopted by the Russian Parliament.

##### 4.4 *A cooperative governance framework*

4.4.1 The Committee notes that the communication **does not sufficiently elaborate on either the concept of governance to which the EU should contribute, or the tools** that are intended to secure multi-stakeholder decision-making processes regarding the internet, as was the case in relation to the proposals for action contained in the communication on *A digital agenda for Europe*<sup>(4)</sup>. Levels and procedures can be defined in greater detail in the context of shared overall governance.

<sup>(2)</sup> OJ C 107, 6.4.2011, p. 53-57; OJ C 318, 29.10.2011, p. 9; OJ C 229, 31.7.2012, p. 1; OJ C 161, 6.6.2013, p. 8; OJ C 76, 14.3.2013, p. 59-65.

<sup>(3)</sup> OJ C 67, 6.3.2014, p. 137.

<sup>(4)</sup> OJ C 54, 19.2.2011, p. 58.



4.4.2 Alongside pointing to the positive experiences of individual EU and non-EU countries, the Commission puts forward **only one initiative: development of the GIPO platform** (a positive and important initiative), with the intention of proposing additional practical proposals following the outcome of an **upcoming public consultation**. However, specifically in view of this communication a broad consultation has already been carried out; this has not added greater substance to the proposals in the communication and above all reveals that the various bodies and stakeholders have given this inadequate attention.

4.4.2.1 The Commission needs to clarify the specific role and added value of the EU itself and what is being asked of the individual States, not least in light of the objectives of the digital agenda for Europe. It also needs to define exclusive and shared competences here, not least to prevent overlaps and possible conflicts.

4.4.3 The Committee is concerned that the Member States and all of the various stakeholders are seriously underestimating and failing to give sufficient attention to this issue of fundamental importance to the economic and social future of the EU. The Committee asks the Commission to introduce direct incentive measures for governments, the business world and NGOs working to uphold the rights of citizens, and in particular consumer associations, which are not mentioned in the communication.

4.4.4 In recent years, the Committee has issued a number of opinions on the internet and on the digital agenda in particular, and should be involved in such measures.

#### 4.5 Globalisation of core internet Decisions

4.5.1 Another important aspect concerns **measures at international level that the EU as a whole should put in place**, as regards the governance of all electronic communications and citizens' rights. The communication does not specifically address how to disseminate these initiatives at international level.

4.5.2 This is particularly important given that the Datagate scandal revealed **the weakness of the EU**, which failed at the Brussels summit in October 2013 to provide a strong collective response, appearing at odds on the international stage.

#### 4.6 Multi-stakeholder process: globalisation of ICANN

4.6.1 The Committee notes that a strategic framework is needed. While governance of the internet cannot remain in the hands of the US Government, the new multi-stakeholder regime needs to be defined precisely, and must be genuinely representative. A fair balance needs to be struck between government institutions, the big companies acting in shareholders' interests, and NGOs directly representing the public.

4.6.1.1 The Committee endorses the creation of innovative IT tools such as GIPO as a major resource available to the global community to monitor policies regulating the internet and new technologies, promoting exchanges between forums. This is particularly beneficial for civil society groups with limited means.

4.6.2 **As regards ICANN and IANA**, this technical body has finally announced the launch of a process of global, multi-stakeholder management of the technical functions assigned to it from September 2015, the date of expiry of its contract with the US Government for the management of country-code top-level domains. The Committee calls on the Commission to pinpoint exactly what role the EU should play in this future transnational body and to request a technical and a political representative on the board of the new ICANN.

4.6.3 The Commission's support for a stronger IGF which will serve as a discussion forum for all stakeholders is also important. The Committee calls for the EU to take a leading role in the next IGF, to be held in September in Istanbul, with joint and firm action by the Commission, the Member States and civil society, reiterating the content of the communication.

#### 4.7 Building confidence

4.7.1 At intra-Community level, it is important that the Commission underlines correctly in the communication the need to **engender confidence in the internet through legislation designed to boost its security, stability and reliability** such as the reform of the data protection framework and the directive on network and information security.

4.7.2 Following the report by the Committee for Civil Liberties, Justice and Home Affairs in the wake of Datagate, the European Parliament rightly approved the establishment of ‘a European digital habeas corpus — protecting fundamental rights in a digital age’, through a number of specific measures, as a priority plan for the next legislature.

4.7.3 The Committee will carefully monitor the progress of these measures and the implementation of the telecommunications package on the introduction of the European single market in telecommunications <sup>(5)</sup>.

#### 4.8 Technical Norms shaping the internet

4.8.1 **One fundamental aspect concerns technical standards.** The open and transnational nature of the internet requires that the definition of technical standards take place without regard to public policy concerns established at the level of individual States or regional intergovernmental structures, but rather through a kind of self-regulation by the technical community, only occasionally coordinated with the institutions. The impact that such choices can have on citizens’ rights — including the right to freedom of expression, protection of personal data (including the right to be forgotten) and user security — as well as on access to content makes it essential to **make clear choices and issue recommendations that ensure that those technical choices are compatible with human rights.**

4.8.2 The Committee supports the Commission’s proposal to convene workshops with international experts from legal, social, economic and technical disciplines to ensure coherence between existing normative frameworks and new forms of internet-enabled norm-setting.

4.8.3 With regard to competition and the free market, one issue that also needs to be addressed is the situation whereby a few proprietary algorithms exercise sole control over personal data, metadata, and revenue from advertising and copyright <sup>(6)</sup>.

#### 4.9 Conflicts of jurisdictions and laws

4.9.1 With regard to **the legal aspects of the internet**, the need to create a digital single market by 2015 has been strongly restated by the Commission and of course cannot happen without the harmonisation of national and international legislation applicable to online transactions. The Committee endorses the Commission’s intention to launch **a review of the risks, at international level, of conflicts of laws and jurisdictions**, which are often aggravated by the rules laid down by individual independent regulatory authorities.

4.9.2 The Committee notes that the communication makes no reference whatsoever to **net neutrality**, despite it having been recognised as fundamental to the digital agenda. The Committee would reiterate the views it has expressed in various previous opinions; it expresses its concern regarding the regulatory initiatives being discussed in the USA and ‘strongly recommends that the principles of an open internet and net neutrality should be formally enshrined in EU law as soon as possible, always bearing in mind the evolution of technologies (“state of the art”) in this field’ <sup>(7)</sup>.

<sup>(5)</sup> OJ C 177, 11.6.2014, p. 64.

<sup>(6)</sup> COM(2012) 573.

<sup>(7)</sup> OJ C 24, 28.1.2012, p. 139-145.

#### 4.10 *An inclusive internet*

4.10.1 Lastly, the Committee would highlight the importance of a fundamental aspect: inclusiveness. The EU's contribution to global internet governance must include the promotion of ICT inclusion policies, in order to pave the way for a truly inclusive society (in 2006, ministers responsible for eInclusion policy from EU Member States, accession and candidate countries, EFTA (European Free Trade Area) countries and other countries signed up to the 'Riga Declaration' on the fringes of the ministerial conference on 'ICT for an inclusive society'; this includes a series of commitments to develop ICT solutions for older people and in the area of eAccessibility in the EU). The Committee considers that a principle should be included in the communication to the effect that accessible and easy-to-use ICTs are recognised as essential tools enabling people with disabilities to grasp full and effective opportunities on an equal basis.

Brussels, 10 July 2014.

*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 post-2015 Hyogo Framework for Action: Managing risks to achieve resilience’**

COM(2014) 216 final

(2014/C 451/25)

Rapporteur: **Giuseppe Iuliano**

On 8 April 2014, 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 on the post-2015 Hyogo Framework for Action: Managing risks to achieve resilience.*

COM(2014) 216 final.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 June 2014.

At its 500th plenary session, held on 9–10 July 2014 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 103 votes to 1 with 1 abstention.

**1. Conclusions and recommendations**

1.1 The EESC deems it highly relevant and essential for the EU to adopt a position on disaster risk reduction (DRR) in view of the review of the Hyogo Framework for Action (HFA) in 2015. The fact that this will coincide with other post-2015 initiatives relating to development and climate change make this position all the more relevant.

1.2 The EESC urges Member States to provide the Commission with fully disaggregated data about their countries in order to contribute to a more thorough and accurate assessment of the situation in this area.

1.3 The EESC is convinced that greater attention must be given to the underlying risk factors and root causes of disasters. The underlying factors include uncontrolled urban development, precarious rural livelihoods and the degradation of ecosystems.

1.4 A significant proportion of disaster-related human and economic losses are sustained during very frequent small-scale disasters. The EESC believes that the post-2015 HFA should give more importance to this ‘extensive risk’ while also seeking to improve the resilience of the affected communities to these types of disaster.

1.5 The EESC thinks that the economic and social impact of disasters should be studied in greater depth and that more attention should be paid to aspects such as production infrastructure.

1.6 The EESC believes that the post-2015 HFA should further develop this multi-hazard approach by also incorporating anthropogenic disasters to a far greater extent than has hitherto been the case.

1.7 Disaster risk management (DRM) should follow a rights-based approach, focus on the needs and rights of the most vulnerable groups of persons and emphasise and integrate the gender dimension.

1.8 The EESC advocates the promotion of local risk management approaches that involve local civil society organisations and regularly excluded communities. Local risk management should be more decisively incorporated.

1.9 The role of civil society organisations in DRR should also be recognised on the local as well as international level.

1.10 The business and private sectors should play an important role, incorporating DRR throughout the production cycle and contributing their innovative capacity.

1.11 Although the new post-2015 HFA should remain voluntary in nature, it should emphasise accountability and transparency systems through a set of internationally agreed indicators. These indicators should go well beyond the merely technical dimension and include social aspects.

1.12 The EESC welcomes the peer review mechanisms set up by some Member States but believes that they should be developed into more rigorous accountability systems over the medium term.

1.13 The EESC believes that the EU should establish indicative recommended minimum DRR funding percentages for its development and humanitarian policy.

## 2. Reason

2.1 There is no question that the adoption of the HFA 'Building the Resilience of Nations and Communities to Disasters' in 2005 was a milestone in the approach to disaster risk reduction. The fact that it was adopted by 168 States denotes a change in the international community's perception of an increasingly worrying situation.

2.2 Following the adoption of the HFA, the EU integrated aspects of DRR and DRM into many of its internal policies as well as in the areas of development cooperation and humanitarian assistance and, although uneven, progress has been significant.

2.3 The revision of the HFA in 2015 is therefore an opportunity for the EU to adapt its policies in this area to the new international situation and, at the same time, to contribute to the international debate on disaster risks and on better ways to address this situation.

2.4 The EESC welcomes the Commission's *Communication on the post-2015 Hyogo Framework for Action: Managing risks to achieve resilience* since it considers it to be particularly relevant to these times, and would like to contribute to the debate by presenting the views of the sectors of civil society that it represents.

2.5 Since the adoption of the HFA in 2005, global patterns of disaster risk have confirmed an alarming increase in risk and have forced States, international organisations, civil society organisations and society at large to redefine their positions on DRR.

2.6 All current data points towards an increase in disasters, especially those linked to hydrometeorological hazards caused by climate change. However, there are also others caused by accelerated urbanisation, poor spatial planning, the inappropriate use of land and natural resources and increased exposure to these hazards.

2.7 Needless to say, the impact of disasters varies from one region or country to another and human and economic losses depend on the level of development. However, no country or part of the world is entirely hazard free and data covering the last decades also reveal high impacts in developed countries including EU Member States.

2.8 Since the Sustainable Development Goals (SDGs) are also due for review in 2015 and there has been some progress in climate change discussions, efforts will have to be made to ensure greater consistency in the various positions on these issues and the EESC would like to play its part.

### 3. New outlooks for the context and classification of disasters

3.1 The Commission's communication and above all its two annexes<sup>(1)</sup>, provide a very exhaustive analysis of the hazards and risks worldwide and, more specifically, in the EU. They also give a very detailed account of EU policies with a DRR component. The EESC values the Commission's efforts to use reliable and technically robust data to present a global picture of disasters in the EU and the policies to address them.

3.2 Nevertheless, the EESC regrets that the comprehensive overview of disasters in the EU relies on direct data from only 16 Member States and Norway. The EESC urges the Member States that have yet to provide their disaggregated data to take immediate steps to contribute to these efforts to obtain a hazard and disaster assessment for the EU that is as clear and as accurate as possible.

3.3 At the global level, studies carried out by the UN International Strategy for Disaster Reduction (UNISDR) reveal that it is not the major disasters with a massive media impact but the 'small disasters', that are most frequent, and that cause most human and economic losses with the greatest impact on the daily lives of millions of people and communities worldwide. The EESC believes that the post-2015 HFA should place more emphasis on the 'extensive risk'<sup>(2)</sup> associated with this type of event in contrast with the 'intensive risk' approach which used to predominate. Furthermore, the attention given to these more frequent but small-scale disasters should open the way to improving the resilience of the affected communities. The EESC recommends giving more attention to the local impact of this type of disaster.

3.4 Despite the numerous studies on the economic impact of disasters, the costs in terms of jobs, working conditions and decent work, impact on employers, the production base fabric, etc. are rarely analysed. The EESC thinks that these aspects should be studied in greater depth and that more attention should be paid to aspects such as production infrastructure<sup>(3)</sup>.

3.5 Moreover, the data available shows that many disasters are the outcome of a combination of hazards and do not have a single cause. This confirms the need for a multi-hazard assessment and a more holistic approach to disasters and their complexity. The 'complex emergency' concept, which is well-established in the humanitarian sector, could serve to avoid simplistic ideas about the causes of disasters, which can occasionally lead to equally simplistic responses. Although the main strategies following the adoption of the HFA focused on natural or anthropogenic non-malicious hazards, the evidence shows that violence in marginalised urban neighbourhoods, lack of governance and various types of conflict are included among the anthropogenic factors that aggravate disasters and should be taken into account. The EESC believes that the post-2015 HFA should take a more holistic approach to these conflict- and violence-related factors. Technological hazards and 'triple disasters' (convergence of an earthquake, tsunami and nuclear accident) such as occurred in Fukushima also require a more decisive approach.

3.6 The EESC is also convinced that greater attention must be given to the underlying risk factors and root causes of disasters. All assessments and reviews of the HFA indicate that the priority to 'reduce the underlying risk factors' is the one where least progress has been made<sup>(4)</sup>.

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<sup>(1)</sup> Commission Staff Working Documents: *Overview of natural and man-made disaster risks in the EU* (SWD(2014) 134 final). *EU policies contributing to Disaster Risk Management* (SWD(2014) 133 final).

<sup>(2)</sup> UNISDR studies show that 90 % of disaster-related losses worldwide are due to these extensive disasters. (UNISDR Global Assessment Report on Disaster Risk Reduction (GAR) 2013).

<sup>(3)</sup> A deeper analysis of this issue has recently been launched. 'The Labour Market Impacts of Natural and Environmental Disasters'. ADAPT (Italy) and The Japan Institute for Labour Policy and Training. <http://moodle.adaptland.it/mod/page/view.php?id=9533>

<sup>(4)</sup> The HFA outlines five priorities for action: (1) ensure that disaster risk reduction is a national and local priority with a strong institutional basis for implementation, (2) identify, assess, and monitor disaster risks and enhance early warning, (3) use knowledge, innovation and education to build a culture of safety and resilience at all levels, (4) reduce the underlying risk factors, (5) strengthen disaster preparedness for effective response at all levels.

#### **4. A rights-based approach to disaster risk management with a special focus on the most vulnerable local communities**

4.1 Despite progress since the adoption of the HFA, DRM has not adequately incorporated a rights-based approach. This includes instances where references to the vulnerability and differential rights of certain groups have helped to aggravate their vulnerability by failing to recognise that they also have abilities. This is what happened, for example, as a consequence of simplistic perceptions of the gender-based approach. The EESC believes that an approach based on people, their rights, equality, the right to protection, but also the right to sustainable development, including environmental sustainability, should feature more prominently as principles of the post-2015 HFA. Issues pertaining to gender, rights-based approaches and vulnerable groups should be incorporated into the set of indicators used to monitor the post-2015 HFA and the accountability mechanisms established. Civil society organisations, especially those that promote and defend women's rights and gender parity or represent vulnerable groups, should be invited more often to attend and take part in DRR discussions.

4.2 Experience shows that initiatives that are local or take a local approach are more likely and better able to reach vulnerable communities. The EESC advocates the promotion of local risk management approaches that involve local civil society organisations and regularly excluded communities. This implies a shift towards local risk management systems that make it possible to establish the necessary institutional mechanisms. National and internationally supported initiatives should prioritise the funding of local risk management activities.

4.3 Recognising that it is and should be States that adopt and implement the HFA and that the success or failure of the post-2015 HFA will depend on their political will, the EESC emphasises the need to involve all local municipal bodies, councils, civil society organisations, NGOs, academic institutions, business sectors and trade union organisations in the development of DRM plans or similar instruments. The current disconnect between the local and other higher administrative tiers inhibits the capacity of the communities directly affected by a hazard to take immediate action. This is particularly important in developing countries with weak institutional structures.

4.4 Businesses and the private sector have a key role to play in DRR, not only through public-private partnerships or corporate social responsibility, but also by contributing innovation and experience and incorporating concepts of resilience, mitigation and adaptation into the entire production process. The communication refers to insurance. However, this must be combined with clearer references to the imperative need to reduce risk in order to be able to generate productive development.

4.5 Bearing in mind the particular circumstances likely to arise in each case, the EESC believes that EU internal policies and external action should offer wider scope for civil society participation in international DRM and local risk management.

4.6 The EESC would emphasise that both the formal and non-formal education sectors are effective channels to raise awareness and enable people to respond more efficiently to disasters. Civil society organisations can play an important role in this area, which is not covered in the formal curriculum.

#### **5. Towards an accountability and transparency framework for the post-2015 HFA goals and progress indicators**

5.1 The EESC generally supports the Commission communication's 'principles for the new framework' with respect to accountability and the indicators. The current HFA monitoring system is very weak and has not made it possible to measure progress properly. In fact, many EU Member States have not submitted timely and accurate data and do not have robust and reliable databases on these issues. Due to the public and political sensitivity of disasters, it is particularly necessary to establish credible and transparent accountability instruments in the area of DRR.

5.2 The EESC welcomes the peer review mechanisms set up by some Member States and believes that they should be replicated across the board as a way forward. The EESC believes that the EU needs to be more ambitious in the medium to long term when it comes to improving data collection from Member States in order to ensure that the data is comparable and accessible, not only to NGOs, but also to civil society, the media, academics, the scientific community and other interested groups.



5.3 In any event, the post-2015 HFA should develop a system of common indicators making it easier to measure the progress and compliance achieved by countries and other operators. Without going into detail, the EESC supports the efforts of civil society organisations with respect to indicators and is convinced that they should go beyond the merely technical and technocratic aspects in order to include social factors, resilience and participation<sup>(5)</sup>.

5.4 Transparency and accountability should also encourage stakeholder dialogue on DRR between official bodies, political institutions, civil society organisations, the private and business sectors academic institutions, etc.

## **6. Consistency between the agendas for development, climate change and DRR**

6.1 In a world as interconnected and as interdependent as the one we live in, it is paradoxical that it is so difficult to link international 'agendas' on issues that are, by definition, closely connected. The fact that various climate change, development and DRR initiatives are set to coincide in 2015 presents an opportunity which the EU must seize in order to promote this consistency at the international level. Enhancing consistency has many implications, inter alia, for concepts, institutions and priorities, which will have to be broached from the perspective of the experiences of the affected communities and in the knowledge that development, climate change and disaster management cannot continue to be compartmentalised. The EESC supports international efforts to define common criteria and indicators for the SDGs and the post-2015 HFA.

6.2 In view of the significant role that climate change plays in the growing frequency and intensity of hazards (especially hydrometeorological hazards), not to mention the goals that are common to DRR and CCA (climate change adaptation), coordination between the bodies that promote the development and implementation of legislation in these areas must be significantly increased.

6.3 The post-2015 HFA should spell out more clearly the links between disasters and development, which can be very diverse and complex. Well-designed development can reduce risks but can also increase them, as is often seen. Similarly, the links between climate change and disasters are complex and interdependent. The EESC agrees that concepts and strategies such as the resilience approach can be useful when it comes to addressing these interactions.

6.4 At the same time, the EESC would like to stress the need to address links between traditional DRR and the security agenda. Until now the HFA has focused mainly on natural disasters but other hazards and situations involving violence, conflict or disputes over resources point to the need to initiate this convergence. The concept of human security addresses this situation and its usefulness in this sector should be studied.

## **7. DRR financing and EU commitment**

7.1 The absence of a 'culture of prevention' means that EU internal or external policies have not prioritised DRR and risk prevention, mitigation or disaster preparedness. As the communication explains, a few programmes (DIPECHO<sup>(6)</sup>) have broken new ground. However, they have been underfunded. The EESC believes that the EU should establish indicative recommended minimum DRR funding percentages for its development and humanitarian policy, in line with the practices of other donors<sup>(7)</sup>. To this end, Member States would have to establish financial monitoring tools for DRR activities which could be incorporated in development policies and humanitarian action.

Brussels, 10 July 2014.

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

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<sup>(5)</sup> Joint Civil Society Position on a Post-2015 Framework for Disaster Risk Reduction. The document is based on the guidelines set out in the UNISDR's 'Proposed Elements for Consideration in the Post-2015 Framework for Disaster Risk Reduction' (December 2013).

<sup>(6)</sup> DIPECHO (Disaster Preparedness ECHO) is a DRR programme launched by the European Commission's DG ECHO in 1996.

<sup>(7)</sup> The following report sets out DRR financing options and experiences:  
<http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8574.pdf>

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council repealing Council Directive 93/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food'**

COM(2014) 246 final — 2014/0132 COD

(2014/C 451/26)

On 22 May 2014, the Council decided to consult the European Economic and Social Committee, under Article 114 of the TFEU, on the:

*Proposal for a Directive of the European Parliament and of the Council repealing Council Directive 93/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food.*

COM(2014) 246 final — 2014/0132 COD.

Since the Committee unreservedly endorses the contents of the proposal and has already set out its views on the subject in its opinion CES 404/2001 — 2000/0286 COD, adopted on 28 March 2001 (\*), it decided, at its 500th plenary session of 9 and 10 July 2014 (meeting of 9 July), by 185 votes to 1 with 2 abstentions, not to draw up a new opinion on the subject, but to refer to the position it had taken in the above-mentioned document.

Brussels, 9 July 2014.

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

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(\*) ESC opinion NAT/099 on the Proposal for a Regulation of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Authority, and laying down procedures in matters of food safety, 2001/C 155, page 32-38 of 29 May 2001.





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