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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

538TH EESC PLENARY SESSION, 17.10.2018-18.10.2018

Opinion of the European Economic and Social Committee on ‘Challenges and Industrial Change in the EU Aerospace Sector’

(2019/C 62/01)

Rapporteur: **Thomas KROPP**Co-rapporteur: **Enrico GIBELLIERI**

Plenary Assembly decision	15.2.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Body responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI	25.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	184/1/3
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The need to develop an **EU industrial policy for the aeronautical sector** to allow the EU aeronautical industry to compete on a level playing-field in the context of strong competition from established players (the USA in particular) as well as growing competition from emerging players (China in particular). In this context, the need to establish an **aeronautics watchtower** at EU level and to make aeronautics a key element of EU economic diplomacy and trade policy.

1.2. The challenges in relation to **skills**, including ensuring that a highly specialised ageing workforce has the opportunity to share their expertise and skills with younger employees, the need to attract more young employees to the sector with increasingly sought-after skills in both engineering and ICT, and the urgent need for existing workers to be upskilled in the field of **digitalisation**.

1.3. The need for **civil aviation research** to remain a top priority in Horizon Europe with an increased budget compared to Horizon 2020. In this context, to ensure the continuation of the successful technology initiatives to reduce the environmental impact of emissions through the launch of Clean Sky 3 and SESAR 3.

1.4. The urgent need to deploy SESAR solutions and establish the **Single European Sky (SES) after decades of discussions**. The need to invest in efficient capacity in the air and on the ground in order to facilitate aviation growth while reducing its environmental impact and increasing safety levels.

1.5. The need to strengthen the international role of the **European Aviation Safety Agency (EASA)** and the need for more performance-based EASA rules to enable more efficient deployment of new technology in a safe manner and a level playing field for EU exporters.

1.6. The need to find solutions for an **efficient post-Brexit agreement** covering: customs arrangements, regulatory frameworks, cooperation in research and deployment and labour mobility. Technical discussions covering regulations need to begin as a matter of priority, to ensure that mitigation measures are in place.

1.7. The need to progress on **EU Foreign Direct Investment (FDI) screening**, with the aim of protecting critical technologies for EU aeronautical manufacturing and MRO industries.

1.8. The need to ensure continued social dialogue between employers, employees and civil society. Furthermore, the need to **launch a sector-specific social dialogue** for the aeronautical industry under Commission Decision 98/500/EC.

2. General comments

The aeronautical industry is one of the **EU's key high-tech sectors in the global market**. The industry directly employs **500 000 people in high quality jobs** ⁽¹⁾ (1 million adding indirect jobs) and consists of an ecosystem of large and small companies covering the entire spectrum of aeronautics.

The EU aeronautical industry is a technological leader in its field and currently has a market share of about one third of the global market. The industry provides a positive contribution to the EU trade balance (**EUR 46 billion in EU exports**) ⁽²⁾.

Remit of the opinion

Defence and space are not specifically addressed in this opinion. However, it is important to note the role that the civil aeronautical industry contributes to these sectors. This includes the strategic autonomy of Europe through synergies in technologies and common decision centres with defence activities.

The strength and global leadership of the EU aeronautical industry is the result of robust strategies and productive activities. This leadership should not be taken for granted since the industry faces many challenges:

- (1) The **fierce competition** from established and emerging players who receive substantial backing from their respective governments;
- (2) The **shift in economic growth and power** towards the East, which is both an opportunity and a threat;
- (3) The near-term **operational challenges** such as Brexit, EU budgetary constraints and protectionist measures in third countries;
- (4) The need for the EU aeronautical industry to **maintain its technological leadership**, especially in lowering the environmental impact of emissions;
- (5) The lack of a coherent **EU industrial policy**;
- (6) The need for a coherent EU strategy on **Foreign Direct Investment Screening**;
- (7) The need for an increased international presence for the **European Aviation Safety Agency (EASA)**;

⁽¹⁾ Source: ASD Facts and Figures.

⁽²⁾ Source: ASD Facts and Figures.

- (8) The necessity of **boosting the competitiveness of the EU MRO sector**;
- (9) The importance of ensuring that a future workforce has the **specialist skills** needed for the sector, especially in the field of digitalisation.

Specific comments

3. Global market and challenges

3.1. The current leading position of EU industry should not be taken for granted. EU GDP as part of global GDP will see a reduction by 30 % from today's 17 % to 12 % ⁽³⁾.

3.2. Numerous countries have developed and implemented far-reaching strategies on how to position their countries, how to deploy their people, and how to secure a top position in the global value chain in the context of automatization and a shift of economic power towards the East.

3.3. Europe will face a totally different competitive situation that is full of opportunities if we succeed in maximising all our efforts and in taking bold decisions. However, it will be full of threats if we simply take our leading position for granted.

4. Support to non-EU industry by foreign governments

4.1. **US industry** (EU industry's main competitors) continues to benefit from strong public support from the US government including 34 different agencies/departments. The set of regulations, policies and tools put in place over the years by US administrations to support its civil aeronautics industry is extensive and leverages the defence sector very effectively, especially for research, technology and development (including federal budget allocations for research programmes). Other established players (Canada and Brazil) also continue to receive significant backing from their respective governments through an overall industrial strategy.

4.2. In addition to well-established players in civil aeronautics, several emerging countries (China, Indonesia, India, South Korea, the Philippines and others) are also strengthening their commitment to support the development of **national competitive aeronautics industries** in the coming years.

4.3. Among these, China has the most comprehensive strategy that includes a mix of centralised planning and state-owned enterprises. The Chinese government has identified the development of a national civil aeronautics industry as a key priority in several official (top level) documents including the 'Made in China 2025' initiative. The current Five-Year Plan of China calls for 'breakthroughs in civilian aviation engine technology' and the 'acceleration of research in large-body aircraft, helicopters, regional jets and general aviation'. It is also important to note that the Chinese airline industry is state-owned and that the Chinese National Development and Reform Commission has the ability to approve all purchases of aircraft by Chinese airlines, which is used to encourage the purchase of domestically produced jetliners such as the COMAC C919 ⁽⁴⁾. Last but not least the 'Internet Plus' plan also establishes a partnership between Chinese tech giants and traditional industries including aeronautics.

5. EU industrial strategy

5.1. The **lack of an EU industrial policy** to support the aeronautical industry, combined with a fragmented approach between EU institutions and national governments, is a key challenge in the context of the changing competitive landscape. There is a need to develop an EU industrial strategy for the EU aeronautical industry to ensure its competitiveness and continued leadership in the global civil aviation market.

5.2. This requires a **strategy and commitment at EU level** where all relevant actors at EU, national and inter-governmental levels (including the EU Commission, the EU External Action Service as well as relevant agencies such as EASA and Eurocontrol and Joint Technology Initiatives such as SESAR and Clean Sky) work together towards a common goal to support the competitiveness of the EU industry in the global civil aviation market.

⁽³⁾ Source: PWC.

⁽⁴⁾ Source: RAND, 'Chinese Investment in U.S. Aviation', 2017.

5.3. A commitment at EU level is required to provide **continuous public funding support** for this crucial sector, in particular in the field of research and innovation based on a long-term roadmap.

5.4. An **'aeronautics' watchtower** should be built at Commission level to monitor non-tariff barriers in key aeronautical regions and assess the relative competitiveness of the EU aeronautical industry.

5.5. Aeronautics should also become a key sector for **EU economic diplomacy and EU trade policy**, and the EU's voice should be strengthened at international level, for example within the International Civil Aviation Organization.

6. R & D to improve efficiency and reduce emissions

6.1. The two major European Aviation Research Programmes, **Clean Sky** (greener and more efficient aviation technologies) and **SESAR** (Air Traffic Management R&I and deployment), act as catalysts for the whole innovation chain in Europe.

6.2. Thanks to their long-term technology roadmap and financial commitment, they have proven their **efficiency** and their **added value** for both public authorities and innovation chain, mostly in (1) designing, developing, manufacturing and operating more competitive, safe and environmentally sustainable aircraft and Air Traffic Management Systems; (2) creating a large and efficient science and technology community of academic research professionals and industries, from large companies to SMEs, through all EU-28 countries and (3) delivering outstanding demonstrators with a real impact on the aircraft programmes and market.

6.3. Success stories of **Clean Sky** include, inter alia, the flight tests of the BLADE laminar wing (boasting a 50 % wing friction reduction and up to 5 % less CO₂ emissions) and Contra-Rotating Open Rotor (reducing fuel consumption and CO₂ emission by about 30 %).

6.4. Success stories of **SESAR** are best evidenced by its impactful results: when deployed, the 63 delivered SESAR solutions should offer a 34 % increase in airspace capacity and a 30 % decrease in flight time variance, meaning reduced delays on all EU flights and 95 % of flights staying within their time plan, as well as a decrease of 2,3 % in fuel burn and emissions per flight.

6.5. In the context of **Horizon Europe**, civil aviation should remain a top priority, with an increased budget compared to current funding under Horizon 2020. Research and Innovation is the lifeblood of the EU aeronautical industry and the long research cycles of the aeronautical industry require risk-sharing between the public and private sector through grant-based financing based on a long-term commitment to developing research roadmaps. This is essential for the competitiveness of the EU aeronautical industry. The two joint technology initiatives (Clean Sky and SESAR) should therefore be maintained. In the context of the Connecting Europe Facility (CEF) funding should remain a top priority to accelerate and encourage the deployment of the technologies, developed under Clean Sky and SESAR R&I.

6.6. Civil aviation has shown a track record of **reducing its environmental impact**. A new generation of aircraft typically reduces emissions by 15-20 %. The global civil aviation industry became the first in the world to agree a comprehensive approach for reducing its emissions. It is based on the 'four pillar strategy' of technology, operations, infrastructure and a global market-based measure.

6.7. Continued **EU support for research and innovation** is crucial to ensure further progress on reducing the environmental footprint of civil aviation (technological pillar) since over 70 % of all research activities are linked to environmental goals.

6.8. The **Advisory Council for Aviation Research in Europe** Flightpath 2050 has set a 2050 goal for technologies and procedures to allow a 75 % reduction in CO₂ emissions per passenger kilometre, a 90 % reduction in NO_x emissions and a 65 % reduction in the perceived noise emission of flying aircraft (these are relative to the capabilities of typical new aircraft in 2000).

6.9. Moreover, **aircraft movements should become emission-free when taxiing** and air vehicles designed and manufactured to be recyclable. Europe should also be established as a centre of excellence on sustainable alternative fuels, including those for aviation, based on a strong European energy policy.

6.10. Europe should be at the forefront of **atmospheric research** and takes the lead in the formulation of a prioritised environmental action plan and establishment of global environmental standards. While significant progress has been made under Horizon 2020, the pace of research and innovation should be increased under Horizon Europe, including electrification and hybridisation of aircraft.

7. Digitalisation

7.1. Digitalisation (including the digital infrastructure required to accommodate new automated flying platforms), automation, virtual and augmented reality technologies will also be a key priority for aeronautics research. Together with the need to continue improving the aviation safety level and the need to continue working on reducing the environmental footprint of aviation, they will set the research and innovation roadmap for SESAR3 and Clean Sky 3.

7.2. The deployment of **SESAR solutions** should be stepped up and it is crucial to establish the **SES**, in order to ensure efficient deployment within the EU.

8. European Aviation Safety Agency (EASA)

8.1. A **stronger international role for the EASA** is key for the EU aeronautical industry (including maintenance, repair and overhaul (MRO) industry) in order to match the continued strong international role played by the US Federal Aviation Administration in promoting the US aviation industry in third country markets.

8.2. EASA should be allowed to open **more offices in third countries** with a key role in promoting European safety regulations, certification standards and policies, and in ensuring that European industry can compete on a level playing-field in key export markets through day-to-day contact with third country Civil Aviation Authorities and avoiding technical barriers to validating European products in those exports markets.

8.3. **EU Bilateral Aviation Safety Agreements** with third countries should be expanded to reduce duplicated safety oversight for both type certification/initial airworthiness as well as continued airworthiness/maintenance.

8.4. Last but not least, EASA's detailed **rules should become more performance-based** relying on industry standards in order to enable safe deployment of new technology in a more efficient and faster manner. In this context, the recently agreed revision of the EASA basic regulation (Revision of Regulation (EC) No 216/2008) should be welcomed.

9. Infrastructure

9.1. The EU aeronautical industry is also benefiting from the health of the **wider EU civil aviation industry** (i.e. airlines, helicopter operators, business jet operators and other airspace users) since additional growth for airspace users results in the need for more aircraft and corresponding technology.

9.2. In this context, it is therefore essential to continue **investing in safe and cost-efficient infrastructure** on the ground as well as in the air while avoiding excessive aviation taxes.

9.3. The **EU aviation strategy** is therefore welcomed since it includes a set of tools to improve the competitiveness of the wider EU civil aviation industry including a revision of the Basic EASA Regulation, a strategy for ensuring EU leadership in the emerging market of civil Remotely Piloted Aircraft Systems and Unmanned Traffic Management Systems, as well as other proposals affecting the competitiveness of the airline industry (revision of Regulation (EC) No 868/2004 and possible revision of the EU Airport Charges Directive).

9.4. The revision of **Regulation (EC) No 1008/2008** (Common Rules for Operation of Air Services in the Community) should also be seen in this context and should ensure that the Single Market remains fit for future developments. In addition, given the recognised need for further consolidation in the EU airline industry, a balance must be found between a more consolidated airline industry and the benefits for EU consumers of a choice of airlines and effective competition.

10. Maintenance, Repair and Overhaul Services (MROs)

10.1. MROs are also an important segment of the EU aeronautical industry, contributing both to EU job creation and to exports for MRO services. Boosting the **competitiveness of the EU MRO industry** (airline MROs, independent MROs and original equipment manufacturer MROs) is therefore also crucial to enable the industry to continue to create jobs and capture new markets.

10.2. The use of **big data** and **new technologies** for MROs will also be an important element to be addressed in Research and Innovation Programmes.

11. Foreign Direct Investments (FDIs)

11.1. The **EU Commission proposal for FDI screening** (COM(2017) 487), will improve the exchange of information and impact assessment and increase transnational transparency but will leave the final decision at national level. The proposal also includes EU Commission screening on grounds of security or public order for cases that may affect projects or programmes of EU interest.

11.2. This Commission proposal should be **welcomed as a first step** since it is of the utmost importance not only in relation to foreign direct investment in the EU aeronautical industry and its supply chain but also in relation to critical technologies for EU manufacturing (automation, virtual intelligence, big data and cyber).

12. Brexit

The European aeronautics sector is **fully integrated** with many components crossing national borders several times before final assembly. The supply chain consists of many large, medium- and small-sized companies operating just-in-time principles.

The **Single Market** and **Customs Union** are critically important since they reduce administrative burden and red tape for industry, thus minimising costs.

The EU-27 and the European Parliament have clearly stated that they will **protect the integrity of the Single Market**, including the four freedoms, and the jurisdiction of the European Court of Justice and there will be no 'cherry picking' for any industry.

The UK Government has made it clear that it will be a third country as of **29 March 2019**.

12.1. A no-deal Brexit scenario must be avoided as it would be especially detrimental for the European aeronautical industry's competitiveness on a global scale and would put thousands of jobs at risk on both sides of the Channel. There is a need to find solutions for a post-Brexit agreement covering:

- Frictionless customs arrangements including export control for dual use goods
- Continued membership of EASA and ECHA (REACH)
- Civil aeronautics research: continued cooperation in joint technology initiatives
- The ability to move highly-skilled employees across borders.

Technical discussions on the regulatory environment covering EASA and ECHA need to begin, as a matter of priority, to ensure that mitigation measures are in place to minimise potential disruptions.

National governments must provide clear guidance to help their businesses prepare for all potential changes caused by Brexit, to minimise disruptions.

13. Skills

13.1. The continued success of the EU aeronautical industry is also highly dependent on its ability to **attract skilled labour**. In the context of an **ageing workforce** and **new technological challenges** (digitalisation, automation, cybersecurity, industry 4.0), this requires an overall EU strategy to develop EU education and training programmes with life-long learning and high-quality training provisions at its core.

13.2. At a national level, Member States are encouraged to promote the uptake of **STEM subjects**, particularly to girls from an early age, as well as participation in **Erasmus+** programmes.

13.3. **Flexible pathways** need to be developed between the world of work and the world of education (work-based learning, quality apprenticeships, and sector-specific training initiatives) and SMEs should receive extra support if required.

13.4. Considering these substantial specific social challenges, the EU aeronautical industry would benefit from **sectorial social dialogue at EU level** (Decision 98/500/EC) to allow the social partners to discuss specific issues.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on 'European Finance-Climate Pact'**(own-initiative opinion)**

(2019/C 62/02)

Rapporteur: **Rudy DE LEEUW**

Plenary Assembly decision	15.2.2018
Legal basis	Rule 29(2) of the Rules of Procedure
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	5.10.2018
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Plenary session No	538
Outcome of vote	172/4/1
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC is firmly committed to the United Nations 2030 Agenda for Sustainable Development and the Paris Agreement. However, our current trajectory will at best only limit the increase in temperature to 3 °C or more, which is well beyond what is stipulated in the Paris Agreement.

1.2. At the same time, Europe needs a renewed impetus and a new project, one that is based on cooperation and convergence rather than competition, and which demonstrates the tangible added value it can bring to Europeans, particularly young people. It is now imperative that we adopt a proactive European policy and provide a clear direction for the socioeconomic model that we want for today but above all for future generations.

1.3. Europe needs to prove that it can provide a favourable environment for creating high-quality, well-paid jobs that respect the environment as well as a real economy which benefits all: European employers, workers and individuals.

1.4. However, vast amounts of money are fuelling new financial bubbles instead of serving the real economy, and institutions such as the IMF tell us that a new crisis could happen, one even more devastating than in 2008 ⁽¹⁾.

1.5. The next multiannual financial framework (2021-2027) must promote economic development ⁽²⁾ and jobs ⁽³⁾ and enable the EU to achieve its objectives and contribute to the transition to a low-carbon economy by 2050.

1.6. There will be no life, no jobs and no entrepreneurship on a dead planet. Climate change is therefore an opportunity in terms of creating high-quality jobs and must be able to provide a solution beneficial to employers, workers and civil society. Delaying adaptation, or not acting at all, could substantially increase the total cost of climate change ⁽⁴⁾.

⁽¹⁾ <https://www.theguardian.com/business/2018/oct/03/world-economy-at-risk-of-another-financial-crash-says-imf>; IMF: Global Financial Stability Report October 2018

⁽²⁾ EESC opinion on the *Multiannual Financial Framework*, point 3.1.8 (adopted on 19.9.2018, not yet published in the Official Journal).

⁽³⁾ EESC, *ECO Priorities for 2018 and beyond*.

⁽⁴⁾ OECD, *The Economic Consequences of Climate Change*, 2.9.2016.

1.7. The Commission, the European Court of Auditors and the World Bank refer to similar amounts: the equivalent of EUR 1 115 billion will have to be invested each year in the EU from 2021 in order to move forward and meet the EU's 2030 targets ⁽⁵⁾. This EUR 1 115 billion includes a significant share of the current investments which should be redirected towards sustainable development (green earmarking). The cost of non-action would be EUR 190 billion per year (or 2 % of the EU GDP) ⁽⁶⁾.

1.8. As has been advocated by many economists and key political figures from civil society ⁽⁷⁾, we need to encourage and support all projects that can unite Europe's strengths in the interests of workers, businesses and all Europeans. This is the objective of a finance-climate pact for high-quality jobs.

1.9. The finance-climate pact aims to redirect the money that could bring about a new financial bubble towards the fight against climate change and the real economy. It must also receive new financing, especially for small and medium-sized enterprises. The pact must provide a new roadmap for European leadership and should be accompanied by an integrated plan (in cooperation with China and India — key players in the fight against climate change).

1.10. The EESC believes that this roadmap should cover all aspects of a policy to tackle climate change: a fair transition (measure to mitigate the effects of the change, but also to compensate for damage and loss), as well as real policies for adapting to climate change. The circular economy model should be given priority ⁽⁸⁾ as much as possible and its regulatory framework improved. Everything will need to be financed on the basis of adequate budgets to redirect current investments (green earmarking) and new sources of accessible funding.

1.11. This transition would bring the necessary transformation in the labour market and could contribute to the creation of high-quality jobs in the framework of the European Pillar of Social Rights ⁽⁹⁾.

1.12. We must support, from a social perspective, the move towards a sustainable society model and establish an action plan to ensure a fair transition so that nobody is left behind.

1.13. This transition will require major investments in research and development (R&D) and innovation in order to encourage and support innovative projects that comply with European taxonomy.

1.14. This is about not repeating the mistakes of the past (fuel subsidies and overuse of fossil fuels) and putting an end to any promotion of projects that are detrimental to the climate and/or contrary to the Paris Agreement.

1.15. To achieve the Paris Agreement goals a significant share of the investments for combating climate change should be realised by the private sector, further to the public fundings.

1.16. The pact requires the establishment of a clear and predictable European policy framework, over the longer term, with a view to ensuring planning security for investments ⁽¹⁰⁾. This framework must be accompanied by border adjustment mechanisms for products which are not subject to the same environmental and social standards.

1.17. According to the EESC, and as the Commission points out, a **unified EU classification system (taxonomy)** must be developed with a view to maintaining sustainable projects (and rejecting those that are not) and identifying areas in which investments can have the most impact. The European Parliament supports this approach and also proposes the introduction of a 'green label'. This label should be granted to investments that comply with EU taxonomy and the highest sustainability standards, with a view to ensuring the positive earmarking of investments ⁽¹¹⁾.

⁽⁵⁾ European Commission, *Impact assessment accompanying the document 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/27/EU on Energy Efficiency'*, SWD(2016) 405 final/2 of 6.12.2016, Table 22 (Scenario EUCO30 — Source: Primes model).

Court of Auditors, <https://www.euractiv.fr/section/climat/news/la-cour-des-comptes-fustige-linefficacite-de-la-politique-climat-de-lue/>.

⁽⁶⁾ M. Ciscar et al., *Climate Impacts in Europe — The JRC PESETA II Project*, 2014.

⁽⁷⁾ <https://www.pacte-climat.eu/en/the-first-signatories-of-the-call/>

⁽⁸⁾ EESC opinion on *Investing in a smart, innovative and sustainable industry* (OJ C 227, 28.6.2018, p. 70).

⁽⁹⁾ EESC opinion on the *European Pillar of Social Rights* (OJ C 125, 21.4.2017, p. 10).

⁽¹⁰⁾ EESC opinion on a *Coalition to deliver commitments of the Paris Agreement* (OJ C 389, 21.10.2016, p. 20).

⁽¹¹⁾ Report of 4 May 2018 [2018/2007(INI)] on sustainable finance, rapporteur: Molly Scott Cato.

1.18. The projects to be supported, which will be in line with the United Nations' Sustainable Development Goals and which require significant resources for innovation and R&D, will need to be enforced through a tool making it possible to visualise the various sources of financing (including the future multiannual financial framework) and based on different initiatives:

- redirecting funding towards sustainable investments through 'green earmarking' and, in this context, promoting 'green labelled' loans from the European Investment Bank (EIB);
- using quantitative easing by the European Central Bank (ECB) as a source of financing;
- increasing to 40 % the share of European Fund for Strategic Investments dedicated to combating climate change;
- the EU must show a level of ambition that will match the challenge of fight against climate change; an average 40 % of its global budget (MFF 2021-2027) must be allocated to this objective;
- increasing the corresponding share of the European Cohesion Fund over and above the current 20 %;
- using 3 % of pension and insurance funds;
- supporting businesses, particularly SMEs, in their R&D investments up to an amount of EUR 100 billion devoted to this purpose;
- respecting the financial assistance commitments made to the countries of the South which are contributing to the fight against climate change;
- introducing a clause on the 'Paris Agreement' that is effectively binding in EU trade agreements.

2. Introduction

2.1. Article 3 of the Treaty on European Union states that the EU must promote sustainable, environmentally friendly growth. The need to act on climate issues has now become a top priority, including for the EESC, and is shaping the action of governments as well as economic actors, workers and individuals. Accordingly, a far-reaching economic, social and environmental transition needs to be organised; above all, it needs to be financed ⁽¹²⁾.

2.2. The debate that has just started on the EU's future multiannual financial framework for 2021-2027 must therefore include, across the board, matters linked to the issue of climate change and should centre on the priority goal of the transition to a more sustainable world.

2.3. This transition would bring the necessary transformation in the labour market and could contribute to the creation of high-quality jobs in the framework of the European Pillar of Social Rights.

2.4. Europe needs a new project to establish its added value and prove that it can provide a favourable environment for creating high-quality, well-paid jobs as well as a real and sustainable economy which benefits all.

2.5. Europe can become part of the solution because it can stand out from other international economic actors if it tackles all three social, environmental and economic dimensions of sustainable development.

2.6. Recent IMF and OECD studies criticised the way the 2008 crisis was managed in adopting economic measures that have forced individuals, businesses and governments to undertake budget cuts.

2.7. More investment in innovation or R&D is necessary to address new socioeconomic challenges such as energy transition, the circular and collaborative economies, and automation and thus to prevent the decline of the quality of jobs.

⁽¹²⁾ EESC opinion on the *Action Plan on Sustainable Finance* (see page 73 of this Official Journal).

2.8. These financial and social crises have been compounded by a political crisis or in some countries by major political upheaval, and an ecological crisis.

2.9. Tackling climate change is a necessity but also an opportunity to reform our economies, to promote a sustainable model for growth, to combat inequality more effectively and to strengthen democracy.

3. The facts

3.1. The EESC strongly supports the UN's 2030 Agenda, which lays down a set of sustainable development goals to eradicate poverty, protect the planet, safeguard human rights and guarantee prosperity for all. The adoption of this programme marks a historic shift towards a new model that tackles economic, social and environmental disparities within a universal and integrated framework.

3.2. By 2100 the Paris Agreement aims to limit global warming 'to well below 2 °C above pre-industrial levels,' and, if possible, to pursue efforts 'to limit the temperature increase to 1.5 °C above pre-industrial levels'. However, according to the United Nations, our current trajectory will at best limit the increase in temperature to 3 °C (or more).

3.3. Climate change has very high human and financial costs, due in particular to the increase in the number of natural disasters: heat waves and rising water levels have contributed to the deaths of eight million people worldwide since the beginning of the 20th century, at a cost of USD 7 000 billion dollars ⁽¹³⁾. We are also seeing an increase in the number of climate refugees (250 million by 2050). Accordingly, the weakest are also the first victims of climate change, which increases the inequalities. According to the IMF, 'rising inequality poses risks to durable economic growth ⁽¹⁴⁾'.

3.4. In a business-as-usual scenario, the changes in climate expected by 2080 would make households across the EU EUR 190 billion worse off each year at constant prices (purely to meet the cost of insurance to cover climate damage), if no adaptation measures are taken ⁽¹⁵⁾.

3.5. While there has been progress on the issue of financing the fight against global warming and its effects, it has not been enough. Political priority must be given to sustainable finance and a sustainable economy, in particular through a clear, stable and incentive-based policy framework, which should also encourage the implementation of innovative projects with high added value and which respect the environment.

3.6. Even though Europe has yet to fully recover from the financial crisis of 2008, the IMF is already sounding the alarm and warning of the risk of a more serious and widespread crisis than that which took place in 2008 ⁽¹⁶⁾.

3.7. According to P. Larroustou and J. Jouzel, of the EUR 2 200 billion created by the European Central Bank since 2015, only 11 % has been pumped into the real economy, with 89 % fuelling speculation and a new financial bubble ⁽¹⁷⁾. In addition, the OECD points out that around 800 spending and tax-relief programmes that encourage the production or use of fossil fuels are being applied in the 35 OECD countries and six major emerging G20 economies ⁽¹⁸⁾, which profoundly contradicts the guidelines set out in the Paris Agreement.

3.8. This kind of financing, regardless of whether they are the result of speculation or of funding allocation that conflicts with the EU's objectives regarding combating climate change, has a high economic, social and environmental price tag for the whole of European society.

3.9. The European Parliament notes that the multiannual financial framework for 2014-2020 has not been able to meet existing needs. Moreover, it has not responded to a series of crises and new challenges (including agriculture, youth employment, sustainable investment and the environment). This is why this future financial framework now needs to be used to meet the major challenge of tackling climate change and through it creating high-quality jobs.

⁽¹³⁾ Study by James Daniell, Karlsruhe Institute of Technology, April 2016.

⁽¹⁴⁾ <https://blogs.imf.org/2017/02/22/the-imfs-work-on-inequality-bridging-research-and-reality/>

⁽¹⁵⁾ M. Ciscar *et al.*, Climate Impacts in Europe — The JRC PESETA II Project, 2014.

⁽¹⁶⁾ <https://www.theguardian.com/business/2018/oct/03/world-economy-at-risk-of-another-financial-crash-says-imf>; IMF: Global Financial Stability Report October 2018

⁽¹⁷⁾ *Avoiding climate and financial chaos* (P. Larroustou and J. Jouzel, ed. Odile Jacob).

⁽¹⁸⁾ OECD Companion to the Inventory of Support Measures for Fossil Fuels 2015

4. Opportunities

4.1. The leading entrepreneurs are aware of the opportunities that climate change offers. Many believe that businesses should be part of the solution and note that, increasingly, companies that have seized the opportunities arising in low-carbon sectors are finding that it is paying off.

4.2. For entrepreneurs, it is possible to create jobs and innovate while moving towards a prosperous but low-carbon economy⁽¹⁹⁾, and at the same time generating profits. This is all the more important given that 'zero carbon emissions' should be achieved by the middle of the century if the objective of keeping global warming below 2 °C is to be met.

4.3. A finance-climate pact must help change the need to respond to climate change into an opportunity to transform European industry and generate new enterprises. Substantial investments in the real economy and in research and development are therefore needed in order to create sustainable and high-quality jobs.

4.4. The overall employment rate has increased in the European Union, while unemployment has decreased as a result of the recent economic upswing. Unfortunately, long-term unemployment and the increasingly unstable nature of employment, particularly for women, as well as youth unemployment, are still very worrying. The transition to sustainable development should allow dynamic and innovative enterprises to seize all opportunities available to them and help as far as possible to improve the unemployment situation.

4.5. The European Union, together with the Member States, must therefore endeavour to develop a coordinated strategy for providing a favourable environment for creating sustainable and high-quality jobs. The Commission must explore the possibility of excluding from the calculation of debt⁽²⁰⁾ public investments which contribute to the creation of high-quality jobs and to a sustainable economy benefitting to all, enterprises and workers.

4.6. The EU encourages cooperation between Member States. It supports and evaluates their efforts — mainly through the European Semester, guidelines on employment and the monitoring of national policies (Joint Employment Report, National Reform Programmes and country-specific recommendations). However, it must also align its own policies with the aims and objectives supporting shared prosperity for European entrepreneurs, workers and individuals.

4.7. ADEME⁽²¹⁾ estimates that climate change could lead to a net increase in jobs of five to six million by 2050, while the European Commission predicts that three million jobs could be created in the renewable energy sector by 2020.

4.8. The BDI employers' confederation in Germany has indicated that it can achieve an 80 % reduction in CO₂ emissions by 2050, provided that it has EUR 50 billion available each year during the period in question.

4.9. The number of jobs in the green economy is on the rise (4,2 million full-time equivalents in 2014 compared to 2,8 million in 2000). Some sectors are doing particularly well, including the renewable energy sector (1 million new jobs since 2000, or + 182 %) and the waste management sector (from 0,8 million jobs in 2000 to 1,1 million in 2014, or + 36 %).

4.10. However, it is crucial that SMEs, as well as cooperatives and the smallest organisations present at all local levels, can also take part in sustainable projects and that funds are allocated to them as a priority. Steps must therefore be taken to ensure that access to finance is not an obstacle⁽²²⁾.

4.11. In addition, it is important to adopt a multi-level approach and to involve all relevant actors, both public and private, so as to promote and integrate the initiatives, plans and actions of networks of regions, cities and municipalities involved in the fight against climate change and the implementation of the Paris Agreement, as stated by the CoR in a recent opinion⁽²³⁾.

⁽¹⁹⁾ Paul Polman, CEO of Unilever, and Jean-Pascal Tricoire, CEO of Schneider Electric and president of the Global Compact in France, at the Business & Climate Summit: <http://www.businessclimatesummit.com/summit/2015/press-room>

⁽²⁰⁾ EESC opinion on *Funding the European Pillar of Social Rights* (OJ C 262, 25.7.2018, p. 1).

⁽²¹⁾ French Agency for the Environment and Energy Management.

⁽²²⁾ EESC opinion on the *Road from Paris* (OJ C 487, 28.12.2016, p. 24).

⁽²³⁾ CoR opinion on *Climate finance: an essential tool for the implementation of the Paris Agreement* (OJ C 54, 13.2.2018, p. 9).

4.12. Lastly, the finance-climate pact, which requires full commitment and determination in both the public and private spheres, will need to take into account the support measures proposed by the Commission, such as taxonomy (classification), the obligation for institutional investors to mainstream 'sustainability', information for investors, recalibration of banks' own funds, ensuring that businesses are more transparent when it comes to disclosing information, and EU labels (suggested by the European Parliament).

5. The different sources of funding and actions to be undertaken

Redirection (green earmarking) and new sources of funding

5.1. The European Commission and the European Court of Auditors, which refers to the same figures, agree that EUR 1 115 billion should be allocated each year to the fight against climate change and its effects.

5.2. Two types of projects should be financed ⁽²⁴⁾ with the EUR 1 115 billion for the period 2021-2030:

- on the one hand, projects that generate a return on investment and which fall within the scope of the EIB and public development banks ⁽²⁵⁾, private banks, pension and insurance funds or sovereign wealth funds;
- on the other hand, projects that require public subsidies, to be financed by European contributions.

5.3. Current financing must be reallocated in whole or in part to sustainable investments in order to 'green' the financial framework of the EU and channel the financial resources towards combating the effects of climate change. The funds concerned are as follows:

- **EIB loans**: private banks could have investments that comply with the EU taxonomy (classification) financed by the EIB;
- **monetary creation by the ECB**: pumping the money from quantitative easing into the real and sustainable economy: with 50 % of the annual quantitative easing, hundreds of billions of euros could be made available per year;
- **40 % (instead of the current share of 20 %) of the European Fund for Strategic Investments** (EIB and Commission) should be devoted to dealing with global warming and its effects, including the social and education-related dimensions thereof;
- the EU must show a level of ambition that matches the challenge of the fight against climate change: an average 40 % of its budget must be allocated to this climate objective, especially the **European Cohesion Fund**, which devotes only 20 % of its means to this fight in the budget covering the 2014-2020 period;
- in addition to this funding, 3 % of **pension and insurance fund investments** should be dedicated to the fight against global warming.

5.4. A particular effort must be made in the area of research and development and professional training: EUR 100 billion a year must be set aside for this sole purpose. The Committee will make proposals in good time to decide which instrument(s) to use in order to supplement the current and future financing required for this purpose.

Measures to be undertaken

5.5. Many financial instruments could be placed at the disposal of the fight against climate change, but funds will only be available if Europe has a coherent plan with a clear and long-term direction ⁽²⁶⁾. This plan should take into account the following factors:

5.5.1. A clear, stable and long-term policy framework, will need to be established. Security is crucial for planning and investment; nothing is more detrimental to the necessary level of involvement than the uncertainty created by constant policy changes.

⁽²⁴⁾ According to Philippe Maystadt, former president of the EIB.

⁽²⁵⁾ KfW in Germany, CDC in France, CDP in Italy, ICO in Spain.

⁽²⁶⁾ Jeffrey Sachs, EESC hearing, 18 May 2018.

5.5.2. Since January 2018, the EIB has become the largest issuer of green bonds in the world. If we want to enable the EIB to grant loans on even better terms to developers of projects under the finance-climate pact, two measures could be adopted:

- Firstly, the Juncker Plan would need to be extended to include a greater focus on this type of project, allowing the EIB to make use of the guarantee for the European Fund for Strategic Investments.
- Secondly, the EIB could receive more funding from the ECB. The EIB already has access to the ECB's asset purchase programme, but only to a very limited extent. However, given the amounts envisaged, the EIB would quickly run into difficulties with its capital ratio. It is therefore conceivable that the EIB could become the bank for sustainable development, mainly financing the energy transition, ecological mobility and innovation, and moving away from financing traditional projects which, for the time being, still account for the majority of its loans.

5.5.3. The aim should be to identify the sectors for which these funds would be the most beneficial and have the best cost-benefit ratio for the environment, the public and the economy (energy, housing, agriculture, mobility, transport, recycling, water, etc.). Although there needs to be fair access to the network, it is important to take into account the fact that some sectors are sufficiently profitable and no longer require subsidies (such as the photovoltaic sector).

5.5.4. The EIB's work should be stepped up, not only in terms of volume, but also in terms of its capacity to take on more risk. For instance, the EIB would be more useful in the fight against climate change if it were to support emerging industries, however small, rather than allocating billions of euros to the conventional photovoltaic or wind sectors, which are already largely financed by the private sector.

5.5.5. As the Commission proposes, all financing must fit into a common EU taxonomy (classification). The EESC, as the representative of civil society, should be involved in developing this classification.

5.5.6. The circular economy model should be given priority as much as possible and its regulatory framework improved. The circular economy must serve to reduce, or ultimately even, to stop the extraction of natural resources, through the recycling of objects (only 3 % of mobile phones are recycled, while other objects are not recycled at all) and precious metals. These metals, such as cobalt or lithium, which are used to manufacture the products of the future, are only available in small quantities relative to future needs, for the electrification of vehicles and storage of electricity in general, with the production of these metals being disproportionate to emerging needs.

5.5.7. Investments in the energy efficiency of buildings will also need to be encouraged. Buildings are responsible for 30 % of CO₂ emissions (especially as there is a rapid return on investment). Furthermore, it will be necessary for power lines and pipelines to be fully interconnected in order to achieve an integrated European energy market, which is linked to Africa and the Middle East.

5.5.8. In order to ensure a fair social transition, in accordance with the Paris Agreement and as advocated by the Jacques Delors Institute ⁽²⁷⁾, part of the funding will need to be allocated to an adjustment fund for regions and workers affected by the sectors in transition. In this respect, a substantial part of the European Cohesion Fund earmarked for the regions should be allocated to climate objectives and their positive socioeconomic benefits. The Transition Adjustment Fund will also need to provide support measures for retraining workers. Likewise, it will need to anticipate changes instead of being subjected to them; some of its funds should therefore go towards innovation and R&D in priority sectors.

5.5.9. In each free trade agreement, social and environmental clauses should be completed by a binding commitment to the Paris Agreement. (This would apply to all potential EU trading partners, since 195 of the 197 members of the UN have signed the Agreement).

5.5.10. To highlight the utmost political importance of this action, the budgetary and financial means set aside in this manner should be enforced through a tool, making it possible to visualise, really and transparently, the funds that are concerned.

⁽²⁷⁾ <http://institutdelors.eu/wp-content/uploads/2018/01/Pactesocialtransitionenergetique-FernandesPellerinCarlin-janvier18.pdf>

5.5.11. Furthermore, and although this does not come directly under a European finance-climate fund, the EU must respect its international political commitments (2009 UN Climate Conference), which involves mobilising USD 100 billion per year to finance the fight against climate change in Africa and the Mediterranean region by 2020.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Strategic developments in industrial policy by 2030, with a view to strengthening the competitiveness and diversity of the industrial base in Europe and focusing on long-term performance within global value chains’

(exploratory opinion requested by the Austrian Presidency)

(2019/C 62/03)

Rapporteur: **Carlos TRIAS PINTÓ**

Co-rapporteur: **Gerald KREUZER**

Referral	Austrian Presidency of the Council, 12.2.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Body responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI	25.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	158/9/4
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. Industrial policy should identify and enable opportunities for global sustainable and inclusive future growth. Nobody should be left behind.

1.2. Europe must maintain its ambition to restore the share of industrial production to previous levels, fine-tuning this objective by means of key performance indicators. Europe’s industrial policy (between DGs, Member States, regions) needs to be improved, being part of complex cross-border value chains in an increasingly globalised market. A **holistic approach** is needed to reconcile growth, climate, environmental challenges and societal problems in a **‘just transition’** design, effectively connecting national and EU drivers.

1.3. Europe *rEUnaissance* means a fully-fledged **master plan for** European industry, mainstreaming industrial policy across all EU policies, enabling industry to transform in order to make Europe the largest knowledge economy, generating industrial added value through **creativity and smart design, social innovation** and fostering **new sustainable and inclusive industrial models** (the Made in Europe brand).

1.4. If EU climate and Circular Economy policies are to create jobs in Europe, it is crucial that the key parts of the value chain enabling those policies is located in Europe. Therefore, it is important that the EU Strategy recognises the importance of value chains and addresses ambitious measures to develop these further. Rather than focusing on individual sectors, the Strategy should ensure attractive operating conditions in Europe. To ensure Europe’s continued role in the global economy, the measure of success should be the potential of individual European value chain links to be integrated into global value chains, i.e. European suppliers should be able to compete globally and not just in Europe.

1.5. Improvements in education and training for new jobs and services should also be closely interlinked with R+D+i policies and with the creation of work-based learning, extending Skills Agenda ⁽¹⁾ to key industry sectors, such as construction, steel, paper, green technologies and renewable energies, manufacturing and maritime shipping.

1.6. To ensure Europe's technological leadership, the EESC also recommends stepping up investments in game changing and disruptive technologies such as artificial intelligence and robotics, the internet of Things, data analytics, 3D printing, new and nano- materials, enhanced virtual reality, bio-economy, sustainable food, digital technologies, neurotechnologies, nano-electronics, ocean and space exploration, etc.

1.7. The **2021-2027 multiannual financial framework** must make the most specific and detailed provision possible for the additional budget resources to be allocated to each individual sector, R+D+i and cohesion policies in particular.

1.8. The EESC underlines that **institutional governance** should be enhanced, including in its impact assessment not only the economic, but also **environmental and societal** impact along the whole value chain.

1.9. To make the whole industrial value chain more sustainable, the EESC firmly supports the Commission's road map on financing sustainable growth ⁽²⁾, building a **sustainable finance taxonomy** that reorients **responsible savings to sustainable investments**, enhancing the European Strategic Investments (sound combination of the planned InvestEU Fund and private financial sources).

1.10. The EESC is again strongly supporting the **golden rule on public investment**, not only in co-financing the strategic investment projects but also in all sustainable investment projects in relation to the positive progress of the unified **EU classification system for sustainable activities** (or taxonomy), to give new development opportunities to those European countries most punished by the crisis.

1.11. **Financing instruments:** Creation of a level-playing field, provision of public funding for industrial scale projects (up to 75 % or more, if justified, of the investment cost), increased preferential loans and access to credit. Access to public grants for actions that focus on 'de-risking' intrinsically high-risk breakthrough projects.

1.12. The most productive sectors (with the highest added value) are also those in which innovation is highest. In addition, those sectors which are subject to more stringent environmental regulation are also characterised by higher **patenting** levels, arguably as a result of regulatory pressure ⁽³⁾.

1.13. A major driver of regulatory cost is the implementation of EU policies via **Delegated or Implementing Acts**. Technocratic compliance procedures without defining the most cost-effective ways to achieve the desired regulatory outcomes are slowing the innovation capacity of industry players, particularly SMEs.

1.14. **Sustainable development** and **competitiveness** must go hand in hand. The EESC demands that products standards to set up in the EU have to be met by both domestic and foreign producers and are enforceable at the border. Therefore, imports of products that do not respect environmental and social rules mean that EU industrial sectors face serious barriers in responding to societal needs and demands with respect to sustainability.

⁽¹⁾ Ongoing implementation of the Blueprint for Sectoral Cooperation on Skills.

⁽²⁾ COM(2018) 97 final.

⁽³⁾ <ftp://ftp.unibocconi.it/pub/RePEc/bcu/papers/iefewp69.pdf>

1.15. The EC should strictly monitor the proper implementation of EU Free Trade Agreements (FTAs), including simple and clear rules. Sustainability chapters in FTAs must promote implementation of ILO labour standards and the **UN Principles on Business and Human Rights** ⁽⁴⁾ establishing minimum cross-cutting conditions that cannot be substituted (rights of vulnerable people, good fiscal governance, etc.). Reciprocity in trade relations (e.g. investments, public procurement, subsidies) should be guaranteed.

1.16. An **enlarged social dialogue** at different levels is necessary to properly analyse and provide joint responses to global value chains in sustainable companies in which workers have a voice.

1.17. The EESC calls on the European Commission to establish industrial competitiveness and leadership as a top political priority and to initiate an EU Industrial Strategy Programme. It urges the Commission to publish an annual report on the results of the EU Industrial Strategy touching on all the Commission's relevant policy fields.

2. Megatrends — Only one world

2.1. Today industry is facing a deep transformation regarding the huge scope of the digital transformation and low-carbon economy. Renewable energy will replace fossil fuels, data are becoming the new dominant raw material and the internet (of things) has become the most important way to communicate. Linear production models will give way to more circular production-consumption-recycling systems, while mass production will be replaced by customised production processes. A modern industry means production and innovation in a network of closely cooperating actors from large to small and medium-sized enterprises, extending up to linked services along the value chain. Knowledge has replaced labour or capital as the most important factor. Europe's long-term industrial strategy has to integrate all these (disruptive) challenges, to enter a phase only paralleled in human history by the shift from the Palaeolithic to the Neolithic: the Infolithic ⁽⁵⁾.

2.2. **Most academic research warns that 20-50 % of jobs**, according to the sector involved, will be replaced around 2030 by technologies and robotics ⁽⁶⁾. New jobs will however be created, although with greater disparity in terms of geography, sector and skills. The challenge facing European industrial policy is to prevent the EU, its regions and citizens from being excluded.

2.3. The digital transformation is having an effect on all industry's main resources: natural and environmental, labour and capital (physical, technological and institutional). To properly manage its social effects, a new valuation of the main resources or capital stocks from which the main income streams will flow, country by country and sector by sector, is needed.

2.4. Large sections of Europe's industry are more and more dependent on external exports or are part of complex cross-border value chains, in an increasingly globalised market. At the same time, the EU is confronted with the dissemination of 'America First'-policies, resulting in a growing risk of trade wars from which there would be no winners, only losers. They are also a threat to the post-war multilateral economic order. Finally, there is the rise of centralised state-led economic models.

⁽⁴⁾ European Parliament resolution of 4 October 2018 on 'the EU's input to a UN Binding Instrument on transnational corporations and other business enterprises with transnational characteristics with respect to human rights (2018/2763(RSP)' <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0382&format=XML&language=EN>

⁽⁵⁾ 'Lithic': from 'lysis', to break down (see 'electro-lysis'), to distribute. Distributed information.

⁽⁶⁾ Acemoglu, D. and P. Restrepo (2017), 'Robots and jobs: evidence from US labour markets', NBER Working Paper no. 23285. Arntz, M. T. Gregory and U. Zierahn (2016), 'The risk of automation for jobs in OECD countries: a comparative analysis', OECD Social, Employment and Migration Working Papers No 189.

2.5. A fair transition towards a more sustainable industry towards 2050⁽⁷⁾ requires Europe to face the following challenges:

- Continued climate change and deteriorating environmental conditions
- The depletion of the earth's natural resources and biodiversity loss
- The digitalisation of most industrial sectors will blur the borders between industries and between physical and the virtual world, open sectors to new entrants with a reduction of manual work as a consequence
- Social inequalities, including growing polarisation on labour markets and youth unemployment, people left behind in regions with declining industries
- Public loss of trust in government, the political establishment, and the EU and its governance structures, as well as other institutions
- Demographic changes: ageing, migration, strong growth of the world population and new environmental awareness
- Concentration of the population in megacities, with integration of infrastructure networks, artificial intelligence, machine and deep learning
- Shift in consumer preferences (changing consumer behaviour, more environmental awareness, regulation of consumer behaviour by public authorities).

A long-term vision should simultaneously contemplate all these trends. Understanding the challenges and how to transform them into opportunities will be a major priority for Europe's industrial policy. The complex design of the responses requires the involvement of all relevant stakeholders, with a shared responsibility. Its success depends on the efforts and cooperation of the EU institutions, Member States, regions and most importantly on the active role of industry itself.

3. The transition: an EU committed to maintaining competitiveness through sustainability

3.1. In order to tackle the multiple and unprecedented challenges industry has to face, Europe has opted to boost its competitiveness by enhancing the quality of its products and services, implementing a strategy of differentiation by regions and industrial sectors with the aim of generating growth and employment through the value added by **creativity and smart design, social innovation and new sustainable and inclusive industrial models**.

3.2. Some encouraging indicators are already emerging in Europe, such as its 40 % share of world patents in renewable technologies. New and serious mismatches are however occurring between educational and training functions, business initiatives and the new skills needed by industry.

3.3. Another major brake on industrial development across Europe can be explained by the **fragmented nature** of European Union policies, in both geographical and sectoral terms. Moving away from 28 different policies for each industrial sector towards a global focus for EU industrial policy requires synchronisation with measures to complete EMU (fiscal and banking union in particular), the development of a Europe-wide market for venture capital and the adoption of a sustainable financing model, ensuring balanced and harmonised growth throughout the European Union.

3.4. Understanding whether increased green innovation is enhancing innovation in other sectors, and also its effects on industrial input prices, is an important step towards assessing the effects of environmental policy on countries' competitiveness as well as to better planning environmental policy.

3.5. It also requires a strong focus on the potential of SMEs in branches that provide high-level innovative knowledge-based services. Innovation in Europe typically often emerges from small sized structures and the export of high level knowledge based services has a pioneering role for the market positioning of related industries.

⁽⁷⁾ See SC/047 OJ C 81 of 2.3.2018, p. 44.

3.6. If Europe is to win back leadership of the knowledge industry or of intangible capital, industrial cooperation and coordination between Member States is key when developing European innovation. The EESC wishes to stress the importance of Common European Interest, innovative public private partnerships and of regional cooperation throughout smart specialisation strategies.

4. Global and holistic strategy

4.1. Economies that are more intensely involved in global value chains (GVCs) are better at creating added value. The EU should consequently oppose neo-protectionism with greater determination, as it could aggravate the recent blockage in the growth of involvement in such chains.

4.2. There is an opportunity to link **global value chains** with the **local economic fabric**, fostering the development of local economies, together with disruptive technologies (block chain, 3D printers, robotics, the internet of Things, energy storage, renewable energy, big data, genetic biology, nanotechnology, etc.), with an inclusive focus: they can also pave the way for local production with lower-cost inputs, especially if the prosumer profile is adopted (and well-regulated), promoting the development of productive and inclusive micro-businesses, in complementarity with the major global value chains.

4.3. The new paradigm of **sustainability as a factor for competitiveness**, geared to a long-term approach, aims to mobilise, align and secure sufficient public and private resources to achieve the objectives set out in the EU's policies. Providing sufficient resources is crucial to ensuring fair, balanced and inclusive transformation, in which no-one is left behind or excluded from the playing field and in which public interests such as consumer protection, health, safety and quality remain high priorities.

4.4. European industry's sectoral initiatives and alliances to shape the **New Skills Agenda** and compile a catalogue of well-structured initiatives to strengthen or adjust existing programmes (Erasmus+ the New European Agenda for Culture, etc.) and implement new ones must reach the EU-27 as a whole as soon as possible, ensuring geographical diversity and the close involvement of local authorities.

4.5. At the same time, the EESC strongly backs the push for **multistakeholder dialogue** forums, the joint development of innovative strategies and pilot schemes of illustrative value, joint experimentation, exchange of best practice and a willingness to follow up and evaluate projects in detail. It also points out that all actors in the industrial value chain must be brought in, as must consumers. The High-Level Industrial Roundtable, the High Level Group for Energy-Intensive Industries and the High-Level Group on Competitiveness and Growth should be mentioned in this regard.

4.6. It is essential to improve the EU's capacity to invest and to close the gap between the formulation of sector policies and the financial investment made, by increasing allocations to the EFSI 2.0 and the investment-related structural funds in order to reach regions and populations that have fallen behind during the years of crisis, and channelling the EU's recent external surplus and that of the public authorities into investment that modernises our industrial infrastructure and thus contributes to an increase in productivity and economic growth.

5. Institutional EU industry governance

5.1. Long-term EU action plans (EU2020, climate plans, etc.) should be mirrored by industrial action plans. Creating synergies between different policy initiatives (circular economy, innovation, transport policy, trade, skills, regional policy) would definitively contribute to maximising their impact.

5.2. **Transparency** is a decisive factor in ensuring the success of this process. Industry as a whole must '**act and communicate**' by providing high-quality information (relevant, verifiable and comparable) to allow precise measurement of financial and non-financial impacts throughout a product's global value chain.

5.3. The Sustainable Development Goals (17 SDGs and 169 related targets) and the Paris agreement on climate change serve as a pointer towards the common good, but there is an urgent need to adapt and extend indicators by means of a common methodology combining quantitative and qualitative parameters and monetising externalities. The new set of indicators must include those touching on the global value change dimension, reflecting the EU's values.

5.4. The EESC calls for **codes of conduct** to be introduced for the internationalised segments of the European product or service value chain, as is the case of sustainable food, many of which remain beyond legal governance. It also calls for closer market surveillance and for the introduction of deterrents or penalties for practices harmful to sustainability, such as planned obsolescence.

5.5. Strengthened **Responsible Research and Innovation** as part of a bottom-up approach. More accurate prediction of specific sectors, region by region, and matching of investment with the EU's strategic objectives for 2030 and perspectives for 2050 ⁽⁸⁾. The EU should also guarantee that the first application of publicly-funded R & D must take place inside the EU. The 3 % -objective for R & D investments — should finally be achieved (currently only 1,9 %, lower than China's 2,2 %). Disruptive technologies need to be accompanied by roadmaps that address the challenges and conditions related to their uptake (including the economic, regulatory and social impact).

5.6. The **2021-2027 multiannual financial framework** must make the most specific and detailed provision or the additional budget resources to be allocated to each individual sector, R+D+i and cohesion policies in particular. Public support should be increased at all stages of the innovation cycle, including support to start-ups, demonstrators and pilots, collaborative RTD projects, technology diffusion, etc.

5.7. The EU capital markets union and industrial development should allow public and private savings to be mobilised via secure pathways ranging from socially responsible investment (SRI) to corporate social responsibility (CSR). EMAS certification could also optimise and balance financial yields with vectors for sustainability.

5.8. A fair policy transition by 2030 means not only innovating for the people and investing in jobs for the workers but also **innovating with the people and with the workers**, getting them into decent new jobs. In this regard, The EESC underlines that manufacturing must remain technology-neutral.

6. Gaining ambition in the action plan for European industry

6.1. Building a learning society is a basic condition for innovative and competitive industry. Europe cannot compete with emerging economies on the basis of wages; it has to be smarter. Skills are also key for employees not only to increase their employability but also for job security, social integration and better opportunities in life, investing in the permanent up- and re-skilling of workers, the promotion of quality education, training and professional development throughout the working life. A more ambitious 'New skills agenda for Europe' is needed, reviewing the European Key Competences Framework for assuring that people acquire the knowledge and skills that industry requires to strengthen Europe's economy resilience as well as promoting sustainable development (target 4 of the UN SDGs).

6.2. Improved knowledge transfer mechanisms between university + research centres and industrial sectors + their employees.

6.3. Quite often SMEs are the pioneers in the development of high-level innovative goods and services, but they often lack the means to bring these innovations to a larger market. In line with the 2030 EU industrial policy priorities, an extensive range of possible stimuli and benefits harnessing the strength of the rewards-based pan-European public framework is needed, especially geared to SMEs, but also including the liberal professions as pioneers in provision and export of innovative high-level knowledge-based services:

⁽⁸⁾ As set out in EESC opinion SC/047 OJ C 81, 2.3.2018, p. 44.

- Strategic public procurement is an important lever of industrial policy. Its potential should be fully exploited by integrating innovative, green and social criteria in public tenders instead of just looking for the lowest price. The EU should support authorities in this respect by giving guidance, setting up a helpdesk, supporting the planning of large infrastructure projects, and enhancing the exchange of best practices
- Support for internationalisation
- A sandbox for multistakeholder experimentation, support for prior validation of innovation solutions
- Clustering (sectoral, horizontal and vertical) and start-up incubators, boosting links between industrial actors in order to share and exchange resources
- Specialised, high added value mentoring, regular meetings between start-ups and established businesses in the sector to liaise on plans and initiatives
- Tax benefits and public guarantees to support investments
- etc.

6.4. Stimulating knowledge and consolidation of the **new sustainable economic models**⁽⁹⁾ boosting **social innovation** (new people-centred ways of meeting society's needs) as a result of applying emerging methods.

6.5. Special attention has to be given to less developed and industrial transition regions. **Local development** agencies and the range of tools they have must serve as motors for the creation of 'microclimates' or 'ecosystems' that bring together and catalyse the growing synergies between manufacturing and services, starting with the needs of individual people and of areas.

6.6. The role of **international trade** is crucial to meet the challenges of sustainable industry. Review and improvement of preferential free trade treaties and agreements (from GATT to TTIP), introducing a degree of conditionality tied to sustainability commitments. Establishing red lines: legal and fiscal governance, resolution of off shore differences, minimum social and environmental thresholds. Reciprocity in trade relations (e.g. investments, public procurement, subsidies) should be guaranteed.

6.7. Creation of a sectoral agenda for **balanced management of the transition** towards a low-carbon circular economy: setting sector and geographical area targets, introducing roadmaps reflecting real circumstances, the impact of the cost of energy and other inputs.

6.8. Upgrading industry for the digital age will transform European industry into a highly information- and knowledge-intensive manufacturing system. Therefore the EESC wishes to stress the following priorities:

- Full promotion of the use of information technologies in tackling societal challenges
- Developing an EU-wide 'high performance' digital infrastructure
- Address the large disparities in digitisation that exist between regions and between large and small companies
- Accelerate the development of ICT standards
- Address the social dimension of digitisation: impact on quality and quantity of jobs, regulating the sharing economy to prevent unfair competition
- Digital intelligence should be increased at all professional levels; digital skills should be promoted at all levels of education (from school to lifelong learning)
- Defining new rules for taxing the digital economy
- Ensuring cyber security.

⁽⁹⁾ See EESC exploratory opinion SC/048. OJ C 81, 2.3.2018, p. 57.

6.9. Secure, sufficient and sustainable energy are key priorities for industry and society. Renewable power needs to be available at a competitive price. This will also require huge investments in smart grids and interconnectivity as well as in breakthrough technologies in energy storage. Smart Carbon Usage will also help reuse the waste carbon and hydrogen, which is currently burnt, to generate power, to produce synthetic fuels and chemicals. The use of these products could significantly accelerate overall CO₂ reduction in the combined steel/chemicals/transport sector. These synthetic fuels or feedstocks should be promoted in the Renewable Energy Directive.

6.10. The EESC wishes to stress the importance of Action plans for sectors and value chains with a strong growth potential, for the structural upgrading of traditional industries, and for supporting decarbonisation in the energy-intensive industries.

6.11. Industrial policy will have to pay special attention to the transport sector which is on the brink of a completely new paradigm as many technological disruptions are taking place at the same time: electrification, digitalisation of production, connected and automated cars, integration of private and collective transport.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

538TH EESC PLENARY SESSION, 17.10.2018-18.10.2018

Opinion of the European Economic and Social Committee on (a) Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law

(COM(2018) 239 final — 2018/0113 (COD))

and on (b) Proposal for a Directive amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions

*(COM(2018) 241 final — 2018/0114 (COD))**(2019/C 62/04)*Rapporteur: **Dimitris DIMITRIADIS**Co-rapporteur: **Norbert KLUGE**

Referral	(a) European Parliament, 28.5.2018 (a) Council, 30.5.2018 (b) European Parliament, 28.5.2018 (b) Council, 29.5.2018
Legal basis	(a) Article 50(1) and points (b), (c), (f) and (g) of Article 50 (2) of the TFEU (b) Article 50(1) and (2) TFEU
Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	2.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	190/2/1

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the Commission's proposals, which constitute a comprehensive approach aiming to balance and protect the legitimate interests and needs of all stakeholders, SMEs, minority shareholders, creditors and employees.

1.2. At the same time, the objective of a Single Market without internal borders for companies must be reconciled with other objectives of European integration such as social protection embedded in Art. 3 (3) TEU, Art. 9 and 151 TFEU, the European Pillar of Social Rights. The EESC is of the opinion that the recent legal proposal on company mobility builds a good opportunity to initiate a further debate about the requirements and efficiency of European company law in the digital age. Thereby, the perspectives of all stakeholders should be viewed, such as employees and the society as a whole. This makes the desired development towards creating sustainable companies as a competitive advantage of the EU.

1.3. The EESC supports the proposals that enhance the international competitiveness of SMEs, reduce cost, harmonise and simplify processes for registration, filing of company changes and conversions. It believes that guidance by the Commission to the Member States on transposition of the directives is useful.

1.4. The EESC is against loopholes enabling letter box companies to abuse legislation for fraud, tax evasion, money laundering, reduction of labour standards or social protection and increasing unfair competition. It urges the authorities involved to detect and punish fraudulent practices. The EESC supports the limitation of choice of the Member State of registration to the one with which the company has a genuine link.

1.5. The EESC supports transparency, security and legal certainty. It emphasises the significance of efficient identity verification, which must be compulsory for the formation of companies and in any event should take place prior to their registration. Member States should fully comply with the EU standards or apply equivalent standards for efficient identity verification and reliable information to include full standards for beneficial ownership.

1.6. The EESC believes that the submission of scanned copies of passports, ID cards or power of attorney should not be acceptable and will undermine legal certainty. Power of attorney forms should be public documents and should be properly checked before filing information. Legal persons registered in the national registries should use online registration and filing tools, if they are represented by their legal representative, who is a natural person and not a holding company.

1.7. The EESC welcomes the 'once-only principle', so that SMEs will avoid multiple registration and multiple official publications while at the same time national registers ensure the reliability and trustworthiness of documents and information they publish.

1.8. The EESC stresses the importance of the cost factor for micro SMEs and SMEs, since they have neither the capacity nor the necessary instruments to cope with the digital society. Easy registration and cross-border mobility will assist them to fully benefit from the Digital Single Market and alleviate their administrative burden. The EESC supports the initiative that documents and information issued by business registers should be equivalent to 'true copies'. However, the actual administrative costs to be paid at the commercial register should be made transparent, reasonable and should not affect accessibility.

1.9. The EESC believes that there should be free and easy cross-border access to business registers in order to confirm company information, e.g. for disqualification of its directors, to allow the control of company information and to reduce cross-border fraud.

1.10. The EESC appreciates that the proposal of the Commission expressly recognises the role the notary plays in many Member States in ensuring legal certainty, providing legal advice and preventing fraud and abuse in an increasingly digitalised economic environment. The EESC believes in particular that the prevention of fraud and abuse does not hinder economic activity but, on the contrary, is a pre-condition for a fair and transparent EU Single Market in which micro SMEs have equal opportunities and can compete for customers in a fair and enabling environment by offering the best products and services to the benefit of all market participants.

1.11. The EESC supports the Commission's proposal to facilitate cross-border mobility of companies, which sets clear conditions through secondary legislation. However, as the Court of Justice of the European Union has emphasised in its case law, it should be made clear that the purpose of a company to enjoy the benefit of a more favourable legislation does not, in itself, constitute abuse of the freedom of establishment. Company mobility will facilitate employment in the EU as a whole. However, the detrimental effects of a conversion, division or merger on local and regional labour markets should be taken into account as well.

1.12. The EESC suggests that the Commission pays attention to the divergences between cross-border merger Directive 2005/56/EC and the proposed procedures on cross-border conversions and divisions with a view to possible consequences for their effectiveness and attractiveness.

1.13. The EESC believes that the new procedure for the transfer of company seat (cross-border conversion) will establish legal certainty through its *ex-ante* control in the Member State of origin and in the Member State of destination, which, in the latter case, should be limited to review its requirements for the connection of a converted company to its national legal order. It also believes that a general clause against abuse of the right of establishment would be useful.

1.14. The EESC supports the Commission's proposal in taking into account the fact that conversions, mergers and divisions can be used fraudulently; however, it remains unclear what an 'artificial arrangement' is. Therefore, the EESC suggests that in order to elucidate the expression 'artificial arrangement' it is necessary that criteria or indicators are established which point out fraudulent practices or undue tax advantages which hinder legal certainty, fair competition and social protection.

1.15. The EESC welcomes the exemption of small and micro-companies from an evaluation by an independent expert, since the cost for an independent expert report would overburden them. It believes that this report should be only for large companies wishing to engage in cross-border conversions, divisions or mergers.

1.16. The EESC welcomes the intention of the Commission to protect existing workers' participation rights. However, it would like to see the role of European Works Councils enhanced in the event of large company transformations according to Directive 2009/38/EC.

1.17. The EESC welcomes the introduction of harmonised rules for the protection of minority shareholders and creditors, which did not exist in Directive 2005/56/EC.

1.18. The EESC stresses the need for all digital tools and processes for the purposes of these proposals to be fully accessible, especially to people with visual disabilities.

2. The Commission proposals

2.1. The Commission has put forward a comprehensive set of measures ⁽¹⁾, ⁽²⁾ for fair, enabling and modern company law rules in the EU.

2.2. Currently EU company law ⁽³⁾ includes certain elements of digitalisation, such as the obligation for Member States to **make available online information about limited liability companies**. However, these requirements are limited and lack precision, leading to a very diverse implementation at national level.

2.3. The proposal ⁽⁴⁾ aims to **provide more digital solutions for companies in the Single Market and more equal opportunities for companies** in the EU while ensuring that Member States have the necessary flexibility to adjust their national systems and to maintain their legal traditions. They should enable and promote the use of digital tools and processes in company law without disruption, allowing Member States to transfer their existing systems of *ex-ante* control into the digital age.

2.4. The overall objective of this proposal is to ensure the smooth functioning of the Single Market for the whole duration of a **company's life-cycle** when interacting with authorities concerning company and branch registration and filing of information, covering the entire EU territory.

2.5. The **freedom of establishment** plays a crucial role in the development of the Single Market as it allows corporate entities to pursue economic activities in other Member States on a stable basis. In practice, the exercise of this freedom by companies remains difficult, in particular for SMEs, as recognised by the 2015 Single Market Strategy ⁽⁵⁾. However, the legal uncertainty, partial inadequacy and also the lack of rules governing certain cross-border operations of companies means that **there is no clear framework** to ensure effective protection of these stakeholders.

⁽¹⁾ COM(2018) 239 final,

⁽²⁾ COM(2018) 241 final

⁽³⁾ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

⁽⁴⁾ COM(2018) 239 final.

⁽⁵⁾ COM(2015) 550 final.

2.6. A cross-border conversion offers an efficient solution for companies to **move to another Member State without losing their legal personality or having to re-negotiate** their business contracts. The Court of Justice of the European Union (ECJ) has considered that the freedom of establishment enshrined in Article 49 TFEU entails the right, for companies established in a Member State, to transfer their seat to another Member State through a cross-border conversion without losing their legal personality⁽⁶⁾. In its recent *Polbud*⁽⁷⁾ judgment, the ECJ confirmed the right of companies to carry out cross-border conversions on the basis of the freedom of establishment.

2.7. In line with the ECJ rulings⁽⁸⁾, the main objectives of the harmonised rules for cross-border conversions⁽⁹⁾ are two-fold:

- enabling companies, particularly micro and small, to convert cross-border in an orderly, efficient and effective manner;
- protecting the most affected stakeholders such as employees, creditors and shareholders in a suitable and proportionate manner.

2.8. The proposal also provides harmonised rules for protection of creditors and shareholders. The company would need to provide the envisaged protection of creditors and shareholders in the draft terms of the cross-border conversion. The rules also complement recent initiatives to strengthen the rules on posted workers and the fight against tax evasion and fraud as well as the Commission's proposal on a European Labour Authority.

3. General comments

3.1. Directive (EU) 2017/1132 of the European Parliament and of the Council⁽¹⁰⁾ codifies existing directives on EU company law. The directive entered into force on 20 July 2017 and before a year had passed, the European Commission submitted new proposals for the modernisation of EU company law.

3.2. The EESC welcomes these initiatives of the European Commission, as well as the common agreement between the European institutions and the Member States that digitalisation must proceed in order to fulfil the 2015 Digital Single Market Strategy⁽¹¹⁾ and the 2016 e-Government Action Plan⁽¹²⁾.

3.3. The European Commission's proposals to amend Directive (EU) 2017/1132 take the necessary steps to put EU companies on a par with the companies of other industrialised states with a strong digital tradition, like the US, Canada, and Australia. Companies need to operate in a certain legal and administrative environment which is adapted to face the new economic and social challenges of a globalised and digital world, while also pursuing other legitimate public interests such as the protection of employees, creditors and minority shareholders and providing authorities with all necessary safeguards to combat fraud or abuse, such as the transfer of fiscal data in the framework of administrative cooperation⁽¹³⁾, and to ensure the reliability and trustworthiness of documents and information contained within national registers.

3.4. However, certain amendments must be made in order to alleviate the administrative burden and cost for the implementation of the proposed initiatives for micro or small and medium-sized enterprises.

3.5. *Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law — COM (2018) 239 final*

3.5.1. The EESC welcomes this legislative proposal⁽¹⁴⁾ to ensure the smooth functioning of the EU Single Market for the whole duration of a company's life-cycle when interacting with authorities concerning company and branch registration and filing of information.

⁽⁶⁾ Cartesio, C-210/06, EU:C:2008:723, paragraphs 109 to 112; VALE, C-378/10, EU:C:2012:440, paragraph 32.

⁽⁷⁾ *Polbud* — Wykonawstwo, Case C-106/16, ECLI:EU:C:2017:804.

⁽⁸⁾ Please see footnotes 6 and 7.

⁽⁹⁾ COM(2018) 241 final.

⁽¹⁰⁾ OJ L 169, 30.6.2017, p. 46.

⁽¹¹⁾ COM(2015) 192 final.

⁽¹²⁾ COM(2016) 179 final.

⁽¹³⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

⁽¹⁴⁾ COM(2018) 239 final.

3.5.2. The EESC considers that digitalisation of company law is a tool for honest, transparent and efficient processes. It is not an end in itself but must serve the interests of businesses, in particular micro SMEs. Therefore, the legislative proposal on the use of digital tools and processes in company law should implement the aforementioned key features of a modern EU company law in the digital age, namely legal certainty and prevention of abuse, reliable information to include full standards for beneficial ownership, preventive controls and transparent corporate structures through reliable business registers. Only under these conditions can the full potential of digitalisation be tapped and micro SMEs benefit from a 'digital level playing field' in order to create growth and jobs in the EU.

3.5.3. The EESC welcomes the recognition and proposed elimination by the European Commission of the existence of obstacles creating unnecessary administrative burden and cost to entrepreneurs who wish to set up a new business or to expand their business by registering their branches. The obstacles to be removed are:

- (a) Online company or branch registration is allowed, prohibited or imposed by national law causing a diversified picture, which is complex for SMEs ⁽¹⁵⁾.
- (b) Multiple publication of company data and filing of branch accounts in national gazettes in many Member States, where branches exist.
- (c) Diversified conditions under which third parties (investors, citizens, other companies) **access company information in the national registers** (which information is supplied free of charge and which under payment).

3.5.4. The EESC considers that **furthering digitalisation** is very important since:

- (a) Online registration processes are generally cheaper, quicker and more efficient than those where the applications are made in person and on paper ⁽¹⁶⁾.
- (b) The initiative is fully coherent with and will build on existing digital elements of EU company law, in particular on the Business Registers Interconnection System (BRIS), which is based on legal obligations set out by Directive 2012/17/EU ⁽¹⁷⁾ and the Commission Implementing Regulation (EU) 2015/884 ⁽¹⁸⁾.
- (c) The current proposal will complement the Commission Proposal for a Regulation on the establishment of a Single Digital Gateway, which covers the online general registration of business activity except for the constitution of limited liability companies. This proposal constitutes a 'lex specialis' in relation to the Single Digital Gateway ⁽¹⁹⁾.

3.5.5. **Concerns about fraud or abuse**, especially with letterbox companies, should not hinder support for the proposal for various reasons. These concerns are left to the Member States to address by regulating the conditions under which companies are set up, including mandatory judicial, notarial and/or administrative control of the company statutes ⁽²⁰⁾. The European Union has already adopted a number of measures to counteract corporate tax avoidance with the mandatory disclosure by intermediaries for tax planning schemes, the transfer of fiscal data in the framework of administrative cooperation ⁽²¹⁾, as well as the mandatory recognition of e-IDAS compliant electronic identification means of Union citizens issued in another Member State.

3.5.6. The EESC supports, as an ultimate safeguard to avoid fraud, the provision that allows Member States to require the physical presence of relevant persons before a competent authority but **only** where justified by an overriding reason of public interest. The EESC believes that this digital procedure should not be used by holding companies or in the case of representatives with power of attorney that could disguise the actual interested party and cautions against 'identity theft'.

⁽¹⁵⁾ COM(2018) 241, p. 3.

⁽¹⁶⁾ COM(2018) 241, p. 5.

⁽¹⁷⁾ OJ L 156, 16.6.2012, p. 1.

⁽¹⁸⁾ OJ L 144, 10.6.2015, p. 1.

⁽¹⁹⁾ COM(2017) 256 final.

⁽²⁰⁾ Article 10 of the codified company law Directive (EU) 2017/1132.

⁽²¹⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

3.5.7. The EESC appreciates that the proposal of the European Commission expressly recognises the role the notary plays in many Member States in ensuring legal certainty, providing legal advice and preventing fraud and abuse in an increasingly digitalised economic environment. The EESC believes in particular that the prevention of fraud and abuse does not hinder economic activity but, on the contrary, is a pre-condition for a fair and transparent EU Single Market in which micro SMEs have equal opportunities and can compete for customers in a fair and enabling environment by offering the best products and services to the benefit of all market participants.

To ensure legal certainty and avoid fraud, Member States should be allowed to provide for preventive controls by competent authorities and/or notaries throughout the entire lifecycle of companies, including where templates are used, provided that the procedure may be carried out fully online. Online submission of documents and the automatic exchange of extracts from the business registers shall not affect the requirements according to the national law in the registration State as to the form and accuracy of the submitted documents.

3.5.8. The EESC therefore welcomes the European Commission's proposal to facilitate digitalisation in company law based on the 'once only' principle, which will work on the basis of mutual trust between Member States still applying their national requirements for the formation of a company.

3.6. *Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions — COM(2018) 241 final*

3.6.1. The proposal aims to establish clear rules and adjust company law to cross-border mobility of companies in the EU. The proposal strikes a careful balance between, on the one hand, specific rules and procedures on cross-border company operations that aim to exploit the potential of the Single Market and, on the other hand, the protection against abuse of all stakeholders affected by company affairs, namely employees, creditors and minority shareholders.

3.6.2. The EESC supports the EU cross-border conversions⁽²²⁾ and the incorporation by the Commission in its proposal of the judgment by the Court of Justice of the EU issued in 2017 on the *Polbud* case⁽²³⁾. In *Polbud*, the Court ruled that a national rule which imposes mandatory liquidation as a prerequisite of cross-border transfer of a company is an unjustified and disproportionate restriction and thus incompatible with the freedom of establishment. The general obligation to implement a liquidation procedure imposed by the State amounts to establishing a general presumption of the existence of abuse; such legislation is therefore disproportionate. The transfer of the registered office of such a company, when there is no change in the location of its real head office, falls within the scope of the freedom of establishment protected by EU law. Therefore the ECJ reconfirmed the right of companies to transfer only their registered office, without the real head office, from one Member State to another, even though that company conducts its main, if not entire, business in the first Member State. The purpose of *Polbud* to enjoy the benefit of a more favourable legislation does not, in itself, constitute abuse of the freedom of establishment.

3.6.3. The EESC supports in principle the establishment of a procedure for making such conversions possible and the adoption of substantive conditions in order to stop the legal uncertainty of diversified national rules which negatively affects companies, stakeholders and Member States. National laws, where they exist, are often incompatible or difficult to combine with one other. Moreover, more than half of the Member States do not allow cross-border conversions. SMEs are in particular negatively impacted since they often lack resources to perform cross-border procedures through costly and complicated alternative methods.

⁽²²⁾ An operation whereby a company formed and registered in accordance with the law of a Member State converts into another company formed and registered in accordance with the law of another Member State retaining its legal personality and without being wound up or going into liquidation.

⁽²³⁾ Case C-106/16. ECLI:EU:C:2017:804. *Polbud* was a company established in Poland which decided to transfer is the company's registered office to Luxembourg, without a change in the location of the real head office of the company. The opening of a liquidation procedure was recorded in the Polish commercial register and a liquidator was appointed. In 2013 the registered office of *Polbud* was transferred to Luxembourg. *Polbud* then became 'Consoil Geotechnik Sàrl', a company under Luxembourg law. Further, *Polbud* lodged an application at the Polish registry court for its removal from the Polish commercial register. The registry court refused the application for removal. *Polbud* brought an action against that decision. The Supreme Court of Poland, before which an appeal has been brought, first asks the Court of Justice whether freedom of establishment is applicable to the transfer of only the registered office of a company incorporated under the law of one Member State to the territory of another Member State, where that company is converted to a company under the law of that other Member State, when there is no change of location of the real head office of that company. See also <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-10/cp170112en.pdf>

3.6.4. The procedure begins with the competent authority of the *departure* Member State, which issues a *pre-conversion certificate* in one month; or, in the event of concerns, the authority proceeds with an in-depth examination for one more month. The procedure ends when the *destination* Member State, which in the light of all relevant facts and information registers the converted company, if the company fulfils its legislation on *registration and workers' protection*. Communication between competent authorities will be facilitated through the system of interconnection of business registers (BRIS). Concerns about worker participation are addressed through their right to be informed and consulted in due time by the company. Protection of workers may also be confirmed by the authority of the destination Member State. An important role is played by the European Works Councils.

3.6.5. The EESC would like to express its reservations about whether a lengthy and costly procedure fulfils the criteria regarding the exercise of the freedom of establishment in another Member State and is compatible with the judgment of the Court of Justice of the EU in Case C-106/16, *Polbud*. It is important to emphasise that the Court interpreted Article 54 of the Treaty of the Functioning of the EU and applied the general principle of proportionality. Thus the right of a company for cross-border conversion derives from the Treaty itself and the Member States (and the EU institutions) must be careful not to infringe it. Therefore the EESC supports the procedure for the transfer of company seat (cross-border conversion) in the departure Member State but recommends that the procedure in the destination Member State (Article 86p) be limited to an *ex-ante* control of its requirements for the connection of a converted company to its national legal order⁽²⁴⁾. There should be, however, a general clause against abuse of the right of establishment of the company. In this way the new procedure will not impose unnecessary burdens beyond its stated aims and at the same time will give the authority to the destination Member State to control abuse even after the conversion.

3.6.6. In addition, clarification is needed on the concept of 'artificial arrangements' of a company in a Member State in order to obtain undue tax advantages. This is a concept elaborated mostly by the Court of Justice of the European Union and is included in Recitals and Article 86(c)(3). It is a key concept that will allow or prohibit the freedom of establishment of a company in another Member State. Clear criteria or indicators must be set so that genuine economic activity based on sound economic decisions should not be obstructed according to the *Polbud* case of the Court of Justice of the European Union.

3.6.7. **Cross-border mergers**⁽²⁵⁾: The proposal builds on the positive experience with Directive 2005/56/EC⁽²⁶⁾ on cross-border mergers, which deals only with limited liability companies, and addresses its shortcomings. The proposal therefore introduces harmonised substantive rules on protection of creditors and shareholders, while Directive 2005/56/EC provided only for procedural rules, e.g. for the obligation to inform the shareholders, leaving to the Member States the substantive protection. The proposal newly requests that the draft merger terms specify:

- Safeguards for creditors: The proposal introduces the presumption that there is no prejudice if creditors are to be paid by a guarantor or by the resulting company, ascertained by an independent expert assessment of their situation.
- The right to exit for shareholders who did not vote or have no voting rights and the right to receive adequate compensation and their right to challenge the proposed share-exchange ratio to national courts.

3.6.8. The EESC also agrees with other elements of the Commission proposal:

- (a) Harmonised rules on employee information in a specific and comprehensive way about the implications of cross-border mergers, while Directive 2005/56/EC provided only for participation on the board and their situation to be reflected in the management report.

⁽²⁴⁾ Judgments of the Court in case, C-378/10, *Vale Epitesi*, EU:C:2012:440, para. 31 and *Polbud* case C-106/16, ECLI:EU:C:2017:804, paras 33, 35, 44.

⁽²⁵⁾ An operation whereby two or more companies from two or more Member States transfer their assets and liabilities to an existing (acquiring) or a new company.

⁽²⁶⁾ Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies. It is now part of the 2017 Codification Directive.

(b) Harmonised rules for a fast track procedure for less complex mergers or waiver of an independent expert report upon agreement of all shareholders or during a merger of a parent company with a subsidiary.

(c) Interconnection of business registers for exchange of information — use of digital tools.

3.6.9. **Cross-border divisions** ⁽²⁷⁾: These are subject to diverse or incompatible national rules in only 13 Member States, without any EU harmonisation despite their importance for growth. In order to prevent abuse and protect stakeholders an EU legal framework must be introduced for limited liability companies, similar to cross-border conversions. A two stage procedure must be established. In the first stage the division terms are drafted together with two fully explained reports, on the implications of the division to creditors and to employees. In addition, an independent expert report is needed for medium and large enterprises. This is only a first step and the EESC believes that the proposal should also cover cross-border division by acquisition of assets/liabilities of existing company/-ies, and not only the case where new companies are created.

3.6.10. Currently, national rules differ greatly between Member States and sometimes impose excessive administrative procedures which the Commission needs to mitigate throughout the new proposal in order not to discourage businesses from pursuing new opportunities. Though the EESC is in support of the new rules and procedures, these must however be carefully scrutinised so that they will not incur extra administrative burden and cost, which goes beyond the goals they serve on protection of employees, creditors and shareholders.

3.6.11. The EESC welcomes the exemption of small and micro-companies in Article 86(g) of the proposal from an examination by the independent expert, since the cost for an independent expert report would overburden micro and small and medium-sized enterprises.

3.6.12. The EESC wants to emphasise the role of independent experts in revealing fraud only in large companies during the examination and collection of the company documents in a written report, provided that certain requirements are fulfilled, e.g. for an effective internal control structure and standard operating procedures to prevent and mitigate possible conflicts of interest and to ensure the independence of reports regarding stakeholders.

3.6.13. The EESC strongly supports the proposal of the European Commission which establishes for the first time the procedure for cross-border conversion and complements the already established procedures of cross-border mergers and divisions by enhancing protection of the stakeholders. However, the resulting differences between the procedures of the cross-border merger on the one hand and the cross-border conversion and division on the other may affect the relative attractiveness of the latter. The EESC suggests that the Commission analyses these effects.

3.6.14. The EESC welcomes the intention of the Commission to protect existing workers' participation rights. The EESC believes that in the company resulting from a cross border conversion, at least, the same level of all elements of employee participation as laid down in the law of the departure Member State must continue to apply, along the lines of the procedure and the standard rules provided for in Directive 2001/86/EC ⁽²⁸⁾.

3.6.15. The EESC emphasises the significant role played by European Works Councils set up in large size companies to be transformed and requests their enhanced involvement, according to Directive 2009/38/EC ⁽²⁹⁾.

⁽²⁷⁾ An operation whereby a company splits and transfers all or some of its assets and liabilities to existing or new company/companies in another Member State.

⁽²⁸⁾ Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees (OJ L 294, 10.11.2001 p. 22).

⁽²⁹⁾ Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast) (OJ L 122, 16.5.2009, p. 28).

3.7. As a general remark, the EESC stresses the need for all digital tools and processes for the purposes of these proposals to be fully accessible to people with disabilities, and especially to those with visual disabilities.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on a) Proposal for a Regulation of the European Parliament and of the Council establishing Horizon Europe — the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination

(COM(2018) 435 *final* — 2018/0224 (COD))

and on b) Proposal for a Decision of the European Parliament and of the Council on establishing the specific programme implementing Horizon Europe — the Framework Programme for Research and Innovation

(COM(2018) 436 *final* — 2018/0225 (COD))

(2019/C 62/05)

Rapporteur: **Gonçalo LOBO XAVIER**

Referral	a) European Parliament, 14.6.2018 Council, 25.6.2018 b) European Parliament, 14.6.2018 Council, 27.6.2018
Legal basis	a) Article 173(3), Article 182(1), (4) and (5), Article 188 TFEU; and Article 7(5) of the Euratom Treaty b) Article 173(3) and Article 182(4) TFEU
Section responsible	Single Market, Production and Consumption
Adopted in section	2.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	187/1/2
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the fact that the European Commission has made it clear that Research and Innovation (R&I) must continue to be an essential **EU priority** also in the context of the next Multiannual Financial Framework 2021-2027. The EESC is most pleased to observe that many of the recommendations made by the Committee for the Horizon 2020 mid-term evaluation have been taken up in areas such as collaborative research and mobility, as well as steps to strengthen innovation, overcome disparities among regions, promote science and innovation activities among citizens, remedy low success rates and reduce the administrative burden ⁽¹⁾.

1.2. The EESC emphasises that science, research and innovation must be key elements of the European community-building process and therefore supports the Horizon Europe approach of bringing citizens closer to these activities and achievements. For this purpose, effectively communicating not only the opportunities of the programme but also the effects of innovation and research activities on citizens' lives must be part of the strategy to encourage more support from Member States for this effort.

⁽¹⁾ OJ C 34, 2.2.2017, p. 66 and Information report on Horizon 2020 (evaluation).

1.3. The EESC supports the design of R&I missions as part of the strategy of Horizon Europe to achieve more impactful R&I outcomes and to really change the way citizens perceive science and its impacts in their day-to-day lives. The EESC calls for urgency in defining strategic missions that can stimulate research and innovation ecosystems across Europe and that boost collaborative research as the main vehicle to deliver knowledge and create impact. Missions should focus on a specific, quantifiable and achievable target and should be open to all possible participants, capturing excellence from different parts of Europe.

1.4. The EESC supports the fact that missions will be open to diverse, bottom-up solutions and cover the whole R&I lifecycle. As missions should address medium to long-term goals, the high importance of low Technological Readiness Level (TRL) research should also be reflected in their approach. They should not be focused only in linear innovation models, which often are restricted to incremental innovation, but should explicitly incentivise disruptive innovation models.

1.5. The EESC as the representative of organised civil society is open to actively contributing to the co-design process and supports the idea of the missions, but one must not forget that bringing decisions too close to final users may limit the missions' scope and disruptiveness. The mission boards should have high quality and sufficient critical mass from all stakeholders, so as to avoid incremental research or, at the opposite extreme, missions that are far beyond existing technical/technological capacities.

1.6. The EESC highlights the European Innovation Council (EIC) as an important instrument to support breakthrough innovation and boost entrepreneurship and competitiveness at EU level. In this way, and taking into account the European landscape, the EESC believes that the EIC should particularly focus on very innovative and breakthrough SMEs and start-ups.

1.7. The EESC agrees that Horizon Europe should bring in social sciences and humanities (SSH) in a systematic way. SSH should be approached in conjunction with the technological approach. Innovation goes far beyond technology, and bringing together the different visions, trade-offs and challenges will better shape the R&I landscape in Europe. The EESC believes that going 'beyond technology' would boost SSH across Horizon Europe.

1.8. The EESC supports the 'open science' policy approach as a means to focus on excellent science and high-quality knowledge. Open science is vital for the overall scientific development of the European institutions, but one should consider introducing a certain timeframe for publishing all the scientific results in order to assure that all project outcomes will be made available in suitable repositories and within well-defined timeframes. The EESC welcomes open access to publications and research data, but regular consultation with research stakeholders regarding future requirements in open science is strongly recommended. The established opt-out possibilities should be maintained under Horizon Europe.

1.9. The EESC agrees that the redesigned pillar structure will improve internal coherence, in particular through the integration of industrial technologies into Pillar 2, enhancing the contribution of industry to tackling global challenges, and matching supply with demand for new solutions. This approach is very appealing, and one suggestion would be to favour consortiums that close the innovation cycle, i.e., include the academic partners that create, the solution providers that develop innovative solutions, and the final users that express their needs so they can operate in a sustainable manner.

1.10. The EESC also welcomes the aim of further simplifying state aid rules to facilitate the combination of different funds that can be instrumental in overcoming the major disparities between Member States and regions in terms of the number of successful R&I projects. Synergies among the different Union funding programmes and Union policies, namely with structural funds through compatible regulations, are vital for guaranteeing the greatest impact of R&I projects.

1.11. The EESC highlights the fact that supporting the mobility of researchers via Marie Skłodowska-Curie Actions (MSCA) is also fundamental to further strengthening the European Research Area, while EU and national policies must aim at adequate and attractive working conditions for professionals to avoid the 'brain drain' phenomenon that is truly counterproductive for the achievement of cohesion in the EU. In addition, it is vital to strengthen support for early career researchers in the ERC programme.

1.12. The EESC believes that special focus should be placed on science education and science communication in the pillar of 'Strengthening the European Research Area'. This would strengthen the science with and for society within this pillar and consequently within Horizon Europe.

2. General comments

2.1. The EESC welcomes the Commission's recent effort to boost European growth through new and measured European policies supported by increased promotion of R & D+I activities that can provide European leadership in many areas⁽²⁾. The European community of innovators and researchers has achieved many goals in recent years, but it remains the case that this situation is not fully valued by European citizens for several reasons, such as the lack of communication, poor commitment from the community or even citizens indifference to scientific achievements. Therefore, it is crucial to change this attitude within European society, not just in the short-term but also in order to contribute to a long-term innovation and scientific ecosystem embedded in society as a whole.

2.2. The EESC supports the approach that it is by defining key global challenges that citizens' views can be changed, as part of a very strong effort to mobilise and engage society for the European project. Boosting Europe's competitiveness through innovation is fundamental, and must be in leaders' minds when setting policy priorities. One cannot simply say that R & D+I activities make a major contribution to job creation and growth. It is not enough simply to provide information that two-thirds of economic growth in Europe today arises from RDI activities. Member States must take part in this collective effort.

2.3. The EESC welcomes the proposal for a new European R&I Programme to support and boost R&I at EU level for 2021-2027, and its main features, namely the focus on open science, global challenges and industrial competitiveness, and open innovation. The EESC strongly believes that the co-creation approach, engaging all the stakeholders in the knowledge and innovation community, is the basis to boost European competitiveness, job creation, social cohesion, in particular combating youth unemployment, and environmental protection in line with the UN 2030 Agenda and the Sustainable Development Goals (SDGs).

2.4. The Horizon Europe Programme seems to reflect the Commission's priority to build an innovation and scientific ecosystem that could enable the EU to improve its competitiveness through structural activities that will have an economic and social impact. This is confirmed not only by the proposed increase in the financial package but also by the activities projected under the three pillars of the programme.

2.5. The EESC supports the main new elements that are highlighted by the Horizon Europe proposal, namely: (i) supporting breakthrough innovation through the European Innovation Council; (ii) creating more impact through mission-orientation and citizen involvement: R&I missions; (iii) strengthening international cooperation; (iv) reinforcing openness through a stronger open science policy; and (v) rationalising the funding landscape through a new approach to European Partnerships.

2.6. The establishment of EU bottom-up research and innovation **missions** focused on global challenges and industrial competitiveness might be a good way to get society more engaged in science and innovation activities. This approach might be a successful way to involve society and citizens in the missions that are to be defined, and will create a sense of community that could be essential to achieving significant results and impact. The role of organised civil society in this process, once again, could be crucial.

2.7. The EESC also appreciates the fact that Horizon Europe is going to support 'Public Private Partnerships (PPPs)' as an efficient instrument for boosting collaborative research focused on industry-driven R&I, emphasising fewer partnerships with higher impact. Europe must accept the fact that there is still a long way to go to achieve a lean process in terms of efficient collaboration between academia and industry. There are, of course, many good examples and best practices, but there is also room for improvement. 'PPPs' are one of the tools to reduce the existing gap between those two different but complementary worlds: academia and industry/the market.

⁽²⁾ OJ C 197, 8.6.2018, p. 10.

2.8. The EESC once again ⁽³⁾ urges the Commission to continuously make efforts to reduce the level of bureaucracy within the Horizon programme. Therefore, the EESC welcomes the Commission's proposal on having less bureaucracy and a better 'time to market'/level of response to the proposals, as can be seen, for example, in Horizon 2020, in relation to the specific 'SME Instrument'. Simplification must be a main aim within Horizon Europe, namely regarding time to grant and subsequently entering the market, constant funding rates, reduced number of instruments, limited use of timesheets, widespread use of lump sums, etc.

2.9. The EESC believes that, along with reducing bureaucracy, improving simplification, and a more visible campaign to attract SMEs to innovation and R&I activities, the concept underlying the European Innovation Council (EIC) is very welcome, especially with regard to boosting commercialisation, scale-up innovations, and entrepreneurs. In fact, the EESC believes that, under this strategy, the degree of success might increase if we keep in mind that some of the start-ups and ideas have not succeeded in the past, for various reasons that the EIC wishes to address. We must not forget the need to make European culture less risk-averse and, in this connection, the EIC will contribute to this effort and should consider high-risk R&I actions in its overall goals and evaluation criteria.

2.10. The EESC supports the idea of having more SMEs and start-ups involved in the programme but has some doubts regarding the scale-up proposal. Despite previous efforts throughout the framework programmes, SMEs should be more involved in activities based on R&I and Horizon Europe would be the best chance to get them 'on board'. The idea of greater involvement via capital might be a good one, but the message must be clear to all companies. The fact that SMEs still have a different perspective when it comes to 'capital ownership' requires a full explanation from the programme in order to boost community participation and avoid misinterpretations. SMEs have a long tradition of capital based on family entrepreneurs, and proposals to 'open' their capital to the market, funded by this programme, could raise specific questions. Therefore, the EESC urges the Commission to be very clear about this interesting proposal.

2.11. The EESC also agrees with the principle that there would be no more EU financial investment for entrepreneurs without dialogue with the EU. This 'motto', recently announced by Commissioner Moedas in a public session, demonstrates an ambitious idea of more direct interaction with entrepreneurs and candidates, but is also a very risky attitude: it is not yet clear what kind of resources are going to be allocated to the interviews with candidates, and the entire process still needs to be efficient. But the EESC is fully prepared to back this new approach and even offers its help to collaborate on the process by means of the expertise of its members and the backing of the civil society organisations that support their members.

2.12. Finally, the EESC also welcomes the efforts that seem to be being made to boost the synergy of funds between programmes. Synergies of funds may have a strong role to play in leveraging and boosting R&I capacities in different regions of Europe. Increasing synergies with other Union funding programmes and Union policies, namely with structural funds through compatible regulations, should be a key point. In fact, according to MFF regulations regarding cohesion funds, Member States can transfer up to 5 % of their allocations from one fund to another, enabling them to transfer investment money to other key areas that have been identified. This could be another important step towards better involving Member States in achieving the goal of the innovation programme and taking the scientific agenda to another level. The EESC believes that only by involving the public and private sectors can the programme be considered a success story, with an impact on citizens' day-to-day lives. Another important aspect would be the harmonisation of the rules and regulations of the different funds, at least for the same types of activity, and particularly for research and innovation.

3. The Horizon Europe (2021-2027) proposal

3.1. The Commission's proposal for Horizon Europe is based on an announcement of a major achievement: a EUR 100 billion R&I programme that is already a step forward for a science- and innovation-based European knowledge society. In this regard, the fact that Member States agreed to this budget increase demonstrates not only a political commitment but also a clear message to the world: Europe wants to lead the way on innovation, and the funding conditions to do so have thus been created.

3.2. Besides the financial increase, there are a few new and innovative ideas that the EESC wants to highlight as points taken directly from the proposal that are important for this opinion. Therefore we would like to mention the following items in brief:

⁽³⁾ OJ C 34, 2.2.2017, p. 66.

- a) **The three-pillar structure of Horizon Europe:** as stated by the EC, Horizon Europe is not a revolution but an evolution. Thus it is based on three main pillars: Open Science, which includes the ERC, MSCA and research infrastructure; Global Challenges and Industrial Competitiveness, which comprises five clusters: health; inclusive and secure society; digital and industry; climate, energy and mobility; and food and natural resources; and the Open Innovation Pillar, with the EIC, the European innovation ecosystems and the EIT. The three pillars will be underpinned by activities to strengthen the European Research Area.
- b) **The creation of the European Innovation Council (EIC)** to help the EU become a leader in market-creating innovation; Europe has been pursuing this objective for many years, yet despite these efforts, despite excellent ideas, and despite a very strong innovative and scientific community, the level of growth and job creation does not reflect the level of commitment. Thus, the Commission's proposal will establish a one-stop shop to bring the most promising high-potential and breakthrough technologies from the lab to market deployment, and will help the most innovative start-ups and companies scale up their ideas. The new EIC will help identify and fund fast-moving, high-risk innovations with strong potential to create entirely new markets. It will provide direct support to innovators through two main funding instruments, one for early stages and the other for development and market deployment. It will complement the European Institute of Innovation and Technology (EIT). The EESC believes that the EIC should focus on very innovative and breakthrough SMEs and start-ups.
- c) Within the EIT, proposals for future EIT Knowledge and Innovation Communities (KICs) will be indicated in the EIT Strategic Innovation Agenda (SIA). The EESC believes that these should not be significantly increased and should be kept to a limited number in line with the principle of simplification of the R&I landscape. In addition, the future KICs should guarantee the representation of different European countries, namely regarding the innovation hubs' location. The entrepreneurship fostered by the academic pillar (e.g. entrepreneurial education; fostering strong non-disciplinary collaboration between industry and academia; and identifying prospective skills for future innovators) should be reinforced.
- d) The establishment of EU R&I **missions** focused on global challenges and industrial competitiveness. This approach might be a successful way to involve society and citizens in the missions that are to be identified and will create a sense of community that could be essential to achieving significant results and impact. Examples could range from the fight against cancer to clean transport, plastic-free oceans, or safe and clean water for all. These missions will be co-designed with citizens, stakeholders, the European Parliament and Member States. The EESC, as the representative of organised civil society, is open to actively contributing to this co-design process.
- e) **Maximising the innovation potential across the EU and strengthening the European Research Area:** support will be doubled for Member States that exhibit a low R&I performance potential. Moreover, synergies with European Structural and Investment Funds (e.g. Structural and Cohesion Funds) will make it easy to coordinate and combine funding and help regions embrace innovation and gain leverage at EU level.
- f) **More openness:** the principle of 'open science/open innovation' will become the modus operandi of Horizon Europe, requiring open access to publications and data. This will promote dissemination and exploitation, assist market uptake and increase the innovation potential of results generated by EU funding.
- g) **A new generation of European partnerships and increased collaboration with other EU programmes:** the expectation is that Horizon Europe will streamline the number of partnerships that the EU co-programmes or co-funds with partners such as industry, civil society and funding agencies, in order to increase their effectiveness and impact in achieving Europe's policy priorities. Horizon Europe will promote effective and operational links with other future EU programmes, like cohesion policy, the European Defence Fund, the Digital Europe Programme and the Connecting Europe Facility, as well as with the international fusion energy project ITER.
- h) **The Joint Research Centre (JRC),** the Commission's science and knowledge service, will continue to contribute by means of scientific advice, technical support and dedicated research.

4. Science and innovation for all Europeans

4.1. Citizens must be aware of the European potential and achievements regarding science and innovation activities. These activities truly are a part of everybody's lives and are a real opportunity to involve society in the European project. The concept and the measures proposed by the Commission are ambitious, and are a 'never-ending process', but this is also the best opportunity to get citizens engaged with European values linked to innovation and science for all.

4.2. Science education and science communication must be considered a fundamental approach to getting everyone involved with the European project. Setting public involvement as a priority within Horizon Europe will represent a clear step forward on delivering the R&I outputs to the market and to our daily lives. The co-creation process based on a multi-stakeholder approach would constitute a clear message for public involvement in the R&I landscape. Social innovation with public involvement and trust in innovation will be crucial to encouraging new governance, production and consumption patterns.

4.3. Dissemination, communication and exploitation of the success of European science and innovation seems to be somewhat ineffective. Citizens value other regions' innovations and fail to recognise 'European achievements' even when they see them. This must change, for several reasons: besides the idea of getting 'European value' from the investments that are made by Europe, it is also important to be proud of EU achievements and goals in connection with the European project for all.

4.4. Europe is often criticised for its 'lack of investment' and 'lack of a culture of risk and entrepreneurship'. The general idea of the EC proposal is to address these challenges and to create a new narrative regarding these ideas. Science and innovation activities' contribution to constructing a better and more inclusive Europe is part of the change that is needed to avoid misunderstandings regarding the European project, and certainly represents a good contribution to getting citizens more involved and making them proud of being part of the solution. It is also important to counteract inaccurate ideas about the use of European funds in local communities: if citizens were to recognise that 'taxpayers' money' is being used well, this would be a good step towards countering extreme populist narratives that must be contested.

4.5. The programme should, in particular, contribute to the strengthening of the European Research Area by ensuring that most of its funding be used for collaborative research involving participants from Member States and/or Associated Countries, in order to offer significant EU added value. Collaboration among European researchers, industries (including SMEs), and other public and private institutions has been instrumental in creating the ERA and is a trademark of the European R&I Framework Programmes, which are very much appreciated by stakeholders and must be preserved in Horizon Europe.

4.6. Horizon Europe activities shall be primarily delivered through calls for proposals. It should be ensured that most of the Horizon Europe budget is spent via competitive calls that are run directly by the European Commission or its executive agencies in a transparent and efficient way, and that the number and budget of missions and partnerships should be capped at reasonable levels so as to rationalise the R&I landscape, in line with the main aim of simplification.

4.7. Horizon Europe must streamline the needs and urgent priorities highlighted in the stakeholder consultation launched at the beginning of 2018 as a part of the impact assessment⁽⁴⁾ exercise. The aim of the stakeholder consultation was to gather the views of interested citizens and stakeholders on the design of Horizon Europe, namely with regard to fostering R&I across the EU; supporting education, skills and training; and ensuring a clean and healthy environment and the protection of natural resources.

4.8. In order to actively contribute to the cohesion of the different regions within Europe, the increase in financing for the European Research Council is welcome, particularly if it will be assigned first and foremost to early career researchers, as the group that offers the highest possible potential for the future of Europe. The brain drain from peripheral regions towards other areas must be stemmed and early career researchers' empowerment must be made a reality.

4.9. In order to improve the appropriation of research outcomes by the civil society, it is important to underline the fundamental role of social innovation. It is also important to underline the importance of Social Economy Enterprises and overall stakeholders, which alongside industry and SMEs, today constitute an important part of the European economic system.

⁽⁴⁾ https://ec.europa.eu/info/publications/horizon-europe-impact-assessment-swd-2018-307_en

5. The role of enterprises

5.1. The EESC must once again reiterate the fact that SMEs represent the most significant business community in Europe. SMEs are responsible for job growth and creation and therefore must be at the heart of the policy-making process. This proposal seems to reflect this idea, but at the same time the EESC draws the Commission's attention to the fact that there is no 'one size fits all' solution for all Member States regarding how to boost SMEs' participation in Horizon Europe. Member States have different levels of growth and structural innovation ecosystems, and this must somehow be reflected in the specific measures proposed.

5.2. The EESC recognises the role of start-ups within innovation and scientific ecosystems, but draws the Commission's attention to the fact that entrepreneurs must have a business-oriented approach if they want to succeed. It is therefore desirable to give entrepreneurs some advice on the potential and needs of the market. Large companies must also be part of the process. Large companies provide more opportunities for start-ups and SMEs, not only due to the challenges that they create but also due to the business opportunities that normally accompany their activities. It is therefore a very good idea to create a more efficient innovation ecosystem that brings together all their realities.

5.3. The EESC draws the attention of the community of entrepreneurs, and of the Commission, to the need to develop a new narrative regarding industrial activities. The traditional industrial sectors could really benefit from the activities of start-ups when these are geared towards the challenges that arise out of the digitalisation and robotisation of industrial activities — towards, for instance, the circular economy, or boosting the introduction of very advanced new manufacturing technologies through the participation of SMEs and start-ups and promoting their cooperation with large industries. The level of success could be increased if the start-up community were somehow to be made aware of the industrial challenges ahead.

6. Financial issues

6.1. The proposed budget allocation of EUR 100 billion (bn) for 2021-2027 includes EUR 94,1 bn under Horizon Europe, EUR 3,5 under the InvestEU Fund and EUR 2,4 bn for the Euratom Research and Training Programme. The Euratom programme, which funds research and training on nuclear safety, security and radiation protection, will have an increased focus on non-power applications such as healthcare and medical equipment, and will also support the mobility of nuclear researchers under the Marie Skłodowska-Curie Actions.

6.2. The indicative distribution of the Horizon Europe budget highlights a significant increase (around 20 %) in the ERC budget and in Marie Skłodowska-Curie Actions (around 10 %) in comparison to the Horizon 2020 Framework Programme 2014-2020. The EESC fully supports this increase and that the ERC should devote most of its budget to early career researchers in their most productive and creative phase (Starting Grant ⁽⁵⁾ and Consolidator Grant ⁽⁶⁾).

6.3. The EIC budget represents the highest increase within Horizon Europe with a total amount of EUR 13,5 bn. Within the Global Challenges and Industrial Competitiveness pillar, the 'food and natural resources' cluster shows the largest increase, to a total of EUR 10 bn. The cross-cutting pillar dedicated to 'Strengthening the European Research Area' also shows a substantial increase in its budget to a total of EUR 2,1 bn. The EESC believes that these budgetary trends are welcome and will strengthen the European Research Area and build a stronger multi-actor R&I ecosystem across all European regions.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽⁵⁾ For researchers of any nationality with 2-7 years of experience since completion of PhD, a scientific track record showing great promise and an excellent research proposal (<https://erc.europa.eu/funding/starting-grants>).

⁽⁶⁾ For researchers of any nationality with 7-12 years of experience since completion of PhD, a scientific track record showing great promise and an excellent research proposal (<https://erc.europa.eu/funding/consolidator-grants>).

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the programme for single market, competitiveness of enterprises, including small and medium-sized enterprises, and European statistics and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014, (EU) No 258/2014, (EU) No 652/2014 and (EU) 2017/826’

(COM(2018) 441 final — 2018/0231 (COD))

(2019/C 62/06)

Rapporteur: **Oliver RÖPKE**

Co-rapporteur: **Violeta JELIĆ**

Consultation	European Parliament, 14.6.2018 Council, 26.6.2018
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Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	2.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	187/4/2

1. Conclusions and recommendations

1.1. The single market provides an essential basis for creating economic growth and competitiveness. It makes an important contribution to job creation and gives consumers a wide choice of goods and services, and can also serve as the basis for building prosperity in the European Union.

1.2. The EESC welcomes in principle the integration of five predecessor programmes (and of the European Statistical Programme, though that extends beyond the scope of the single market) and a number of budget headings into a single market programme, as it can be expected to produce synergies and improve cost efficiency.

1.3. The EESC agrees with the Commission that it is necessary to remove existing obstacles and to press forward with the development, implementation and enforcement of Union law in the internal market. This is particularly true for the areas of goods and services, public procurement, market surveillance, company law, contract and extra-contractual law, anti-money laundering, free movement of capital, financial services and competition, and the development of governance tools. The EESC calls for the creation of a fair and complete internal market which should also take account of compliance with labour, consumer and environmental standards.

1.4. With regard to the food chain, however, the EESC calls on the Commission to ensure funding under category 3 — ‘natural resources and environment’ — due to the programme’s close relationship with agricultural policy.

1.5. The EESC welcomes the Commission’s proposal to devote 25 % of available funding to meeting the Paris Agreement climate change objectives, but would like further information about what expenditure is considered climate-related.

1.6. The EESC notes that the volume of work in consumer protection policy is steadily increasing, due not least to the digital transformation. The EESC therefore urges the Commission to further develop cooperation with consumer networks and organisations and to increase funding for consumer protection accordingly.

1.7. The EESC notes that, according to the Commission, funding for the priorities in the new Single Market Programme is set to be around EUR 3,9 billion, i.e. approximately the same level as in the current financing period 2014-2020, but is concerned that the negotiations on the EU financial framework could result in cuts and thus in a lower budget than in the past. The EESC nevertheless welcomes the fact that, in the context of COSME, an additional EUR 2 billion is available under the InvestEU programme and that it is possible to combine funding from other programmes.

1.8. The statistics produced by the European Statistical Programme have a high European added value and constitute one of the bases for the European Union's policies, including, in particular, on the single market. The EESC therefore agrees with the Commission that the current European Statistical Programme should continue to be given the necessary resources under the new Single Market Programme.

1.9. The EESC calls for the European social partners to be appropriately involved in all phases of the new Single Market Programme.

2. General comments on the new Single Market Programme

2.1. The EESC has already repeatedly stressed that the single market is a cornerstone of the European integration process and contributes significantly to economic growth and job creation. In addition, the single market can also contribute to prosperity ⁽¹⁾.

2.2. In its opinion on the Multiannual Financial framework post-2020 ⁽²⁾, the EESC has already criticised the fact that even fewer resources will be available for achieving the EU's objectives in the next financial period than in the current one.

2.3. Under the EU Multiannual Financial Framework, the Committee proposes consolidating a number of programmes and budget headings relating to the competitiveness of enterprises (including SMEs), consumer protection, customers and end users in financial services, policy making in financial services, the food chain, and the development, production and dissemination of European statistics. The EESC welcomes this proposal in principle, because it can achieve synergies and efficiency gains in the funding of the supported projects. The programme also offers a more flexible financial framework, which will make it easier for beneficiaries to implement the projects.

2.4. An evaluation of the individual programmes that will now be incorporated into the new Single Market Programme also demonstrates the high European added value provided by these various initiatives.

2.5. It should be noted that there are still barriers and obstacles to the single market. It is therefore important to track developments in this area, take stock of the remaining obstacles and set up a road map for the single market to operate smoothly in the interests of all. The EESC agrees with the Commission that the new programme can help to improve the functioning of the single market through the design, implementation and enforcement of EU legislation. EU action must lead to a simple, clear, stable and predictable regulatory framework for businesses, workers and citizens. The EESC calls for the creation of a fair and complete internal market which should also take account of compliance with labour, consumer and environmental standards.

2.6. The EESC specifically welcomes the option of funding activities and projects cumulatively across several EU programmes, such as InvestEU, Horizon Europe and the European Social Fund. This could both produce synergies and make it easier to fund projects.

2.7. The EESC also draws attention to the particular importance of further developing EU tax policy to promote an efficient, competitive and fair single market ⁽³⁾.

⁽¹⁾ OJ C 125, 21.4.2017, p. 1.

⁽²⁾ ECO/460 — opinion on the *Multiannual Financial Framework post 2020* (adopted at the September 2018 plenary session).

⁽³⁾ OJ C 125, 21.4.2017, p. 1.

3. Programme objectives

3.1. Small and medium-sized enterprises play a central role in the European economy. 99 % of businesses in the EU are SMEs, and two thirds of employees work in one. In the EESC's view, it is therefore essential for SMEs to be supported by the European Union in improving their competitiveness. The EESC would like to stress the importance of support measures for professional and business services in their role as promotor of the competitiveness of European SMEs: they are essential to many other sectors and play a central role in the 'servitisation' of the European economy.

3.2. The EESC would highlight the positive experience of the COSME programme, which has been of great benefit to SMEs thanks to its needs-oriented support in areas such as tourism, the textile industry and other sectors, and has thus made a major contribution to economic growth and the creation of new jobs. Support via COSME should therefore be continued and built on.

3.3. In recent years, SMEs have been confronted with particular difficulties in accessing finance. A lack of creditworthiness makes it impossible for small and medium-sized enterprises to make appropriate investments in forward-looking areas such as digitalisation, innovation and globalisation. This has a negative impact on economic growth and job creation, and can even threaten the survival of businesses. The EESC therefore welcomes the additional possibility of refinancing using debt and equity instruments under the new InvestEU Fund.

3.4. In addition, there is also a need for capacity-building support for social partners, public administrations and other beneficiaries, to give these stakeholders the opportunity to participate in EU programmes.

3.5. Support for young entrepreneurs and for innovative products and services will be one of the key elements of the Single Market Programme. In the EESC's view, using cluster initiatives to support new business models, advanced technologies, low-carbon and resource-efficient solutions and other areas such as initiatives for international activities, finding staff and upskilling is a positive approach; the Committee supports the work of the European Cluster Collaboration Platform.

3.6. In many economic sectors, the use of digital solutions is already taken for granted. The continued success and competitiveness of SMEs depends not least on investing in the appropriate digital infrastructure in good time. The EESC therefore supports the idea of supporting SMEs in investing in digital projects. These projects should be designed such that they benefit both the business sector and civil society as a whole.

3.7. The EESC is in favour of continuing to support the Your Europe, SOLVIT and Your Europe Advice digital portals, the Internal Market Information System and the Single Market Scoreboard, and of promoting the creation and expansion of additional public digital services and cooperation by authorities within and between the Member States in the digital field, including in conjunction with the Digital Europe programme.

3.8. In that connection, the EESC welcomes the Commission's progressive approach of devoting 25 % of available funding to meeting the Paris Agreement climate change objectives, but would like further information about what expenditure is considered climate-related.

3.9. The aim of the Single Market Programme is to support consumer interests and to ensure a high level of consumer protection. The EESC notes that, in general, the challenges of consumer protection policy are continually increasing, in part due to the online trade in goods and services and because of the digital transformation, and in part as a result of inappropriate deregulation measures such as the abolition of statutory quality assurance measures or conditions regulating access to professions. The new programme must therefore ensure that consumers are given the appropriate information and support in their consumer activities. At the same time, it must also be ensured that businesses get adequate support and information on consumer protection provisions.

3.10. The financial and economic crisis starting in 2008 has shown that it is particularly essential to provide consumers with comprehensive advice and information on financial services, including debt counselling. In addition, civil society needs to be more heavily involved in policy-making in this field, in particular by promoting organisations that support the policy interests of consumers in the field of financial services.

3.11. The provision of market and consumer information, and access to legal redress, should be ensured by means of support for consumer protection organisations and the enforcement authorities responsible. The EESC also notes, however, that the New Deal for consumers does not meet legitimate consumer expectations as outlined in the recent EESC opinion on this Commission proposal.

3.12. Consumer protection at European Union level is strongly supported, in particular via the European Consumer Centres Network and the European Consumers Organisation (BEUC). In recent years, the network has been able to reach millions of consumers and keep them informed, and has also responded to several hundred thousand consumer enquiries. BEUC has been active in representing consumer interests in all relevant EU policy fields. Support for the network and BEUC has produced high European added value. The EESC therefore advocates pursuing this successful cooperation with the European Consumer Centres Network and the European Consumers Organisation over the long term, and continuing to develop it. The Committee also welcomes the plans to cooperate with national consumer protection organisations.

3.13. In order to improve representation of consumer interests in financial services, funding was provided for two non-profit associations, Finance Watch and Better Finance — first as part of a pilot project and then through a preparatory action. Regulation (EU) 2017/826 on capacity building in this field provides for further co-financing for these associations. The EESC urges the Commission to further boost cooperation with organisations in this policy area.

3.14. The EESC observes that, in view of the plethora of tasks to be undertaken, the budget for the protection of consumers' interests is extremely tight at EUR 198,5 million. The EESC urges the European Parliament and the Council to increase the available budget accordingly.

3.15. Data and statistics provide the basis for decisions in numerous areas, including social, economic, regional, environmental and agricultural policy. The statistics produced by the European Statistical Programme therefore have a high European added value and constitute one of the bases for the European Union's policies, including, in particular, on the single market. The EESC therefore agrees with the Commission that the current European Statistical Programme should continue to be given the necessary resources under the Single Market Programme, particularly in light of the need to modernise statistical production processes and of the increasing need for statistical data.

3.16. With regard to standards, the EESC advocates developing them quickly and in a timely manner, in cooperation with SME, employees, consumers and environmental representatives.

3.17. The food supply chain programme supports measures to ensure a high level of human, animal and plant health protection, and also to improve the sustainability of European food and feed production and raise quality standards. The impact of animal diseases and pests should be minimised using EU-supported preventative programmes. The level of environmental protection and biodiversity should also be supported.

3.18. Many of the activities in the food supply chain programme fall under agricultural policy and environmental policy. The EESC therefore calls on the Commission to ensure funding for these food chain activities via category 3 on 'natural resources and environment'.

4. Budget

4.1. The Commission proposes a total budget for the Single Market Programme of EUR 4 089 million for the period 2021-2027. This includes:

— around EUR 438 million for the internal market objective

— EUR 1 billion for the COSME SME programme

- EUR 198,5 million for consumers
- EUR 220,5 million for standardisation
- EUR 552 million for statistics, and
- EUR 1,68 billion for the food chain.

4.2. The EESC notes that, as regards the comparability of these financial envelopes with the current funding period 2014-2020, Brexit and the integration of the individual programmes into the Single Market Programme mean that only limited statements can be made regarding the current budget.

4.3. The EESC notes that, according to the European Commission, the funding provided for the Single Market Programme is comparable to the current financial period (around EUR 3,9 billion), but is concerned that the negotiations could result in budget cuts and thus in a reduction in available resources compared with 2014-2020.

4.4. The EESC notes that more than 41 % of the total budget — EUR 1,68 billion — is allocated to the food chain, making it by far the best-funded item in the Single Market Programme, while less than 5 % is to be available for consumer policy projects.

4.5. It is pleased that, on top of the EUR 1 billion COSME programme, an additional EUR 2 billion will be available through the InvestEU window for supporting SMEs ⁽⁴⁾.

4.6. The EESC calls for funding for the consumer policy element of the Single Market Programme to be significantly increased, as the challenges facing consumer protection policy are mounting significantly, not least because of the growing importance of cross-border e-commerce and online services.

4.7. With regard to the food chain, the EESC calls for funding to be provided under category 3 on 'natural resources and environment' for measures that are not covered by market surveillance. This includes, for example, activities to combat animal diseases and plant pests, and animal welfare measures.

4.8. The EESC welcomes the option of combining project financing from other programmes such as the European Regional Development Fund, the Cohesion Fund, the European Social Fund Plus or the European Agricultural Fund for Rural Development.

4.9. As well as support for SMEs and start-ups and strengthening the competitiveness and growth of enterprises, eligibility under Article 3 of the Single Market Programme should also be extended to measures that enable the public, consumers, end users, trade unions and representatives of civil society and business to take an active part in political debate, policy-making and decision-making, including support for the activities of national and EU-wide representative organisations.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁴⁾ COM(2018) 439 final.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the “Customs” programme for cooperation in the field of customs’

(COM(2018) 442 final — 2018/0232 (COD))

(2019/C 62/07)

Rapporteur: **Laure BATUT**

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Plenary session No	538
Outcome of vote (for/against/abstentions)	191/3/5

1. Conclusions and recommendations

The EESC is pleased to note the importance accorded to customs within the internal market, as well as the objective of the Commission proposal, which is to assist the customs union and customs authorities by providing them with a new financial instrument supporting the implementation of customs policy with a view to ensuring uniform application of the rules. The EESC believes that in policy terms European customs, which already apply a common legal code, should function as a single entity.

1.1. Budget and implementation of the customs programme

1.1.1. The EESC believes that the amount earmarked for the customs programme of EUR 950 million over seven years, or EUR 5,02 million on average annually per Member State (EU-27), may prove to be insufficient in view of the breadth of the proposal's objectives and the targets set in relation to staff, networks, technology and equipment. Given that the burden will fall on the Member States for what lies within their remit, the Committee recommends that the Commission make it easier for national customs authorities to benefit fully from the programme, and from the promised synergies between programmes, and it would like the Commission to ensure flexibility between the budget priorities of the Multiannual Financial Framework (MFF).

1.1.2. The EESC recognises the difficulty of making quantitative forecasts about the cost of Brexit, which could well be very high, and recommends that the proposal under discussion be adjusted as and when needed without compromising the completion of the internal market between the EU-27 and taking into account the critical requirement of having well-trained customs officials and common customs instruments and procedures that can match those of countries like the United States and China.

1.2. Role of IT in the programme

Given that this represents the main added value expected of the programme and mindful of the need to ensure progress of the IT strategy for customs ⁽¹⁾, the EESC welcomes the provision for instruments to finance and facilitate the development and maintenance of EU-wide IT customs systems, especially the inclusion of IT planning tools, above all where these tools help to reduce disparities between the Member States.

1.2.1. **Technological innovation:** the EESC recommends that the programme be run in a way that ensures simultaneous roll-out of technological innovations to all the participating Member States.

⁽¹⁾ Report from the Commission to the European Parliament and the Council of 11 April 2018 — COM(2018) 78 final.

1.2.2. **Digital cooperation:** to maximise digital cooperation, the EESC recommends encouraging the Member States to take steps to reduce disparities in their practices and skills, and to increase their willingness to tackle fraud together.

1.3. *Strengthening skills*

The EESC believes that enhancing the skills of administrative staff and customs training are essential to the smooth operation of EU customs cooperation. It recommends making full use of the programme to build on progress already made⁽²⁾. With the Mattheus programme from many years ago in mind, this progress could be amplified through an Erasmus for customs (temporary exchanges of customs officials of all categories).

1.3.1. The Committee recommends that customs authorities be guaranteed the status of 'authorised authorities' that can access interoperable systems for conducting checks on people at borders⁽³⁾.

1.4. *Fundamental rights*

The EESC recommends that the programme help to strengthen respect for fundamental rights and data protection within its sphere of application.

1.5. *Indicators*

The EESC recommends that participating countries be helped to meet their obligation to report on implementation of the programme using the proposed indicators, considering that budgetary constraints mean national administrations may not always have sufficient time or staff. The EESC suggests that comparisons be carried out between all the Member States at least during the first five years.

1.6. *Governance*

The EESC would welcome an open dialogue about implementation of the programme between the Member States, the Commission and the relevant stakeholders. At Union level, it would like to see renewed support from the European Council, which would give the programme long-term visibility, and recommends maximising the chances of its complete success. This includes fiscal harmonisation between the Member States, commitment of all participating countries to training, and a willingness on their part to invest in cooperation, combat fraud, and trade on fair terms.

2. **Introduction**

2.1. Under the Commission's proposed MFF, the customs programme is intended to **support cooperation** between customs authorities and to **protect the Union's economic and financial interests**. Fifty years on from its inception, the customs union has a harmonised legal framework at EU level. However, progress still needs to be made in ensuring that the Member States' customs authorities fulfil their duties in a uniform and equivalent way. There is a common customs territory and a common external tariff, prohibiting customs duties and charges having equivalent effect between Member States. However, disparities continue to exist and 'customs shopping' that represents unfair competition creeps in when the rules are applied, which falls to national jurisdictions which can impose customs sanctions.

2.2. Uniform implementation is difficult to achieve in particular because **customs authorities have a multifaceted role**, poised politically between national, EU and international rules governing trade and free movement. Customs is about goods — promoting their circulation where they are legal, intercepting it where they are illegal, and halting it where they are dangerous. In some Member States, customs authorities produce external trade statistics.

2.3. The customs system **also ensures that numerous non-customs rules are complied with:**

- a. Among other things it protects the population from terrorism, environmental and health risks, firearms and drugs, and oversees currency movements, copyright, public safety and health, product safety, protection of wildlife and the environment, etc., and its role in all types of security matters is expanding;
- b. Customs authorities also play a critical role in securing the integrity of the supply chain. There will be many synergies between other MFF financial programmes and the customs programme.

⁽²⁾ SWD(2017) 34 final.

⁽³⁾ COM(2017) 793 — 2017/0351 (COD) and COM(2017) 794 final — 2017/0352 (COD).

2.4. Customs authorities are already using digital equipment and technology that have cut the time needed for checks and reduced public spending, despite the increase in global trade volumes and in cross-border crime. The customs system is an **essential tool of national governments and the Union**. It can be deployed across the entire territory of the EU to protect the Union's financial interests (e.g. customs duties/United States) and those of its citizens (e.g. 'mad cow disease'). The European Border and Coast Guard⁽⁴⁾ will back this up.

3. Gist of the proposal for a regulation

3.1. The European Commission has aligned its general draft budget for 2021-2027⁽⁵⁾ with the **political priorities of the EU-27**. Among those priorities, the new customs programme follows on from the Customs 2020 programme, which it consolidates and broadens, and is intended to support implementation of the Union Customs Code (UCC)⁽⁶⁾ and customs policy. To that end it focuses on structured collaboration in relation to methods and budgets, as well as projects to strengthen operational cooperation between the Member States, and beyond them with 'participating countries', which include countries in the process of accession.

3.2. The total number of customs declarations is growing (at around 310 million in 2016 or 10 declarations per second, with 98 % of customs declarations being made electronically). **A massive programme** has already been launched under the UCC **to digitise 17 electronic systems** by 2020-2025. This is intended to promote the competitiveness of European companies, and the Commission believes it will provide the biggest added value of the customs programme.

3.3. Impact studies have identified a need to **enhance skills and coordination between EU customs authorities**, and for **simplified indicators** to reduce the red tape they have to deal with. The proposal mentions reinforcement of actions, both at operational level with systematic exchanging of good practice and operational knowledge between Member States, and through a range of IT infrastructure and systems, in order to achieve fully electronic customs systems⁽⁷⁾. The projects will take place over several years, obviously in synergy with the Fiscalis programme.

3.4. The Commission will **meet the international obligations** of the EU at the WTO. To be in line with the political message contained in the Commission's communication on *Developing the EU Customs Union and Its Governance*⁽⁸⁾, customs authorities of the Member States should operate as if they were **one single entity**.

3.5. Combining savings from Brexit, reforms and austerity policies with new contributions to be requested from the Member States, the Commission is proposing an overall multiannual financial framework for the Union of EUR 1 279 billion for the period 2021-27, which amounts to 1,11 % of the EU-27's GNI. This would provide **EUR 950 million for the customs programme**.

3.5.1. Combining funding will allow synergies based on more flexibility between different priorities in management of the overall budget, e.g. for IT. National customs authorities will be able to draw on the Integrated Border Management Fund to improve their customs control equipment (purchase, maintenance and upgrading of eligible equipment), while the customs programme will support all related actions, such as cooperation actions for the assessment of equipment needs or, where appropriate, training in relation to the equipment purchased.

3.5.2. The Structural Reform Support Programme could improve the administrative capacity of EU customs. The customs programme will help customs authorities to protect EU financial interests and will also be backed up by the anti-fraud programme which will succeed the current Hercule III Programme⁽⁹⁾ and by the anti-fraud information system that supports mutual assistance in the sphere of customs. There will also be synergies with Fiscalis, with the activities of the European Public Prosecutor Office and with the Justice Programme of the Justice, Rights and Values Fund when it comes to training in the application of EU customs law.

⁽⁴⁾ Regulation (EU) 2016/1624.

⁽⁵⁾ COM(2018) 322 final.

⁽⁶⁾ Under the UCC (Union Customs Code, Regulation (EU) No 952/2013, which came into effect on 1 May 2016), an operator can submit declarations to a single customs office in the Union (centralised system), even if the goods pass through different places. Its stated objective is for all customs formalities to be paperless by 31 December 2020.

⁽⁷⁾ See Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade.

⁽⁸⁾ OJ C 434, 15.12.2017, p. 43.

⁽⁹⁾ Hercule III (Regulation (EU) No 250/2014) has a budget of EUR 104,9 million and is intended to protect the EU's financial interests by supporting activities to combat irregularities, fraud and corruption affecting the EU budget. The programme is run by the European Anti-Fraud Office (OLAF).

4. General comments

4.1. *Implementation of the customs programme*

4.1.1. On 24 March 2018 the European Parliament was recommending that the total budget of the Union be increased by EUR 219 billion. The Commission emphasises the **added value of a European programme** compared with national expenditure. However, the total budget is just **1,11 % of EU GNI**⁽¹⁰⁾ (compared with 1,13 % for the previous period). The average budget between 1993 and 1999 was 1,25 %. The EESC has been calling for an increase in the EU's own resources for years⁽¹¹⁾, and would like to see a political willingness to complete the internal market in respect of customs policy and help provided to national customs authorities to implement this.

4.1.2. The EESC would like to know how the sum of **EUR 950 million** for 2021-2027 was arrived at (first paragraph of point 4 in the Explanatory Memorandum). EUR 137,7 million per annum, or **EUR 5,02 per annum per country (EU-27)**, with countries at different levels of development, seems low.

4.2. The proposal provides for **contracts and subsidies to be granted** by direct management. The **flexibility** of the new MFF model would allow **synergies** to be created between different programmes and between different customs tasks, relations between customs and other authorities, other spheres of EU activity, such as the Digital Europe programme⁽¹²⁾, Fiscalis, Justice, etc., and related parts of the budget. The EESC sees this as a sound principle, but would like to know what the **eligibility criteria** will be for allocating support requested **between the** permeable **components** of each programme. It fears the risk of a **gulf between the theory and practice** of these funding combinations in cases where different actions are scheduled at the same time with support from the same fund, which would then be overextended.

4.3. The Commission seems to be optimistic about the prospects for **Member State and EU revenue**, but this is simply conjecture and difficult to substantiate over a period of seven years.

4.4. The proposal leaves **much of the budget responsibility to the Member States**, which will have to develop components at national level taking national constraints into account, and still in the face of the **austerity policies** imposed under the European semester, as well as **economic growth that is only slowly picking up**, especially in the euro area. However, the structured collaboration system which the proposal provides for will enable Member States to work together, including in developing the components of IT systems.

5. Specific comments

5.1. *IT*

5.1.1. IT is considered the **biggest added value of the programme**⁽¹³⁾. Customs is probably the first stone of e-governance laid by the Union. The hierarchy of customs control and declaration tools requires ever more **connectivity and interoperability**. This will require firstly that all the Member States have efficient IT customs **infrastructure**, with super-fast broadband everywhere. The EESC would like the customs authorities of the 27 to also be recognised as 'authorised authorities' that can use the future architecture of interoperable border control systems⁽¹⁴⁾.

5.1.2. Articles 7(5) and 8 of the proposal state that the Commission may fund measures up to a rate of 100 % for collaborative activities. If an activity involves the development and operation of a *European* electronic system, the Union will only bear costs relating to common components and coordination, while the Member States will bear costs relating to their responsibilities under the proposal.

5.1.3. *IT innovation*

5.1.3.1. Super-fast broadband networks support all **innovative digital services**. For IT in customs procedures to have the hoped-for results, all private operators (companies) and public operators (third-country authorities) involved in customs must have access to top quality equipment and services.

⁽¹⁰⁾ GNI: gross national income.

⁽¹¹⁾ OJ C 74, 23.3.2005, p. 32, point 4.5.15.

⁽¹²⁾ COM(2018) 434 final.

⁽¹³⁾ SWD(2018) 322 final, Impact Assessment.

⁽¹⁴⁾ COM(2017) 793 final.

5.1.3.2. If the Multiannual Strategic Plan for electronic customs systems (e-customs MASP) ⁽¹⁵⁾ includes the customs programme, any digital innovation will become part of it. The EESC would like any innovation approved by the authorities to be securely shared across the whole interconnected customs network in the Union so that no time is lost after proof of concept by authorities and there is no diversion of trade.

5.1.3.3. Cybersecurity in relation to data and networks is essential in every sphere: the greater the interconnectivity, the greater the risk. The EESC believes this is important enough to be mentioned in the programme and to be allocated funding, especially as customs activities have a strategic dimension.

5.2. Indicators

5.2.1. The Commission focuses on the way in which the programme can contribute to uniform implementation of customs policy and legislation, and proposes novel qualitative indicators for evaluating this.

5.2.2. The EESC recommends that the training provided for in the programme prepare participating countries for gathering this interesting data, in terms of both collecting and processing it. In a period of budget austerity, customs authorities may well lack the time and/or staff to develop these surveys, whose reliability might then be uncertain. Measurement tools already exist, and software programmes could provide direct information on, for example, the 'Availability of European electronic systems'.

5.3. Governance

5.3.1. To avoid trade diversion and distortion of competition, the Commission plans to coordinate activities so as to **ensure uniform conditions for implementing the rules**. As on previous occasions it wants to surround itself with **committees and groups of experts**, emphasising civil society participation.

5.3.2. Such coordination must be organised in collaboration with national customs authorities and with experts at operational level and over the long term. The EESC would welcome an **open dialogue with players** such as external experts and representatives of public authorities, including third-country authorities, and representatives of international organisations, business and civil society. The Committee would like to see: (1) before its completion, the European Council promoting the customs programme and signalling its interest in the programme being fully realised; (2) details in the programme about the civil society participants and citizens' access to review mechanisms to **protect their rights**.

5.3.3. The EESC believes that achieving a uniform system would require all the Member States and European institutions to work **transparently** towards the same goals. After the policy decisions on priorities, the Committee would have liked to see a clear separation between measures relating to control of legal and illegal goods, and border checks on individuals (in compliance with customs policy and migration policy).

5.3.4. General factors should be mentioned that would underpin the success of the customs programme, including fiscal harmonisation between the Member States, involvement of all participating countries in training and a willingness on their part to invest in cooperation, combat fraud, and trade on fair terms.

5.4. Building human capacity

5.4.1. Customs is not starting from scratch: it already has human resources, equipment and skills. This key point is noted in the programme, but not expanded on. Every national customs authority should be eligible for support to **develop** infrastructure and **knowledge**.

5.4.2. The Committee advocates making **common EU training** widely available, following Europol's example. This could be subject-based, e.g. on interoperability, AEO ⁽¹⁶⁾ audits, fighting fraud, cybersecurity, internal security, etc. The online modules that have already been developed by the European Commission might be complemented by a special Erasmus programme for customs might devoted to continuing learning, through which temporary exchanges of all grades of customs officials could take place, and which would be financed under the customs programme.

⁽¹⁵⁾ e-customs MASP-C Multi-Annual Strategic Plan, Taxud.a.3(2017)6498377.

⁽¹⁶⁾ AEO: authorised economic operator.

5.4.3. The EESC firmly believes that for cooperation between national authorities with **different cultures** to succeed and for **good practices to be identified and shared**, customs officials must have learned to understand each other and to practise their profession in a similar way⁽¹⁷⁾, in terms of how they use digital tools as well as in other areas (e.g. administrative skills). The EESC believes it would be good policy for both the Member States and the Union to maintain customs operations on the ground, notwithstanding the ever-increasing technical requirements. It does not want to see the combination of austerity and the stated objectives of the programme result in reductions in administrative staff, and would like **everyone to have access to ways of improving their skills in order to cooperate with their counterparts in other EU countries**.

5.5. *Protection of fundamental rights*

5.5.1. The Committee points out that as well as being an instrument for implementing customs policy, the customs programme encourages the upholding of fundamental rights by providing standard training to customs officials and representatives of participating third countries. It is important to take full advantage of this opportunity.

5.5.2. The General Data Protection Regulation (GDPR⁽¹⁸⁾) applies across the Union. Economic operators, businesses and officials must comply with the GDPR, and must be able to invoke it. **Protection of data** — whether of individuals, industry or businesses — can be vitally important and it must be guaranteed by national and EU systems, in the case of routine procedures and disputes, as well as in e-commerce and in statistics relating to the programme assessment indicators.

5.5.2.1. Management of the Union's external borders, in cooperation with Frontex, may involve cases where human rights are threatened. The customs authorities concerned must respect the **human rights** of both the presumed perpetrators and their customs officials.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽¹⁷⁾ See Matthaëus programme.

⁽¹⁸⁾ GDPR: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.119.01.0001.01.ENG&toc=OJ:C:2016:119:TOC

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the space programme of the Union and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013, (EU) No 377/2014 and Decision 541/2014/EU’

(COM(2018) 447 — 2018/0236 (COD))

(2019/C 62/08)

Rapporteur: **Raymond HENCKS**

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1. Conclusions and recommendations

1.1. The European Union can boast a number of major success stories in the space sector. Through its space programmes it contributes to addressing certain major global challenges, including those relating to climate change, security and improving citizens’ daily living conditions, while retaining its sovereignty and its strategic independence vis-à-vis other space powers.

1.2. The EESC supports the EU in its complementary efforts to remain a major independent space power. It agrees with it acquiring financial resources commensurate with its ambitions, in particular a ‘prime reference amount’ of EUR 16 billion, which the EESC views as a minimum financial envelope. The EESC reiterates its call for new financing opportunities to be found, together with the European Investment Bank, to support space-related research, design and manufacturing projects by private companies, SMEs and start-ups.

1.3. As regards the specific objectives of the European space programme, the EESC welcomes the fact that, alongside the programme’s continuously evolving flagships (Galileo and Copernicus), the EU is giving ‘space surveillance and tracking’ more autonomy and powers so as to protect space infrastructure from the risk of the huge amount of space debris that is orbiting around the Earth. It also welcomes the new initiative relating to the Govsatcom system, which responds to the need for secure European satellite communications.

1.4. The EESC notes, however, that the EU remains very low-key in terms of its communication with citizens on the benefits of EU space activities for society and the economy. It proposes an appropriate campaign, so that citizens realise the added value of European space activities, which have become indispensable to their daily lives, boosting jobs, growth and investment, and which are an asset for their safety.

1.5. Moreover, we are very far from making the most of the benefits that space offers for the European economy. The potential of the Earth Observation Programme, and of harnessing the vast amount of data it produces, is largely under-utilised. The EESC calls for an information and awareness-raising initiative to be launched for potential beneficiaries, especially in the maritime and agricultural sectors.

1.6. Internationally, the European space sector is subject to fierce competition, given that space activities are becoming increasingly commercial with greater private sector participation on the market outside the EU. Consequently, it will be absolutely necessary to boost the importance of the single market and apply a principle of ‘European preference’ in the space sector.

1.7. Europe needs competitive launchers suited to commercial and institutional markets if it wants to maintain its independent access to space in the face of a growing number of launchers and strong competition. The EESC encourages the Commission to explore ways to support European research and launch infrastructure.

1.8. The EESC considers that the futuristic project of extracting and retrieving natural resources outside the earth's orbit (space mining), an area in which one Member State has positioned itself as a pioneer, calls for the EU to follow developments more closely, in order to maintain clear European added value.

2. Introduction

2.1. Since the 1990s, the EU has been developing a space policy oriented towards independence from other space powers, in particular through the development of programmes and applications in key industrial sectors such as communications, security, emergency services, navigation systems, information, event broadcasting, climate change, weather forecasting, etc.

2.2. With the support of the European Space Agency (ESA), the EU now has a major network of satellites and its own access to space, via French Guiana, using European launchers. ESA Member States ⁽¹⁾, in turn, have their own space agencies and programmes, research centres, ground facilities and substantial industrial capabilities. In general, they are the source of space initiatives which are then taken up in the framework of the EU or ESA.

2.3. EU action involves, in particular, designing, fully financing and operating the following space programmes, for which it bears overall responsibility for implementing, including in the area of security:

- **Galileo** is the first highly accurate global satellite navigation and positioning system, specially designed for civilian purposes, provided free of charge to users,
- **Copernicus** provides Earth observation data covering six areas: monitoring of land, the marine environment, the atmosphere and climate change as well as emergency management and security,
- **EGNOS** is a pan-European system of three satellites which improves the quality of the open signals emitted by existing global satellite navigation systems and provides more accurate geolocation data,
- **SST** (space surveillance and tracking) is a space monitoring system used to track the 780 000 items of space debris in orbit around the Earth,
- **Govsatcom** is a governmental (civil and military) satellite communications system, recognised as one of the elements of the Global Strategy for the Union's Foreign and Security Policy.

2.4. The Commission has currently delegated the development and deployment of space infrastructure to ESA, which is responsible for deploying the Galileo infrastructure, while the EU agency in Prague (the European GNSS Agency — GSA) is responsible for promoting the market penetration of Galileo. ESA also manages some Copernicus operations.

2.5. The European space industry employs more than 231 000 people, including 41 333 in the area of space construction, and generates an added value estimated by the European Commission to be between EUR 53 billion and EUR 62 billion in 2017.

3. Commission proposal

3.1. The proposed space programme is a response to the industrial strategy presented by Mr Juncker in his 2017 State of the Union address, and to the Commission Communication of 26 October 2016 on a new 'Space Strategy for Europe'.

⁽¹⁾ ESA has 22 Member States. The national bodies responsible for space in the following countries have a seat on ESA's governing Council: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland and the United Kingdom. Canada takes part in some projects under a cooperation agreement. Slovenia is an Associate Member. Bulgaria, Croatia, Cyprus, Malta, Latvia, Lithuania and Slovakia have cooperation agreements with ESA.

3.2. The following acts:

- Regulation (EU) No 1285/2013 on the implementation and exploitation of European satellite navigation systems, Galileo and EGNOS,
 - Regulation (EU) No 377/2014 establishing the Copernicus Programme,
 - Decision No 541/2014/EU establishing a Framework for Space Surveillance and Tracking Support,
 - Regulation (EU) No 912/2010 of the European Parliament and of the Council setting up the European GNSS Agency,
- are repealed and replaced by the Regulation under consideration, which lays down rules common to all components of the programme, dealing in particular with budgetary contributions and mechanisms, financial provisions, public procurement, governance and security. The Regulation also lays down certain rules specific to each of those components.

3.3. The European GNSS Agency, which is responsible for implementing a new generation of satellite navigation systems (GNSS), becomes the European Union Agency for the Space Programme, which is responsible for contributing to the programme, in particular with regard to security, communication and promotional activities, as well as activities linked to marketing the services offered by Galileo and EGNOS.

3.4. The new space programme aims to:

- provide high-quality, up-to-date and, where appropriate, secure space-related data, information and services,
- maximise socioeconomic benefits,
- enhance the security of the EU and its Member States,
- promote the EU's role as a major player on the international stage.

3.5. The proposed Regulation sets the total budgetary allocation for all EU space activities, including research, at EUR 16 billion for the period 2021-2027 (compared to EUR 12,6 billion for the period 2014-2020). This financial envelope constitutes the prime reference amount in line with the Interinstitutional Agreement of 2 December 2013 on budgetary discipline, and can be broken down as follows:

- Galileo and EGNOS EUR 9,7 billion,
- Copernicus EUR 5,8 billion,
- SST/Govsatcom EUR 0,5 billion.

3.6. The new Regulation also addresses the different forms of cooperation and partnership between stakeholders, as well as relations with international organisations and third countries.

3.7. The Commission will report annually to the European Parliament and the Council on the implementation of the space programme, based on performance indicators still to be established.

3.8. The programme will also be evaluated at least every four years. The conclusions of the evaluations, together with the Commission's comments, will be forwarded to the European Parliament and the Council as well as to the EESC and the Committee of the Regions.

4. General comments

4.1. It must first of all be recognised that the EU can congratulate itself on having developed its own space policy in good time and on becoming independent from the other space powers, including one previously considered a reliable partner but that has since become unpredictable.

4.2. The EESC supports the EU in its complementary efforts to remain a major independent space power and to be able to consolidate its technical strengths. Space is a sector requiring considerable financial resources. There can be no ambitious space policy without a corresponding budget.

4.3. The fact that the draft Regulation plans to allocate financial resources to the EU in line with its ambitions — i.e. a financial envelope of EUR 16 billion as a minimum 'prime reference amount' — can therefore only be welcomed. It follows that the Parliament and the Council, as well as the Commission when it draws up the draft budget, undertake not to depart from that amount by more than 10 % for the entire duration of the programme (except in exceptional circumstances).

Nonetheless, the EESC reiterates its call for new financing opportunities to be found, together with the European Investment Bank (EIB), to support space-related research, design and manufacturing projects by private companies, SMEs and start-ups, such as in the area of nanosatellites, miniature propulsion systems, extending satellite lifespans, new applications for Earth observation, etc.

4.4. Moreover, space research and innovation — which must be strengthened if the EU wishes to remain at the cutting edge of progress — can be financed by Horizon Europe, under the 'Leadership in enabling and industrial technologies' work programme, with a budget of EUR 13,5 billion.

4.5. In this regard, we must welcome the fact that, after Brexit, the UK intends to request to continue participating in the European space programme. However, the EESC regrets the fact that only 20 of the current 28 EU Member States are ESA members.

4.6. With regard to the specific objectives of the space programme, the EESC approves of the fact that the new applications and new services take account of developments in the area of autonomous cars, drones, robots and the internet of Things (Galileo), and focus — in the interests of humankind — on the monitoring of climate change (e.g. anthropogenic CO₂ and greenhouse gas emissions monitoring), land use in support of agriculture, the observation of polar areas, forest and water management, and the detection of small objects (e.g. ships) to monitor illegal traffic (Copernicus).

4.7. The EESC also supports the proposal to allocate more autonomy and capacity to SST in order to protect space infrastructure and the Earth from space risks, as well as the creation of new activities to observe space debris and extreme space weather phenomena resulting from solar activity as well as asteroids and comets (near-Earth objects). The issue of space debris directly concerns over sixty countries that currently own and operate satellites. This space surveillance is crucial given the risk of damage to essential infrastructure that affects the daily lives of citizens, with the associated service interruptions, inconvenience and economic losses.

4.8. The new initiative on the Govsatcom system responds to the need for secure EU satellite communication (border surveillance, maritime community, policing, civil protection, humanitarian aid, EU external action, etc.) and will make it possible to improve the safety and independence of future European secure telecommunications systems and services, which the EESC supports.

4.9. The EU can thus boast a number of major success stories in the space sector. The EESC notes, however, that the EU remains very low-key in terms of its communication with citizens on the benefits of space for society and the economy. Many are not aware that when, for example, they use their mobile phone, smartphone or navigation systems, watch satellite TV, travel by land, sea and air, or withdraw money, they are using space services. It will therefore be necessary to ensure, via an appropriate campaign, that citizens realise that European space activities are essential for their daily lives, create employment, growth and investment, and help improve their security.

4.10. Similarly, we are very far from making the most of the benefits that space offers for the European economy. The potential of the Earth Observation Programme, and of harnessing the vast amount of data it produces, is largely under-utilised. The EESC calls for an information and awareness-raising initiative to be launched for potential beneficiaries, especially in the maritime and agricultural sectors.

4.11. As the Commission notes, there have been difficulties related to the space sector's capacity to hire appropriate staff. The EESC is of the view that space science should be included in the school system, and that awareness should be raised among Member States' universities in order for them to offer a master's degree in space engineering.

4.12. Internationally, the European space sector will have to meet the challenge of fierce competition, given that space activities are becoming increasingly commercial as a result of greater private sector involvement. The major European operators carry out most of their activities outside Europe. Consequently, it will be absolutely necessary to boost the importance of the single market and apply a principle of 'European preference' in the space sector.

4.13. As the Commission states, space is part of a global value chain, which is facing major changes pushing the traditional boundaries of the space sector. This 'New Space' is revolutionising the space sector, not only from a technological perspective but also from an economic model point of view. It is therefore essential for the EU to actively support the whole space sector, in particular research and development, start-ups and business incubators active in this sector. The EESC regrets that the Commission confines itself in this Regulation to stating that the space programme shall support cooperation between undertakings in the form of space hubs bringing together, at national and regional levels, actors from the space and digital sectors, without any further information about the functioning and financing of such hubs.

This 'New Space' project could consist of developing the economic sector of space assets (space mining), with the aim of extracting and retrieving natural resources from outside the earth's orbit. Asteroids, for example, may contain nickel, platinum, cobalt and iron. NASA estimates that the asteroid belt between Mars and Jupiter (more than a million asteroids) is worth USD 700 trillion. These resources may be brought back to Earth, or used in space as energy for satellites or to build bases from which space exploration missions further afield can depart.

4.14. Luxembourg is the second country in the world, after the United States, to establish a legal framework (which some contest) allowing for the exploration and commercial use of space resources. The EIB has also been involved in the project in an advisory capacity, together with ESA, which intends to provide advice and guidance through its financial advisory service for innovation.

4.15. The EESC believes that the EU should step up its technological, financial and legal participation in space mining research, and ensure that the project continues to have clear European value, as other American, Arab and Asian organisations and companies have become involved in the project.

4.16. Europe needs launchers suited to commercial and institutional markets if it wishes to be able to maintain its independent access to space. Reusable rockets show particularly promising progress, which will reduce costs and the turnaround time between launches. Competition on the commercial market remains intense and sometimes unfair. The EESC encourages the Commission to explore ways to support research and European launch infrastructure, while respecting the vital principle of preserving the EU's independent access to space.

4.17. Even if, according to the TFEU, the Member States have the power to define services of general interest, this does not detract from the competences of the EU to define such services at its own level, where this appears necessary in order to implement the EU's objectives. The EESC calls for the EU institutions to recognise the existence and need for EU services of general interest in areas where EU action is more effective in meeting its objectives, as is clearly the case for the space sector.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on a) Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters

(COM(2018) 378 final — 2018/203 (COD))

and on b) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents)

(COM(2018) 379 final — 2018/204 (COD))

(2019/C 62/09)

Rapporteur: **Bernardo HERNÁNDEZ BATALLER**

Referral	a) European Parliament, 10.9.2018 b) European Parliament, 10.9.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	2.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	184/0/9
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC takes due note of the Commission's proposals to amend the Taking of Evidence Regulation and the Service of Documents Regulation.

1.2. The EESC calls on the Commission to take into account the observations in this document concerning their proposals, specifically those set out in points 5.2, 5.3, 5.4, 5.5, 5.9, 5.10, 6.3, 6.4. and 6.6, since without a genuine judicial area, the freedoms of the single market cannot be fully taken advantage of.

2. Background

2.1. With the objective of creating an area of freedom, security and justice in the European Union (EU), Article 81 of the Treaty on the Functioning of the European Union (TFEU) lays the groundwork for developing 'judicial cooperation in civil matters' having cross-border implications, by enabling the EU to adopt measures for the approximation of the laws and regulations of the Member States.

2.2. When necessary for the proper functioning of the internal market, a legal provision exists to adopt measures aimed at ensuring mutual recognition and enforcement — between Member States — of judgments and of decisions in extrajudicial cases and cooperation in the taking of evidence.

2.3. To regulate judicial assistance between Member States, the EU replaced the systems set out in the Hague Conventions by adopting the following legal instruments:

2.3.1. Council Regulation (EC) No 1206/2001 ⁽¹⁾ on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, adopted on the initiative of the Federal Republic of Germany ('Taking of Evidence Regulation'), in force in all Member States except Denmark.

2.3.2. This Regulation establishes a direct and rapid EU-wide system to transmit and implement requests for the taking and execution of evidence between courts and lays down precise rules as to the form and content of such requests. It has put in place a system of direct dealings between courts, replacing the previous system, under which requests were sent from a court in one Member State to the central body of the other Member State.

2.3.3. Regulation (EC) No 1393/2007 ⁽²⁾ of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters ('Service of Documents Regulation'), in force in all Member States ⁽³⁾.

2.3.4. This Regulation applies in civil and commercial matters where a judicial or extrajudicial document has to be transmitted from one Member State to another for service there. However, it does not extend to revenue, customs or administrative matters or to liability of the state for actions or omissions in the exercise of state authority (*acta iure imperii*).

2.4. The EESC has always been in favour of creating a common area of freedom, security and justice in the EU, which (among other things) involves adopting measures in the area of judicial cooperation and in civil matters — measures that are needed so that citizens and enterprises are not prevented or discouraged from exercising their rights due to the incompatibility or complexity of the Member States' judicial systems.

2.5. In any event, in order to create the European judicial area, it is imperative to improve cooperation between courts, thus simplifying and speeding up procedures so as to eliminate dysfunctions and delays.

3. Commission proposals

3.1. The Commission's proposals seek to amend the two existing regulations on the taking of evidence and the service of documents.

3.2. The proposal to amend the Taking of Evidence Regulation

3.2.1. The proposal aims to improve the smooth functioning of the area of freedom, security and justice, and of the internal market, improving and speeding up the cross-border taking of evidence.

3.2.2. It seeks to bring the Regulation into line with technical developments, exploiting the benefits of digitalisation; requiring that the communication and exchange of documents be carried out electronically by default; and respecting data protection and privacy, without any infringement upon parties' procedural rights. To this end, the system will have to incorporate a decentralised structure enabling direct communication between end-users.

3.2.3. The proposal encourages the use of modern methods of taking evidence, such as videoconferencing when there is a need to hear a person who is in another Member State. It seeks to ensure a more appropriate, more frequent and faster use of direct taking of evidence when hearing a person domiciled in another Member State as a witness, expert or party.

3.2.4. It removes legal barriers to the acceptance of electronic (digital) evidence. The proposal provides for the mutual recognition of digital evidence. This will reduce the burden for citizens and businesses in proceedings, and will also limit the instances where electronic evidence is rejected.

3.2.5. It seeks to solve the issue of the divergent interpretations of the term 'court', which is currently not defined in the Taking of Evidence Regulation. The proposal aims to dispel uncertainties in this regard.

⁽¹⁾ Council Regulation (EC) No 1206/2001 of 28 May 2001 (OJ L 174, 27.6.2001, p. 1).

⁽²⁾ Regulation (EC) No 1393/2007 of 13 November 2007, repealing Council Regulation (EC) No 1348/2000 (OJ L 324, 10.12.2007, p. 79).

⁽³⁾ By virtue of the 'parallel agreement' with Denmark (OJ L 300, 17.11.2005, p. 55). The United Kingdom and Ireland, in accordance with Article 3 of Protocol No 21 to the Treaty, notified at that time that they wished to take part in the adoption and application of these two regulations.

3.2.6. The proposal is in line with other EU instruments in relation to civil judicial cooperation. It is also without prejudice to the possible exchange of information between authorities with regard to recognition and enforcement in matrimonial matters and matters of parental responsibility ⁽⁴⁾ or with regard to maintenance obligations ⁽⁵⁾, even where that information has evidentiary value, so the requesting authority is free to choose the most suitable method.

3.2.7. The proposal regulates the ability of one Member State's diplomatic officers or consular agents to take evidence in the territory of another Member State and in the area where they exercise their functions, without the need for a prior request to the central body or competent authority of that Member State.

3.2.8. To ensure mutual recognition of digital evidence, such evidence taken in a Member State in accordance with its law should not be denied recognition as evidence only because of its digital nature.

3.2.9. A delegation to the Commission, in accordance with Article 290 TFEU, is included, for the sake of making changes to or updating the standard forms in the Annexes.

3.3. *Service of Documents Regulation*

3.3.1. The main focus of its rules is in fact to lay down uniform channels for transmission of documents from one Member State to another for purposes of serving those documents in the other Member State. The experience of applying the current Regulation, and the relevant case law issued by the Court of Justice of the European Union (CJEU), have been particularly useful in this connection.

3.3.1.1. Its scope of application is being changed, but the current language of the provision on extrajudicial documents remains. Meanwhile, as regards judicial documents, the Regulation will apply in all situations where the domicile of the addressee is in another Member State.

3.3.1.2. This new standard, under which all instances of service of documents are obligatorily covered when the addressee is domiciled in another Member State, only applies to the service of the documents instituting the proceedings and the 'service of process'. As to the subsequent instances of service of judicial documents in the course of a judicial proceeding, the extra protection is less relevant.

3.4. The communication and exchange of documents between sending and receiving authorities is carried out electronically, through a decentralised IT system made up of national IT systems interconnected by a secure and reliable communication infrastructure; however, there is the option of using alternative (traditional) means of communication in cases of unforeseen and exceptional disruption of the IT system.

3.5. It is stipulated that Member States must provide assistance in locating the whereabouts of a recipient in another Member State; there are three alternative options:

- judicial assistance through authorities designated by the Member States;
- providing access to public domicile registers through the European e-justice Portal;
- providing detailed information via the European e-justice Portal on available tools for locating persons in their territories.

3.6. Foreign parties to proceedings may be required to appoint a representative in the Member State of the proceedings for the purposes of service of documents related to the proceedings.

3.7. There is an improvement to the procedure on the right of the addressee to refuse to accept the document if it is not drawn up or translated into an appropriate language.

3.8. The proposal obliges the postal service providers to use a specific return slip (acknowledgement of receipt) when serving documents by post under the Regulation. It also introduces a minimum rule concerning persons to be regarded as eligible 'substituting recipients' if the postal service provider cannot hand over the document to the addressee in person.

⁽⁴⁾ Council Regulation (EC) No 2201/2003 of 27 November 2003 (OJ L 338, 23.12.2003, p. 1).

⁽⁵⁾ Council Regulation (EC) No 4/2009 of 18 December 2008 (OJ L 7, 10.1.2009, p. 1).

3.9. The proposal introduces the electronic service of documents as an additional alternative method of service under the Regulation.

3.10. In the event of the defendant not entering an appearance, there are two substantial new elements:

- a) the court seised with the proceedings is required to send an alert message about the initiation of the proceedings or about the default judgment to the available user account of the defendant;
- b) a uniform period of two years is set, as of the issuance of the default judgment, for the availability of extraordinary relief from the effects of the expiry of the time for appeal in the context of challenging the recognition and enforcement of that judgment in another Member State.

4. General comments

4.1. The EESC welcomes the Commission's proposals to amend the Taking of Evidence Regulation and the Service of Documents Regulation, as they facilitate judicial integration in the Member States by establishing uniform channels in their respective fields of application.

4.2. Both proposals contribute to: improving judicial cooperation in the EU, based on the principle of mutual recognition of judgments (Article 81 TFEU); reinforcing the area of freedom, security and justice (Article 3(2) and Article 67 TFEU); and establishing the internal market (Article 26 TFEU).

4.3. In sum, the adoption and application of the regulatory framework proposed by the Commission should contribute objectively to the dismantling of several invisible barriers that directly affect the lives of all citizens — whether nationals of the Member States or people who are resident in the EU — and the commercial activities of companies that operate in the EU.

4.4. In order to guarantee access to justice and to a fair trial, it is essential that the provisions of these two proposals be applied in judicial cases that have cross-border implications, as well as being appropriately substantiated.

4.5. The proposals are also in line with the digital market strategy in relation to e-government, especially as regards the need to take steps to modernise public administration and achieve cross-border interoperability, which facilitates interaction with the general public.

4.6. The proposals increase legal certainty and thereby help to avoid delays and undue costs for citizens, companies and public administrations, as well as addressing shortcomings in the protection of parties' procedural rights, since they try to avoid legal defencelessness in accordance with the 'principle of equality of arms'.

4.7. It should be noted that the provision concerning delegated acts to update and amend the annex to the two proposed regulations is not in line with the position held by the EESC ⁽⁶⁾ in this regard, since the proposal provides that the delegation may be of indeterminate duration, despite the call for the adoption of delegated acts to be subject to a time limit.

4.8. In short, the EESC considers that without a genuine judicial area the freedoms of the single market cannot be fully taken advantage of.

5. General comments on the Taking of Evidence Regulation

5.1. The proposed amendment to the Taking of Evidence Regulation aims to enhance electronic communications between the relevant competent bodies as a replacement for the use of paper, which is slower and more expensive, as well as to use videoconferencing to take evidence in other Member States, without incurring any loss to the procedural rights of the parties.

5.2. Although this proposal presupposes that the courts concerned will behave in a diligent and effective way and that scrupulous respect will be shown for the principles of sincere cooperation and mutual recognition — the latter expressly invoked to prevent the evidential value of digital evidence from being rejected (fourth recital and Article 18(a) of the proposal) — it does not establish any provision in the case of a refusal on the part of the requested court due to:

⁽⁶⁾ OJ C 288, 31.8.2017, p. 29; OJ C 345, 13.10.2017, p. 67.

- undue delay;
- lack of motivation; or
- insufficient motivation.

These cases amount in practice to the impossibility of accessing effective judicial protection and a solution should be found to ensure that this does not happen.

5.2.1. This is relevant in relation to the current state of EU law, in which the mere refusal of a court required to refer a preliminary ruling to the CJEU in a case that is under its jurisdiction could be considered a serious breach of the obligations of the state under EU law ⁽⁷⁾.

5.2.2. There are many situations in which the requested court can severely impair defendants' rights if it does not cooperate with due diligence, especially with regard to interim judicial protection, by resorting to reservations about national sovereignty, national security, public order, etc. (see Article 4(2) TEU) or in the case of divergences arising from the different procedural practices in the Member States.

5.2.3. The latter situation occurs, for example, during pre-trial discovery, as Article 23 of the Hague Convention of 18 March 1970 on the taking of evidence abroad in civil or commercial matters allows the Contracting States to introduce a sovereignty reservation to reject letters of request that originated in the preliminary phase of the proceedings (after the lawsuit has been filed but before the trial has begun).

5.2.4. The current Regulation (EC) No 1206/2001, although it does not explicitly address this issue, excludes it from its scope of application, as is clear from Council Declaration 54/01 of 4 July 2001 (doc. 10571/01, p. 1).

5.2.5. Occasionally, undue delays may be the result of insufficient technical skills on the part of the requested courts or of inadequate technological infrastructure. In order to prevent and eliminate these situations as much as possible, the proposal should lay down a provision requiring Member States to guarantee that their courts will be digitally up-to-date and to ensure that their technological infrastructure is adequate.

5.3. On the other hand, certain provisions of the proposal should be made specific. For example, Article 1(4) establishes a restrictive notion of 'court' by defining it as 'any judicial authority in a Member State which is competent for the performance of taking of evidence' according to the Regulation.

5.3.1. While this definition could include public officials (e.g. notaries public), it excludes private arbitration bodies, whether in the fields of investment, commercial or consumer arbitration, or arbitration bodies that resolve other issues.

5.3.2. The major significance of arbitration bodies for the commercial and economic activities of the Member States and of third countries is therefore not recognised.

5.3.3. With regard to the latter, situations of *lis pendens* may arise, as well as problems relating to the execution of their decisions by the Member States' requested courts (e.g. an anti-suit injunction), which could cause legal uncertainty.

5.3.4. Certainly, this restrictive definition of 'court' tallies with the case law of the CJEU, which usually denies the status of 'court' to private arbitration bodies ⁽⁸⁾.

5.3.5. In the EESC's opinion, automatically applying the case law of the CJEU to the field in question could lead to a situation in which the decisions of the arbitration tribunals are not recognised or the requested court refuses to cooperate, which — in some cases — could ultimately leave the parties in question defenceless.

⁽⁷⁾ See Advocate General Wathelet's opinion in case C-416/17, *European Commission v French Republic*, points 95-103.

⁽⁸⁾ For example, in the following cases: *Nordsee* case 102/81 (1982), paragraphs 10-13; *Eco Swiss* case C-126/97 (1999), paragraph 34; *Denuit and Cordier* case C-125/04 (2005), paragraph 13; *Gazprom* case C-536/13 (2015), paragraph 36; *Achmea* case C-284/16 (2018), paragraphs 45-49, etc.

5.3.6. However, arbitration clauses between the investor and the state referred to in bilateral investment treaties should be excluded from this assessment, as they are incompatible with EU law and have no legal effect inasmuch as they are illegal, overlapping with the rules of the single market and discriminating between investors in the EU, in line with the case law of the CJEU in the ‘Achmea’ judgment⁽⁹⁾.

5.4. For its part, Article 17(b) recognises the right of diplomatic or consular representatives of a Member State to take evidence, without prior request, on the territory of another Member State in which they are accredited. This power is limited to hearing nationals of the Member State which they represent without compulsion, in the context of proceedings pending in the courts of that Member State.

5.5. It would be useful to extend the judicial assistance tasks that are set out in the proposal for these officials, in order to adapt them to the current situation in the EU, particularly as regards the free movement and residence of Member State nationals and freedom of establishment on the part of businesses. As a result, non-nationals would also be permitted to perform these officials’ tasks without the need for prior authorisation, as would nationals of the receiving state, provided that the state in question gives its authorisation.

5.6. The EESC agrees with the need to establish an obligation to assist the serving Member State in its search for the address in the receiving Member State of the person to whom the judicial or extrajudicial document must be served, when that address is not known.

5.7. On the other hand, in the context of the present proposal, the EU Justice Agenda for 2020 seeks to reinforce fundamental rights, including civil procedural rights.

5.8. In this regard, the digitalisation measures set out in the proposal take into account the data protection and privacy requirements in the system for electronic exchanges between the courts concerned, such as the establishment of a predefined set of users of the system (which is limited to the courts and the judicial authorities of the Member States).

5.9. Yet despite the fact that attacks on this electronic infrastructure are expected to multiply in the future — a risk that may be exacerbated as a result of any interconnection between the computer systems concerned — no provision is made for ascertaining who is responsible in the event that cyber-attacks, or computer system failures and crashes, lead to the dissemination of sensitive information or even destroy the evidence of a proceeding.

5.10. Accordingly, serious injury to the rights of individuals may occur without there being any foreseeable way of insisting upon the liability of their perpetrators. It may even be the case that the individuals themselves must bear these injuries if those responsible claim that they are the result of *force majeure*.

6. General comments on the proposed Service of Documents Regulation

6.1. The EESC believes that the proposed Service of Documents Regulation will improve and speed up judicial proceedings, as it will simplify and streamline cooperation mechanisms for the service of documents. This will improve the administration of justice in cross-border cases, strengthen civil procedural rights and enhance mutual trust between Member States’ justice systems.

6.2. This proposal seeks to do away with slowness and with the frequent breach of deadlines — situations that occur because the documents are served by the competent bodies — by insisting that the service of documents be carried out electronically. It also strengthens the rights of defence of the recipient by means of targeted interventions on the part of the competent bodies with regard to uncertainty arising from the non-acceptance of a document or in cases of default judgments.

6.3. The wide range of subjective and material applications of this proposal is worth noting, given that it includes all persons, both physical and legal. It therefore also applies to all retailers, including micro-enterprises, and only allows those exceptions that are specifically mentioned (Article 1(1) and (3)).

⁽⁹⁾ ‘Achmea’ judgment, case C-284/16 of 6 March 2018 (ECLI:EU:C:2018:158).

All the linguistic versions would need to be aligned in order to make clear that the proposed Regulation affects not only the document that triggers the procedure, but also all the judicial documents that relate to the proceedings.

6.4. The EESC agrees with the guarantees and safeguards laid down to deal with the 'refusal to accept a document' on the part of the recipient and the obligation of the receiving body to provide notification of this. On the other hand, in order to balance the rights of the parties to the proceedings, the defendant must have full knowledge of the document that gives rise to the proceedings, and so it seems appropriate for it to be drafted in a language understood by the recipient or one of the official languages of the place of service of the document.

6.5. The provision of additional means of serving documents by post, the possibility for service to be carried out directly by judicial agents, officials or other competent persons from the requested Member State, and the electronic service of documents, all appear to be appropriate.

6.6. In any case, it is important to safeguard and guarantee the integrity and purpose of the document, whether judicial or extrajudicial.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council establishing the EU Anti-Fraud Programme'

(COM(2018) 386 final — 2018/0211 (COD))

(2019/C 62/10)

Rapporteur: **Giuseppe GUERINI**

Referral	Commission, 18.6.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
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Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	193/0/4

1. Conclusions and recommendations

1.1. The EESC supports the European Commission's proposal to establish a new anti-fraud programme designed to protect the EU's financial interests and foster mutual administrative assistance between the Member States' customs authorities.

1.2. The Committee welcomes the fact that the new anti-fraud programme is based on the previous Hercule III programme and seeks to enhance its performance in the light of the implementation practice adopted since then, in particular as regards a more extensive analysis of available data and with reference to effectively combining the Hercule system with the AFIS and IMS systems.

1.3. The EESC hopes that the EU will promote international anti-fraud cooperation, so as to develop an effective and coordinated response to activities that now go beyond state and even continental borders; to this end, effective methods of global cooperation between the relevant authorities need to be developed.

1.4. The EESC recommends that the Commission make sufficient investment in the new anti-fraud technologies, starting with artificial intelligence, which could deliver significant improvements that would facilitate the efforts to combat these illegal activities.

1.5. These investments must be accompanied by proper training for public authority staff involved in the fight against fraud. It is crucial that the updated response to developments in trafficking involve a combination of using new technologies and properly training the people involved on this front.

1.6. Given the strategic importance of technology in combating fraud, the EESC suggest that, in addition to the performance indicators set out in the Commission proposal, further indicators be added in relation to measuring progress as regards tax authorities' capacity to adopt new digital technologies, and in relation to artificial intelligence for combating fraud affecting the interests of the EU.

1.7. From a political perspective, the EESC considers that the European institutions' efforts to combat fraud could also be enhanced by making additional efforts to harmonise the laws and tax rules that apply within the different national jurisdictions. It is in fact possible that the excessive discrepancies between the laws and tax rules in effect across the Member States within the internal market may be leading to the adoption of unlawful practices in order to exploit the existing regulatory differences (e.g. VAT carousel fraud), which may be detrimental, directly or indirectly, to the EU budget or, more generally, to the consolidation of the European single market.

2. Commission proposal

2.1. The current system to combat fraud detrimental to the EU budget comprises the following measures: i) the Hercule III spending programme which targets fraud, corruption and any other illegal activities affecting the EU's financial interests; ii) the Anti-Fraud Information System (AFIS) which consists of a set of customs IT applications managed by the Commission under Regulation (EC) No 515/97; and iii) the Irregularity Management System (IMS) which is an electronic communications tool that facilitates the Member States' obligation to report detected irregularities.

2.2. The new EU anti-fraud programme, which is the subject of this opinion, will largely be based on the previous Hercule III programme, with some improvements such as the option of funding new initiatives — for instance on data analysis — and combining that programme more effectively with the AFIS and IMS systems.

2.3. The anti-fraud programme will have two general objectives: i) protecting the financial interests of the EU; and ii) supporting mutual assistance between the administrative authorities of the Member States, as well as cooperation between these authorities and the Commission, in order to ensure that customs and agricultural legislation is applied properly.

2.4. The programme will also have three specific objectives, directly linked to the general objectives: i) preventing and combating fraud, corruption and any other illegal activities affecting the financial interests of the EU; ii) supporting the reporting of irregularities, including fraud, with regard to the shared management and pre-accession assistance funds of the EU budget; and iii) providing tools for information exchange and support for activities in the field of mutual administrative assistance in customs and agricultural matters.

2.5. The funding to be allocated to the programme for the period 2021-2027 amounts to EUR 181,207 million, distributed as follows: i) EUR 114,207 million for preventing and combating fraud, corruption and any other illegal activities affecting the financial interests of the EU; ii) EUR 7 million for supporting the reporting of irregularities, including fraud, with regard to the shared management and pre-accession assistance funds of the EU budget; and iii) EUR 60 million for providing tools for information exchange and support for operational activities in the field of mutual administrative assistance in customs and agricultural matters.

2.6. The new programme will be implemented against the backdrop of a new legal framework that has seen significant changes, in particular with the establishment of the European Public Prosecutor's Office (EPPO). The EPPO is set to play an important — and hopefully effective — role, which, in combination with the implementation of Directive (EU) 2017/1371 on combating fraud by means of criminal law, should ensure that the financial interests of the EU and Europeans are better protected.

2.7. The regulation for the anti-fraud programme was drawn up following a stakeholder consultation carried out by the Commission — and also taking into account the suggestions of a group of experts — and has a sound legal basis in the Treaties (Articles 325 and 33 TFEU).

3. General and specific comments

3.1. The EESC fully supports the European Commission's proposal to establish a new anti-fraud programme designed to protect the EU's financial interests and foster mutual administrative assistance between the Member States' customs authorities.

3.2. Articles 325 and 33 TFEU must be implemented by means of suitable instruments and proper coordination between national and European authorities, as has been shown by the measures taken in recent years, which have resulted in large amounts of money going back into the EU budget, although the Commission notes that it is difficult to quantify the exact amount of the sums recovered.

3.3. Market globalisation, the increasing mobility of people and goods, and the ever-growing use of new communications technologies are fostering exponential growth in cross-border transactions and e-commerce. While this creates great opportunities for growth and market development, it also entails the need to rapidly and constantly update the techniques used to combat illegal activities and the legislation aimed at combating fraud and the various ways in which customs checks are circumvented.

3.4. It is therefore crucial that the response of public authorities to ever more sophisticated forms of fraud moves with the times both as regards the effectiveness of enforcement, and in terms of technology and effective cooperation between the various national authorities, whose activities should be coordinated and in synergy.

3.5. Given the cross-border nature of fraud and the increasing ease (facilitated by technology) with which illegal practices can be rapidly developed — such as the ease with which money gained from illegal activities can be moved — ever closer cooperation needs to be developed between authorities worldwide. The EESC hopes that the EU will promote international anti-fraud cooperation, so as to develop an effective and coordinated response to activities that now go beyond state and continental borders.

3.6. The Committee welcomes the fact that the new anti-fraud programme is based on the Hercule III programme and seeks to build on previous experience in the light of the implementation practice adopted since then, in particular as regards a more extensive and accurate analysis of available data and with reference to effectively combining the Hercule system with the AFIS and IMS systems.

3.7. At this stage, thanks to the Customs Union, which falls under the exclusive competence of the EU in accordance with Article 3 TFEU, significant results have been achieved as regards the harmonisation of rules, the effectiveness of controls and the deterrent effect of sanctions. It is important to build on these results by taking effective measures to protect the EU's financial interests, and this requires, *inter alia*, that ever more intense efforts should continue to be made to step up customs cooperation between the Member States with the close involvement of the Commission.

3.8. With the new anti-fraud programme, efforts to combat illegal activities affecting the financial interests of the EU will also be bolstered by simplifying and speeding up the control procedures, through the introduction of new customs technologies. In this regard, the EESC recommends that sufficient investment be made in the new anti-fraud technologies, starting with artificial intelligence, which is considered to offer significant potential for enhancing the work of public authorities.

3.9. These investments must be accompanied by proper training for public authority staff involved in the fight against fraud. It is crucial that the updated response to developments in trafficking involve a combination of using new technologies and properly training the people involved in combating the fraud and other illegal activities, who will require ongoing training and updating as the technology to counter illegal activities develops.

3.10. The EESC endorses the general and specific objectives of the new anti-fraud programme, but suggests introducing a new specific objective as regards combating customs fraud, corruption and illegal activities carried out by electronic means and with the use of new technologies, in order to develop a customs policy to combat digital fraud.

3.11. It is important to emphasise that adapting customs policy and anti-fraud policies to technological developments is not merely a matter of updating the tools and physical equipment available to the authorities, but must take the form of a fully-fledged long-term strategy based on specific goals, targets and methods.

3.12. The Commission did not consider it necessary to carry out a prior impact assessment, in that the new anti-fraud programme is largely a continuation of the previous programme, regarding which *ex-post* assessments⁽¹⁾ have already been carried out, which have deemed it effective. While it understands the choice not to carry out a prior impact assessment and considers the *ex-post* assessments mentioned by the Commission to be sound in principle, the EESC deems it important that the EU's policies on preventing and combating fraud be based on specific and verifiable data. In the absence of a prior impact assessment, it therefore becomes imperative that the new anti-fraud programme be backed up by ongoing monitoring, assessment and reporting providing an accurate picture of the state of play and progress achieved over time.

3.13. The EESC endorses the three indicators set out in the proposal for monitoring progress on the specific objectives set by the new anti-fraud programme, i.e.: i) user satisfaction rate and percentage of Member States receiving support in preventing and combating fraud, corruption and any other illegal activities affecting the financial interests of the Union; ii) user satisfaction rate for the use of the Irregularities Management System; and iii) the quantity of mutual assistance information made available and the number of supported mutual assistance-related activities.

3.14. In line with its request set out above to add a specific objective concerning the need to implement a customs and anti-fraud strategy for the digital economy, the EESC also suggests introducing indicators in relation to measuring progress as regards tax authorities' capacity to adopt new digital technologies, and in relation to artificial intelligence for combating fraud affecting the interests of the EU.

⁽¹⁾ See assessment of the Hercule II (2007-2013) and Hercule III (2014-2017) programmes.

3.15. To ensure that the anti-fraud programme works well, the measures introduced should be properly backed up in terms of the funding allocated. The EESC therefore supports the Commission's proposal for the programme to be implemented under both direct and indirect management.

3.16. The EESC endorses the proposal to provide funding to the Member States — deeming this consistent with the overall approach of the regulation on the new anti-fraud programme — to cover the costs of installing and maintaining the technical infrastructure, and of the logistical, office automation and IT resources needed to coordinate joint customs operations and other operational activities. In line with this, the EESC also endorses the possibility of funding expenditure relating to the acquisition, study, development and maintenance of computer infrastructure (hardware), software and dedicated network connections for preventing and combating fraud.

3.17. In the light of the previous point, the EESC encourages the Commission to make the coordination mechanisms — which it proposes to put in place to ensure the efficiency and interoperability of all the equipment purchased with EU funds — effective and stringent, in order to combat fraud and illegal practices detrimental to the EU budget in increasingly effective and coordinated way.

3.18. From a political perspective, the EESC considers that the European institutions' efforts to combat fraud could also involve additional efforts to harmonise the laws and tax rules that apply within the internal market. It is in fact possible that the excessive discrepancies between the laws and tax rules in effect across the Member States within the internal market may be leading to the adoption of unlawful practices in order to exploit the existing regulatory differences (e.g. VAT carousel fraud), which may be detrimental, directly or indirectly, to the EU budget or, in more general terms, to the consolidation of the European single market.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment'

(COM(2018) 474 *final* — 2018/0258 (COD))

(2019/C 62/11)

Rapporteur: **Antonello PEZZINI**

Referral	European Parliament, 2.7.2018 Council, 4.7.2018
Legal basis	Articles 114(1) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	2.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	200/0/5
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) considers it essential, in the light of growing problems linked to the control of the EU's external borders, to implement a system that couples the protection of individuals and border security with the creation of profitable trading links with third countries.

1.2. This is one of the major challenges that the European Union must address and the EESC believes that the Border Management Package, which has been prepared for the next Multiannual Financial Framework, is a positive first step.

1.3. With a view to safeguarding Member States' social culture and social, environmental, economic and financial interests, the EESC considers it vital to ensure that the EU has high levels of quality and innovation in relation to customs control equipment, used for the following:

- the fight against illegal trade (which is still ineffective);
- streamlining and simplifying legal trade practices;
- safeguarding the security of the EU's internal market;
- protecting the environment and health of citizens;
- compliance with fundamental labour rights;
- protecting consumer interests;
- providing optimal customs risk management;
- collecting duties.

1.4. The Committee also considers the following important, in relation to the new instrument:

- ensuring that priority is given to equipment for borders that are under the greatest pressure in terms of controls, such as sea borders;
- speeding up the work of evaluation teams operating in this field ⁽¹⁾;
- guaranteeing a fair geographical distribution;
- respecting the principle of proportionality, linked to the movement of goods and persons, in synergy with the Security Fund.

1.5. The Committee welcomes the Commission's efforts to improve EU border controls and to boost the required funds and instruments, with the aim of ensuring innovative, high-quality customs controls and, ideally, the uniform application of customs legislation implemented in the external border offices ⁽²⁾.

1.6. The Committee believes that the amount of funding allocated is insufficient considering the aims to be pursued and should, moreover, include equipment for monitoring phytosanitary safety and instruments for carrying out advanced spectrography on goods containers ⁽³⁾.

1.7. The Committee also considers it important to provide equipment with the commensurate speed to those customs offices under greatest pressure to carry out controls, such as sea border offices, which should be given priority when allocating grants. The new instrument should also establish a rapid response reserve for the deployment of new and innovative equipment, while including the possibility of reviewing the list of equipment that has already been approved.

1.8. The Committee calls for maximum transparency to be ensured as regards the annual work programmes and the grants allocation mechanisms ⁽⁴⁾, managed directly by the Commission.

1.9. The EESC recommends close coordination with the Customs programme — aimed at financing a complete range of infrastructure and IT systems, including the digitalisation of interactions between commercial operators and customs services — with Horizon Europe, and with other relevant funds.

1.10. The Committee calls for a medium-term report to be submitted on the new instrument's achievements and operations, offering an analysis based on qualitative and quantitative indicators.

1.11. Developing a basic common language covering the recurring themes used by customs officials (as is the case with air traffic controllers), within an appropriate time-scale, would make it easier to establish the much anticipated single, uniform European customs system.

1.11.1. The EESC recommends promptly updating the 'toolbox' of customs equipment, so as to take immediate account of the development of the internet of Things, cybersecurity, digital tracking and state-of-the-art technological applications, with a view to ensuring their use, by speeding up their deployment and the provision of up-to-date training.

1.11.2. Similarly, common training frameworks ⁽⁵⁾ should be developed based on the European Union Customs Competency Framework (EU Customs CFW), which aims to harmonise and raise customs performance standards throughout the EU.

⁽¹⁾ At present, only 11 Member States with eastern and south-eastern external borders have carried out the necessary inventory of equipment and categories of measures needed, and have set out proposed standards for each category.

⁽²⁾ There are 2 140 customs offices. See https://ec.europa.eu/info/publications/annual-activity-report-2016-taxation-and-customs-union_en

⁽³⁾ This is very useful for checking the contents of the innumerable containers.

⁽⁴⁾ Grants exempted from the Financial Regulation are awarded to Member States, which become owners of materials: Articles 7, 10(2), 195(f) and 197 of Regulation (EU, Euratom) 2018/1046 of 18.7.2018.

⁽⁵⁾ *The European Union Customs Competency Framework (EU Customs CFW) aims at harmonising and raising customs performance standards throughout the EU.* © Unione europea, 2015. **European Union Customs Competency Framework**, which shows the components of the competency framework for the EU customs sector and outlines the approach used in defining competencies. It also explains the decisions taken regarding the choice of certain competencies in each section, focusing in particular on the criteria used to compile the list of operational competencies (e.g. reference to the Union Customs Code and their relation to 'on-the-job' competencies, forward-looking approach).

1.11.3. In the meantime it is important to establish common standards and protocols to accompany subsidised materials and equipment intended for customs use, potentially by issuing mandates to European standardisation bodies.

2. Introduction

2.1. The Commission proposes tripling the EU Border Management Fund for the 2021-2027 budget; these funds will be allocated to strengthening the borders, improving the movement of goods, services and persons, including migrants. Under the Commission's proposal, the financial envelope should increase from the present amount of EUR 13 billion to EUR 34,9 billion.

2.2. The Commission intends to create a new and separate fund for integrated border management. The European Border and Coast Guard Agency (Frontex) will also be given a boost, with a new permanent force of around 10 000 guards and additional funding to improve customs controls and upgrade control equipment. A new Integrated Border Management Fund (IBMF) will be created, worth more than EUR 9,3 billion.

2.2.1. These investments will: strengthen Frontex; carry out systematic border controls; establish new large-scale, interoperable IT systems; and launch a future system to regulate entry and exit at the borders.

2.3. The new IBMF will comprise two different instruments: the first is for 'integrated border management and visas' (BMVI); the second is a financial allocation of EUR 1,3 billion for the period 2021-2027 for 'customs control equipment' (CCE), which should help in setting up appropriate and equivalent customs controls in the different border offices.

2.3.1. This fund is intended for the purchase of equipment, with the aim of ensuring modern and reliable controls, and for the maintenance and updating of this equipment.

2.4. In the 50 years since its entry into force, on 1 July 1968, the customs union has proven to be an essential pillar of the Single Market, protecting EU borders and citizens from prohibited and dangerous goods, such as arms and narcotics, and from counterfeit goods, while also encouraging steady growth in the share of world trade: in 2017 EU customs handled 16 % of world trade.

2.5. To ensure the smooth functioning of the Customs Union, EU Member States must rely on a common set of rules, based on the Union Customs Code. This code was adopted in 2013 and came into force for all EU Member States in 2016. Since 2016, it has provided the new legal framework for managing the import, export, movement and storage of goods moving within the customs territory and in exchanges with third countries.

2.5.1. Moreover, customs apply more than 60 laws that are not directly customs-related, including those concerned with:

- dual use (civil and military) goods;
- firearms;
- drug precursors;
- currency movements in cash;
- intellectual property rights;
- public health;
- product safety;
- consumer protection;

- the protection of wild species;
- environmental protection.

2.6. The EESC has always considered 'an efficient customs union to be a vital prerequisite for European integration in order to ensure uniform and EU-wide, safe and transparent free movement of goods with maximum consumer and environmental protection and effective combating of fraud and counterfeiting' ⁽⁶⁾.

2.7. The Committee also pointed out the importance of the need to introduce 'modernisation measures such as simpler customs legislation and to complete interoperable computerised customs systems, which will streamline commercial practices and ensure greater coordination of prevention and prosecution activities' ⁽⁷⁾.

2.8. As early as 2012, the European Council mentioned ⁽⁸⁾ the need to improve internal governance of the customs union and the appropriateness of cooperating with other agencies and the private sector with a view to providing the best service to operators. In its conclusions of June 2014, the Council recommended improving performance appraisals, specifying certain sectors, and called for the establishment of appropriate performance indicators.

2.9. In its conclusions on customs funding of 23 March 2017, the Council invited the Commission to 'evaluate the possibility of funding technical equipment needs from future Commission financial programmes and improve coordination and (...) cooperation between Customs Authorities and other law enforcement authorities for funding purposes'.

2.10. The European Parliament, in its resolution of 7 April 2017 ⁽⁹⁾, pointed out that 'the efficiency of customs procedures is crucial not only for trade facilitation, but also for effective and expedient law enforcement with regard to the counterfeiting and smuggling of excisable goods entering the EU', and that 'customs services are at the crossroads between secured movement of goods protecting consumers within the EU and the implementation of the provisions of trade agreements'.

3. The Commission's proposals

3.1. The Commission is proposing, through a regulation, a new financial instrument for customs control equipment as part of an Integrated Border Management Fund (IBMF) is to be established under the 'Migration and Border Management' budget heading. The aim is to provide greater support to Member States, to guarantee equivalence in the performance of customs controls throughout the customs union, by correcting the existing imbalances between customs offices in the different Member States.

3.2. The new funding instrument, which will be allocated EUR 1,3 billion during the 2021-2027 period, is intended to cover customs equipment designed for four types of border (land, sea, airport ⁽¹⁰⁾ and post).

3.3. Funding will be available to all Member States and the needs of each type of border will be assessed. The Eastern and South-Eastern Land Border Expert Team (CELBET), which brings together the 11 Member States responsible for EU land borders, has already started work in this sector. Work on other types of borders will begin soon, Member States' needs to be evaluated and funds allocated as soon the instrument enters into force in 2021 for the 27 Member States ⁽¹¹⁾.

3.4. The objectives set should result in closer coordination, greater legal certainty and improved efficiency or complementarity, through a centralised approach and direct management. Grants covering up to 80 % of eligible costs are to be available to Member States, with a view to supporting the purchase, maintenance and upgrading of customs control equipment, in accordance with pre-defined standards for different types of border.

⁽⁶⁾ See OJ C 229, 31.7.2012, p. 68.

⁽⁷⁾ Ibid. footnote 6.

⁽⁸⁾ See. OJ C 80, 19.3.2013, p. 11.

⁽⁹⁾ See http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2017-0162+0+DOC+XML+V0//EN#title1PE_595.633v02-00_A8-0162/2017

⁽¹⁰⁾ There are approximately 400 civil airports in the EU.

⁽¹¹⁾ The proposal is for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom.

3.5. The instrument is closely linked to the new Customs programme ⁽¹²⁾. The mechanisms for cooperation included in this programme will be used to assess needs in terms of innovative customs control equipment and, where necessary, joint ⁽¹³⁾ training for customs officials, in order to ensure better use of the equipment.

4. General comments

4.1. The EESC is firmly convinced that faced with growing challenges concerning control of the EU's external borders, it is essential to implement a robust system capable of combining the protection of individuals, the social market economy, the security of sustainable production and trade between Member States and trade with third countries.

4.2. The Committee appreciates the European Commission's efforts to boost funds and instruments, in order to reinforce external border controls and ensure innovative, high-quality customs controls, with a view to strengthening the customs union.

4.3. The Committee finds, however, that the amount of financing allocated to the new instrument is insufficient, i.e. EUR 1,3 billion, amounting to EUR 186 million per year. This is less than one thirtieth of the overall allocation to border and migration duties for the 2021-2027 period, which totals EUR 34,9 billion.

4.4. The Committee also stresses the importance of:

- ensuring that priority is given to equipment for borders that are under the greatest pressure in terms of controls, such as sea borders;
- speeding up the work of evaluation teams operating in this field ⁽¹⁴⁾;
- guaranteeing a fair geographical distribution;
- respecting the principle of proportionality, linked to the movement of goods and persons, in complementarity with the Security Fund.

4.4.1. The EESC considers it vital to ensure that customs equipment is high-quality and innovative, in order to optimise the protection of the social culture and economic and financial interests of the EU and its Member States, through:

- the fight against illegal trade ⁽¹⁵⁾ (which is still ineffective);
- streamlining and simplifying measures connected with legal trade;
- safeguarding the security of the EU's internal market;
- protecting the environment and health of citizens;
- compliance with fundamental labour rights;
- consumer protection;
- risk management;
- collecting duties.

4.5. The Committee calls for maximum dissemination of the annual work programmes and planned measures, as well as of the grants allocation mechanisms, managed by the Commission, encouraging the pooled acquisition of equipment, which must be innovative ⁽¹⁶⁾.

⁽¹²⁾ See COM(2018) 442 final, on which the EESC prepared opinion INT/860, yet to be published in the OJ. See page 45 of this Official Journal.

⁽¹³⁾ See extension of the 'Working visits' programme.

⁽¹⁴⁾ At present, only 11 Member States with eastern and south-eastern external borders have carried out the necessary inventory of equipment and categories of measures needed, and have set out proposed standards for each category.

⁽¹⁵⁾ 31,4 million items worth EUR 582 million were seized in 2017. 25 % were counterfeit food products, 11 % were toys, 1,8 % were cigarettes (Source: European Commission).

⁽¹⁶⁾ See COM(2018) 178 final, Report from the Commission on the IT strategy for customs.

4.6. The EESC recommends close coordination with the Customs programme — aimed at financing infrastructure and IT systems, including the digitalisation of interactions between commercial operators and customs services — and with the Horizon programme, which is useful for identifying innovative technologies for to be used in customs controls.

5. Specific comments

5.1. Given that each year, over 200 million twenty-foot equivalent units (TEU) ⁽¹⁷⁾ are handled — i.e. over 10 million containers — it is very difficult to carry out timely controls at many sea and road borders. It would therefore be worthwhile carrying out controls along the routes, facilitated by a change in the materials used to build the structure of containers ⁽¹⁸⁾, which would allow recognition using drones or the Galileo system.

5.2. It would be helpful to update the 1972 Geneva Convention and 1967 ISO standards, which were established before of the far-reaching changes that have occurred in the 21st century, namely the advent of globalisation and the growing — and now worrying — issue of counterfeiting ⁽¹⁹⁾.

5.3. The ‘toolbox’ should be promptly updated so as to take immediate account of the development of the internet of Things, cybersecurity, digital tracking and state-of-the-art technological applications, in order to speed up their deployment and the provision of up-to-date training on their correct use, using the *EU Customs CFW* ⁽²⁰⁾. In this regard, the new financial support instrument should provide for the establishment of a rapid response reserve for the deployment of new equipment, while also providing the possibility of reviewing the list of approved equipment.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁷⁾ TEU = Twenty-foot Equivalent Unit. One TEU is equal to a 20-foot container box, i.e. 28 tonnes and 40 metres³.

⁽¹⁸⁾ Many containers now already have structures made of wood and other materials.

⁽¹⁹⁾ See OJ C 345, 13.10.2017, p. 25.

⁽²⁰⁾ See footnote 6.

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions — Action Plan: Financing Sustainable Growth’

(COM(2018) 97 final)

(2019/C 62/12)

Rapporteur: **Carlos TRIAS PINTÓ**

Referral	European Commission, 10.4.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	7.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	164/6/5
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. In order to meet the key **challenges** facing the Capital Markets Union (CMU) and improve Eurozone resilience, a sound system for financing **sustainable growth**, with a long-term approach, is the most important driver for restoring trust in the markets and connecting savings to sustainable investments, providing complementary sources of funding for SMEs and strengthening green and social infrastructure projects.

1.2. The Committee welcomes the Commission's Action Plan, agreeing in that 'Europe can become [worldwide] the chosen destination for sustainable investments' ⁽¹⁾. The Committee believes it is important to ensure the EU's long-term competitiveness. In broader terms, this concerns the promotion of sustained, inclusive and sustainable economic growth, full and productive employment, and decent work for all (Sustainable Development Goal 8).

1.3. These challenges should be addressed harmoniously, through a joint effort by all, including actors in the financial sector, companies, citizens and authorities. Additionally, achieving the transition to a sustainable growth model is a complex task and is undoubtedly a gradual process taking into account sectorial specificities.

1.4. A holistic vision, cooperation and further integration between Member States should prevail. It is of utmost importance that in this field, the whole EU speaks with one voice and follows the same approach. This will not only help to achieve the goals set, but will also allow progress in other important fields such as the Energy Union, the Banking Union, the Capital Markets Union and the Digital Agenda.

1.5. Sustainable economic models should have a diverse financial system in which banks of different sizes and with different business models and financial actors can operate on an equal footing. To achieve this, it is vital for standards to be more complete, more consistent and correctly applied, in keeping with the **principle of proportionality**.

⁽¹⁾ See Action Plan: Financing Sustainable Growth (COM(2018) 97 final), chapter 6 — The way forward.

In the EESC's view, reorienting capital flows towards a more sustainable economy, must inevitably go hand in hand with **financial inclusion** and **social cohesion** in a Europe where no-one lags behind. Indeed increasing gaps between citizens' incomes can be a barrier to sustainable growth, and corporate and institutional governance must therefore rebalance the current situation.

1.6. An appropriate level of **coherence** among the various existing financial frameworks at global level should be ensured, taking as a common reference the UN Sustainable Development Goals (SDGs), mapping the Sustainable Taxonomy against them⁽²⁾. The renewed taxonomy proposed in the Action Plan should be promoted worldwide and should be incorporated into EU law uniformly and simultaneously in all Member States, with measures to ensure that it is revised and updated on a regular basis.

1.7. In summary, the EESC strongly supports the **Commission's road map on financing sustainable growth**, which should make the entire value chain more sustainable, but wishes to make a number of comments regarding the activities in the Action Plan and their implementation:

- I. An integrated approach, making use of life-cycle methodology, for integrating financial materiality⁽³⁾ into the investment process, requires **sustainable investment** and **responsible lending**: The one without the other would be inconsistent and would hinder the completion of the financial (banking and capital markets) union.
- II. The taxonomy should be **dynamic** and be constructed gradually on the basis of a clear definition of ESG criteria for sustainable economic activities; a suitable starting point would be the configuration of environmental factors (E), while introducing safeguards in the social sectors and in relation to good corporate governance.
- III. The ten actions are internally consistent and interact with each other. The right balance is therefore needed between the configuration of the new taxonomy (Action 1) and consideration by rating agencies (Action 6) with a view to the development of scoring systems based on reliable information provided by companies (Action 9), which are complementary to the labels (Action 2) and the sustainability benchmarks (Action 5). Thus, financial system actors will have a reliable basis for the inclusion of environmental, social and corporate governance (ESG) factors in their investment decisions (Action 7), based on prior advice and proactive interaction with their customers (Action 4). All this will take place within the ambit of the **fiduciary duty** to act in the best interests of investors or beneficiaries (derived from the 'prudent person' rule, included in the EU *acquis*).
- IV. Standardisation and, where applicable, the subsequent labelling of sustainable financial products could be complemented with the new European framework for **covered bonds**⁽⁴⁾ and feed into the planned **sustainable pan-European products**, starting with the chapter on **pensions**.
- V. It is of the utmost importance to align the various **incentives** to stimulate sustainable investment, provided that the associated **positive externalities** are taken into account. A harmonised methodology for low carbon emission indices should serve as a guide for the calculation of other impacts. Keeping in mind resilience and stability of the financial sector, the opportunity of providing a **green supporting factor** should be examined to properly define their perimeters. In this field the EESC agrees with the EP when promoting the inclusion of sustainability risks in the Basel IV framework⁽⁵⁾. Consideration should possibly be given to other alternatives that directly benefit final borrowers and investors, such as tax incentives.
- VI. The publication of high-quality, as much as possible harmonised, more complete, relevant, and comparable **non-financial information** should be pursued, to facilitate external controls. In order to achieve this objective, the impact of the Non-Financial Information Directive (2014/95/EU) should also be assessed. The development of alternative accounting treatment is another chapter that should be addressed in parallel.

⁽²⁾ See EIB draft taxonomy: https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report-annex-3_en.pdf

⁽³⁾ A materiality framework analyses those factors that are most relevant to the companies' financial performance, comprising financially material sustainability factors.

⁽⁴⁾ Covered bonds are debt obligations issued by credit institutions and secured against a ring-fenced pool of assets to which bondholders have direct recourse as preferred creditors. See the following new proposals for regulations: COM(2018) 93 final — 2018/0042 (COD) and COM(2018) 94 final — 2018/043 (COD).

⁽⁵⁾ The Basel framework is an international regulatory accord that introduced a set of reforms designed to improve the regulation, supervision and risk management within the banking sector. All Basel Committee standards are minimum requirements which apply to internationally active banks and, therefore, including in this framework provisions on sustainability will help to move worldwide in the same direction. <https://www.bis.org/bcbs/basel3.html>

- VII. The European supervisory authorities and their Joint Committee should be given the necessary specialised technical resources (there are many bodies with long experience of SRI) to draw up the technical standards related to delegated acts proposed by the European Commission and for the subsequent monitoring of the huge volume of regulatory implementation, establishing proportionate and effective processes and avoiding frequent technocratic excesses.
- VIII. The depositary of an investment also needs to be able to carry out its work of supervising the activities of the management or investment company effectively, therefore, their independence must be assured. This requires, in particular, having a conflict of interest policy in the case of shareholding links or cross-shareholdings ⁽⁶⁾.
- IX. Regarding the relationship with the Commission's proposal for the Multiannual Financial Framework (MFF) 2021-2027 ⁽⁷⁾, the EESC considers that the proposal is a step in the right direction although it should be more ambitious in order to be able to achieve the commitments of the 2030 Agenda for Sustainable Development. In this regard, the EESC asks for an increase of at least 30 % in EU expenditure contributing to climate objectives ⁽⁸⁾ without compromising other engagements. The Committee welcomes the substantial percentage increases in the commitments for Environment and Climate Action (+46 %). However, the budget amounts earmarked for that purpose are still clearly insufficient for the transition to sustainable development and the fight against climate change.

1.8. Studies ⁽⁹⁾ show that investors would like their investments to take into consideration climate, environmental and social aspects. To facilitate easier and safe access for investors, '**flagship pan-European sustainable financial products**' should be created, beginning with the 'Pan-European Personal Pensions Products' (PEPP). Promoting these **safe and sustainable** products internationally would be a way of attracting foreign investment to Europe.

1.9. **Communication** about these actions is extremely important if citizens are to be aware of what the EU is doing for them. A shared responsibility between all public and private actors is needed and **financial education** ⁽¹⁰⁾ should be compulsory to ensure that people understand this new approach and thereby encourage both socially responsible retail investment and sustainable production of goods and services.

1.10. Finally, the EESC highlights the potential of **artificial intelligence** for aligning the preferences of investors with the destination of investments. In view of the experiences of added value from **ESG Machine Learning** (which combines SRI indicators, sustainability benchmarks etc.), the new taxonomy should be explored in the context of these emerging initiatives. Machine learning solutions should also be analysed to enable banks and investors to increase their lending to specific sectors or activities that include ESG principles.

1.11. The EESC publicly calls on the co-legislators to swiftly discuss and adopt the three legislative proposals stemming from the Action Plan that were adopted by the Commission on 24 May 2018.

2. Introduction: moving towards the new scenario

2.1. The accelerated rise in financialisation or financial depth of economies began in 1971 when the US abandoned the dollar-gold standard and money became more fiduciary and intangible, dependent on trust. Until the Eighties, the money supply (M2) represented around 50 % of global GDP, a percentage similar to that of financial derivatives.

2.2. After falling during the crisis, this amount returned to previous levels in 2015, multiplying financial assets by four in relation to M2 and derivatives by over ten.

⁽⁶⁾ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2016.078.01.0011.01.ENG

⁽⁷⁾ For the comprehensive position of the EESC, see EESC opinion on the Multiannual Financial Framework post 2020 (OJ C 440, 6.12.2018, p. 106).

⁽⁸⁾ The European Commission has proposed that at least 25 % of EU expenditure should contribute to the climate objectives for the period 2021-2027 (in the period 2014-2020 it was set at 20 %).

⁽⁹⁾ https://www.morganstanley.com/pub/content/dam/msdotcom/ideas/sustainable-signals/pdf/Sustainable_Signals_Whitepaper.pdf

⁽¹⁰⁾ See IOSCO/OECD report *The Application of Behavioural Insights to Financial Literacy and Investor Education Programmes and Initiatives*

2.3. This imbalance between the real and financial economy is ever-growing, with the recent rise of FinTech and InsurTech, calling for greater efforts to bring about sound regulation and supervision to ensure financial stability.

2.4. The 17 UN 2030 Sustainable Development Goals (SDGs) and the Paris Agreement to adapt and build resilience to climate change should ensure stability, recovery and a better balance between inclusive societies and prosperous economies.

2.5. In accordance with the spirit of the EU Treaties and the subsequent policies carried out, the transition to a low-carbon, more resource-efficient and circular economy is key to ensuring the EU's **long-term competitiveness**, but also to integrating balanced economic, social and governance dimensions.

2.6. Indeed, the European response to the **2030 Agenda** needs to comply with the Treaties and regain a long-term vision of sustainability in which economic growth, social cohesion and environmental protection go hand in hand and support each other.

2.7. The financial system can play an important role when it comes to tackling sustainability challenges, especially as regards to attracting the necessary funds for closing a yearly investment gap of almost EUR 180 billion which is required to meet EU climate and energy targets by 2030 ⁽¹¹⁾. In this regard, the Committee supports the observation of the High Level Group on sustainable finance that the transformation of the EU economy must take place in the real economy encouraging stable cooperation between public and private actors.

2.8. The transition to a sustainable economy will be flanked by technologies and digital innovation and should protect and promote global values ⁽¹²⁾, as the UN Secretary-General states. The legal and operational risks of blockchain, cryptocurrencies and smart contracts are on the increase owing to the lack of regulation and transparency. In order to better protect consumers and investors, preserve market integrity and avoid harmful practices (tax evasion, money laundering or financing terrorism), incentives will be needed to ensure safety and transparency in financial innovation networks ⁽¹³⁾.

2.9. Projects related to the COP21 objectives ⁽¹⁴⁾ need sufficient, stable and committed capital, both financial and intangible (human, technological and other forms of relational capital, including institutional capital).

2.10. It is paramount to adapt public policies, stimulate private actors and supplement EU budget resources, infusing the economy with **transparency and long-termism**.

2.11. A sustainable vision requires a closer, more comprehensive and holistic connection with specific policies such as the Energy Union, the Digital Agenda and the European Pillar of Social Rights in order to stimulate social and green investment, both public and private.

2.12. Such thinking is also at the core of the EU's Capital Markets Union (CMU) project, and the EESC shares the opinion that private capital, EFSI (European Fund for Strategic Investments) financing and other EU funds should be combined in an efficient manner to shift investments towards companies that present positive social and environmental externalities.

2.13. It is time to act. Europe has been in the vanguard of sustainability for the past 28 years, but it is by no means alone.

⁽¹¹⁾ Supra, Action plan, General introduction, point 1.1.

⁽¹²⁾ The goal is to define how the United Nations system will support the use of these technologies to accelerate the achievement of the 2030 Sustainable Development Agenda and to facilitate their alignment with the values enshrined in the UN Charter, the Universal Declaration of Human Rights and the norms and standards of International Laws. <http://www.un.org/en/newtechnologies/images/pdf/SGs-Strategy-on-New-Technologies.pdf>

⁽¹³⁾ See EESC opinion on the Commission's Financial Technology (Fin Tech) Action Plan (OJ C 367, 10.10.2018, p. 61).

⁽¹⁴⁾ COP21 United Nations Climate Change Conference 2015.

3. Finance for a more sustainable world

3.1. We are increasingly faced with the catastrophic and unpredictable consequences of climate change and resource depletion. These phenomena often exacerbate social exclusion or inequality.

3.2. Article 3 of the Treaty on European Union states that the EU must promote sustainable, environmentally friendly growth. The need to act on climate issues has now become a top priority, including for the EESC, and is shaping the action of governments as well as economic actors, workers and individuals. Accordingly, a far-reaching economic, social and environmental transition needs to be organised; above all, it needs to be financed.

3.3. These challenges should be addressed harmoniously, through a joint effort by all. The financial sector has to play an important role in channelling the funds, savings and investments of citizens, savers and investors into the economy. In the end, it is in the economy where the actual transition will take place and the role of companies is therefore essential and indispensable. The authorities will also have to meet their responsibilities in this regard.

3.4. Europe will only be able to take a strong position if there is maximum consensus on the plan. Member States should pull together and join forces. Individual approaches and self-interest should give way to a joint project for the future, which at the same time should safeguard the future of coming generations. Indeed, the European response to the 2030 Agenda needs a long-term vision of sustainability and clear objectives, in which economic growth, social cohesion and environmental protection go hand in hand and support each other.

3.5. A long-termist approach to sustainable growth should go hand in hand with public policies that appropriately assess negative externalities and sustainable and unsustainable investment options. This should also be accompanied by the sound predictability of a better integrated industrial policy within global value chains, across all Member States. This should occur with an in-depth analysis followed by an adequate political process that must be supported by the Commission and the Member States.

3.6. The EESC stresses that **sustainable growth** should refer to environmental, economic, social and governance dimensions in a balanced, global and comprehensive approach aligned with all the Sustainable Development Goals and the Paris Agreement on Climate Change, establishing **minimum cross-cutting conditions** that cannot be substituted. This minimum inviolable threshold is enshrined in international conventions on the **rights of vulnerable people** (such as women and girls, children, refugees and migrant workers, the disabled, etc.)⁽¹⁵⁾ and enforced through compliance with **good fiscal governance**.

3.7. In view of the ample evidence that European citizens would like their savings and investments to be related to social and environmental objectives, they must be **empowered and connected** with sustainable finance issues.

3.8. To this end, financial system should ultimately lean more towards being **transparent, factual and readily understandable** for EU citizens. Improving **access to information** on sustainability and promoting **financial literacy** (a deeper understanding of how finance works) are essential elements in this respect.

4. Reorienting capital flows towards a more sustainable economy

4.1. Since the European Fund for Strategic Investments (EFSI) was set up, it has mobilised public and private investment in strategically important EU projects and has been managed in line with the European Investment Bank's (EIB) list of projects: investments in environment-friendly energy and resource efficiency, water, digital sectors, transport, etc.

4.2. However, apart from the EFSI, greater coverage is needed in other sectors, especially those focused on social infrastructure and institutions that empower the intangible capital of young people, women and other excluded or vulnerable social sectors.

⁽¹⁵⁾ See, in particular, UN Guiding Principles on Business and Human Rights, the EU Charter of Fundamental Rights and ILO labour standards.

4.3. Endogenous saving is a prerequisite for robust economic growth, and this will mean financing sustainable SME projects through local banks.

4.4. In the EESC's opinion, **EFSI** funding should be increased by incorporating capital from EU Member States' financial agencies and public banks, which should act as a network to jointly design a more strategic and inclusive long-term perspective, following a common definition of what 'sustainable' actually means, as well as outlining a transitional road map to decarbonise companies.

4.5. At the same time, the EESC invites the **European Central Bank (ECB)** to examine the feasibility of a green and social interest rate to encourage sustainable investment and lending, and concurs with the European Parliament to explicitly take into account the Paris Agreement and ESG goals in its guidelines orienting its purchase programmes.

4.6. *A unified classification system for sustainable activities*

4.6.1. Traditional methods of making calculations and carrying out impact evaluation must be re-examined. **More reliable quantitative and qualitative indicator redefinitions** must be established, reconciling priority economic and environmental values with those of society and the survival of the human race.

4.6.2. The EESC agrees with the Commission on the urgent need to activate the first stage of building a robust but dynamic '**Sustainability Taxonomy**', ensuring market consistency and clear guidance about what is green, social and related to good governance, with a **holistic approach**.

4.6.3. The backbone of this process is a technical Expert Group on sustainable finance which must at all times be able to provide highly qualified and detailed expertise on strategic industrial sectors in order to build up a robust and credible **green and social taxonomy**.

4.6.4. The group's mandate should start with clear objectives in terms of content and timing, the first step being to reunite the new taxonomy with other existing international classifications (economic activities, occupations, studies, etc.), in order to conform more closely to UN criteria and references.

4.6.5. The European taxonomy should include three levels:

- a minimum standard aligned with the 2030 Sustainable Development Goals (SDGs), the Paris Agreement and the do-no-harm principle in accordance with ESG risk analysis;
- an intermediate level identifying activities that are achieving a verifiable 'positive impact' as defined by the United Nations Environment Programme Finance Initiative (UNEP FI); and
- a level including activities that can accelerate positive transformation and support for ecological, economic and social challenges in accordance with the needs of different stakeholders that will take the taxonomy as reference.

4.6.6. There is an urgent need to classify different types of benefits of investments that can be attributed to the introduction of the sustainability factor (taxonomy). Moreover, positive criteria should be complemented by, environmentally harmful impacts⁽¹⁶⁾, so that non-sustainable assets can be identified.

4.6.7. The new taxonomy should be linked to the EU strategy and investment plan for a transition to a low-carbon economy. It should include financial activities in favour of emissions reduction in the sectors of the EU Emissions Trading System (ETS)⁽¹⁷⁾ and in the sectors of the Effort Sharing Regulation⁽¹⁸⁾.

⁽¹⁶⁾ See the OECD 'Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence'.

⁽¹⁷⁾ As listed in Directive 2003/87/EC, Annex 1 — amended by Directive 2009/29.

⁽¹⁸⁾ Regulation on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013.

4.7. *Standards and labels for sustainable financial products*

4.7.1. Facilitating easier and safe access for investors is paramount to expanding sustainable financial markets. European sustainable finance **standards** should be **carefully configured**, establishing Socially Responsible Investment (SRI) minimum standards.

4.7.2. To this end, an **official EU Green Bond Standard** would first be introduced and an EU Green Bond label or certificate would be considered, subject to mandatory external review, in order to guarantee positive impact investments. In the context of the **Consumers Financial Services Action Plan: Better Products, More Choice**, the EESC recommends ⁽¹⁹⁾ that the Commission define **more readily comparable and completely transparent products** which are simple and share similar characteristics.

4.7.3. This opens up the possibility of offering '**flagship pan-European sustainable products**' and of providing appropriate, independent, obligatorily certified **comparison tools** ⁽²⁰⁾ for different **sustainable financial products** in the various EU legal jurisdictions.

4.7.4. The configuration of 'Pan-European Personal Pensions Products' (**PEPP**) ⁽²¹⁾, as foreseen in the legislative proposal adopted by the Commission on 29 June 2017, would require pension providers to disclose publicly whether and how they include ESG factors in their risk management systems, but these provisions **do not oblige them** to take ESG factors into account in their investment policies. Including this obligation would help to extend its use as one of the sustainability solutions.

4.7.5. The EESC invites the Member States to extend at the timely moment this obligation in all products linked to pensions. This would help to extend its use as one of the sustainability solutions to the problems with the current pay-as-you-go scheme.

4.8. *Fostering investment in sustainable projects*

4.8.1. According to the **renewed EU industrial policy strategic objectives**, re-orienting capital allocation towards long-term investments should be aligned with aiding SME growth, supporting less developed regions, upgrading infrastructure and empowering people through education and training.

4.8.2. In order to complete sustainable infrastructure investment, a broader **macro-prudential policy** taking account of **physical impacts** (increasing exposure to climate change-related risks) is needed, in accordance with the Solvency II Directive. For instance, construction codes minimising the impact of natural catastrophes would require insurance companies to **recalibrate risk management** in line with new principles of **sustainable insurance**.

4.8.3. The EESC is in favour of strengthening EFSI 2.0 and EFSD. As regards the MFF 2021-2027, it welcomes the establishment of InvestEU, which should involve more private capital and be able to reach the market in bonds, insurance and pension plans.

4.8.4. Other private capital should be found to encourage and support businesses, in particular SMEs, to invest in innovation and R & D.

4.8.5. Finally, the EESC recommends better identification of **where** existing public and private initiatives achieve maximum sustainable and resilient infrastructure so as to replicate them in the EU as well as in partner countries, using **at-scale solutions**.

4.9. *Sustainability considerations in financial advice*

4.9.1. As stated in its opinion on 'Institutional investor's and asset managers' duties regarding sustainability ⁽²²⁾, the EESC is in favour of amending the MiFID II Directive and the Insurance Distribution Directive (IDD), to assure that it is

⁽¹⁹⁾ See the EESC opinion on consumer financial services (OJ C 434, 15.12.2017, p. 51).

⁽²⁰⁾ Based on the 'Key principles for comparison tools'.

⁽²¹⁾ Assets in funded and private pension arrangements exceeded USD 38 trillion in the OECD area at the end of 2016.

⁽²²⁾ See EESC opinion on Institutional investors' and asset managers' duties regarding sustainability, point 3.8 (see page 97 of this Official Journal).

made necessary to examine how investors' **sustainability preferences** can be included. Advisors would thus be able to issue appropriate recommendations on financial products, providing clear information about the potential risks and benefits associated with the various sustainability factors.

4.9.2. The EESC supports the idea that the European Securities Markets Authority (ESMA) should include sustainability provision preferences in its **suitability assessment guidelines**.

4.10. Sustainability benchmarks

4.10.1. A **common methodology** to measure the non-financial performance of sustainable investment is an optimum goal. The EESC therefore welcomes the regulation **harmonising benchmarks** comprising low-carbon issuers as a first step that should be extended to other sustainability parameters.

4.10.2. The EESC therefore invites the Commission to extend its focus to the social field through the technical Expert Group, to be responsible for consulting all interested parties and publishing a report on the design and methodology of the benchmark on carbon.

5. Mainstreaming sustainability into risk management

Sustainability addresses the set of risks associated with wealth generation and cannot avoid the impact of extraction, acquisition and deterioration of resources.

5.1. Sustainability in market research and credit ratings

5.1.1. The EESC has insisted that **rating agencies** must be **free from all conflicts of interest** in order to guarantee the **independence of research/scoring providers**. Furthermore, transparent and timely justification of the methodology they use, case by case, is needed.

5.1.2. Existing credit-rating agencies do not take sufficient account of the influence of disruptive ESG trends on issuers' future credit-worthiness. The EESC calls for clear EU **standards and supervision** regarding the **inclusion of ESG factors** in ratings for all credit-rating agencies operating in the EU. It also calls for the establishment of an accreditation process for a **'Green Finance Brand'** by ESMA certified agents.

5.1.3. Stakeholder accreditation should also be considered, i.e. banks, fund managers, etc. This would impose greater obligations on the different financial actors and avoid trends towards including a sustainable product plan as an element of 'greenwashing'.

5.1.4. Finally, the EESC suggests exploring the creation of sovereign green credit ratings. Providing a clear 'green' rating alongside a country rating would also stimulate countries to continuously improve their performance. At the same time, it could be a stimulus for attracting foreign investment.

5.2. Institutional investors' and asset managers' sustainability obligations: fiduciary duty

5.2.1. The European Union supervisory authorities (ESAs) must guarantee strict compliance with the **functions of financial intermediation services**.

5.2.2. This requires a more holistic approach than that envisaged in the Commission's Action Plan, prioritising relationships in educational, factorial, gender, geographical, racial or ethnic, religious, cultural or other areas of diversity.

5.2.3. As a fundamental part of legal obligations, investors should proactively engage with clients to gain an understanding of their non-financial interests, also providing clear information about the potential financial risks and benefits associated with ESG factors.

5.2.4. Regulators, investors, asset managers, finance industry employees and advisors must act in the best interests of the beneficiary (e.g. future pensioners) or the client (retail or institutional investors). All governance engagement and voting activities must be directed towards protecting the sustainable value of investment assets, in line with fiduciary duties. They must report on how they use their voting rights as holders of fund assets.

5.2.5. By clarifying the obligations of investors in relation to sustainability factors, the EU will boost long-term investment (sustainable finance is axiomatically linked to long-termism).

5.3. Prudential requirements for banks and insurance companies

5.3.1. The EESC has recently emphasised the potential role that banks can play through their intermediation functions between conscious savings and socially responsible investment. The Committee recommends that capital requirements for banking obtain more favourable treatment for investments in the green economy and various long-term non-complex **'inclusive lending'** operations, such as mortgages, particularly those linked to energy efficiency, installation of solar panels, etc. Additionally, **capital surcharges should be considered** for investments in the environmentally harmful assets in order to incentivise a positive transition to sustainable activities. Consideration should possibly be given to alternatives that benefit directly final borrowers and investors, e.g., tax incentives. The Single Supervisory Mechanism (SSM) should exercise specific supervision in this matter ⁽²³⁾.

5.3.2. Nevertheless, in calculating Risk Weighted Assets (RWAs), updated banking rating models must always reflect the most current risk level associated with those sustainable assets, preserving a high level of consumer protection.

5.3.3. In view of this, it is necessary to better define the perimeters of the so-called **'green supporting factor'**, ensuring that there is exhaustive and rigorous empirical evidence based on a clear and precise definition of what is meant by 'green investment'. **Responsible Research and Innovation (RRI)** in the framework of Horizon 2020 and the future Horizon Europe programme could be an excellent channel for obtaining scientific results.

5.3.4. In summary, to preserve resilience and financial stability, this new scenario requires a sound combination of financial risk management, taking into account the ESG impact on financial return, and adapting rules accordingly, in a **dynamic** process. As stated in the European Parliament Resolution on Sustainable Finance ⁽²⁴⁾, the Commission should promote the inclusion of sustainability risks in the Basel IV framework.

6. Fostering transparency and long-termism

6.1.1. Sustainable finance needs a framework of incentives to redirect capital flows towards necessary investments, ensuring a fair environmental and social transition for Europe, where its leadership in values provides European businesses with a competitive advantage.

6.2. Disclosure and accounting

6.2.1. The EESC notes that the EU Directive on **disclosure of Non-Financial Information** was transposed with scant ambition and a methodology that was not harmonised, affecting only large corporations and thus contributing very little to fair and comprehensive sustainable investment in Europe.

6.2.2. Sustainability brings a number of new concerns and challenges when it comes to the disclosure of non-financial information, like digital transformation, new metrics, standardisation, compulsory duties, new sustainable economic models, etc. Indeed, taxonomies and methodologies for reporting should be standardised as much as possible and rules should be adapted to achieve more and better available NFI. This would give regulators and market supervisors a better view of global market trends, and therefore better capacity to act accordingly. This current stage is referred to as 'fitness check' and will take into account considerations in line with the Financial Stability Board's Task Force on Climate-related Financial Disclosure (TCFD), after the public consultation that the Commission has launched.

6.2.3. Concerning crowdfunding platforms, the 'Key investment information sheet' should also incorporate the main intangible but financially material risks and benefits, from an accounting point of view ⁽²⁵⁾, associated with financing a crowdfunding project.

⁽²³⁾ See the EESC opinion on Completing the Banking Union (OJ C 237, 6.7.2018, p. 46).

⁽²⁴⁾ <http://www.europarl.europa.eu/news/en/press-room/20180529IPR04517/meps-back-resolution-on-sustainable-finance>

⁽²⁵⁾ Financial statement items are material if they could influence the economic decisions of users. The materiality concept is the universally accepted accounting principle reporting firms must disclose all such matters. <https://www.business-case-analysis.com/materiality-concept.html>

6.2.4. The EESC also supports the European Parliament's resolution on International Financial Reporting Standards (IFRS 9) ⁽²⁶⁾ and urgently calls for an impact assessment of IFRSs on sustainable investments.

6.2.5. The EESC welcomes the obligation on the part of the European Financial Reporting Advisory Group (EFRAG) to assess the impact of new or revised IFRSs on sustainable investments and to explore potential alternative accounting treatments.

6.2.6. The EESC also suggests that the Commission invite ESMA to:

- assess current practices in the credit rating market, analysing the extent to which ESG considerations are taken into account, and
- include environmental and social sustainability information in its guidelines on information to be disclosed by credit rating agencies, and consider additional measures, where necessary.

6.3. *Corporate governance and excessive capital market short-termism*

6.3.1. Many investors would like to know if a company uses accurate and transparent accounting methods, and if common stockholders are allowed to vote on important issues. They also want companies to avoid conflicts of interest in their choice of board members, rating agencies and auditors.

6.3.2. It is time to seriously consider not only the **E** (environmental) and **S** (social) factors (standards, labels, green and social supporting factor for prudential requirements, sustainability benchmarks), but also the **G** (corporate governance) factor, excluding all benefits and removing the sustainable rankings for those companies that circumvent the **transparent disclosure** of key aspects, such as **fiscal governance, human rights**, corruption, money laundering and other illicit activities.

7. **Execution of the Action Plan**

7.1. The EESC calls for an alignment of all the **European institutions, agencies and mechanisms** involved, changing their mandates where necessary to bring them into line with the implementation of the Action Plan's timeframe.

7.2. Uncertainty about the future and the lack of long-term risk disclosure are the key constraints for a time horizon analysis (indeed, only a few estimates cover more than five years).

7.3. The European Supervisory Authorities should also play a relevant role in monitoring sustainability. To achieve a common EU methodology for relevant scenario analysis, consideration of ESG risk factors in a longer-term perspective should be explored and the European Systemic Risk Board (ESRB) could gradually incorporate these in their stress-testing.

7.4. Finally, the International Organization of Securities Commissions (IOSCO), should prepare and promote compliance with international standards for regulation and supervision ⁽²⁷⁾ in the field of sustainable finance, in order to ensure that the new architecture of global sustainability is consistent worldwide.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽²⁶⁾ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0381+0+DOC+XML+V0//EN>

⁽²⁷⁾ See Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument’

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Rapporteur: **Stefano MALLIA**

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1. Conclusions and recommendations

1.1. Cohesion policy is one of the most tangible policies of the EU which has a direct bearing on the everyday lives of citizens. In view of this, the EESC strongly rejects the Commission’s proposal to cut the EU’s budget by 10 % in real terms. In this regard, the EESC urges the Member States to find solutions that allow this budget to be kept at the same level as the 2014-2020 programming period at 2020 values.

1.2. The EESC believes that there is a need for a clear political strategy that is aligned with the EU’s global commitments. The EESC urges the Commission to renew the Europe 2020 Strategy and align the priorities of the new Common Provisions Regulation (CPR) with this new strategy. The EESC also recommends that the Commission effectively mainstreams the Sustainable Development Goals (SDGs) into the cohesion policy related regulations by ensuring their cross-cutting inclusion in all priorities of the funds.

1.3. The EESC finds that the economic circumstances set up by the CPR (macroeconomic conditionalities, decreased co-financing etc.) would create a too rigid environment and could harm investment. The EESC therefore:

- rejects macroeconomic conditionality for penalising regions and citizens who are not to blame for macroeconomic decisions taken at national or European level;
- invites the Commission to maintain the decommitment rule at N+3;
- asks the Commission to reconsider increasing the co-financing rates.

1.4. The EESC greatly appreciates the efforts regarding simplification, flexibility and effectiveness — they point in the right direction. It is however unfortunate that the new rulebook is not a single set of rules.

1.5. The EESC finds the rules related to thematic concentration too strict. The EESC proposes that one of the policy objectives should be chosen by the Member States. In this regard, the EESC encourages the Member States to consider policy objective 5 as that PO that can guarantee the most tailor-made solution to their specific challenges.

1.6. The EESC recommends that the Commission develop the required tools that allow areas with structural and permanent disadvantages (islands, mountain regions etc. ⁽¹⁾) to effectively tackle their specific and complex challenges. This cannot remain the sole competence of national authorities. The EESC also recommends that the projects implemented in these areas be supported by higher co-financing rates.

1.7. The EESC recommends that ad-hoc solutions be found to address the situation of those countries or regions which were classified as convergence regions during the 2007-2013 programme benefitting from an 80 % co-financing rate during the 2014-2020 period and which will now be classified as transition regions during the 2021-2027 period benefitting from a 55 % co-financing rate.

1.8. The EESC believes that the Commission should further reinforce synergies by finding a way to reintegrate the European Agricultural Fund for Rural Development into the rulebook and also by strengthening ties with the European Social Fund Plus (ESF+). The EESC also advocates greater integration with and between other funding programmes and tools (Horizon 2020, InvestEU etc.).

1.8.1. These ties should also appear in the programming of the funds. The EESC encourages the Member States to prepare and implement multi-fund programmes that address challenges in an integrated way. The EESC believes that the integration should also appear in terms of territorial cooperation; reasonable ties between rural-urban, urban-peri-urban etc., i.e. a place-based approach is essential.

1.9. The implementation of 'multi-level and multi-actor governance' with the involvement of economic and social partners in the decision and implementation process is one of the most important conditions for the success of cohesion policy. Concerning the Code of Conduct, the EESC takes note of the dissatisfaction of the European Social Partners and asks that it be revised and updated in direct consultation with them. The EESC also asks that the Code of Conduct be made binding.

1.10. The EESC rejects the removal from the new CRP proposal of the principles of promotion of equality between men and women, non-discrimination, accessibility of persons with disabilities, as well as of sustainable development. It therefore strongly recommends that Article 7 of the current CPR 2014-2020 be incorporated in the proposed new CPR, and that this principle be directly embedded in the main text of the proposed European Regional Development Fund and Cohesion Fund (ERDF and CF) regulation. In addition, the EESC firmly proposes to include accessibility for persons with disabilities in Article 67 — on the selection of operations — of the proposed CPR.

1.11. The EESC considers that a more effective overall communication effort is essential. All too often EU funded projects take place with little or no knowledge of citizens of the involvement of the EU. The EESC therefore asks the Commission to put in place a more effective information strategy aimed at its citizens and the different types of beneficiaries.

2. General comments

2.1. The EESC deeply regrets that the cohesion policy budget was reduced by 10 % in real terms. In this regard, the EESC strongly rejects the proposed cuts to the EU's budget and proposes that the Member States find solutions through which the budget can be kept at the current level at 2020 values.

2.2. Cohesion policy is one of the most important elements in bringing citizens closer to the vision of European integration. It has a clear added value in creating jobs, sustainable growth and modern infrastructure, overcoming structural barriers, boosting human capital and improving people's quality of life. This is why the EESC strongly welcomes the fact that all regions are eligible for funding.

2.2.1. EU cohesion policy must be an integral part of a European investment strategy, with a strong territorial approach, aimed at empowering each region with the necessary tools to enhance their competitiveness. It must lead to economic and structural transformation, securing a resilient base in each region, based on their own strengths ⁽²⁾.

⁽¹⁾ Article 174 of the Treaty on the Functioning of the European Union.

⁽²⁾ https://www.buinessurope.eu/sites/buseur/files/media/position_papers/ecofin/2017-06-09_eu_cohesion_policy.pdf

2.3. The EESC takes note that the new approach, still based on three categories (less-developed, transition, more developed), is a more tailored one. While the allocation method for the funds is still largely based on GDP per capita, new criteria have been added (youth unemployment, low education level, climate change, and the reception and integration of migrants). The EESC is of the view that this reflects better the reality on the ground although — in line with the Impact Assessment required by the Regulatory Scrutiny Board ⁽³⁾ — the EESC feels that this approach could be fine-tuned further.

2.4. The EESC is deeply concerned about the Commission proposal to decrease the co-financing rates and the effect of this on the engagement of the beneficiaries in less favourable financial situations. The inclusion of VAT as an eligible expense is welcome although some element of this already exists in the current period.

2.5. It is also to be noted that situations exist whereby countries or regions classified as convergence regions during the 2007-2013 programme benefitting from an 80 % co-financing rate during the 2014-2020 period will now be classified as transition regions during the 2021-2027 period benefitting from a 55 % co-financing rate, which means a massive fall in the co-financing for them. The EESC feels that such situations need to be specifically addressed. Furthermore it is to be noted that in projects with private funding, beneficiaries will only receive the co-financing of the public element.

2.6. The EU's priority in relation to the outermost regions must be to strengthen the links that connect them with mainland Europe and their citizens' sense of belonging to the European project ⁽⁴⁾. The EESC welcomes the fact that the outermost regions will continue to benefit from special EU support.

2.7. The EESC regrets, however, that cohesion policy still does not offer comprehensive solutions for the challenges of specific territories mentioned in Article 174 of the Treaty on the Functioning of the European Union ⁽⁵⁾. Studies show that the central authorities do not always address the specific areas as mentioned in Article 174. The EESC therefore believes that the Commission should encourage the involvement of regional and local stakeholders in the way their specific territories are addressed by Member States while respecting the institutional and legal frameworks in place in the respective territories.

3. General principles

3.1. The EESC rejects the removal of the principles of promotion of equality between men and women, non-discrimination, accessibility of persons with disabilities, as well as of sustainable development from the new CRP proposal. The European *acquis* has developed a transversal approach to these in the programming and implementation of the funds (Article 7 of the current CPR and Article 16 of CPR 2007-2013).

3.1.1. It therefore strongly recommends that Article 7 of the current CPR 2014-2020 be incorporated in the proposed new CPR, and that this principle be directly embedded in the main text of the proposed ERDF and CF regulation. Furthermore, the EESC firmly proposes to include accessibility for persons with disabilities in Article 67 — on selection of operations — of the proposed CPR.

3.2. Since the EU is a state party to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the EESC considers appropriate that the UNCRPD is embedded in the legal basis of the proposed CPR regulation.

3.3. The EESC strongly believes that genuine partnership at all levels, with economic and social partners and organised civil society stakeholders in the preparation, execution and *ex-post* evaluation of the programmes and projects in EU cohesion policy enhances their quality and efficient delivery. Having asked for a Code of Good Conduct, the EESC strongly supports the Commission's initiative and agrees with its proposed recommendations (Article 6) ⁽⁶⁾. The EESC notes that the Commission proposal may need to be fine-tuned to address the sector-specific challenges (particularly national security-related challenges) addressed by the migration and security programmes.

⁽³⁾ SEC(2018) 268.

⁽⁴⁾ OJ C 161, 6.6.2013, p. 52.

⁽⁵⁾ OJ C 209, 30.6.2017, p. 9.

⁽⁶⁾ OJ C 44, 15.2.2013, p. 23.

3.4. The EESC strongly believes that the partnership between administrative authorities and economic and social partners at the EU, national and regional level, in the form of multi-level and multi-actor governance, is one of the essential criteria for the success of cohesion policy. It must be the basic condition for awarding Partnership Agreements and European funds. The EESC welcomes the new binding wording and expressly asks the legislator to maintain the current wording 'shall involve'.

3.5. Concerning the Code of Conduct, the EESC took note of the dissatisfaction of the European Social Partners and asks that it be revised and updated in direct consultation with them. The EESC asks that the Code of Conduct be made binding.

3.6. In order to strengthen the skills and the effectiveness of the partnership, the EESC calls for the introduction of capacity-building and technical assistance measures for the partners referred to in Article 6. The EESC would also like to see an annual consultation mechanism established with the relevant partners.

3.7. The EESC agrees that each member of the monitoring committees has one vote. In order to ensure a fair balance in decision-making, the weighting of the votes should be 50 % for the administrative authorities and the authorities designated in Article 6(1)(a) and 50 % for the economic and social partners in points (b) and (c). The EESC notes that this proposal may need to be fine-tuned to address sensitive issues such as those of national security.

4. Simplification

4.1. The EESC finds it of utmost importance to substantially reduce the unnecessary administrative burden for beneficiaries while maintaining a high level of assurance of legality and regularity. The EESC recognises and welcomes the fact that the Commission's proposal has addressed multiple issues with regards to simplification.

4.2. The EESC proposes the systematic application of the 'only once' principle of the Small Business Act, ensuring that administrative, auditing and control formalities are transmitted only once by project managers to the direct competent managing authority which will be responsible for transmitting them to the national and European managing authorities.

4.3. The EESC also recommends the establishment of a 'de minimis' oversimplified control/audit system for very small projects: if the immediate managing authority finds and declares that the expected results have been obtained, no further control or audit should be requested.

4.4. It is an overstatement to call the CPR a single set of rules. Even though seven funds are included, with the considerable number of 'exceptions to the rules' there is a lack of coherence; there are often different provisions, for example, for the European Maritime and Fisheries Fund, the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument. In line with the conclusions of the High Level Group on Simplification for post 2020 ⁽⁷⁾, the EESC believes that the regulatory package should be much simpler and avoid micromanaging the funds.

4.5. While the EESC takes note of the integration of the new funds allocated to tackle the migration crisis and security matters ⁽⁸⁾ within the CPR, it greatly regrets that the European Agricultural Fund for Rural Development is not part of the rulebook and also that the ties with the ESF+ are poorer than with its predecessor. The EESC asks the Commission to reconsider this decision.

4.6. The EESC agrees that priority should be given to suspension of commitments and not of payments to avoid aggravating crises. Payments must only be suspended when immediate action is sought and in the case of significant non-compliance.

5. Flexibility

5.1. To facilitate business creation and growth, the EU must support reforms for an investment-friendly environment in which businesses can thrive and improve the framework conditions for entrepreneurship. Cohesion funds must be used to provide better conditions for the growth of start-ups and young innovative SMEs and to facilitate the succession of family businesses. In this regard, the EESC believes that cohesion policy needs to provide a stable yet flexible framework ⁽⁹⁾.

⁽⁷⁾ http://ec.europa.eu/regional_policy/sources/newsroom/pdf/simplification_proposals.pdf

⁽⁸⁾ OJ C 75, 10.3.2017, p. 63.

⁽⁹⁾ OJ C 81, 2.3.2018, p. 1.

5.2. Regarding the obligatory transfers to the Connecting Europe Facility (CEF), the EESC notes that the overall amount of funding to be transferred has remained at the same current level even though there has been a 10 % cut in the overall funding. Therefore the percentage of overall funds being transferred would be in fact higher than it is for the current programming period. The EESC agrees with the overall approach as long as the overall cohesion policy budget remains at the 2014-2020 level.

5.3. Furthermore, currently 100 % of the funds transferred to the CEF are ring-fenced for each Member State. The proposal for the new period is that only 70 % will be ring-fenced for the specific Member State with the remaining 30 % going towards projects of choice of the Commission. The EESC strongly rejects this proposed approach.

5.4. The EESC welcomes the fact that there will no longer be specific rules for revenue generating investments. The EESC also notes that there will be no 'major project' process (instead, strategic projects will be followed by the monitoring committee). Whilst this in itself is a welcome development, the EESC has concerns as to how the validity of major projects can still be guaranteed.

5.5. The EESC also welcomes the possibility to adjust programme objectives and resources in the light of changing circumstances that would make it possible to mobilise EU funding as of day one in the event of a natural disaster⁽¹⁰⁾.

5.6. The EESC agrees that grants alone cannot address the significant investment gaps. They can be efficiently complemented by financial instruments, which have a leverage effect and are closer to the market. The EESC therefore welcomes the fact that combining grants and financial instruments is made easier and that the new framework also includes special provisions to attract more private capital.

5.7. The EESC supports the fact that the technical assistance of Member States has been simplified and specifies that the partners of Article 6 should also benefit from it.

6. Effectiveness

6.1. The EESC regrets the fact that the Commission has not launched a participatory process leading to an overarching and integrated strategy for a sustainable Europe in 2030 and beyond. It is questionable with what priorities the Commission proposes to align the Member States' Partnership Agreement and operational programmes.

6.2. The EESC recommends that the Commission align cohesion policy with the UN 2030 Agenda and its SDGs be embedded in the main text of the CPR, covering all funds.

6.3. The EESC has concerns with the new thematic concentration rules. The EESC believes that the concentration of funds on two priorities is too restrictive. The EESC is concerned with the one-size-fits all approach taken by the Commission in this regard. The EESC believes that thematic concentration must be sufficiently flexible to allow funding priorities to address the different development needs at national and regional level.

6.4. The EESC welcomes the stronger link with the European Semester via the Country-Specific Recommendations⁽¹¹⁾. It however rejects macroeconomic conditionality for penalising regions and citizens who are not to blame for macroeconomic decisions taken at national or European level⁽¹²⁾. The EESC agrees that it is also important to ensure full complementarity and coordination with the new, enhanced Reform Support Programme.

6.5. As it may contribute to simplified access to funding, the EESC appreciates the reinforced synergies between certain programmes ('Seal of excellence approach'), but in most cases the proposal is not clear enough (for example, if, in the case of the Community-Led Local Development tool, the structural funds can be combined with the EARDF).

6.6. Regarding the decommitment rules, the EESC regrets that this proposal amends the current N+3 rule to an N+2 rule and invites the European Commission to reconsider it. The EESC wishes to consider the needs of the countries which have had difficulties in the implementation of the programmes and offer them more and not less flexibility.

⁽¹⁰⁾ OJ C 173, 31.5.2017, p. 38.

⁽¹¹⁾ <https://www.eesc.europa.eu/sites/default/files/resources/docs/qe-02-17-362-en-n.pdf> and <https://www.eesc.europa.eu/sites/default/files/resources/docs/qe-01-14-110-en-c.pdf>

⁽¹²⁾ OJ C 191, 29.6.2012, p. 30.

6.7. Furthermore, it is to be noted that the administrative capacity especially of the smaller Member States and regions could be put under severe pressure during the initial phases of the 2021-2027 period. This needs to be seen in light of the fact that whilst Member States are still closing the current programming period, they will be under pressure to start implementing the last two years of the new programming period (due to the 5+2 approach) and with an N+2 rule as well as a reduced pre-financing amount.

6.8. Given the fact that small and micro enterprises and civil society organisations can have difficulties benefiting from opportunities offered by the European funds in general, the EESC requests support for actions that strengthen their access to information, provide coaching and mentoring and boost their intervention capacities.

7. Programming and implementation

7.1. The EESC welcomes the fact that there are less policy objectives (PO) which seem to be more flexible than their predecessors but regrets that they are not linked to a wider strategic context.

7.2. The EESC especially welcomes the new policy objective called 'Europe closer to its citizens' (PO5). The EESC hopes that, in keeping with its name (and the requirements of Article 17(3)(g)), the Member States will prepare and implement their programmes under this objective in close cooperation with citizens as well as economic and social partners and civil society organisations.

7.3. The EESC has concerns regarding the fact that only the first five years would be programmed initially. The EESC sees the advantages of this approach but fears that it can become a heavy administrative burden for the authorities which also risk not meeting the decommitment rules.

7.4. The simplification of the programming documents (Partnership Agreement (PA), operational programmes) is welcome. In particular the EESC agrees with the simplification of the PA and believes that it should be a strategic high-level document. Therefore, it is important that an effort is made to ensure that the Member States' programmes remain in line with the EU priorities and in synergy with each other. The EESC also welcomes the simplification of the delegated acts. In order to avoid the risk of gold plating by managing authorities, the EESC asks the Commission to involve the European economic and social actors in the formulation of the delegated acts.

7.5. The EESC finds it essential that there are simple solutions proposed that would connect the different cohesion policy related initiatives (strategies and programmes) of the different territorial levels horizontally (e.g. macro-regional strategies with transnational programmes) and vertically (between the different territorial levels). For this reason the EESC welcomes Article 17 and encourages the Commission to continue its work in this direction.

7.6. More than half of the world's population now lives in cities, and this figure is set to rise to 70 % by 2050 ⁽¹³⁾. The EESC therefore welcomes the increased ERDF earmarking for integrated sustainable urban development but regrets that it is not extended to the ESF+.

7.7. The EESC believes that basing territorial development on integrated territorial strategies is the right approach which allows the local level to identify its potentials and needs and to launch actions in partnership between all local actors to meet the specific needs identified. The EESC believes that this is a good governance approach which should be greatly encouraged and strengthened. In this regard, the EESC welcomes the fact that the partners, in accordance with Article 6, must be involved in the preparation and implementation of the territorial strategies.

7.8. The EESC also welcomes the new 'other integrated tools' as referred to under Article 22(c), as these can allow tailor-made and locally functioning solutions to be identified and used, but regrets that their usage is limited to PO5. Such a tool should be open to all POs. As the explanations regarding this new tool are rather vague, the EESC recommends that the Commission elaborate further on it so that Member States can be encouraged to make full use of this option.

7.9. The EESC believes that in order to reflect the reality better and make sure that local interest is represented in the actions of the new European Urban Initiative, civil society should be strongly involved and represented in its governance mechanism. The EESC is strongly in favour of the establishment of such a governance mechanism on a European scale with the involvement of the relevant civil society actors.

⁽¹³⁾ <http://www.un.org/en/development/desa/news/population/world-urbanization-prospects-2014.html>

7.10. The EESC strongly believes that the funds under cohesion policy are the most visible for the citizens and the economic and social actors. The supported actions constitute one of the best ramparts against euroscepticism and the movements opposed to Europe. It is therefore necessary to provide direct and easily accessible information, targeted according to the professional activity of the people concerned, for example with good practice guidelines. The EESC asks the Commission to develop a strategic communication plan in partnership with all the partners concerned.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund’

(COM(2018) 372 final — 2018/0197 (COD))

(2019/C 62/14)

Rapporteur: **Ioannis VARDAKASTANIS**

Co-rapporteur: **Ester VITALE**

Referral	European Parliament, 11.6.2018 European Council, 19.6.2018
Legal basis	Articles 177, 178, 304 and 349 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
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Plenary session No	538
Outcome of vote	138/0/1
(for/against/abstentions)	

This EESC opinion concerns the proposal presented by the European Commission on 29 May 2018 for a Regulation of the Council and the Parliament ⁽¹⁾ on the European Regional Development Fund and Cohesion Fund for the period 2021 to 2027. The opinion also includes a few brief comments on some provisions of the proposed Common Provisions Regulation (CPR) ⁽²⁾ that directly concern relevant aspects of the structure, contents, articulation and further implementation of the European Regional Development Fund (ERDF) and the Cohesion Fund (CF).

1. Conclusions and recommendations

1.1. The EESC reaffirms its strong commitment to and belief in cohesion policy and considers it a major instrument for bringing the EU closer to its citizens and for **tackling disparities among EU regions and inequalities among citizens**.

1.2. Although the EESC is aware of the Commission’s reasoning, it completely disagrees with the cuts to the cohesion policy in general, and in particular cuts of 12 % to the ERDF and 46 % to the CF. It therefore asks the European Commission, the European Parliament and the Council to increase the budget proposal, so as to maintain at least the same resources, at constant prices, as in the current financial framework.

1.3. The EESC underlines that the decrease in the **European co-financing rates** will hinder the implementation of projects, especially by Member States facing budget difficulties and of course by those that have been hardest hit by the crisis.

1.4. The EESC calls upon the Commission to make the criteria for **co-financing more flexible**, so that the economic and financial situation of each Member State is taken into account and the rule the Committee has recommended in several of its latest opinions is applied: investment expenses should not be taken into account regarding fulfilment of the deficit objectives of the Stability and Growth Pact.

⁽¹⁾ COM(2018) 372 final — 2018/0197 (COD), COM(2018) 372 final — ANNEX I, COM(2018) 372 final — ANNEX II

⁽²⁾ COM(2018) 375 final

1.5. The EESC considers that the Commission's proposal to reintroduce the N+2 rule is not supported by practical evidence or by the results analysis of the implementation of the N+3 rule. It therefore disagrees with this proposal and asks the Commission to maintain the N+3 rule for the new programming period.

1.6. The EESC welcomes the Commission's proposal for the **simplification** of the use of the funds in terms of structure, administration and management, facilitating smoother and more effective access to them. However, the simplification of the funds should not sideline principles and values that are an integral part of the EU *acquis*.

1.7. The EESC welcomes the fact that the Commission proposal improves **multi-level governance with its emphasis on shared management**, enhancing the participation of civil society organisations and other stakeholders in the process of programming, implementing, evaluating and monitoring the use of the funds. However, the European Code of Conduct on Partnership (ECCP) should be fully respected at all levels and **reinforced with strong guarantees and measures** ensuring its full implementation. Compliance with the ECCP should be considered to be an enabling condition. This will empower stakeholders and civil society organisations to play a vital role as **intermediary bodies**, bringing projects closer to their final beneficiaries.

1.8. The EESC points out that at EU level there is no structured involvement of civil society organisations in the process of monitoring the implementation of cohesion policy. It therefore strongly recommends that the Commission **establish a European Civil Society Cohesion Forum** with the participation of the social partners, civil society organisations and other stakeholders that will consult the social partners and CSOs annually on the state of implementation of the cohesion policy throughout the programming cycle 2021-2027.

1.9. The EESC recommends that the Commission effectively **mainstream the Sustainable Development Goals (SDGs)** in cohesion policy through the CPR and the ERDF and CF regulations, by ensuring their cross-cutting inclusion in all priorities of the funds, not only climate action.

1.10. The EESC proposes that **sparsely populated areas, isolated areas, small islands and mountainous regions**, in accordance with Article 174 of the Treaty on the Functioning of the European Union, be supported with the same thematic concentration requirements, scope of support and benefits, and with the same derogations, as the outermost regions. Investment strategies should be oriented towards the objectives of macro-regions and territorial and cross-border cooperation, especially to address complex phenomena such as migration.

1.11. The EESC recommends that the **European Territorial Cooperation (ETC)/Interreg budget be increased** for the new programming period in order to effectively fulfil its mission and objectives. The EESC also proposes providing the ERDF with enough support for the implementation of the cross-border mechanism. Moreover, the EESC believes that investment strategies should be directed towards the objectives of the macro and sea-basin regions.

1.12. The EESC asks the Commission to take other **social indicators** into account, in addition to gross national income (GNI) per capita, in order to classify Member States according to the thematic concentration requirements that apply to them.

1.13. The EESC supports the concept of thematic concentration but asks the Commission **to balance distribution** of the thematic concentration requirements in investments among policy objectives (POs), as the allocation for POs 3 to 5 seems to be insufficient for tackling socioeconomic needs and for building a Europe that is closer to its citizens.

1.14. The EESC regrets that the Commission proposals for all regulations have excluded the horizontal incorporation of **equality, non-discrimination and accessibility for persons with disabilities**. It therefore strongly recommends that Article 7 of the current Common Provisions Regulation (CPR) 2014-2020 be incorporated in the proposed new CPR, and that this principle be directly embedded in the main text of the proposed ERDF and CF regulation. Also, the EESC firmly recommends including accessibility for persons with disabilities in Article 67 of the proposed CPR on selection of operations.

1.15. The EESC underlines that the **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) should be fully embedded in the main text** of the proposed ERDF and CF regulation as well as in the CPR regulation. The UNCRPD in particular should be fully included in the legal basis of the ERDF and CF regulation and accessibility for persons with disabilities should be made a mandatory eligibility criterion.

1.16. The EESC asks the Commission to ensure that building or renovating segregated institutional care facilities **be excluded from the scope** of support under the ERDF and CF. Instead, social inclusion through the **transition from institutional to community-based care** must be promoted.

1.17. The EESC welcomes the improvement in the **coordination of the different funds**, as well as the link between these and the European Semester and the Reform Support Programmes.

1.18. The EESC considers that the inclusion of **macroeconomic conditionalities**, which are decided at national and European level, creates strong barriers to regions, local municipalities, other stakeholders and citizens when using the funds, and therefore the EESC completely rejects them and asks the Commission to reconsider the inclusion criteria

1.19. The EESC considers that the implementation of the **European Pillar of Social Rights (EPSR) needs to be prioritised in cohesion policy**, not only in the ESF+. It therefore firmly recommends that a minimum of 10 % be allocated to PO 4 of the ERDF, **establishing the Social Sustainability and Accessibility Regional Initiative (SSARI)**.

2. General comments

2.1. The EESC still considers cohesion policy — as it has done over many years — one of the fundamental pillars for achieving EU integration, and therefore is of the opinion that at times of uncertainty and the rise of populism, nationalism and euroscepticism, cohesion policy is the real connecting process for citizens in the EU project.

2.2. The EESC underlines that the cohesion policy and its financing instruments could have been used to present the European citizens with a new, positive narrative for the EU project.

2.3. The EESC therefore points out that the Commission's proposal has not been politically ambitious enough, and this is translated in practice in the cuts, at constant prices, of 12 % and 46 % to the ERDF and CF budgets respectively in the proposal for the MFF 2021-2027 with respect to current budgets. The cuts are proposed even though the Commission recognises, in the explanatory memorandum, that 'the ERDF and CF represent 50 % of public investment in many countries'. Thus they will have a negative effect on those countries that are stabilising their economies as they recover from the crisis and as their citizens try to cope with austerity measures. In many countries poverty and inequality levels remain high and in some cases are increasing, with substantial divergences between countries, and among and within regions and different population groups, particularly as regards the social indicators related to women, the Roma, persons with disabilities, the elderly, etc.

2.4. Given the paramount importance of both the ERDF and the CF for the economic and social development and cohesion of European regions, the EESC requests that the **financing of cohesion policies be maintained** in the MFF 2021-2027, at least with the same resources at constant prices as in the current financial framework ⁽³⁾.

2.5. The Commission's proposal **to decrease the co-financing rates** for the three categories ⁽⁴⁾ of regions undermines the capacity to access and utilise the funds on equal terms, especially for those Member States with greater spending difficulties and those that have been hardest hit by the crisis.

2.6. The EESC supports the efforts to **simplify** cohesion policy and welcomes the reduction in the number of objectives from 11 to 5, as this will allow resources to be concentrated on the priority issues of the competitiveness of enterprises and of the rights of persons. However, fewer, clearer and shorter rules should not mean less efficient regulations for achieving its general and specific goals. More particularly, greater simplification should not mean sidelining cross-cutting principles that are part and parcel of the European *acquis* from the proposed regulation.

2.7. Simplification through unifying funds and facilitating access for beneficiaries, notably by relying more on management carried out by Member States, and through stepping up the use of Simplified Cost Options, are much-needed steps for enhancing the efficiency of investments. The extension of the principle of the single audit and greater reliance on

⁽³⁾ See EESC's opinion on Multiannual Financial Framework post 2020 (OJ C 440, 6.12.2018, p. 106).

⁽⁴⁾ See EESC's opinion on Multiannual Financial Framework post 2020 (OJ C 440, 6.12.2018, p. 106).

national, regional and local authorities will also make for more efficient technical assistance expenditure. The EESC also welcomes the strengthening of **e-cohesion and data exchange**, as these will enhance the transparency and efficiency of the ERDF and CF. The EESC welcomes Commission's proposal to strengthen interregional cooperation through the Smart Specialisation Strategy (S3).

2.8. The EESC believes that the **European Territorial Cooperation** is an important way of supporting specific cross-border regions that commonly face problems with infrastructure, the delivery of public services, communication and transport due, amongst other things, to geographical and/or historical characteristics. Interreg should be a tool to promote the economic and social convergence of these regions, sub-regions and local areas in practical terms, and the EESC therefore suggests increasing the budget of this instrument. The EESC also strongly recommends that ERDF funding be provided to support the effective functioning and implementation of the cross-border mechanism.

2.9. Although **equality, non-discrimination and accessibility** are included in the preamble, the EESC firmly believes that they should be fully embedded in the main text of the ERDF and CF regulation, making them mandatory eligibility criteria for funding allocations and that accessibility for persons with disabilities must be included in Article 67 of the proposed CPR on selection of operations ⁽⁵⁾.

2.10. The classification of the regions is still determined by the **'Berlin method'**, taking into account exclusively the gross national income and population of each region to determine the thematic concentration requirements applying to each ⁽⁶⁾. Nevertheless, the Commission has decided to include new indicators for the allocation method, such as unemployment, net migration or greenhouse gas emissions. Even if this solution contributes to improving the accuracy of the funding distribution regarding the needs of the regions, the thematic concentration requirements would still be determined by a method of classification that leaves aside these inequalities.

2.10.1. Therefore, many regions of Member States in 'group 1' might receive a 'correct' allocation in terms of the inequalities they suffer that goes beyond GNI, but would then have to contend with the thematic concentration requirements, something that could constrain their capacity for tackling these inequalities. The explanation given in the Impact Assessment — as an answer to the requirement of the Regulatory Scrutiny Board ⁽⁷⁾ — on the choice of the 'Berlin method' does not clarify why other relevant indicators were not taken into account. The EESC therefore asks the Commission to reconsider this approach.

2.11. **Sparsely populated areas**, in accordance with Article 174 of the Treaty on the Functioning of the European Union, as well as isolated areas, such as small islands, are regions that face specific problems of communication — including internet access — and transport. In addition, they commonly lack social infrastructure (health, education, etc.). In these regions, the scattered nature of the population and the lack of employment opportunities, causing a disturbing rate of aging, results in a gradual increase in the cost of delivering public services, making it harder to develop employment programmes and attract companies.

2.11.1. The proposal allocates part of the budget for these regions together with those classified as outermost regions. However, the classification of regions includes the outermost regions in 'group 3', not taking into account the special characteristics of the sparsely populated areas, other than GNI per capita. The EESC considers taking a specialised approach

⁽⁵⁾ Article 7 of the Common Provisions Regulation 2014-2020 has been removed, as the Commission has opted for the inclusion of an obligation on the Member States regarding the selection of projects, through Article 67 of the proposal for a Common Provisions Regulation (CPR), for the 2021-2027 MFF. However, Article 67 does not include any mention of accessibility.

⁽⁶⁾ The new proposal for a thematic concentration of the ERDF classifies Member States in three groups according to their GNI: 'group 1' for those with a GNI ratio equal to or above 100 % of the EU average; 'group 2' for those with a ratio equal to or above 75 % and below 100 %; and 'group 3' for those where the ratio is below 75 % of the EU average, as well as for the outermost regions regarding their programmes dedicated to the 'Investment for jobs and growth' goal. The thematic concentration requirements for the different regional groups propose that 'group 1' Member States allocate at least 85 % of their resources to PO 1 and PO 2 and at least 60 % to PO 1; that 'group 2' focus at least 45 % of the budget on priorities under PO 1 and at least 30 % to PO 2, and that 'group 3' allocate at least 35 % of their resources to PO 1 and a minimum of 30 % to PO 2.

⁽⁷⁾ SEC(2018) 268.

with sufficient funding and the correct thematic concentration requirements in order to tackle the difficulties encountered by sparsely populated and isolated areas, and that they should therefore benefit from the thematic concentration scope of support and derogations applicable to outermost regions.

2.12. The EESC welcomes the improvement in the **coordination between the seven shared management funds** — established mostly through the CPR proposal — fulfilling a major request on the part of stakeholders. For the ERDF and the CF the combination with the proposed Reform Support Programme ⁽⁸⁾ is especially relevant, as it will help to link the implementation of the programmes with the recommendations made under the European Semester, when they are socially sustainable, improving the effectiveness of the investments. This combination should provide for specific negotiations between national and European authorities, with the active involvement of the social partners and CSOs.

2.13. The EESC recognises the importance of **combining different types of funds and tools** with the cohesion policy funds, especially financial instruments, thus covering the objectives more effectively. The mobilisation of private capital also ensures and multiplies the added value of investments and the wider distribution of benefits.

2.14. The EESC welcomes the improvement in the **flexibility** in adapting the funds and programmes to incoming contingencies, as proposed by the Commission. The proposed link between the Country-Specific Recommendations and the programming period and mid-term evaluation is important for the effectiveness of the funds. However, it is necessary to pay close attention should changes become too frequent, as they are likely to distort the nature of the programming. In addition, the proposal to leave the resources unscheduled until the last two years is likely to make them hard to use for reasons of time.

2.15. The EESC acknowledges the increase in the proposed 2021-2027 MFF compared to the 2014-2020 MFF in the percentage the Commission proposes to allocate to climate objectives, with an expenditure of 30 % of the ERDF and 37 % of the CF. Given the paramount importance of this goal and the capability of both funds in addressing it, the EESC believes an increase should be given further consideration.

2.16. The Sustainable Development Goals (SDGs) are taken into account by the Commission as a justification for the proposed expenditure on climate objectives. The EESC believes that the Commission should consider a broader alignment of the proposed regulation and its five proposed priorities for the programming and implementation of the funds with the SDGs. This should take place by ensuring that the social and economic perspectives of the SDGs are also included in the regulation.

2.17. The Commission presents a **multi-level governance model** which emphasises the shared management of the programmes between the Commission and the Member States, which now have more direct responsibility. The division of responsibilities is also clearer, and the contribution of the regional and local authorities and the social partners and civil society organisations ⁽⁹⁾ has been increased. However, strong guarantees and specific measures need to be introduced to empower the social partners and civil society organisations to play a vital role **as intermediary bodies**, developing projects more efficiently and bringing them closer to their final beneficiaries.

2.18. The EESC underlines that there is a need for more partnership, participation and involvement of civil society organisations and other stakeholders in the monitoring of cohesion policy at EU level. In fact, the EESC notes that this deficit at EU level could be addressed by the EESC in a highly proactive, inclusive and effective manner. The EESC therefore proposes that a **European Civil Society Cohesion Forum** be established to monitor cohesion policy, with the EESC available to fully facilitate its functioning.

2.19. The EESC welcomes the fact that the Commission has opted to vary the traditional approach to **Technical Assistance** by eliminating the priority objective used to direct this support. Instead, the proposal suggests a general flat rate of 2,5 % of each programme, adding up to 100 % of the investment, aimed at covering technical assistance expenses. Other investments made under the classification of Technical Assistance may also be co-financed, if needed, on top of that 2,5 % rate. The EESC welcomes this simplified approach. In addition to prioritising the proportionality principle and improving flexibility and partnership governance, the Commission has opted not to limit the amount of the allocation aimed at the institutional capacity of partners, including bodies representing civil society.

⁽⁸⁾ COM(2018) 391 — 2018/0213 (COD).

⁽⁹⁾ This includes the environmental partners and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination, as referred to in Article 6 of the CPR proposal.

2.20. The EESC disagrees with the proposal to amend the N+3 rule to N+2 and invites the Commission to reconsider. The approach to flexibility in these terms should be closer to the needs of those countries, regions, sub-regions, local communities and stakeholders which have experienced the greatest difficulties in implementing the programmes and should adapt the implementation process to the capacities of the different Member States and the conditions prevailing in them. The reintroduction of the N+2 rule also requires a higher level of efficiency in programming and implementing, with a year less for the certification of payments.

3. Specific comments

3.1. The EESC believes that the specific objectives for the ERDF and CF (Article 2) should include areas such as the social economy and accessibility of infrastructure and services for all EU citizens, and that there should be specific references to sparsely populated areas and islands, in accordance with Article 174 of the Treaty on the Functioning of the European Union.

3.2. The EESC believes that Annexes I and II should be reviewed accordingly in order to translate the previous areas into common output and result indicators as well as performance indicators.

3.3. Although the EESC acknowledges that PO1 and PO2 are policy objectives with high added value, it points out that placing very high percentages for these two areas in all three regional groups would undermine the efficiency of the ERDF and CF in tackling POs 3 to 5. It therefore asks the Commission to revisit the thematic concentration requirements (Article 3.4) in order to balance efforts to properly tackle social inequalities, including poverty and discrimination, something that is needed in order to achieve inclusive growth.

3.4. The EESC highlights the fact that urban development is closely linked to modernising and innovating local infrastructure and services, and therefore welcomes the inclusion of a European Urban Initiative in the ERDF, linked to the European Urban Agenda. However, the EESC strongly recommends that the Commission increase the financial support to this initiative and at the same time makes it cross-cutting to cover the three pillars of the SDGs 2030 Agenda, for instance, so as to develop smart and accessible cities.

3.5. The EESC welcomes the inclusion of horizontal enabling condition 4, requiring national frameworks for the implementation of the UNCRPD. Nevertheless, it considers that:

3.5.1. Since the EU is a state party to the UNCRPD and therefore implementation by the EU is obligatory, it is appropriate that the **UNCRPD be embedded in the legal basis** of the proposed ERDF and CF regulation.

3.5.2. Accessibility for persons with disabilities, including the accessibility of goods, services and infrastructures, **should be included in the scope** of the proposed regulation and set **as a mandatory criterion for funding projects** in each sector covered. The EESC therefore strongly recommends that point 5 of the introduction of the proposed ERDF and CF regulation — ‘Member States should also respect the obligations of the UN Convention on the Rights of Persons with Disabilities and ensure accessibility in line with its Article 9 and in accordance with the Union law harmonising accessibility requirements for products and services’ — should be included in the main text of the regulation.

3.5.3. The **European acquis** has developed a cross-cutting approach to the promotion of **equality, non-discrimination and accessibility** for persons with disabilities in the programming and implementation of the funds through **Article 7** of the current CPR⁽¹⁰⁾ and **Article 16** of the CPR 2007-2013. The EESC therefore strongly recommends **reincorporating Article 7** of the CPR 2014-2020 into the proposed new CPR.

3.6. The EESC is disappointed to see that the commitment under the ERDF which started in the 2014-2020 MFF to promote the **transition from institutional to community-based care** has not been followed up in the proposed regulation. Article 2(d) of the proposed ERDF regulation prioritises increasing socioeconomic integration ‘through integrated measures including housing and social services’. While this is an important provision, it is not certain that this specific objective is enough to ensure that people, especially the most disadvantaged ones, will be included in the community through targeted investments in deinstitutionalisation. In view of the fact that ERDF investments are crucial for

⁽¹⁰⁾ Regulation (EU) No 1301/2013.

the social inclusion, the EESC proposes to ensure that the ERDF invests only in services that support social inclusion and that the use of funds for building or renovating segregated institutional care facilities is excluded from the scope of the ERDF and CF. It is crucial that both the positive incentive and the negative obligation be maintained, but also strengthened, in the proposed ERDF regulation.

3.7. Although it is proposed that one third of ESF+ funding should support the implementation of the **European Pillar of Social Rights**, the EESC strongly believes that funding from the ERDF budget should be prioritised to effectively support the implementation of PO 4. The EESC therefore firmly recommends that a minimum of 10 % be allocated to PO 4 of the ERDF, establishing the **Social Sustainability Regional Initiative** (SSRI), in order to promote social inclusion and accessibility in a systematic and coherent manner.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341’

(COM(2018) 354 final — 2018/0179 (COD))

(2019/C 62/15)

Rapporteur: **Carlos TRIAS PINTÓ**

Referral	Council of the European Union, 6.7.2018 European Parliament, 5.7.2018
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	174/7/4

1. Conclusions and recommendations

1.1. Financial market participants help the European economy transition towards a greener, more resilient and circular system, by incorporating ESG ⁽¹⁾ factors:

- into **advisory** activities to end investors, by asking about their sustainability preferences;
- into the **design** or selection of a portfolio of financial assets;
- into the **transparent disclosure** and **reliable explanation** of their **decision-making process**;
- into the pre-contractual **ex-ante** information on integrating **risks** and their expected impact;
- into the periodical reports by stating the overall sustainability-related impact of the financial product through the use of relevant sustainability indicators.

1.2. The Sustainable Development Goals (SDGs) ⁽²⁾, and the **Paris Agreement** on **climate change** make up the frontispiece of the pillars of shared sustainability, and the **European Commission’s Action Plan on Financing Sustainable Growth** ⁽³⁾ will underpin this new architecture.

1.3. The starting point is to gradually define — using rigorous **scientific evidence** — which **activities are sustainable**, making use of a methodology for cost-benefit analysis throughout the life cycle of the project, evaluating environmental, social and economic externalities.

⁽¹⁾ Environmental, social and governance.

⁽²⁾ The Sustainable Development Goals (SDGs) took shape at the United Nations Conference on Sustainable Development held in Rio de Janeiro in 2012.

⁽³⁾ COM(2018) 97 final.

1.4. Right from the outset, with the 'E' (in ESG criteria), the **social safeguards** agreed at international level ⁽⁴⁾ must be respected ⁽⁵⁾, as well as the European Pillar of Social Rights ⁽⁶⁾. For the EESC safeguards should continue right to the letter 'G', without neglecting good (corporate and institutional) fiscal governance.

1.5. The EESC welcomes the **design of the Action Plan**. This opinion focuses on measures linked to redirecting capital flows towards sustainable investments and, as such, goes to the very heart of the fiduciary obligations of capital market participants, whose weakest component — end investors — will be able to bring their sustainability preferences into line with their informed investment decisions. Both the proposed new Regulation and the revision of the Directive lend substance, consistency and effectiveness to the development of the Action Plan.

1.6. **Momentum** is often mentioned so as to make a virtue out of necessity: strengthening the 'Europe of values' by harnessing sustainability. In this regard, the EESC firmly believes in designing **sustainable pan-European financial products**, as it is convinced that they will enable Europe to do bigger and better things.

1.7. The EESC endorses the Commission's proposal to set up a **platform on sustainable finance**, comprising experts from both the public and private sectors. The EESC should be involved in this platform.

1.8. Lastly, the EESC highlights the need to ensure the involvement of civil society and the social partners at every stage of the process.

2. Background

2.1. General framework — Action Plan: Financing Sustainable Growth

2.1.1. As part of the long-term project to complete the financial union, the mid-term review of the capital markets union (CMU) has focused on mobilising European savings by promoting sustainable private investments. The Action Plan for financing sustainable growth, launched by the Commission on 8 March 2018, laid out a sensible and precise roadmap in order to fulfil this commitment.

2.1.2. The European Economic and Social Committee has warmly welcomed this initiative, which consists of 10 actions that set out a series of consistent and interconnected acts which should be adopted before the end of 2019.

2.1.3. The proposal to amend the regulatory framework — the subject of this opinion — ties in with the fiduciary role of financial market participants.

2.1.4. This is particularly linked to Action 7 of the Action Plan, in which the incorporation of sustainability into investment portfolios and proper disclosure has as its corollary Action 4, on the advice given to the end-investor. This also partly concerns Action 9, as it is a *sine qua non* that businesses carry out sound and harmonised extra-financial corporate reporting.

2.1.5. In parallel, as part of this first coherent round of measures under the Action Plan, the EESC adopts its view on the taxonomy (Action 1) and the sustainability benchmarks (Action 5) ⁽⁷⁾.

2.2. Institutional investors' and asset managers' duties regarding sustainability

2.2.1. A **Regulation** is being proposed on integrating sustainability considerations into the decision-making process and on disclosures relating to sustainable investments and sustainability risks. This is accompanied by an **amendment of Directive (EU) 2016/2341** on the activities and supervision of institutions for occupational retirement provision (IORPs), as well as of the **delegated acts** of the European Commission to adapt the MiFID II and IDD directives accordingly, with the assistance of the supervisory authorities.

2.2.2. The aim is to ensure that asset managers, institutional investors, insurance distributors and investment advisors incorporate **environmental, social and governance (ESG) factors** into their investment decisions (Action 7) and advice (Action 4) as part of their duty to act in the best interest of investors or beneficiaries.

⁽⁴⁾ In particular, the UN Guiding Principles on Business and Human Rights, the EU Charter of Fundamental Rights and the ILO labour standards.

⁽⁵⁾ Joint commitment under the dialogue between the European Parliament, the Council and the Commission (i.e. 'trilogue').

⁽⁶⁾ See EESC opinion 'European Pillar of Social Rights' (OJ C 125, 21.4.2017, p. 10).

⁽⁷⁾ EESC opinion ECO/467 — 'Sustainable finance: taxonomy and benchmarks'. See page 103 of this Official Journal.

2.2.3. Asset managers and institutional investors would have to disclose how their investments are in line with these sustainability objectives and periodically account for investments' non-financial performance by means of ad hoc impact indicators. This means more **transparency** for **end-investors**, who will be able to take fully informed decisions among **comparable** products that are free of 'greenwashing' and/or 'socialwashing'.

2.2.4. The proposed Regulation will apply to asset managers ⁽⁸⁾, institutional investors (insurance undertakings regulated under Solvency II and institutions for occupational retirement provision governed by IORP II), insurance distributors regulated under the Insurance Distribution Directive (IDD), and investment advisors and managers of individual portfolios regulated under MiFID II.

2.2.5. The proposed rules cover all financial products offered and services (management of and advice on portfolios) rendered by the abovementioned entities, regardless of whether they are pursuing sustainable investment objectives or not.

2.2.6. A low EU carbon benchmark or a positive carbon impact benchmark would only be used for products/services that are aiming at low carbon emissions, just as other benchmarks will be used for products/services that are aiming to have an environmental and/or social impact.

2.2.7. Thus investors will take coverage of their sustainability risks into account when assessing the performance of their long-term investments and will satisfy their 'fiduciary duties' in the best interest of their end-investors/beneficiaries.

2.2.8. Similarly, the financial sector will play an essential role in recalibrating to the risks of climate change and environmental, social and governance-related challenges, gradually shifting private capital flows towards sustainable investments by choosing suitable activities, projects and companies.

2.2.9. For its part, the EU will strengthen public funds to attract more private investments. In particular, the expanded and strengthened European Fund for Strategic Investments (EFSI 2.0), in force since 31 December 2017, proposes a 40 % target for smart climate investment, and will continue to grow in the 2021-2027 multiannual financial framework (MFF).

3. General comments

3.1. In the transition towards more sustainable and inclusive economies, a balanced approach to ESG risks and a proper alignment of the participants in the financial system will help to achieve system-wide financial stability.

3.2. In connection with the European Commission's Action Plan, the EESC gave its view ⁽⁹⁾, in general terms, on institutional investors and asset managers' fiduciary duties in terms of sustainability.

3.3. More specifically, the EESC advocates including financial products linked to pensions in the new taxonomy and benchmarks — they will be able to play a part in the long-term investments under the EFSI 2.0 and the future 'InvestEU' fund planned for the 2021-2027 MFF.

3.4. Thus the future pan-European personal pension products (**PEPPs**) could become a **flagship sustainable product**, given the significant value of ensuring a long-term flow of financial resources that also enable a variety of challenges facing European society to be tackled — in short, ensuring people's future well-being while also financing strong and sustainable infrastructure. In the EESC's view, this would be the default investment option and should enable PEPP savers to recover invested capital, including by means of subsidiary institutional support from the European Union ⁽¹⁰⁾.

3.5. In addition to mobilising domestic savings, more investment into Europe needs to be attracted. Beyond incentives associated with sustainable investment, numerous studies demonstrate that investors seek access to larger capital markets as they can typically obtain better returns on investment.

⁽⁸⁾ Regulated under the Directive on undertakings for collective investment in transferable securities (UCITS), the Directive on Alternative Investment Fund Managers (AIFM), the Regulation on European venture capital funds (EuVECA), and the Regulation on European social entrepreneurship funds (EuSEF).

⁽⁹⁾ EESC opinion ECO/456 — 'Sustainable finance (communication)'. See page 73 of this Official Journal.

⁽¹⁰⁾ To this end, the commission received by PEPP producers and intermediaries will need to be limited, and minimum standards for fiscal harmonisation drawn up.

3.6. Capital market integration should also consider reforms and incentives promoting **individual and collective sustainable pan-European pension plans**, under the premise of ensuring at the same time a solid public pensions system, expanding the current pool of people affiliated to social security schemes. Public pensions systems should be encouraged to also make sustainable investments from their reserve funds, where these exist.

3.7. Moreover, the EESC has emphasised that financial intermediation services should, as an essential component of their legal duties, proactively liaise with customers to provide them with clear information on the possible financial risks and the benefits of including ESG factors. Where retail investors are involved, it must be ensured that they have clearly understood all the information provided.

3.8. The EESC therefore also supports amending the MiFID II and IDD directives, and is in favour of the European Securities and Markets Authority (ESMA) subsequently including sustainability preferences in its suitability assessment guidelines. In particular, and without compromising the objectives of these directives to ensure the protection of investors, it is necessary to examine how investors' sustainability preferences can be included in this legislation in order for financial advisors to be able to issue appropriate recommendations on financial products that respect as much as possible clients' preferences and suitability.

3.9. In short, the EESC welcomes the simultaneous and coherent review of the **European System of Financial Supervision** that aims to integrate financially material sustainability⁽¹¹⁾ risks into micro-prudential supervision tasks, and understands that current capital and liquidity requirements will have to be carefully weighed up with regard to these new factors.

3.10. Finally, the EESC must once again express its sincere regret that even the most advanced countries have failed to close the **gender gap. Sustainable finance** offers effective answers here: 'gender lens investing'⁽¹²⁾ can include financing women-owned businesses, companies with a strong record of female employment, or firms that improve the lives of girls and women via their products and services.

3.11. Moreover, according to the Boston Consulting Group, both millennials and women are increasingly seeking to align their financial and investment targets with their values, without lowering their expected returns. In other words, they are looking for certain amount of added value, beyond the financial return.

4. Specific comments

4.1. The EESC finds it appropriate that Article 114 TFEU is the legal basis for this Regulation, as it aims to preserve a **level playing field** between the various financial market participants while ensuring a high level of consumer protection (end-investors).

4.2. Proposal for a Regulation

4.2.1. The EESC is in favour of using this Regulation to harmonise the rules to be followed by institutional investors and asset managers during the investment process, taking into account risk and sustainability factors as well as transparency requirements to enable an objective comparison between sustainable financial products. The Committee also emphasises the important role that supervisory authorities will play in designing the technical standards for the process of elaborating and disclosing information; they need to have access to specialised technical advice in this area.

4.2.2. The EESC welcomes the comprehensive definitions set out in Article 2, and is pleased to see that the environmental, social and governance aspects are considered together; they will be reflected in the creation of the new taxonomy. This regulatory approach can be seen in paragraph (o), given that sustainable investments must not only be

⁽¹¹⁾ A materiality framework analyses those factors that are most relevant to the companies' financial performance, comprising financially material sustainability factors.

⁽¹²⁾ On this topic, Sarah Kaplan and Jackie VanderBrug from U.S. Trust wrote that 'women launching and expanding ventures around the world have an estimated collective credit gap of \$320 billion'.

based on the environmental objectives set out in subparagraph (i) referring to Article 2 of the proposal for a Regulation on the new taxonomy ⁽¹³⁾, but must also comply with subparagraphs (ii) and (iii) which concern the social and governance dimensions. These provisions have been designed so as to facilitate the reporting requirement that will apply to those market players who already integrate social and governance factors into their investment portfolios, and the EESC thinks that they should be drafted specifically so as to act as safeguards for the 'green taxonomy'.

4.2.3. The EESC is in favour of all participants posting their policies regarding the integration of financially material sustainability factors ⁽¹⁴⁾ alongside the financial risks in their range of products on the internet. However, this will only be of use if the information is as much as possible standardised and simultaneously updated by all participants in the investment chain.

4.2.4. Pre-contractual information is extremely important and should be clear, pertinent, objective and comparable. It is important to lay down the specific information to be provided in relation to each product family; the reference impact indicators and/or benchmarks — including the calculation method — also need to be clearly indicated.

4.2.5. Finally, the EESC supports the rules on informing end-investors about the impact of their investments. It also urges the competent European supervisory authority for each case to closely monitor whether information is provided frequently enough, is sufficiently up to date and is objective, ensuring consistency with the marketing strategies for each product.

4.3. *Proposed amendments to Directive (EU) 2016/2341*

4.3.1. The EESC supports all delegated acts to integrate ESG factors into the directives affecting institutional investors and asset managers being rooted in the 'prudent person' rule and therefore offering a safe and reliable framework for investment policies that balance competition conditions between participants and ensure a high level of consumer protection.

4.3.2. The Committee therefore endorses the revision of this Directive to bring it into line with the other directives and funds affected by this Regulation.

4.4. *Delegated acts (MiFID II and Insurance Distribution Directive)*

4.4.1. These relate to Action 4 of the Action Plan and aim to align with Action 7, in a stepwise process of regulatory consistency. The EESC endorses the planned amendments relating to previous delegated acts, in order to ensure that end-investors will be sufficiently queried about their sustainability preferences, which must in turn be clearly reflected in the advisor's recommendations.

4.5. Beyond supporting the first steps that the Commission is taking in the roadmap linked to the Action Plan for financing sustainable development, the EESC would like to make the following observations:

4.5.1. It is essential to draw on the experience and empirical evidence of financial market participants who already engage in securities banking, and the European Commission should therefore ensure that market practices contribute in an orderly and systematic way, as this is a key factor in making sure the new taxonomy is put together correctly.

4.5.2. As part of the new '**better regulation**' processes, there will need to be more interaction between the European Commission and the main stakeholders: in-person or virtual meetings, specialist workshops, new tools, etc. None of this must compromise the tasks that Commission delegated acts have assigned to the technical expert group on sustainable finance and other ad hoc groups, or the current consultation procedure, the scope of which remains limited.

4.5.3. In the effort to complete the **capital markets union**, it is crucial to stimulate the interaction of public and private resources, creating different channels to redirect capital flows and to combine various sources in order to generate **sustainable co-investment** (foundations, associations, donors, equity crowdfunding, etc.), applying the principle of non-discrimination, removing cross-border barriers and administrative obstacles according to Member State legislation, and harmonising tax treatment.

4.5.4. In the EESC's view, the costs of mainstreaming sustainability into asset management portfolios are affordable, even for smaller participants, which can easily offset these costs by generating more business thanks to a prestigious reputation.

⁽¹³⁾ COM(2018) 353 final.

⁽¹⁴⁾ A materiality framework analyses those factors that are most relevant to the companies' financial performance, comprising financially material sustainability factors.

4.5.5. Action 9 of the Plan (strengthening sustainability disclosure) should serve as a lever to make it easier for SMEs to provide high-quality information on sustainability and consequently increase their share of sustainable financing.

4.5.6. The main concern relates to **compliance** measures, which are generally very technocratic and onerous for entities that have fewer resources at their disposal. Supervisory authorities (in particular the ESMA and EIOPA) should only request relevant information, thus facilitating the communication of evidence and justification.

4.5.7. The EESC endorses the 12-month deadline for the regulation to enter into force, since in the case of packaged retail and insurance-based investment products ⁽¹⁵⁾, entry into force was possible in only six months.

4.5.8. Lastly, in light of the experience of the **'better regulation'** initiative, the EESC wonders whether a period of 60 months as a maximum timescale for reviewing the implementation of this Regulation might not be excessive.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽¹⁵⁾ Key information documents for packaged retail and insurance-based investment products.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment’

(COM(2018) 353 final — 2018/0178 (COD))

and on ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks’

(COM(2018) 355 final — 2018/0180 (COD))

(2019/C 62/16)

Rapporteur: **Daniel MAREELS**

Consultation	Council of the European Union, 6.7.2018 European Parliament, 5.7.2018
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Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	182/0/0
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the proposals regarding the taxonomy as a first step towards implementing the action plan on financing sustainable growth ⁽¹⁾. They establish what qualifies as an ‘environmentally sustainable economic activity’, which in turn makes it possible to define ‘environmentally sustainable investments’, which is what the proposal is all about.

1.2. The Committee also welcomes the proposal relating to the development of new low-carbon and positive carbon impact benchmarks.

1.3. In light of the objectives of the Action Plan, it is extremely important, right from the outset, to lay a firm foundation for all further action. The taxonomy performs this role, and the Committee fully endorses the decision to start with it.

1.4. That foundation also needs to mesh with the big ambitions set out in the Action Plan, which states that ‘Europe is well-placed to step into the role of global leader’. It is now time to take action in line with that ambition and to develop the taxonomy accordingly.

1.5. It is of the utmost importance for the whole of the EU to speak with one voice in this regard and to take the same approach. The European taxonomy should thus be in a position to transcend and replace the existing individual and scattered approaches in the Member States. Where possible, it should be based on existing international frameworks.

1.6. This would also benefit the internal market, especially in terms of attracting capital for sustainable investment from across the EU. Indeed, market participants would face lower costs, and investors would have more choice.

⁽¹⁾ COM(2018) 97 final.

1.7. The Action Plan and its implementation present major challenges. This is an environment that is highly dynamic and constantly evolving. The taxonomy should therefore be seen as an evolving tool that needs regular review and adjustment.

1.8. In view of the above, the Committee agrees that the gradual, restrained approach taken in the proposals is preferable. It is a good move to start with a limited number of areas and with a limited number of legal obligations,

1.9. As mentioned above, the current proposals relate to environmental aspects. From a holistic point of view, however, the Committee continues to call for attention to be paid to overall consistency. It welcomes the fact that minimum social and governance guarantees must be taken into account, but additional steps still need to be taken. For example, it will be important in future to work on extending the system to social sustainability and governance goals.

1.10. The Committee fully supports the decision to make the EU taxonomy highly granular. It is vital to achieve certainty and clarity as to which activities are genuinely environmentally sustainable, and to eliminate doubts in that regard right from the outset.

1.11. Similarly, the practicability of the taxonomy is of crucial importance, and will also benefit consumers and investors. Moreover, the decision that the taxonomy will only be used once it is stable and mature can be fully endorsed.

1.12. The taxonomy should also take account of how it will be implemented by businesses, as they will be largely responsible for the 'real' transition to a sustainable economy. An approach that takes account of the differences between sectors and the size of businesses will definitely be needed. It is likewise essential to ensure that competition is not distorted with regard to attracting funding for environmentally sustainable economic activities.

1.13. At the same time, the taxonomy must also be useable both in a large, international context and in a local one. For the Committee, it is clear not only that it is important to avoid tailoring these measures too closely to the needs of very large entities, but also that they must benefit SMEs.

1.14. It is to be welcomed that the European supervisory authorities will play a key role in the development of the EU taxonomy. It needs to be useable by all financial institutions and applicable to all financial products, while also remaining viable for all the business activities concerned. Its compatibility with European financial legislation should also be kept in mind. Additional regulatory and supervisory burdens and costs must be minimised, not least on the basis of the proportionality principle.

1.15. The Committee also sees information and communication as crucially important. For example, the Committee considers it highly appropriate to pay close attention to informing and communicating with all stakeholders including the operational business environment, and with the general public. A plan could be developed to provide all stakeholders and the public with as much information as possible and to engage with them, in order to gain buy-in. It could also include financial education and training. People make the difference!

2. Background ⁽²⁾

2.1. At international level, the adoption of the UN's 2030 Agenda for Sustainable Development (2015) and the Paris Climate Agreement (2016) have brought about a substantial change in attitudes towards climate change and environmental degradation. In short, the world has chosen to take the path towards a more sustainable environment.

2.2. The EU was already taking initiatives before this, but things have stepped up a gear since the aforementioned international texts were adopted. Moreover, the shift towards sustainability will require major efforts and significant investment — figures of EUR 180 billion a year are being quoted for climate and energy alone.

2.3. A High Level Expert Group (HLEG) was therefore set up in 2016 to develop an EU strategy on sustainable finance. Among other things, the group proposed two initiatives relating to the European financial system:

⁽²⁾ The 'background' section is to a large extent based on the explanatory memorandum to the proposal for a Regulation and on the Action Plan on Financing Sustainable Growth — COM(2018) 97 final.

2.3.1. The first was to improve finance's contribution to sustainable and inclusive growth;

2.3.2. The second was to improve financial stability by incorporating 'environmental, social and governance' (ESG) factors into investment decision-making.

2.4. The HLEG also issued eight recommendations that it believes are essential building blocks of a sustainable financial system. These included a call to establish a technically robust classification system at EU level — a 'taxonomy' — to provide clarity on what is 'green' or 'sustainable', making it possible to determine whether an economic activity is 'environmentally sustainable'.

2.5. Following on from the HLEG's work, in spring 2018 the Commission launched an action plan on financing sustainable growth, envisaging, among other things, the proposals to which this opinion relates.

2.6. The purpose of said proposals ⁽³⁾, published on 24 May 2018, is:

2.6.1. To lay the foundations for a taxonomy as referred to above, also making it possible to determine what constitutes 'sustainable investment';

2.6.2. To establish clear guidelines for investors. These guidelines, specifically for certain financial market participants, aim to bring clarity and consistency on the question of how to integrate ESG risks into investment decisions and advice to investors;

2.6.3. To establish more transparency requirements for certain financial market participants, including with regard to how they integrate the guidelines referred to in point 2.6.2 into the aforementioned decisions and advice. They will also need to demonstrate how they achieve their sustainability objectives;

2.6.4. To establish new 'low carbon' and 'positive carbon impact' benchmarks that the developers will need to apply in order to give investors certainty on the matter.

3. Observations and comments

3.1. The EESC welcomes these proposals as a first step towards implementing the action plan on financing sustainable growth. In the first instance, that involves developing a taxonomy, which establishes what qualifies as an 'environmentally sustainable economic activity'. This in turn makes it possible to define 'environmentally sustainable investments', which is ultimately what the proposal is all about.

3.2. Moreover, these proposals are far from the only ones that contribute to achieving this objective. On the contrary, this is an extremely complex matter on which numerous actions and initiatives will need to be taken. Some of them are already on the table, and others are expected in the near or more distant future.

3.3. In light of the objectives of the Action Plan, it is extremely important, right from the outset, to lay a firm foundation that can provide a basis for all further action. The taxonomy performs this role, and the Committee fully endorses the decision to start with it. It is at any rate important to start by establishing a good understanding of what 'green' and 'sustainable' really mean.

3.4. That foundation also needs to mesh with the big ambitions set out in the Action Plan, which states, among other things, that 'Europe is well-placed to step into the role of global leader'. It is now time to take action in line with that and to develop the taxonomy accordingly.

3.5. It is therefore important for the taxonomy to be unimpeachable, and to be generally accepted by all relevant stakeholders. If that is not the case, there is a risk that it may have a negative impact on all future developments and on achieving the objectives set. A weakness like this should be avoided at all costs.

3.6. The European taxonomy should thus also be in a position to transcend and replace the existing individual and scattered approaches in the Member States. This does not, however, mean, that the good experiences gained to date should simply be thrown overboard — where possible, they should be made use of. In that connection, it is also important for the taxonomy to be supported by existing national frameworks.

⁽³⁾ COM(2018) 353 final and COM(2018) 355 final.

3.7. Ultimately, it is of the utmost importance for the whole of the EU to speak with one voice in this regard and to take the same approach. This also benefits the internal market, as it makes it easier to attract capital for sustainable investment from across the EU. Indeed, market participants will face lower costs, as they will no longer need to comply with different requirements in different Member States. Investors will also have more choice, and find it easier to make cross-border investments.

3.8. As is quite rightly pointed out in the Action Plan, 'the science around sustainability is dynamic and evolving, as are social expectations as well as investor and market needs' ⁽⁴⁾. The taxonomy should therefore be seen as an evolving tool, and will need to be evaluated regularly and amended and/or adjusted where necessary. It will be important to progress quickly, but not too quickly.

3.9. In view of the above, the Committee agrees that a gradual, restrained approach is preferable. The same applies to the implementation of the various actions and objectives set out in the Action Plan.

3.10. It is a therefore good idea to start with a limited number of areas ⁽⁵⁾ and, in the first instance, with a limited number of legal obligations ⁽⁶⁾ only, as it gives everyone a chance to learn about the new approach and to gain the necessary experience. Moreover, the environment we are living in is evolving rapidly, and we should take account of the fact that economic transitions always take a certain amount of time. It is thus likewise important to assess the results achieved and progress made on a regular basis. The Committee endorses the proposal to do so every three years.

3.11. In line with the above comments, the Committee can endorse the approach taken in the present proposal as regards the environmental dimension. From a holistic point of view, however, the Committee continues to call for attention to be paid to overall consistency. In that connection, it is good that the principles enshrined in the European Pillar of Social Rights have been followed, and that the criteria require that the economic activity be carried out in compliance both with minimum international social and labour guarantees and with accounting standards. At the same time, it should be noted that the former are minimum guarantees, and that additional steps therefore still need to be taken. In the same way, it will also be important in future to work on extending the system to social sustainability and governance goals.

3.12. At the same time, it is important to try to maximise clarity and certainty from the outset. The Committee fully supports the decision to make the EU taxonomy highly granular. It makes it possible to have the greatest possible clarity at all times about what activities are genuinely environmentally sustainable, and to eliminate any doubts right from the outset. This will also make it easier to measure and map the contribution made to the environmental objectives. This is not only important in itself, but also with a view to further developments in the future.

3.13. Alongside clarity and certainty, the practicability of the taxonomy and of all subsequent decisions made on the basis of it is equally crucial, as a variety of 'stakeholders', many of which are not specialists, will need to work with them. They will need to be trained to speak the same 'language'. Moreover, businesses will not always have the same perspective as financial market participants.

3.14. The regulation should therefore be tailored to businesses, taking account of their activities and of the fact that they are at the end of the chain. The taxonomy must also be useable both in a large, international context and when it is applied by small businesses and in a local context. In view of the major differences between them, a sector-specific approach is necessary here. For the Committee, it is clear that these measures also need to be of benefit to SMEs, especially since they are the backbone of the European economy. It is therefore necessary for the criteria also to be scalable.

3.15. When attracting funding for environmental sustainable economic activities, it is necessary to avoid distorting competition between businesses. The technical screening criteria should be designed to ensure that all relevant economic activities within a specific sector can qualify as environmentally sustainable and are treated equally if they contribute equally towards the specified environmental objectives. In this context, the Committee calls for particular attention to be paid to the challenges that will arise when harmonising the technical screening criteria for the various economic (sub-)sectors and data confidentiality.

⁽⁴⁾ COM(2018) 353 final, p. 7.

⁽⁵⁾ Particularly the environment, with other areas such as social issues coming later.

⁽⁶⁾ For example Article 4 of the draft regulation.

3.16. In connection with the aforementioned practicability, the Committee welcomes the fact that account has broadly been taken of the work of the Regulatory Scrutiny Board. For example, the change to the texts such that the taxonomy will only be used once it is stable and mature can be endorsed.

3.17. Similarly, and in the interests of compatibility with European financial legislation, it is to be welcomed that the European supervisory authorities ⁽⁷⁾ will play a key role in the development of the EU taxonomy. This should ensure that it is useable by financial institutions and applicable to financial products. It is appropriate to take account of the proportionality principle, in the interests of small and local institutions. Overall, it is important to minimise additional regulatory and supervisory burdens and costs.

3.18. Moreover, the focus on practicability will benefit not just businesses and financial market participants, but also consumers and investors. They will also be able to take advantage of it, because it will make it possible to create even greater certainty and clarity with regard to the sustainable investments they make or for which their funds are used.

3.19. More generally, the focus on the aforementioned principles of certainty, clarity and practicability is also appropriate in order to maximise the chances of success and of achieving the objectives of the Action Plan effectively and in full.

3.20. The Committee also welcomes the development of new low-carbon and positive carbon impact benchmarks. They will improve the functioning of the single market by eliminating the existing fragmentation, and improve protection and transparency for investors by providing more and better information. In addition, these benchmarks will lead to the availability of more and better climate-related information for businesses, and ensure its comparability. They can also make a major contribution towards projects and assets that help to meet the climate objectives in the Paris Agreement.

3.21. The Committee also sees information and communication as crucially important. The objectives of the Action Plan and all steps taken in that connection could also be significantly facilitated in other ways. For example, the Committee considers it highly appropriate to pay close attention to informing and communicating with all stakeholders and with the general public. A plan could be developed to provide all stakeholders with as much information as possible and to engage with them, in order to gain buy-in and make everyone a partner in achieving the objectives. It could also include financial education and training. People make the difference!

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽⁷⁾ Better known by the abbreviation ESA.

Opinion of the European Economic and Social Committee on

‘Proposal for a Council Directive amending Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages’

(COM(2018) 334 final — 2018/0173 (CNS))

on ‘Proposal for a Council Directive laying down the general arrangements for excise duty

(recast)’

(COM(2018) 346 final — 2018/0176 (CNS))

on ‘Proposal for a Decision of the European Parliament and of the Council on computerising the movement and surveillance of excise goods

(recast)’

(COM(2018) 341 final — 2018/0187 (COD))

and on ‘Proposal for a Council Regulation amending Regulation (EU) No 389/2012 on administrative cooperation in the field of excise duties as regards the content of electronic register’

(COM(2018) 349 final — 2018/0181 (CNS))

(2019/C 62/17)

Rapporteur: **Jack O’CONNOR**

Referral	European Parliament, 5.7.2018 Council of the European Union, 13.6.2018 European Commission, 25.5.2018
Legal basis	Articles 113 and 114 TFEU
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	193/0/9
(for/against/abstentions)	

1. Summary and conclusions

1.1. The EESC welcomes the measures contained in this package proposed by the Commission. It believes that they will largely achieve the goals set out, — namely, to provide greater certainty and clarity over the treatment of certain alcoholic products, facilitate cross-border trade under streamlined and modernised systems, and reduce the administrative and legal burdens on small enterprises.

1.2. The EESC is cognisant of the varying contribution that excise tax revenue plays in Member States, in particular excise taxation on alcoholic products. Further, there are varied cultural relations to particular products, social goals (e.g. health), and enterprise objectives (e.g. promotion of small enterprises, innovation). Therefore, a guiding principle is to provide for the widest possible discretion to allow Member States to adapt excise taxation on alcoholic products to national needs and objectives in the areas of taxation structure, cultural and social contexts. The EESC is satisfied that this principle has been respected by the proposed changes.

1.3. To the extent that definitions are given greater clarity and consistency (e.g. *legally and economically independent, cider, etc.*); that access to cross-border trade for small producers is made administratively simpler and modernised through updated IT systems; that process and conditions for denatured alcohol are clarified — the EESC supports the measures

contained in the package of revisions. These will reduce administrative and legal uncertainty for both Member States and economic operators, resulting in cost reductions and removal of barriers. In addition, a report should be commissioned into the illicit spirit market.

1.4. There are two areas of concern. First is the proposal to increase the lower duty threshold for beers from 2,8 percent volume to 3,5 percent volume. Despite this being put forward as a health measure there is concern that it could, perversely, increase alcoholic intake. However, given that this would be left optional to the discretion of Member States, the EESC supports the proposal but calls for a review within five years to assess the impact in any Member State availing of this proposal.

1.4.1. Second, the Commission proposes to rationalise the method of measuring the Plato degree of the 'finished product' on beer, on the basis that it should be done at the end of the brewing process. The Court of Justice of the European Union (CJEU) recently interpreted the current Directive to the effect that the Plato degree should be measured before sugar/sweeteners are added, for the purposes of levying excise. However, the EESC notes that this method is used in only three Member States. This would require eleven Member States to change their method, (the remaining Member States do not use the Plato method). Therefore, on the basis of introducing the least disruption, the EESC supports the Commission proposals. This would require only three Member States to change their method.

2. Summary of the Commission's proposals

2.1. The Commission's proposals are divided into two parts. These are the proposed Council Directive amending Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages; and the proposed Council Directive laying down the general arrangements for excise duty. There are two further proposals that are of an administrative nature that support the proposals contained in the Council Directive laying down the general directives for excise duty. These are the proposal for a Council Regulation amending Regulation (EU) No 389/2012 on administrative cooperation in the field of excise duties as regards the content of electronic register; and the proposal for a Decision of the European Parliament and of the Council on computerising the movement and surveillance of excise goods (recast).

2.2. **Proposed Council Directive amending Directive 92/83/EEC:** The Commission's proposals address issues in four areas: (i) treatment of denatured alcohol, (ii) reduced rates for small producers and classification of certain alcoholic beverages, (iii) low strength alcoholic beverages, and (iv) measurement of Plato degree of sweetened/flavoured beer.

2.2.1. **Treatment of Denatured alcohol:** currently, there is inconsistent mutual recognition of completely denatured alcohol (CDA) between Member States while there are differing interpretations of the indirect uses of partially denatured alcohol (PDA). The Commission proposes to (a) clarify the mutual recognition of CDA and to modernise the procedures for notification by Member States of new formulations for same; (b) ensure the equal treatment of PDA for indirect uses, and (c) require movements of partially denatured alcohol exceeding 90 percent *Actual Alcoholic Strength by Volume* (ABV) and unfinished goods containing alcohol to be completed using the Excise Movement and Control System (ECMS).

2.2.2. **Reduced rates for small producers and classification of alcoholic beverages:** Member States may grant reduced rates to small producers of beer and ethyl alcohol. Small producers must be '*legally and economically independent*'; however, this is not adequately defined. This results in uncertainty and administrative/judicial costs. Further, Member States cannot apply reduced rates to small producers of other alcoholic beverages. This disadvantages small cider producers. The Commission proposes to (a) define 'legal and economically independent' and to introduce a uniform certificate for small brewers, including cider makers, across the EU ⁽¹⁾; and (b) introduce optional reduced rates for independent small cider makers ⁽²⁾.

2.2.3. **Low-Strength Alcoholic Beverages:** Member States may apply reduced rates on low-strength alcoholic beverages. This is relevant for only some alcoholic products (e.g. beer). The Commission proposes to increase the threshold from 2,8 percent volume to 3,5 percent volume ⁽³⁾. It has been argued that the threshold for low-strength beer is too low, undermining product innovation and providing little incentive to develop this sub-sector. As a consequence, consumers are not switching to low-strength beers, which undermines health policy.

⁽¹⁾ Article 4 and Article 13a.

⁽²⁾ Article 13.

⁽³⁾ Article 5.

2.2.4. **Measurement of Plato degree of sweetened/flavoured beer:** Excise is levied on beer with reference to the Plato degree of '*finished product*' in 14 Member States. Eleven States measure at the end of the brewing process while the other three do it before sugar syrup or aromatic substances are added. (The remaining Member States do not use the Plato methodology; rather, they employ the ABV measurement — Actual Alcoholic Strength by Volume). The term '*finished product*' is not defined in the Directive resulting in three different interpretations. This results in non-uniform measurement and, therefore, leads to differences in the excise duty applied to products which can have the same alcoholic content. It is further asserted that monitoring procedures are burdensome given varying requirements for measuring the Plato degree in the three different interpretations (e.g. monitoring required in the brewery rather than from the bottle). The Court of Justice of the European Union ⁽⁴⁾ has interpreted the current Directive to the effect that the Plato degree should be measured prior to the end process, therefore excluding the added substances. The Commission proposes to clarify the provision relating to the degree Plato measurement of beer — in particular, when the measurement of Plato degree should occur ⁽⁵⁾. This envisages measurement at the end of the process (i.e. taking into account any added substances). This will effectively clarify the definition of '*finished product*'.

2.3. **Proposal for a Council Directive laying down the general arrangements for excise duty (recast).** This second package of measures is technical in nature, comprising measures to streamline the transport of excise goods. Excise and customs procedures are not always aligned or synchronised, which creates issues when excise goods are imported or exported. In some situations the excise procedures are cumbersome or vary significantly from one Member State to another. Moreover, given the high fiscal risk for holding and moving excise goods under duty suspension, these arrangements are mostly used by large companies. SMEs use procedures, which are more amenable to small consignments and low numbers of movements but result in higher per-movement regulatory burden. This causes extra administrative and compliance cost, and effort for businesses as well as for national authorities. This is because some steps in the procedures have to be performed manually and subject to requirements that vary from one Member State to another. Moreover, such steps are a source of tax fraud. The Commission is proposing a number of measures to streamline and simplify these processes covering export and import interaction of excise products, business-to-business duty and exceptional situations.

2.3.1. **Import Interaction:** There are no standard documentary requirements for claiming exemption from excise duty at release for free circulation. An exemption from payment at release can be claimed if the goods are to be moved from the place of importation under EMCS, but there is no standard evidence requirement, unlike the arrangements for the exemption from VAT at importation for intra-EU supplies. The Commission is proposing a requirement that a consignor and the consignee be declared (Member States have the option of requiring identification of the excise movement associated with the goods).

2.3.2. **Export Interaction:** There is no harmonised synchronisation between EMCS and ECS. Movements have to be manually closed while invalidated exports are not reported to EMCS. This can lead to administrative burdens on businesses (e.g. delay in release of guarantees), potential fraud and market distortions. The Commission is proposing a requirement to identify the excise consignor and the ARC (Administrative Reference Code) of the EMCS movement. There will also be an obligation to report an exceptional situation on the export side to the EMCS (e.g. failure to exit the EU, declaration invalidation) in order to improve synchronisation.

2.3.3. **Transit Alignment:** In addition to the combination of EMCS and ECS, other procedures are used to supervise the export of excise goods: the external and internal transit procedure and Single Transport Contracts (STC). The use of these procedures simplifies export operations for economic operators because it allows them to close the export procedure at the start of transit and therefore complete the movement in EMCS. The use of these simplified export procedures, however, has resulted in a number of issues: weak evidence of excise duty exemption, no proof of physical exit, guarantees released before the actual exit of the goods, and weak supervision. This may give rise to fraud opportunities and legal uncertainties that create complexities and confusion at firm level. Currently, it is not legally possible to close excise movement by opening transit. The Commission proposes to allow economic operators to use a simplified way to export excise goods by using the

⁽⁴⁾ C-30/17 — Kompania Piwowarska, 17 May 2018.

⁽⁵⁾ Article 3.

external transit procedure after export instead of using EMCS until the external border. This would provide adequate guarantee management and would prevent goods from disappearing at destination, as the goods, which have become non-Union goods with the start of external transit, would be under customs supervision until the goods exit the customs territory.

2.3.4. **Business-to-Business Duty Paid (B2B):** the current procedure for moving goods for which B2B duty has been paid is paper-based. This is used by SMEs as it does not require a tax warehouse for dispatch or receipts. But the procedure is out-of-date, unclear and burdensome. The Commission is proposing that these movements be automated through the extension of the EMCS's scope, facilitated by the creation of two new categories: certified consignor and certified consignee. This will reduce simplify and reduce costs for SMEs and introduce greater efficiencies.

2.3.5. **Exceptional Situations:** Exceptional situations refer to a range of contingencies: the quantity of goods arriving at a destination is lower than the quantity declared at dispatch (including national shortages such as the evaporation of petrol) or higher; consignee rejects responsibility for the goods; official cancellation of the movement; etc. These situations are not legislatively detailed leading to Member States using different procedures to assess shortages, process rejections and thresholds for allowable losses. This can create complexity and confusion. Directives already ensure quantities are measured in a common way. The Commission accepts that it must make national authorities more aware of them. However, it proposes a new intervention to standardise allowable losses thresholds.

2.4. There are two further proposals that are of an administrative nature that support the proposals contained in the Council Directive laying down the general arrangements for excise duty (recast).

2.4.1. The proposal for a Council Regulation amending Regulation (EU) No 389/2012 on administrative cooperation in the field of excise duties as regards the content of electronic register concerns the automation of the supervision of movements of excise goods which have been released for consumption in one Member State and that are being moved to another Member State in order to be delivered for commercial purposes in that other Member State.

2.4.2. The proposal for a Decision of the European Parliament and of the Council on computerising the movement and surveillance of excise goods (recast) accompanies the above Council Regulation and gives effect to the automation of the supervision of movements of excise goods.

3. Comments

3.1. *Proposed Council Directive amending Directive 92/83/EEC*

3.1.1. Treatment of denatured alcohol (2.2.1 above). The EESC believes the Commission's proposals are good and should proceed. In addition, there is a need for a more comprehensive understanding of the illicit spirit market. Therefore, a report should be commissioned on it so that better tools to tackle it can be developed.

3.1.2. Reduced rates for small producers and classification of certain alcoholic beverages (2.2.2 above). Again, the EESC believes the Commission's proposals would address current problems and result in greater clarity while improving the regime so as to retain an incentive to assist small producers. The EESC believes that, in the future, the Commission should give consideration to introducing a similar reduced rate with revised thresholds for spirit distillers.

3.1.3. Low strength alcoholic beverages (2.2.3 above). The Commission's proposals in relation to this matter are more contentious. There is little evidence that product innovation is harmed. There is anecdotal evidence of a growing presence of low-strength beers among producers, including small producers. Any health benefit would require consumers of standard-strength beer being incentivised to switch to the volume-revised low-strength alcohol. If this does not occur, then this could result in low-strength beer consumers increasing their alcoholic content. However, the EESC recognises that these proposals are not binding on Member States: each State would retain discretion to maintain a lower threshold and reduce excise rates. Therefore, the EESC accepts these proposals. However, a review should be conducted within five years in those Member States that avail of these provisions to measure the extent to which there has been a shift in consumption to lower-alcohol products and away from those of standard strength.

3.1.4. Measurement of Plato degree of sweetened/flavoured beer (2.2.4 above): the EESC acknowledges that the Commission's proposals in relation to this matter may prove contentious, especially in light of the Court of Justice of the European Union (CJEU) interpretation of the current Directive. The assertion that the process of measuring alcohol content

before sugars/sweeteners are added is administratively burdensome is disputed by representatives of economic operators. However only three Member States currently measure before sugars/sweeteners are added while the remaining eleven which utilise the Plato methodology employ the method consistent with the Commission proposals. Given this, and the benefits accruing from a consistent definition of 'finished product', it is less disruptive that three Member States amend their methodology rather than requiring eleven to do so. It should be further noted that when such products are exported, the differences in the Plato methodology are not relevant, as the ABV measurement is required. Accordingly, the EESC believes the Commission's proposals are the least disruptive and would have the benefit of protecting tax revenue.

3.2. Proposal for a Council Directive laying down the general arrangements for excise duty (recast)

3.2.1. The EESC believes that the measures contained in this proposal for a Council Directive covering import and export interaction, transit alignment, business-to-business duty paid, and exceptional situations will have the intended effect; namely, to streamline the transport of excise goods, align excise and customs procedures, reduce administrative and compliance costs for economic operators as well as national authorities and assist in combatting fraud. The EESC supports these proposals.

3.3. The proposal for a Council Regulation amending Regulation (EU) No 389/2012 and the proposal for a Decision of the European Parliament and of the Council on computerising the movement and surveillance of excise goods (recast)

3.3.1. The EESC supports these proposals as they administratively facilitate the implementation of the proposals contained in the Council Directive laying down the general directives for excise duty.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee
Luca JAHIER*

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on sovereign bond-backed securities’

(COM(2018) 339 final — 2018/0171 (COD))

(2019/C 62/18)

Rapporteur: **Daniel MAREELS**

Consultation	European Parliament, 5.7.2018 Council of the European Union, 6.7.2018
Legal basis	Articles 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	201/3/8
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes these proposals on SBBs, which fit into the broader context of completing the Banking Union and building a Capital Markets Union (CMU). The Committee has in the past been a strong supporter of and advocate for both of these unions. Moreover, the proposals also have the potential to make a positive contribution to financial stability and resilience.

1.2. Conceptually speaking, the SBBs aim to tackle the traditionally close link between banks and their home countries ('sovereigns'). Since the financial crisis, the EESC has been calling for something to be done about this, strongly advocating a weakening of this link. Notwithstanding the efforts that have already been made in this connection, the EESC therefore welcomes the fact that action is being taken through the current proposals.

1.3. Indeed, SBBs can lead to a situation where banks are able to reduce their exposure to the public debt of their home country and better diversify their portfolios of sovereign debt. In addition, the new instrument does not involve sharing risks and losses between euro area Member States. If need be, these would be fully borne by the SBBs' investors.

1.4. Currently, SBBs would be identified as 'securitisations' for the purposes of applying the regulations, actually making them unattractive for banks to invest in. The Committee deems it entirely appropriate for this situation to be rectified. The alignment of SBBs with national euro-denominated sovereign bonds from the euro area (sovereign exposures) will have to allow investors from the financial sector to invest in SBBs under the same conditions as they do now in the underlying sovereign bonds from the euro area.

1.5. These proposals simply constitute an enabling framework that allows the development of SBBs by the market. For the Committee, it is of great importance to ensure the clarity, efficacy and effectiveness of this framework under all circumstances. Moreover, there should be no negative or detrimental impact.

1.6. In respect of the proposed regulatory framework, the EESC's stance is somewhat qualified. It agrees with a number of aspects such as the principle of SBBs being issued by a Special Purpose Entity (SPE). Other aspects, such as self-certification of the composition of the underlying portfolios by SPEs, need to be strengthened. In view of the importance thereof, tighter and even prior monitoring by the European Securities and Markets Authority (ESMA) would seem appropriate.

1.7. A number of questions also remain unanswered. Thus, the question arises as to whether SBBSs will work effectively in all circumstances. Moreover, how will they fare in times of general crisis, or of crisis in one or more Member States? What are the consequences of dividing issues into tranches, when it seems that the senior tranches (which entail less risk) can only be placed on the market if enough investors are found for the junior tranches (which entail greater risk)? Issues thus appear to assume a risky, precarious aspect, and this shortcoming at the very least undermines the potential success of SBBSs.

1.8. Likewise, it is very important to take a positive approach to the 'markets' and other key stakeholders in respect of SBBSs. They need to agree to put efforts into making this instrument a reality. The markets and Member State representatives were rather critical during the preparatory stakeholder consultations. The Committee considers it indispensable to undertake dialogue and consultation with all stakeholders in order to jointly develop constructive solutions.

1.9. In overall terms and taking all the above-mentioned points into consideration, the EESC feels that the only way to find out a) whether banks will switch from bonds from their home countries to SBBSs for their investments and b) whether investors will be prepared to buy 'junior' tranches in sufficient quantities to justify the creation of SBBSs, is to test this new financial instrument — the SBBS — on the market.

1.10. Lastly, the Committee feels that further thought also ought to be given to the matter of whether SBBSs can be acquired by private savers and consumers. Taking into account the fact that, on the one hand, this is a particularly complex product and, on the other, it is divided into tranches, the Committee is inclined to think that acquisition should only be considered for 'senior' tranches, but not for 'junior' tranches. Only the former present limited risks and are comparable with direct ownership of sovereign bonds by the same savers and consumers.

2. Background

2.1. On 24 May 2018 the Commission published its proposal⁽¹⁾ for a market demand-led development of sovereign bond-backed securities (SBBSs).

2.2. This proposal fits into the broader context of completing the Banking Union and building a Capital Markets Union (CMU). It focuses in particular on further weakening the link between banks and their national governments ('sovereigns'), and therefore emphasises risk reduction and private-sector risk sharing. Its cross-border nature means that it is also intended to contribute to further integration and diversification of financial markets for government securities in the internal market.

2.3. In the past, banks tended to have extensive holdings of sovereign bonds from their own national governments (home countries), which, it emerged during the financial crisis, may present certain risks. There have therefore since been calls for that link to be weakened.

2.4. In response, the SBBS has been proposed, the aim of which is to allow banks to improve the geographic distribution of their sovereign bond portfolios. This also takes account both of the lower supply of these bonds and of financial institutions' demand for such assets, including because of new regulatory requirements to hold sufficient buffers of highly liquid assets.

2.5. SBBSs are a novel financial instrument, and the current proposal aims to remove the barriers that have so far impeded their development. In concrete terms, the proposed enabling framework essentially has two objectives:

2.5.1. establishing a tailored overall framework for SBBSs, which would 'standardise' this new instrument and should thus also benefit its liquidity;

2.5.2. in this connection, removing regulatory barriers to the use and acquisition of SBBSs. In essence, this involves applying a kind of 'look-through' approach for investors in this type of SBBS, which means that the same regulatory rules will apply as if they held the underlying sovereign bonds themselves.

⁽¹⁾ COM(2018) 339 final

2.6. One specific feature — and key characteristic — of SBBs concerns their underlying portfolio. In order to achieve the aforementioned geographic risk diversification within the Banking Union and the internal market, it should be exclusively composed of sovereign bonds of all euro area Member States. A further restriction is that only issues denominated in euro should be eligible. They will be included in SBBs in proportion to the economic weight of the respective Member State.

2.7. Another very specific element is the fact that it is the investors who bear the risks and losses. SBBs will be composed of tranches, and investors may choose between lower-risk senior tranches and higher-risk junior tranches. Moreover, the underlying portfolios provide their only guarantee, as the proposal requires issuers of SBBs to be special purpose entities that must not undertake any other activities and against which no claim is possible ⁽²⁾.

2.8. Also with regard to investors, a kind of 'look-through' approach will, as mentioned above, be applied for the regulatory treatment of SBBs. This means no longer looking at the legal 'packaging' of the instrument as 'securitisation' ⁽³⁾, but instead at the underlying government securities contained in the SBB. Where appropriate, investors will get the same regulatory treatment for SBBs that meet all the conditions as for government securities they own directly, in terms of capital requirements, concentration limits, and liquidity limits.

2.9. The present proposals create the terms and conditions for SBBs and establish their prudential treatment, but it will ultimately be up to the 'market' to make use of them. Issuers and investors will ultimately decide whether this new financial instrument becomes a reality and, if so, how and to what extent it will be used.

3. Comments

3.1. The Committee welcomes this proposal on SBBs, which fits into the broader context of completing the Banking Union and building a Capital Markets Union (CMU). The Committee has in the past been a strong supporter of and advocate for both of these unions ⁽⁴⁾.

3.2. More specifically, these proposals aim to further weaken the link between banks and their home countries. Ever since the financial crisis, the Committee has strongly advocated weakening this link, and it is therefore pleased that the proposal addresses this, taking into account the context of simultaneously declining supply of and increasing demand for sovereign bonds.

3.3. SBBs, as a new financial instrument, have the potential to improve and broaden diversification in the exposure of banks and other financial institutions to sovereign bonds ('sovereign bond holdings'). This will undoubtedly help to reduce risks in the financial sector.

3.4. The proposal is simply an enabling framework that allows the development of SBBs by the market, without itself going quite so far. When actual development is taken up by the market, this will lead to the creation of a new financial instrument and a market for the same. The Commission estimates the impact thereof in two scenarios ⁽⁵⁾. If only a limited volume of SBBs are created, then the impact is estimated at around EUR 100 billion; if a broader approach is adopted, with an estimated impact of EUR 1 500 billion, then this will have a macroeconomic impact.

3.5. Wide dissemination of SBBs also has the potential to improve financial market integration, and would thus help to improve financial stability and the resilience of the financial system.

3.6. In the Committee's view, it is important for the proposed enabling framework to be clear, functional and effective in all circumstances, and to have no negative or adverse effects. In addition, and in order to increase the chances of success, it is very important to take a positive approach to the 'markets' and other key stakeholders — they need to agree to put the work into making SBBs a reality.

3.7. The markets and Member State representatives were rather critical during the preparatory stakeholder consultations. For example, market participants had mixed views on the viability of SBBs. 'Debt Management Officers', in turn, took the view that SBBs would neither break the bank-sovereign nexus nor create a low-risk asset. And representatives of the

⁽²⁾ Apart from in exceptional cases such as abuse of the designation 'SBBs'.

⁽³⁾ In that case, the regulatory requirements would be stricter.

⁽⁴⁾ OJ C 81, 2.3.2018, p. 117, OJ C 237, 6.7.2018, p. 46 and OJ C 177, 18.5.2016, p. 21.

⁽⁵⁾ SWD(2018) 252 final, p. 70

Member States have recently signalled that, in their view, the need for SBBs is not immediately obvious⁽⁶⁾. The Committee considers it indispensable to undertake dialogue and consultation with all stakeholders in order to jointly develop constructive solutions.

3.8. Without prejudice to comments made above and below, the proposed regulatory framework for SBBs can count on the Committee's support in general, particularly as it stops the current penalisation of similar instruments and at the same time takes a 'benchmarking' approach.

3.9. The Committee also supports, among other things, the fact that SBBs would be created and issued by private sector entities. It seems right that the issuer should be a special purpose entity (SPE) that does not undertake any other activities, as this makes things clearer for everyone.

3.10. The mandatory inclusion of euro-denominated sovereign bonds from all euro area Member States, in proportion to their economic weight⁽⁷⁾, achieves the distribution and diversification referred to in point 3.3. In addition, the inclusion of certain sovereign bonds makes them more attractive to international investors. This applies in particular to sovereign bonds from certain countries that are otherwise issued in smaller and less liquid markets.

3.11. In view of the importance of the above-mentioned mandatory inclusion of sovereign bonds from all Member States in proportion to their economic weight, the Committee would query the current system of self-certification by issuing bodies. The question arises as to whether there should not be stricter and prior monitoring by ESMA.

3.12. It is also important that the new instrument does not involve sharing risks and losses between euro area Member States: the risks and losses are fully borne by investors in SBBs.

3.13. As the issuing institution, the SPE issues a series of securities representing claims on the proceeds from the underlying portfolio. These securities bear different risks, with 'senior tranches'⁽⁸⁾ bearing the lowest risk and 'junior tranches' the highest. It seems that, in practice, the senior tranches can only be placed on the market if enough investors are found for the junior tranches⁽⁹⁾. This makes any issuance arbitrary and precarious, and is a weakness that undermines the potential success of SBBs.

3.14. Moreover, the question also arises of whether SBBs will work effectively in all circumstances. How will they fare in times of general crisis, or of crisis in one or more Member States? This is an important question, given that recent events have once again shown that the financial markets react quickly to situations like this.

3.15. It is also important to clarify what the impact will be of creating an SBB market alongside the existing market for individual Member States' sovereign bonds. Several questions arise in this regard: for example, will sufficient volumes be available in all circumstances? And what if they are not? Will creating an additional market not lead to fragmentation?

3.16. The regulatory framework also allows savers and consumers to acquire and hold SBBs⁽¹⁰⁾. Given that these are especially complex products, one might be tempted not to allow this, but perhaps a more nuanced approach is necessary, whereby they should only be banned from acquiring 'junior tranches', precisely because they may also involve major risks. It could be different for 'senior tranches', which present a low risk and certainly bear comparison with direct holdings of sovereign bonds by the same savers and consumers. The Committee calls for more thought to be given to this matter.

3.17. Finally, the Committee considers it entirely correct that, for the purposes of applying the regulation, SBBs are treated as equivalent to euro-denominated national sovereign bonds from the euro area (sovereign exposures). This should allow investors from the financial sector to invest in SBBs under the same conditions as for the underlying euro area sovereign bonds.

⁽⁶⁾ For more detail on these concerns and comments, see point 3 of the explanatory memorandum to the draft regulation (p. 6).

⁽⁷⁾ See Article 4(2) of the proposal for a regulation and, for figures concerning the economic weight of the Member States concerned, <https://www.ecb.europa.eu/ecb/orga/capital/html/index.en.html>

⁽⁸⁾ Senior tranches would be the largest part of the issues, and junior tranches the smallest part.

⁽⁹⁾ Junior tranches normally get a higher return for this higher risk.

⁽¹⁰⁾ See Article 3(6) of the draft regulation.

3.18. On the whole, taking account of all the above comments, the Committee thinks that in conceptual terms the idea of SBBs is an attractive one, but that the way it is developed in the proposals presents a more mixed picture and raises a number of issues. In addition, the critical comments and responses from market players and other key stakeholders should not go unanswered. However, generally speaking the Committee agrees with the Commission that a 'proper' answer can only be found in practice by testing the concept in the 'real' markets.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the “Fiscalis” programme for cooperation in the field of taxation’

(COM(2018) 443 final — 2018/0233 (COD))

(2019/C 62/19)

Rapporteur: **Krister ANDERSSON**

Consultation	European Parliament, 14.6.2018 Council of the European Union, 4.7.2018
Legal basis	Articles 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	194/2/0

1. Conclusions and recommendations

1.1. The EESC welcomes the Commission proposal for a regulation on a new Fiscalis programme. National tax authorities still suffer from insufficient capacity and insufficient cooperation and the EESC agrees that there is an urgent need to improve the operation of tax policy, including administrative cooperation and support to the tax authorities.

1.2. The EESC concurs that higher efficiency between tax authorities is important for the coherence and functioning of the single market and the EESC agrees that such a degree of cooperation and coordination can only be achieved at EU level.

1.3. The EESC is concerned that the proposed budget of EUR 270 million may not suffice, considering the extensive programme proposed by the Commission and the rapid ongoing digitalisation. The EESC therefore recommends a mid-term review of the adequacy of the funding.

1.4. The EESC believes that it is important to take into consideration digital development and is pleased by the Commission's aim to ensure the coordination of European electronic systems with other relevant actions in relation to e-Government at EU level.

1.5. The EESC encourages the Commission to engage with Member States in developing a common basic training course for tax authorities in order to improve the functioning of the single market. The EESC believes that a common educational effort could possibly lead to the creation of a future EU Tax Academy for tax authorities.

1.6. The EESC notes from the outcome of the evaluation of the current programme that actions on joint audits, project groups, working visits and expert teams for IT collaboration have been among the most successful tools and urges the Commission to give these actions priority in the new Fiscalis programme.

1.7. The EESC welcomes the introduction of multiannual work programmes to reduce the administrative burden for both the Commission and Member States.

1.8. The EESC believes that it is important that civil society at large becomes an active part of the Fiscalis programme.

2. Introduction and background

2.1. Within its package on the next *Multiannual Financial Framework 2021-2027* ⁽¹⁾, adopted on 2 May 2017, the Commission has published a proposal for a renewed financial commitment for the Fiscalis programme.

2.2. The Commission's proposal relates to the extension of the ongoing Fiscalis 2020 programme that was established by Regulation (EU) No 1286/2013 of the European Parliament and the Council and is implemented by the Commission in cooperation with the Member States and associated countries.

2.3. The Commission's proposal aims to facilitate simplifications and adjustments: (1) extended use of lump sums/unit costs; (2) simplification and reduction in the typology of actions to provide more flexibility; (3) an improved definition of common components and national components reflecting better the reality of IT projects, and the integration of their features; and (4) the possibility to adopt multi-annual work programmes to avoid the annual administrative burden of comitology.

2.4. The scope of the programme would also be adjusted and would be open for participation to Member States, acceding countries, candidate countries and potential candidates as well as countries of the European Neighbourhood Policy and third countries if certain conditions are fulfilled.

2.5. The Commission proposes a budget of EUR 270 million for the period 2021-2027 for the Fiscalis programme, up from EUR 223,2 million in the period 2014-2020. Furthermore, the vast majority of the budget would be spent on IT capacity-building activities.

2.6. The programme has the general objective to support tax authorities and taxation to enhance the functioning of the single market, foster Union competitiveness and protect the financial and economic interests of the Union and its Member States.

2.7. The Commission believes this programme will support tax policy and tax authorities through administrative and information technology (IT) capacity-building activities and operational cooperation; thus providing quick and joint responses to emerging problems such as tax fraud, tax evasion and tax avoidance, digitalisation and new business models, while at the same time preventing unnecessary administrative burdens for citizens and businesses in cross-border transactions.

3. General comments

3.1. The EESC welcomes the Commission proposal for a regulation on a new Fiscalis programme. National tax authorities still suffer from insufficient capacity and insufficient cooperation, both within the EU and with third countries, and the EESC agrees that there is an urgent need to improve the operation of tax policy, including administrative cooperation and support to the tax authorities.

3.2. The EESC concurs that higher efficiency between tax authorities is important for the coherence and functioning of the single market and the EESC agrees that such a degree of cooperation and coordination can only be achieved at EU level. The EESC also believes that a Union framework is likely to enhance the participation rate and consequently increase the potential and competitiveness of the single market.

3.3. The EESC concurs that a Union level approach with a new orientation focusing on providing support to national tax authorities would contribute to preventing and fighting tax fraud, tax evasion and tax avoidance and at the same time reduce unnecessary administrative burdens for citizens and businesses in cross-border transactions. The EESC agrees that it will also enhance the functioning of the single market, foster Union competitiveness and protect the financial and economic interests of the Union and its Member States.

3.4. The EESC is concerned that the proposed budget of EUR 270 million may not suffice, considering the extensive programme proposed by the Commission and the rapid ongoing digitalisation. The EESC therefore recommends a mid-term review of the adequacy of the funding.

3.5. The EESC believes that it is important to take into consideration digital development and is pleased by the Commission's aim to ensure the coordination of European electronic systems with other relevant actions in relation to e-Government at EU level.

⁽¹⁾ COM(2018) 321 final

- 3.6. The EESC notes from the outcome of the evaluation of the current programme that actions on joint audits, project groups, working visits and expert teams for IT collaboration have been among the most successful tools. Consequently, the EESC would like to see these actions given priority in the new Fiscalis programme.
- 3.7. The EESC encourages the Commission to engage with Member States in developing a common basic training course for tax authorities in order to improve the functioning of the single market. The EESC believes that a common educational effort could possibly lead to the creation of a future EU Tax Academy for tax authorities.
- 3.8. The EESC welcomes the introduction of multiannual work programmes to improve the effectiveness of the single market and to reduce the administrative burden for both the Commission and Member States.
- 3.9. The EESC understands that currently, exchange of information only relates to sending information not processing information. To achieve deep and successful cooperation between Member States, with respect to IT capacity-building, the EESC believes that the processing function of information exchange needs to be further developed.
- 3.10. The EESC believes that it is important that civil society at large becomes an active part of the Fiscalis programme in order to engage with and monitor the progress as the programme evolves.
- 3.11. The EESC recognises the novelty of, and is positive to, the more straightforward and easier mechanism to adapt or extend the European electronic system for cooperation with third countries not associated with the Programme and with international organisations.
- 3.12. The EESC is pleased that the proposal is consistent with other proposed EU action programmes that act on related objectives aiming at reducing fraudulent behaviour, pursuing more effective institutions and supporting measures to achieve better functioning of the single market.
- 3.13. The EESC supports most of the proposed budget being spent on IT capacity-building activities. The EESC also assents to the selection of an IT architecture with a combination of common and national components rather than a fully centralised one. A European electronic model based on national preferences, requirements and constraints will facilitate the achievement of interoperability and interconnectivity for the sake of the internal market in a proportionate manner.
- 3.14. The EESC emphasises the Commission's division of responsibilities between itself and the Member States as an important principle to jointly ensure the development and operation of the European electronic systems. This facilitates finding a proper solution for both a more holistic EU view and what is applicable and functional for each Member State, hopefully resulting in optimised cooperation between the participants.
- 3.15. Not only tax administrations would benefit from more effective administration. The EESC believes that a more favourable tax environment also will boost the EU business community and enhance growth. By reducing compliance costs and administrative burdens businesses can focus on their main activities, creating growth and job opportunities.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council on the establishment of the Reform Support Programme'*(COM(2018) 391 final — 2018/0213 (COD))*

(2019/C 62/20)

Rapporteur: **Petr ZAHRADNÍK**

Consultation	European Parliament, 14.6.2018 Council of the European Union, 27.6.2018
Legal basis	Articles 175 third subparagraph and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	194/3/7

1. Conclusions and recommendations

1.1. The EESC welcomes and endorses the rationale behind the establishment of the Reform Support Programme, which is intended to encourage the EU Member States to implement major structural reforms, to consider structural reforms as a complex activity and to serve as a complementary tool for achieving the reforms on a voluntary basis. The EESC proposes that, when carrying out structural reforms with the support of the programme, the social impact and consequences also be monitored at Member State level.

1.2. The EESC is in favour of a strong linkage between the Reform Support Programme and the European Semester. At the same time, it is convinced that the success of structural reforms should also be reflected in the medium term in economic convergence trends within the EU. The EESC also believes that the linkage between the Reform Support Programme and the European Semester could be even greater and more direct than provided for in the proposal for a Regulation.

1.3. The EESC believes that, in order to launch the Reform Support Programme successfully and obtain the expected benefits, better responses are needed to a number of still open questions, for which the European Commission has not provided entirely clear explanations.

1.4. In line with the new design of the EU's Multiannual Financial Framework for the 2021-2027 period, which also requires the achievement of significant synergies between its various chapters, the EESC is convinced of the need to develop the programme's potential further in order to ensure that these synergies can actually be achieved. The EESC would welcome the development of a practical manual that would make it easier for beneficiaries to discover possible combinations of different chapters of the future Multiannual Financial Framework, bearing in mind that this is a completely new aspect of the operation of the MFF. As part of the desired strengthening of synergies, the EESC also recommends introducing the option of directly linking funds from the programme to the corresponding operational programme under cohesion policy.

1.5. The EESC also recommends that the procedures for evaluating the success of reforms (and therefore also the conditions for the actual disbursement of funds under the programme) be further clarified and defined. At the same time, the EESC believes that organised civil society can play a particularly active role in obtaining agreement between the European Commission and the Member States on the content of reform programmes. In this context, the EESC welcomes the close linkage planned between the programme and the National Reform Programmes. It also recommends here conducting a thorough follow-up of the staging of reforms and effectively addressing the potential risk of moral hazard. The EESC thinks it highly desirable to create a platform for cooperation between Member States on matters relating to the form and nature of structural reforms.

1.6. The EESC believes that there is a need for structural reforms not just at the level of individual Member States but also at the level of the EU as a whole, since these reforms have cross-border or often even pan-European repercussions. As the programme is designed to be managed centrally, the EESC regrets that it cannot be used for structural projects of pan-European importance, and it recommends that the programme be extended to include reforms of this kind.

1.7. The EESC is not entirely convinced that the retrospective payment of funds (especially given that the payment may be made several years after the implementation of the reform) provides sufficient motivation for a Member State to carry out a structural reform.

2. General context of the proposal and key facts

2.1. One of the most significant long-term barriers to stronger and more convincing economic growth in the EU is the existence of a number of structural failures and imbalances, which must be resolved by thoroughly implementing structural reforms⁽¹⁾. The recent economic crisis has allowed some of these to be identified all the more easily. It has also led to a criterion being established by which to gauge the success of implemented reforms. In order to secure the programme's success, it would also be helpful to draw lessons from reforms that have proved unsuccessful or poorly prepared, with serious economic and social consequences, and to avoid such practices in the future.

2.2. Structural reforms are economic policy measures that shape in a lasting way the basic key parameters of the economic structure and the related institutional and legal framework. Their aim is to remove existing obstacles, as well as to introduce completely new economic policy instruments reflecting current and future trends. The form of — and the need for — structural reforms vary across different EU countries⁽²⁾.

2.3. The proposed Reform Support Programme follows on from the Structural Reform Support Programme instrument⁽³⁾, which was introduced in 2017 and mainly consisted of technical assistance. However, it will have considerably more funding and a more developed support scope.

2.4. The Reform Support Programme can be seen as an essential contribution to the EU budget — in keeping with the spirit of its current innovation — aimed at delivering European added value, improving flexibility, developing synergies between its chapters, and simplifying processes. This contribution should be reflected in the form of higher levels of investment activity in the long term, when the European Semester process should be both the test and the main focal point for assessing the adequacy of structural reforms⁽⁴⁾.

2.5. The Reform Support Programme should therefore not be viewed in isolation, but rather as a new component of a complex mosaic of instruments for the future EU budget, with which it is to demonstrate a high degree of synergy, particularly as regards cohesion policy and Europe's role in stabilising investment.

2.6. Moreover, the programme was announced in December 2017 as part of the introduction of new budgetary instruments aimed at stabilising the euro area. However, the proposal in no way favours euro area members over non-members, even though this programme was supposed to be one of the variants of a compromise alternative to the introduction of a separate budget for the euro area.

⁽¹⁾ In its opinions the EESC takes as a starting point the definition of structural reforms as formulated in its opinion on Completing EMU — The next European legislature (OJ C 451, 16.12.2014, p. 10).

⁽²⁾ A description of the link between structural reforms and the other elements of economic policy in the EU can be found in EESC opinions on: Euro area economic policy 2017 (additional opinion) (OJ C 81, 2.3.2018, p. 216), and Euro area economic policy 2017 (OJ C 173, 31.5.2017, p. 33).

⁽³⁾ See EESC opinion on Support to structural reforms in the Member States (OJ C 237, 6.7.2018, p. 53).

⁽⁴⁾ See EESC opinion on EU finances by 2025 (OJ C 81, 2.3.2018, p. 131).

2.7. The Reform Support Programme proposes three instruments:

- a reform delivery instrument in the form of a financial support instrument (with a budget allocation of EUR 22 billion);
- a technical support instrument (directly linked to the Structural Reform Support Programme; EUR 0,84 billion);
- a convergence facility for non-euro area Member States (EUR 2,16 billion).

2.8. The programme's key objective is to support governments and the public sector in the Member States in their efforts to design and implement structural reforms. It aims to contribute to the sustainable growth of the EU economy and deliver on the European Pillar of Social Rights.

3. General comments

3.1. The EESC believes that the reasons for proposing the creation of an investment support scheme are entirely relevant and, likewise, the functioning of the programme in practice should be beneficial. At the same time, however, the EESC is convinced that the proposal contains a large number of questions that are not clearly answered and explained, and that it is crucial to provide more convincing and unequivocal responses before putting the programme fully into practice.

3.2. The EESC calls for a more specific and illustrative indication of possible synergies with, for example, cohesion policy, which are called for in both the proposal for the MFF regulation and the proposal for a Common Provisions Regulation (CPR) for the seven funds.

3.3. The success or failure of a given reform measure often only plays out over a period of time that can easily exceed both the three-year time limit for implementing the reform and the subsequent five-year durability period. The EESC wonders how the programme will evaluate the success of reforms that ought to receive support but whose results only become apparent over a very long period of time. Against this background, the EESC is also interested in how any potential disputes between the European Commission and a Member State, with regard to whether the reform proposal is correct and the reform has been successful, will be resolved. Also in this connection, the EESC recommends the creation of a platform for cooperation between Member States on matters relating to the nature of structural reforms.

3.4. The EESC believes that civil society organisations could very much help to achieve a consensus on reforms between the European Commission and the Member States, as in many respects they are impartial and therefore able to provide an objective opinion as well as being knowledgeable as to the issues. They also constitute a bridge that can prevent possible conflicts and, where necessary, resolve them.

3.5. The EESC welcomes the declared correlation with the European Semester process, and considers that the reciprocal relationship could be even more direct. This could be reflected, for example, in how the financial allocation for a reform tool is determined. The EESC notes that the sole criterion for this purpose is the population of the Member State concerned. Nevertheless, the Committee recommends that the possibility also be considered of using a multiple-criteria matrix, taking into account the extent of the need for structural reforms in the light of conditions in a given Member State.

3.6. The proposal for a regulation states that the European Commission will ensure that the activities of this programme complement other programmes under the next EU budget. The EESC recommends developing a more detailed explanatory manual on how this is to be done, as it feels that synergies must be achieved in EU funding. This is particularly relevant in relation to the common provisions for the seven funds (and in particular those relating to cohesion policy instruments), while consistency should also be maintained when it comes to setting the enabling conditions. (The EESC recommends that the programme should focus on implementing these as a matter of priority as part of the reform effort.).

3.7. The EESC very much welcomes the proposed consistency and linkage between the programme and the National Reform Programmes, which the Member States draw up and submit to the European Commission as part of their obligations in connection with the European Semester.

3.8. The EESC regrets that the structural reforms in the draft programme are tied exclusively to the specific needs of the Member States and do not involve structural reforms with a cross-border or even pan-European reach. It regrets even more the fact that the programme is designed to be centrally managed. Given that the programme requires an extremely high degree of interaction on the part of the Member States (which will in practice implement it), the question arises as to why this programme is designed to be managed centrally and not implemented by means of shared management.

3.9. The EESC endorses the list of activities and reform commitments (Article 6 of the proposal), understands its value and considers it to be a fully representative platform for selecting a measure that meets the specific conditions of the Member State. However, in this context, the EESC recommends defining what is meant by structural reform⁽⁵⁾ for the purposes of this programme, particularly in order to prevent unnecessary overlaps with reform activities supported by other chapters of the EU budget.

3.10. The EESC also agrees with the list of criteria that a Member State must fulfil under the programme for the reform commitments to be recognised (Article 11 of the proposal).

3.11. However, the EESC has doubts as to whether the programme is a real incentive for the implementation of structural reforms. Its concern is based on the fact that the funding can be paid even up to three years after the reform commitments have been fulfilled. The EESC feels that a one-off funding payment long after the reform activities began is not a very motivating tool.

4. Specific comments

4.1. If it is the case that funding of support under this programme is not linked to the costs the proposed reforms occasion and require, the EESC calls for very careful monitoring by experts of the acceptance of reform commitments and the final evaluation of the compliance of structural reforms with conditions relating to macroeconomic and fiscal discipline.

4.2. The EESC calls for an explanation of the idea put forward in the proposal that the programme is intended to offset the high political costs incurred in the short term in the case of some structural reforms and to remove the obstacles associated with these reforms.

4.3. The EESC recommends establishing clearer and more detailed rules for evaluating the amendments carried out of the reform commitments (Article 13 of the proposal).

4.4. The EESC recommends paying attention to the staging of reforms over time, whereby implementation of reform can be timed in line with the receipt of support from the programme, and the problem of moral hazard this entails. The EESC also recommends that attention be paid to possible cases where the programme is supporting reforms that have already been implemented.

4.5. The proposal for a regulation opens up the possibility that, for example, some of the funds allocated to cohesion policy could be transferred to this programme. The EESC also favours the option of transferring or merging in the opposite direction, where the funds from the programme could be directly linked to the relevant operational programme under cohesion policy.

4.6. With regard to the technical support instrument, the EESC appreciates the direct continuity with the Structural Reform Support Programme and the use of opportunities for tailored support for structural reform efforts (which is different, for example, from technical support under cohesion policy).

4.7. In the case of the convergence facility, the EESC notes that some non-euro area EU Member States are structurally better prepared to join than some of its existing members. Their main obstacle is not economic (often higher GDP growth coupled with a high degree of real convergence, exemplary fiscal discipline, external balance surplus or low unemployment) but political (which, however, the convergence facility is incapable of influencing).

⁽⁵⁾ See again the EESC opinions on: Euro area economic policy 2017 (additional opinion) (OJ C 81, 2.3.2018, p. 216), and Euro area economic policy 2017 (OJ C 173, 31.5.2017, p. 33).

4.8. The EESC also asks for a more detailed explanation as to whether the nature of the reform commitment differs somehow in the convergence facility as compared with the reform delivery tool.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee
on ‘Proposal for a Regulation of the European Parliament and of the Council on the establishment of
a European Investment Stabilisation Function’

(COM(2018) 387 final — 2018/0212 (COD))

(2019/C 62/21)

Rapporteur: **Philip VON BROCKDORFF**

Co-rapporteur: **Michael SMYTH**

Referrals	European Parliament, 11.6.2018 Council, 25.6.2018
Legal basis	Articles 175(3) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	196/2/4

1. Conclusions and recommendations

1.1. The EESC notes that at the current level of political and societal integration, a large federal budget in the euro area is unrealistic. This notwithstanding, the proposed EISF aims to make national fiscal policies more stabilising with respect to asymmetric shocks. The EESC considers this as a step towards closer euro area integration, and possibly an attempt to encourage non-euro Member States to join the single currency.

1.2. The EESC understands that the EISF differs from the European Stability Mechanism (ESM), which evolved as a backstop fund during the financial crisis. However, a clear distinction needs to be made between the two funds. The EISF is much more limited in scope and the EESC has concerns about the size of the fund in the event that asymmetric shocks affect two or more Member States.

1.3. The loans provided through the EISF would provide some boost to public investment at times of asymmetric shocks. The EESC cautions that the impact is unlikely to be immediate. Economic recovery will take time and any positive effects are likely to be felt in the medium and long term.

1.4. The EESC notes that having unemployment as the sole criterion to activate support may lead to some deficiencies with regard to the timeliness of the stabilisation function. The EESC therefore suggests other complementary indicators which normally precede unemployment in terms of predicting an impending large shock, in a way that an initial level of support can be triggered before the ‘large’ shock is fully transmitted to the unemployment indicator.

1.5. Given that the EISF is not considered as ‘additional’ to the other financial instruments, namely the Balance of Payments Facility and the European Financial Stabilisation Mechanism (EFSM), the EESC is of the view that utilising the EISF would reduce the overall borrowing capacity. It is therefore incumbent on the European Commission to balance on an on-going basis outstanding re-payments on the part of concerned Member States and contingent liabilities.

1.6. The EESC is not against oversight by the Commission of public investment financed loans provided through the EISF. However, the Member State concerned should be allowed sufficient leeway in determining the type of investment required. The EESC therefore advocates that a balance be struck between the Commission’s oversight on one side and, on the other hand, the concerned Member State’s discretion on public spending.

1.7. The EESC urges the Commission to investigate how an insurance mechanism to cater for macroeconomic stabilisation could operate across the EU. The EESC is of the view that a well-crafted union-wide insurance scheme that acts as an automatic stabiliser amidst macroeconomic shocks would be more effective than the proposed EISF. Should another financial and economic crisis hit the EU in the meantime, the EESC advocates a coordinated approach to deploy all relevant financial instruments including the EISF.

2. Background

2.1. For the forthcoming Multiannual Financial Framework, the European Commission is proposing a European Investment Stabilisation Function (EISF), the overall aim of which is to strengthen the Economic and Monetary Union by anchoring the euro area into the Union's long-term budget. The EISF would take the form of back-to-back loans of up to EUR 30 billion guaranteed by the EU budget, together with an interest rate subsidy to cover the cost of the loan.

2.2. The subsidy would be funded from contributions from Member States equivalent to a percentage of the monetary income allocated to their national central banks by the ECB (commonly known as 'seigniorage') and collected through a Stabilisation Support Fund (SSF). An intergovernmental agreement would be concluded to determine the calculation of the Member States' financial contributions and the rules regarding their transfer.

2.3. The amount of loan that an eligible Member State would be allowed to borrow would be determined by a formula based on a number of criteria, including:

- i) the maximum level of eligible public investment that the EISF may support;
- ii) the increase in unemployment; and
- iii) a threshold level defined as the quarterly national unemployment rate increased above one percentage point in comparison to the unemployment rate observed in the same quarter in the previous year.

The Commission, however, may increase the amount of the EISF loan up to the maximum level of eligible public investment that the EISF may support, in the event of particular severity of the large asymmetric shock experienced by the Member States concerned.

2.4. The proposed regulation is essentially based on the key principles of solidarity at EU level and responsibility on the part of individual Member States. Reference to the EISF was made by the President of the European Commission in the State of the Union Address 2017 ⁽¹⁾, the Five Presidents' Report of June 2015 ⁽²⁾, the Reflection Paper on the Deepening of EMU of May 2017 ⁽³⁾, and the Commission's position on the further deepening of the Economic and Monetary Union as outlined in December 2017 ⁽⁴⁾.

2.5. In conjunction with the EISF, the Commission is also proposing a Reform Support Programme (RSP) aimed at providing support, where necessary, for economic reforms in all Member States. The RSP would consist of three components: a reform-driven mechanism, technical support and a convergence facility to assist non-euro area Member States to join the euro. The EESC is delivering a separate opinion on this.

2.6. The EISF has two primary objectives:

- i) to help stabilise public investment at times of asymmetric shocks caused by a change in economic conditions that may affect Member States differently. As the financial crisis has shown, maintaining stability in public investment at a time of crisis is a huge challenge for countries that share a common currency, such as the euro area; and
- ii) to support economic recovery at times of economic shocks in the euro area and for Member States participating in the European Exchange Rate Mechanism (ERM II) and which can no longer use their monetary policy as a lever for adjustment to shocks.

⁽¹⁾ Letter of Intent to President Antonio Tajani and to Prime Minister Jüri Ratas, Jean-Claude Juncker, State of the Union, 13 September 2017.

⁽²⁾ The Five Presidents' Report: Completing Europe's Economic and Monetary Union, 22 June 2015.

⁽³⁾ COM(2017) 291 final.

⁽⁴⁾ COM(2017) 821 final.

2.7. It should be remembered that the current euro area economic policy framework remains incomplete. While monetary policy is centralised, national fiscal policies remain decentralised and this dichotomy can put a heavy burden on a Member State impacted by an asymmetric shock, as the aftermath of the financial crisis has shown.

2.8. The EISF is intended, therefore, to complement national automatic stabilisers when such national automatic stabilisers — designed to offset fluctuations in a Member State's economic activity and automatically triggered without explicit government action — may be deemed ineffective. In theory, the EISF could have the effect of cushioning the economy from mainly domestic economic shocks and thereby helping it to recover. The EISF could also help reduce the risk of spill-over to other Member States.

2.9. When faced with a crisis, Member States can lose access to financial markets. In that case, the available toolbox for the Member State affected includes the European Stability Mechanism (ESM) or the Balance of Payments (BOP) programme. Currently, however, there is no mechanism to support a Member State if it experiences an asymmetric shock without necessarily losing access to capital markets. The EISF, therefore, aims to fill this gap by providing loans to the Member State concerned.

2.10. To enhance the effectiveness of the proposed mechanism, the European Commission is proposing measuring asymmetric shocks using a 'double unemployment trigger'. This comes into effect when the national unemployment rates go beyond what could be considered as 'normal' and are deemed to be a relevant indicator of the impact of a large asymmetric shock in a specific Member State.

2.11. In providing loans to Member States affected by economic shocks, the mechanism presupposes that macroeconomic and fiscal policies have been applied in line with the Stability and Growth Pact (SGP), which is a set of rules designed to ensure that countries in the European Union pursue sound public finances and coordinate their fiscal policies, as well as the Macroeconomic Imbalances Procedure. The latter aims to identify, prevent and address the emergence of potentially harmful macroeconomic imbalances that could adversely affect economic stability in a particular Member State, the euro area, or the EU as a whole.

2.12. Over time the EISF can be complemented (via the SSF) by additional financing resources, outside the EU budget, possibly from these sources: the ESM (the future European Monetary Fund) and a voluntary insurance scheme to be set up by Member States.

3. General comments

3.1. The EESC notes that at the current level of political and societal integration, a large federal budget in the euro area is unrealistic. The EESC has consistently supported the Commission in its efforts to advance and complete Economic and Monetary Union (EMU) ⁽⁵⁾. At the same time, the Committee has often underlined its concerns about the ongoing lack of political commitment from Member States that is key to the completion of EMU ⁽⁶⁾. The proposals for EISF seem to reflect this and thus represent something of an interim solution. The dichotomy between a centralised monetary policy and national fiscal policies is therefore set to remain. The positive side of the proposal is that the EISF aims to make national fiscal policies more stabilising with respect to asymmetric shocks, while achieving long-term sustainability. In this regard, the proposal is seen by the EESC as a step towards a somewhat closer euro area integration, and possibly an attempt to encourage non-euro Member States to join the single currency.

3.2. The proposed mechanism presupposes adherence to the Stability and Growth Pact, implying sound budgeting and macroeconomic policy. This is seen by the EESC as an attempt to bring together fiscal and monetary convergence by ensuring that Member States adhere to the eligibility criteria implying sound budgeting and macroeconomic policy. This also implies that the EISF would be available only to Member States compliant with the Stability and Growth Pact, and therefore to Member States that have already undergone structural reforms and budgetary adjustments. This condition could serve as a motivation for Member States to fully adhere to the Stability and Growth Pact and allay fears about underwriting spending by Member States that are in the process of undergoing structural reforms and budgetary adjustments.

3.3. Accordingly, the EISF will result in no 'permanent transfers' between euro area Member States, with governments only being eligible for support if they have met core EU budget rules for the preceding two years. The EESC notes, however, that the EISF is intended **only** for Member States with sound budgetary and macroeconomic policies, and any loan would be provided in exceptional circumstances and when asymmetric shocks manifest themselves in the form of above-normal

⁽⁵⁾ See for example EESC opinion on Euro area economic policy (OJ C 173, 31.5.2017, p. 33) and EESC opinion on Deepening EMU by 2025 (OJ C 81, 2.3.2018 p. 124).

⁽⁶⁾ See for example EESC opinion on Economic and Monetary Union Package (OJ C 262, 25.7.2018, p. 28).

unemployment rates. Nonetheless, whilst recognising the importance of market and fiscal discipline, the EESC agrees with the objective of a stabilisation function and acknowledges that this is a first step towards a more developed stabilisation function.

3.4. The EESC understands that the Commission could not provide a definitive list of asymmetric shocks which could include, inter alia, a liquidity crisis. The EESC is of the view that the appropriate response to a liquidity crisis is the Outright Monetary Transactions (OMT) programme of the European Central Bank, conditional on the participation of the Member State in the ESM programme, and not the EISF. The EESC acknowledges that an exhaustive list of asymmetric shocks would not be appropriate and is comforted by the Commission's macroeconomic simulations based on past data as to the effectiveness of a stabilisation function as a crisis prevention mechanism.

3.5. The EESC understands that the EISF differs from the European Stability Mechanism (ESM) which evolved as a backstop fund during the financial crisis. The ESM is more strictly associated with a bailout programme, which comes with more onerous conditionality and has a EUR 500 billion lending capacity and can be tapped by Member States that have lost the ability to borrow on capital markets.

3.6. A clear distinction, therefore, needs to be made between the two funds. The EISF is much more limited in scope, and though it is intended for any size of Member State, the EESC is of the view that the proposed EUR 30 billion fund would be more typically suitable for smaller euro area and non-euro area Member States. The EESC therefore raises concerns about the size of the fund in the event that asymmetric shocks affect two or more Member States. The proposed EISF cannot therefore be considered as the definitive solution for Member States facing one-off problems such as an ecological disaster, an energy crisis or a localised banking crisis.

4. Specific comments

4.1. The EESC acknowledges that in applying the formula to determine the loan amount for the eligible Member State (euro area members and aspiring members in the European exchange rate) the loans would provide some boost to public investment (assuming these are quality investments) at times of asymmetric shocks, but the impact is unlikely to be immediate. Economic recovery will take time and any positive effects are likely to be felt in the medium and long term. The proposal, therefore, needs to be more realistic about the intended aims and possible outcomes of the EISF.

4.2. The EESC notes that having unemployment as the sole criterion to activate support may lead to some deficiencies with regard to the timeliness of the stabilisation function. It is worth also considering other complementary indicators which normally precede unemployment in terms predicting an impending large shock, in a way that an initial level of support can be triggered before the 'large' shock is fully transmitted to the unemployment indicator. Once unemployment has risen significantly, the economic damage may have already been done to the productive capacity of the economy. For instance, an economy experiencing a sharp drop in exports of goods and services may not necessarily experience a concurrent increase in unemployment.

4.3. It would therefore be valuable to have an instrument that can be activated before the symptoms are fully translated to the labour market. In other words, it is necessary to complement the unemployment criterion with a set of early warning indicators that can include the change in exports of goods and services, the change in the level of inventories and other leading indicators that clearly indicate the presence of an economic shock. In this way the proposed stabilisation function would be much more timely and effective.

4.4. Furthermore, the 15 year average unemployment rate which has to be exceeded for a Member State to qualify for support may work against countries that have been successful in reducing structural unemployment. A shorter time frame of perhaps five years would be more suitable.

4.5. The EESC notes that the EISF, as proposed, would be allowed to borrow money on capital markets and lend to Member States with interest being subsidised to cover the costs of the loans. As stated earlier, the subsidy would be financed based on what is known as 'seigniorage' and collected through national contributions to an SSF. The EESC is of the view that Member States need to demonstrate their political and financial commitment *a priori*.

4.6. Given that the EISF is not considered as 'additional' to the existing instruments, the total amount of loans available for the BOP facility, the European Financial Stabilisation Mechanism (EFSM) and the EISF itself could be constrained by a 'single' limit. In theory at least, a new facility such as this would effectively reduce the EFSM's capacity to lend by EUR 30 billion as proposed for the EISF. It is incumbent on the Commission, therefore, to balance on an on-going basis outstanding re-payments on the part of concerned Member States and contingent liabilities.

4.7. The EESC considers the EISF and EFSM to be somewhat similar in scope. Both funds are intended to provide financial support to Member States. However, while the EISF and EFSM have separate eligibility conditions, it is the EESC's understanding that the conditions of the EFSM would still apply, thereby restricting somewhat the effectiveness of the EISF.

4.8. The EESC refers to the interest subsidy that the concerned Member State would benefit from. In the event of a crisis, all things being equal, the effect of this interest rate subsidy could be to potentially increase the cost of interest payment due to the risks posed by a Member State facing a crisis. This in turn would impact negatively on the public finances of the concerned Member State. The effectiveness of quality public investment and thereby the effectiveness of the EISF itself is therefore critical to reduce any market risks affecting the Member State concerned and its cost of borrowing in the medium and long term.

4.9. The EESC refers to the oversight of public investment that the Member State concerned would be subject to on the part of the Commission, as required by the proposal. The EESC is not against this in principle but is of the view that the Member State concerned should be allowed sufficient leeway in determining the type of investment required and therefore advocates that a balance be struck between the Commission's oversight on one side and, on the other hand, the concerned Member State's discretion on public spending. The EESC also takes the view that public investment should also be regarded as an instrument of solidarity.

4.10. Finally, the EESC notes that the Commission's proposal allows for a future upgrade to the scheme — that is, a possible insurance mechanism to cater for macroeconomic stabilisation. This, in the view of the EESC, is a recognition of the limitations of the EISF itself and that the proposals in their current format will eventually need to be complemented by a full-scale stabilisation function such as a union-wide insurance scheme that acts as an automatic stabiliser amidst macroeconomic shocks. Should another financial and economic crisis hit the EU in the meantime, the EESC advocates a coordinated approach to deploy all relevant financial instruments including the EISF.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the InvestEU Programme’

(COM(2018) 439 final — 2018/0229 (COD))

(2019/C 62/22)

Rapporteur: **Petr ZAHRADNÍK**

Consultation	Council of the European Union, 7.9.2018 European Parliament, 14.6.2018
Legal basis	Articles 175 third subparagraph and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	204/1/3

1. Conclusions and recommendations

1.1. The EESC welcomes the fact that the package of regulations on the future multiannual financial framework includes a proposal to strengthen investment activity in the EU (which has yet to reach pre-crisis levels), including long-term investment projects that are of high public interest, while also respecting the sustainable development criteria (in line with the EU's commitment to adhere to these as part of the 2030 Sustainable Development Agenda). The EESC welcomes this solution, moreover, because the priority areas of the InvestEU programme as well as the timeframe for their implementation are broadly consistent with, or based on, the 2030 Sustainable Development Agenda. In order to guarantee that this programme operates successfully, it would be good to make the fullest use of the involvement of civil society organisations and social and economic partners.

1.2. The EESC appreciates the European Commission's efforts to create an umbrella financial instrument and also agrees with the focus of its content. Its unified management, enhanced transparency and potential for synergies provide a greater opportunity to achieve the desired effects compared with the current situation. The EESC stresses the need to carry out a thorough market test of projects with a view to ensuring the adequacy of specific projects that lend themselves to the use of financial instruments. The success of the instrument is highly dependent upon a well-functioning monitoring system.

1.3. The EESC appreciates the fact that, in addition to promoting sustainable infrastructure, small and medium-sized enterprises (SMEs) and research and innovation, the InvestEU programme also focuses on social investment and skills. This demonstrates the importance of social investment for future EU development. In this context, the EESC supports a strong link between InvestEU's social investment and skills programme, on the one hand, and the standard social policy support instruments on the other, in particular the European Social Fund and the Youth Employment Initiative, as well as with employment and social innovation programmes, so as to secure maximum investment in sustainable social infrastructure, social enterprises, and services and centres for the development of human capital.

1.4. The EESC nevertheless points out that under the InvestEU programme there should be no underestimation or neglect of social investment, which must be as important as investment aimed primarily at development and entrepreneurship. This observation is based, among other things, on the findings presented in December 2017 by the High Level Task Force on Investments in Social Infrastructure in Europe, chaired by Romano Prodi. Here public investment can act as a catalyst for private investment.

1.5. Given that InvestEU is a new type of programme, the EESC welcomes the possibility of a specific, user-friendly manual aimed at identifying the appropriate project typology, finding examples of their synergy with the other chapters of the multiannual financial framework and ensuring adequate implementation in Member States.

1.6. The EESC appreciates the expected positive impact of the InvestEU programme on the development of financial markets in the Member States; in this regard, it stresses the considerable need for an appropriate structure for the implementing partners, especially at national level.

2. General context of the proposal and key facts

2.1. The recent economic crisis significantly reduced the volume of investment activity in the EU and this has yet to recover. The aim of all the key elements of EU economic policy must be to find pathways to a sustained recovery in investment, including investment in the public interest, which includes a broader involvement of SMEs and ensuring respect for the voice of civil society.

2.2. Since not enough public resources are available at national and EU level to carry out public interest investment, it would be good to bring in private capital, provided rules are observed to ensure the public interest is indeed served. One way of achieving this aim is to strike a balance within the EU budget between investments in repayable financial instruments and those that are based on the subsidy principle.

2.3. Repayable financial instruments exploiting the potential of the EU budget, at central and national level, have made significant advances, particularly for the 2014-2020 financial framework, and yet are not used as much as they ideally could be. Among the improvements needed are the systemic alignment of a large number of uncoordinated instruments at central level into a single management mechanism. InvestEU is an example of this.

2.4. The InvestEU programme can be seen as a crucial contribution of the EU budget in line with recent changes to ensure European added value, greater flexibility, synergies between chapters and simplified procedures. This contribution should result, in the case of InvestEU, in increased investment activity over the long term (with a total of EUR 650 billion being mobilised by 2027), a strengthening of the role of the financial market, including in relation to projects of public interest, and a more effective allocation of EU budget resources, which are subject to a natural market test thanks to the return on investment element.

2.5. It makes sense, then, to look at InvestEU not in isolation, but as an important component of a complex mosaic of instruments in the next EU budget, which clearly constitutes a new trend in the allocation of its expenditure that will be of crucial help in surmounting the customary — and ultimately futile — division into net contributors and net beneficiaries.

2.6. InvestEU builds on the well-regarded practice so far of the European Fund for Strategic Investments (EFSI) and the Investment Plan for Europe and takes this much further forward. The progressive principle on which the EFSI is based should be used in merging the spectrum of all centrally established financial instruments at EU level.

2.7. InvestEU consists of three parts:

- the InvestEU fund, whose main aim is to mobilise public and private sources for investment purposes, using an EU budget guarantee;
- the InvestEU Advisory Hub, which is a complement to the fund providing technical advice for investment projects seeking funding;
- the InvestEU Portal, which is a complement to the fund in the form of an easily accessible and user-friendly database that connects investors and supported projects.

3. General comments

3.1. The EESC welcomes the continuation and extension of a financial instrument based on the guarantee principle and considers it essential not least with a view to the long-term development and management of the EU budget. InvestEU's equity capital of EUR 15,2 billion is considered by the EESC to be sufficient to bring in investments of EUR 650 billion by 2027, as is the total guarantee of EUR 47,5 billion. It also finds the 40 % provisioning rate of the EU guarantee appropriate in view of the selected windows within the programme and the supported projects.

3.2. The EESC also thinks the choice of policy windows appropriate, focussing on sustainable infrastructure, small and medium-sized businesses, research and innovation, and social investments and skills, including the distribution of the total amount of the guarantee in their favour. These are the most relevant areas, the EESC believes, for achieving an intensive use of financial instruments.

3.3. The EESC sees two fundamental benefits from the introduction of Invest EU that financing from the EU budget and the use of financial instruments have not so far managed to achieve to the same extent: hitherto unlinked programmes will be merged into one, thus boosting effects of synergy between them; at the same time, there will be greater stress on the efficacy of resources invested from the EU budget thanks to the need to undergo market testing. The EESC sees the strengthening of an instrument based on guarantees in itself as a unique opportunity to secure enough sources to make investments in the public interest that could in no way have been achieved using the EU budget as at present. This principle looks very promising for the long term. The EESC sees the overall approach of InvestEU as an important expression of European added value.

3.4. The EESC also welcomes InvestEU's main anticipated benefits, namely the existence of a sufficiently robust instrument that can further stimulate investment and help sustain it at least at pre-2009 levels over the long term, while also streamlining and making more effective the system of financial instruments managed directly at EU level and, indirectly, inspiring the introduction of financial instruments at Member State level (especially those in which this way of acquiring budget resources is not proving too successful). It also addresses the EU's real development priorities and uses modern financing methods in implementing them. The EESC also considers it important that targeting of InvestEU support will be guided by indicators and instruments used in relation to the European Semester, including the commitments of Member States in the form of National Reform Programmes.

3.5. In the context of the previous paragraph, the EESC stresses the importance of a well-functioning monitoring system that will monitor InvestEU's profitability, thus evaluating the success of the use of both private and public investment; the role of public investment in this regard will result in a driving effect, with a spillover effect on subsequent private investment.

3.6. InvestEU reflects the general approach of the EESC and many of its opinions in this field in that it is geared to achieving cross-cutting — and in many respects also cross-border — goals on a basis of simplification, flexibility, synergies and profitability, with a gradual adoption of the principle that the EU budget does not necessarily mean just grants, but can also be distributed or invested in other ways. This implies a qualitative shift away from the 'mere' allocation of budgeted expenditure to real investment in the public interest.

3.7. Adoption of the abovementioned approach will give greater scope for boosting the overall volume of supported investments, something that could not have been done using customary methods. Moreover, this mechanism makes it possible to also bring private sources of finance into projects of public interest, especially where there is a risk of market failure. There is an investment gap into which private capital will never venture without an adequate public guarantee.

3.8. The EESC recommends that the proposal for a regulation set out and treat more fully and clearly the actual ways that individual sources can be combined with what InvestEU has to offer. This combining of sources is precisely the declared aim, but without a clear manual it could run into practical obstacles. From an EU budget perspective, it should be possible to combine different financial resources within a project in both directions: as a contribution to the InvestEU programme of funds under shared management, and as a contribution by the InvestEU programme to national, tailor-made financial instruments implemented under shared management. Appropriate implementation rules guaranteeing such flexibility should be included in the regulation.

3.9. The EESC also recommends that a typology of projects suitable for InvestEU be drawn up, alongside ones where using grants will continue to be more appropriate (i.e., those where direct financial returns are unlikely or outright impossible, even in the long term).

3.10. With regard to the InvestEU programme proposal, as well as in the wider context of the full spectrum of measures of the 2021-2027 multiannual financial framework, the EESC recommends assessing the EFSI's economic impact to date in each of the Member States, including overviews of the use of the funds and the benefits ensuing from them. This assessment will be particularly important because InvestEU, as a new EU financial tool, could be directly geared towards real investment priorities and could avoid certain shortcomings found in existing ways of using the EU budget. Here, too, there is room to include civil society organisations, in order to demonstrate the usefulness of European projects from the point of view of prosperity and well-being and to identify this usefulness in a clear way.

4. Specific comments

4.1. The EESC welcomes the possibility of establishing under InvestEU voluntary compartments of resources primarily intended for — for example — cohesion policy. Since this is a new way of sharing resources, the EESC recommends the drafting of a manual to facilitate operations of this kind.

4.2. The EESC draws attention to the need for more precise alignment between the content of the four main policy windows of the InvestEU programme and a more detailed specification of the supported activities under Annex II. In order to improve the practical orientation of project promoters, the EESC recommends that Annex II be elaborated more carefully with a view to achieving greater consistency with the wording of Chapter II of the proposal for a regulation.

4.3. The EESC would welcome an indication of what is to be done in the event that the guarantee from the EU budget is, for some reason, not enough to secure the expected investment volume or in the event that the conditions for a return for the fund deteriorate.

4.4. The EESC sees the InvestEU programme as one way of developing financial market institutions in the Member States and for this reason thinks it would be very good to open up space for implementing partners at national level. In this connection, it stresses the need to select the latter very carefully, yet without discrimination, based on relevant requirements that are founded on their competences, while at the same time ensuring their fair and equitable representation among Member States.

4.5. The EESC considers it crucial that implementing partners be able to help meet InvestEU objectives over the long term, not just regarding ensuring its smooth functioning, but also regarding the capacity to put in their own resources and bring other private and national public investors into the system, regarding providing adequate coverage within the territory and sector concerned and, above all, the ability to accurately and comprehensively address market failures and sub-optimal investment situations.

4.6. The EESC calls for further clarification on how the role of the privileged implementing partner, the European Investment Bank, will work in practice and how it will be ensured that its operations do not end up crowding out other implementing partners, primarily those operating nationally.

4.7. The EESC recommends that part of the EU fund really is focused on addressing cross-border projects, including addressing projects geared to cases of market failures or sub-optimal investment conditions on an EU-wide scale, which will bring a clear European added value.

4.8. The EESC therefore welcomes the fact that the implementing partners are to cover a minimum of three Member States. However, the EESC also believes that there is scope for addressing specific national and regional investment needs, which should primarily be supplied by an entity of the Member State concerned in close synergy with a guaranteed national

envelope under cohesion policy. In this context, the EESC stresses the importance of investing in human capital and social infrastructure, which contributes to achieving long-term growth potential (lifelong learning, a social services network and affordable housing) as well as to ensuring the competitiveness of the EU's economic system.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on Building a stronger Europe: the role of youth, education and culture policies’

(COM(2018) 268 *final*)

on ‘Proposal for a Council Recommendation on promoting automatic mutual recognition of higher education and upper secondary education diplomas and the outcomes of learning periods abroad’

(COM(2018) 270 *final* — 2018/0126 (NLE))

on ‘Proposal for a Council Recommendation on High Quality Early Childhood Education and Care Systems’

(COM(2018) 271 *final* — 2018/0127 (NLE))

and on ‘Proposal for a Council Recommendation on a comprehensive approach to the teaching and learning of languages’

(COM(2018) 272 *final* — 2018/0128 (NLE))

(2019/C 62/23)

Rapporteur: **Tatjana BABRAUSKIENĖ**

Referral	European Commission, 18.6.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	26.9.2018
Adopted at plenary	18.10.2018
Plenary session No	538
Outcome of vote	117/0/2
(for/against/abstentions)	

1. Conclusions and recommendations

The EESC:

1.1. welcomes the initiative as a next step towards the implementation of the European Pillar of Social Rights (EPSR) to ensure the right of equal access to quality and inclusive education, training and lifelong learning. This is essential **for further and closer cooperation** among the Member States while ensuring their **national competence** in education, training and lifelong learning;

1.2. believes that the new initiative should be part of a long-term vision for the EU's lifelong and lifewide education and training policies in the framework of the EU2020 Strategy and the ET2020 Strategic Framework and preparations for the next EU strategies. This includes the visions and strategies for vocational education and training and adult learning;

1.3. underlines that education should focus first and foremost on **holistic learning, democratic citizenship and common European values**, to ensure peace, security, freedom, democracy, equality, the rule of law, solidarity and mutual respect, open markets, sustainable growth and social inclusion and fairness, while respecting and enriching cultural diversity and fostering a sense of belonging;

1.4. points out that the role of education, training and lifelong learning is to prepare and support young people and adults to be responsible **democratic citizens and be employable** in fair employment, quality and productive jobs, and equipped with adequate skills;

1.5. believes that the European Education Area (EEA) should be inclusive towards all and therefore encourages governments to take steps **to reach real inclusivity in formal and non-formal learning, promote and value informal learning**;

1.6. draws the governments' attention to remaining gaps **in equal access to quality education** for children from socioeconomically disadvantaged backgrounds, in particular minority groups, migrants, children with disabilities and children living in rural areas in different regions of Europe. It is fundamental that the EEA actively supports the **integration of migrants and refugees** in education and the labour market with specific focus on validating and recognising their education, training and work experiences;

1.7. is of the opinion that achieving the objectives of this initiative needs **sustainable national education investment of over 5 % of GDP per country** and the support of available EU funding instruments, including the Erasmus+ programme, and the European Semester process;

1.8. believes that as part of the European Framework for Key Competences, language learning and the validation of non-formally and informally acquired language skills should be supported by **sustainable public finances**. Language learning should **target all, young people and adults, and support those in need**, while being promoted as part of family learning and improved as part of **formal and non-formal learning**;

1.9. supports the proposal's call for **more investment in initial and continuing professional development of language teachers** to overcome the shortage of qualified language teachers;

1.10. welcomes that the proposal aims to further encourage governments to improve access to and **quality of early childhood education**. Further efforts are indeed needed to ensure **work-life balance**, that high-quality, financially accessible Early Childhood Education and Care (ECEC) is a right of all children and families, and to consider the **important role of family learning** which helps parents gain confidence in their role and contributes to adult learning;

1.11. supports the proposal that ECEC staff have **a supportive working environment** and that their **professionalisation** is enhanced; urges that the **attractiveness of the teaching profession as well as gender balance and equality in the profession** are ensured;

1.12. acknowledges the importance of **cross-border recognition of learning periods** in all forms of secondary and higher education and upper-secondary qualifications acquired in general and vocational education and training giving access to higher education in the home country. Learning mobility is crucial for active participation in society and in the labour market, and should be enhanced by trust in programmes and qualifications and be based on well-developed quality assurance systems;

1.13. points out that **European tools, instruments and principles** for higher and vocational education should complement and support each other (EQF, ECVET, EQAVET, EQAR, etc.) while the learning outcomes principle needs to be fully implemented in Europe to reach automatic recognition of learning mobility in Europe;

1.14. underlines that the initiative should also focus on **recognising formal, non-formal and informal learning abroad** and acknowledge the role of stakeholders, social partners and civil society in recognising learning outcomes and the role of guidance staff to support the process; encourages the EQF Advisory Group and Cedefop to improve the European Inventory on Validation of non-formal and informal learning (VNFIL) and the European guidelines for VNFIL as quality standards to governments, social partners and stakeholders to improve validation processes;

1.15. stresses that the achievement of **high-quality** and inclusive education in ECEC, the improvement of language learning, and the mutual recognition of secondary school leaving certificates need to be discussed at all levels among governments, employers and trade unions in **efficient social dialogue**, together with other stakeholders.

2. Political context

2.1. The primary responsibility for education and culture policies lies with the Member States. However, over the years the European Union has played an important complementary role as stipulated in Article 165 of the Treaty on the Functioning of the European Union. It is in the shared interest of all Member States to harness the full potential of education and culture as drivers for job creation, economic growth and social fairness as well as to experience European identity in all its diversity.

2.2. At the Gothenburg Social Summit in November 2017, the EPSR was proclaimed which enshrines the right of equal access to education, training and lifelong learning, guided by the Commission's Communication COM(2017) 673. This resulted in the European Council conclusions of 14 December 2017 calling on Member States, the Council and the Commission to bring forward the agenda discussed in Gothenburg.

2.3. The so-called **first package on the European Education Area** proposed Council Recommendation COM(2018) 23 (adopted on 22 May 2018), building on the Education Ministers' 2015 Paris Declaration on promoting citizenship and the common values of freedom, tolerance and non-discrimination through education. It was announced in the Commission's Communication COM(2016) 379 of 14 June 2016.

2.4. On 22 May, the EC published the second education package including further proposals for the creation of an EEA by 2025.

2.5. This EESC opinion covers **the second education package**, which focuses on further challenges to be tackled to achieve a high-quality and inclusive EEA, such as language learning, automatic mutual recognition of secondary level studies, and quality early childhood education.

3. General comments

3.1. The EESC believes that setting up the EEA **for further cooperation** among Member States while ensuring their **national competence** in education, training and lifelong learning, is a key strategy for responding to and advancing social, economic, demographic, environmental and technological development to achieve the competitive integration of Europe as an economic power in the world while ensuring a strong social dimension.

3.2. The initiative is an excellent next step towards the implementation of the EPSR to ensure the **right of equal access to quality and inclusive general and vocational education and guidance throughout people's lives** ⁽¹⁾, guided by the Commission's Communication COM(2017) 673 announcing the EEA.

3.3. The EESC stresses that it is our shared objective that education focuses on **holistic education**, training and lifelong learning, with special attention to democratic citizenship and common **European values and European identity**, to ensure peace, security, freedom, democracy, equality, the rule of law, solidarity and mutual respect, sustainable growth and social inclusion and fairness, while respecting and enriching cultural diversity and a sense of belonging to the EU.

3.4. While underlining the crucial role of education, training and lifelong learning in preparing young people and adults to be **democratic citizens and be fairly employed in quality jobs**, the EEA should also be inclusive towards all, with special attention to gender equality, and encourage governments to take steps to reach real **inclusivity** in formal, informal and non-formal learning, while respecting the UN Convention on the Rights of Persons with Disabilities (CRPD).

⁽¹⁾ OJ C 173, 31.5.2017, p. 1.

3.5. In this sense, recalling its Opinion ⁽²⁾, the EESC considers that the EEA should also suggest to governments how to provide active support for the **integration of migrants and refugees** to education and the labour market, with specific focus on validating and recognising their education, training and work experiences.

3.6. Education and training systems need time for reforms and adjustments. The EESC would like to see the new initiative as part of a **long-term vision for education, training, and lifelong learning** policies of the EU, named 'European Lifelong Learning Area 2025', in the framework of the EU2020 Strategy and the ET2020 Strategic Framework, and as a preparation for the next EU strategies.

3.7. In order to achieve **high-quality** and inclusive ECEC, the improvement of language learning, and mutual recognition of secondary school leaving certificates, these initiatives need to be discussed at all levels among governments, employers and trade unions in **efficient social dialogue**, together with other stakeholders, most importantly teachers and other educators, parents, guidance staff and learners, but also with community bodies and civil society organisations.

3.8. The EESC acknowledges the '**European Universities**' initiative as a bottom-up process to motivate universities to establish networks to create joint degrees, enhance mobility of learners and facilitate language learning. Whilst recalling its Opinion ⁽³⁾, it encourages **inclusiveness and diversity** in setting up networks of teaching, research staff and students, and to open up the possibility of establishing networks to all universities in the Bologna Process.

3.9. While considering the idea of the '**European Student Card**', the EESC encourages that this initiative builds on the successful student card system and updates already existing students cards. It recalls its Opinion ⁽⁴⁾ when reiterating that the added value of any new card must be clearly identified and complementary with the existing ones.

3.10. Achieving the objectives of the EEA needs **sustainable national education investment of over 5 % of GDP per country** and the support of EU funding instruments under the next MFF, in particular the Erasmus+ programme and the EFSI. The EESC wishes that the future **Erasmus+ programme** and the future **Youth Strategy** include among their priorities holistic and inclusive education, training and lifelong learning. The EESC welcomes the role of the European Semester to support structural reforms to improve education policy in line with this initiative.

3.11. *Improving teaching and language learning*

3.11.1. The EESC believes that this initiative is essential as language proficiency levels among learners at the end of compulsory education are generally low, and very large differences exist between Member States ⁽⁵⁾. With increasing intra-Europe mobility, as well as unprecedented numbers of school children arriving from third countries speaking different languages, we need to reconsider the challenges and opportunities ahead in order to make **multilingualism a true asset of the EU. Languages should receive equal value**, therefore language learning of EU and non-EU languages should be supported.

3.11.2. Schools need support to create a **multilingual learning environment** while striking the right balance between foreign language learning and a high level of literacy and communication development in the **mother tongue(s)**. Content and language integrated learning can promote mobility and integration. The more efficient use of digital and on-line tools for language learning is essential. This requires ensuring their quality and certification as well as access, support and affordability for all, taking into consideration the fact that people may need support to be able to afford, select and use suitable tools to their advantage.

⁽²⁾ OJ C 264, 20.7.2016, p. 19.

⁽³⁾ OJ C 71, 24.2.2016, p. 11.

⁽⁴⁾ OJ C 132, 3.5.2011, p. 55.

⁽⁵⁾ Eurydice: Key Data on Teaching Languages at School in Europe — 2017 Edition.

3.11.3. The EESC welcomes the emphasis on **language learning** from the perspective of enhancing **mutual understanding, mobility** and, therefore, **European citizenship**. 64 million low-skilled adults need to improve their basic skills, including their language skills⁽⁶⁾, to be active European citizens, to retain jobs and to improve their employment perspectives. For individuals, learning languages creates personal and professional opportunities, for society it fosters cultural awareness, mutual understanding and social cohesion, and for companies, workers equipped with language and intercultural competences help them succeed and grow in global markets.

3.11.4. Language learning should **target all and support those in need**, while being improved as part of **formal, non-formal and informal learning**, and be implemented as part of the European Framework for Key Competences and supported by **sustainable public finances**.

3.11.5. The Employment Guidelines 2018⁽⁷⁾ propose that ‘mobility of learners and workers should be promoted with the aim of enhancing employability skills and exploiting the full potential of the European labour market.’ Lack of language competences can be considered a key barrier to mobility. The EESC underlines that the proposal should target learners far beyond those in compulsory education, and emphasise **language learning for all**, from a young age to beyond retirement, with special attention to **IVET and CVET**, higher education and adult learning.

3.11.6. Language learning policy should aim at teaching **learning by doing**, via student exchanges, voluntary and other activities such as the European Solidarity Corps, supported by the present and future Erasmus+ Programmes.

3.11.7. **The shortage of qualified language teachers** is indeed a serious problem, and the EESC welcomes the proposal’s call for more investment in initial and continuing professional development of language teachers, to meet EU countries’ **professional qualification requirements**.

3.12. *High-quality early childhood education and care systems*

3.12.1. The benchmark of the ET2020 Strategy for the participation of 95 % of children between the age of 4 and compulsory schooling in ECEC has almost been met. However, 17 million children out of more than 32 million children below the age of compulsory schooling in the EU still do not have access to early childhood services provision. In addition, there are still gaps **in equal access** for children from socioeconomically disadvantaged backgrounds, in particular minority groups, migrants, children with disabilities and children living in rural areas and different regions of Europe.

3.12.2. The EESC welcomes that the proposal aims to further encourage governments to improve access to and quality of early childhood education. Further efforts are indeed needed to ensure **that high-quality, financially accessible ECEC** is a right of all children and families. High quality services play a decisive role in improving education outcomes, including the development of social competences. The participation in high quality ECEC leads to higher basic skills attainment and is a strong preventive tool against early school leaving.

3.12.3. The EC stresses high consistency with other Union policies. The EESC appreciates particularly the link to the *Proposal for a Directive on Work-Life Balance for parents and carers*⁽⁸⁾, acknowledging the need to provide good quality formal care services across Europe. The EESC supported this mutual interaction in many of its opinions to increase women’s participation in the labour market and reduce unjustified pay gaps, as well as to consider the important role of family learning which helps parents be confident in their role and helps contributing to adult learning.

3.12.4. **ECEC staff** should be supported to enhance their professionalisation and to develop a supportive working environment. The initial education and continuing professional development of ECEC teaching staff should be of high quality while meeting educators’ and children’s needs, e.g. how to ensure inclusiveness, teaching democratic values.

⁽⁶⁾ Cedefop (2017). Investing in skills pays off: the economic and social cost of low-skilled adults in the EU. Luxembourg: Publications Office. Cedefop research paper; No 60.

⁽⁷⁾ https://ec.europa.eu/info/publications/2018-european-semester-employment-guidelines_en

⁽⁸⁾ COM(2017) 253 final — 2017/085 (COD).

3.12.5. According to OECD (2015) ⁽⁹⁾ the teaching profession faces a major gender imbalance as 7 out of 10 teachers are women. In OECD countries (2015) 97 % of teachers at pre-primary level and 83 % of teachers at primary level are women, while only 43 % of the teachers are women in tertiary education. Gender imbalance among staff and attracting more male teachers to ensure male role models for the children in the ECEC sector are issues that still necessitate urgent action, with gender imbalance connected to the existing status, salary and working conditions of the teachers in this sector.

3.13. *Automatic mutual recognition of diplomas and learning periods abroad*

3.13.1. The EESC welcomes that the initiative aims to ensure that every student, apprentice or pupil who has completed a learning experience abroad, whether for a qualification or learning mobility, can get that experience automatically recognised for the purposes of further learning. Learning mobility fosters competences and experiences that are crucial for active participation in society and the labour market and should be enhanced by promoting trust in study programmes and qualifications.

3.13.2. In order to avoid repeating full school year/periods, the EESC underlines the importance of cross-border **recognition of learning periods in secondary** and higher education and upper-secondary qualifications giving access to higher education in the home country.

3.13.3. The EESC underlines that the initiative should also focus on **recognising formal, non-formal and informal learning abroad** and acknowledge the role of stakeholders, social partners and civil society in recognising studying and learning outcomes ⁽¹⁰⁾. In this regard, it recalls the important role of the Council Recommendation of 20 December 2012 on the VNFIL and further improvement of the national validation systems. The EESC encourages the EQF Advisory Group and Cedefop to improve the *European Inventory on VNFIL* ⁽¹¹⁾ and to improve the *European guidelines for VNFIL* ⁽¹²⁾ as quality standards for governments, social partners and stakeholders to improve validation processes. Special attention should be given to understand the necessary conditions, synergies and benefits of improving coordination between VNFIL and guidance and counselling services ⁽¹³⁾.

3.13.4. Permeability and trust between vocational and higher education is still a challenge across but also within countries. **Academic and vocational education** should be given the same value. **European tools and instruments** and principles for higher and vocational education should support each other (EQF, ECVET, EQAVET, EQAR, etc.) while the learning outcomes principle needs to be fully implemented to reach automatic recognition of learning mobility in Europe.

Brussels, 18 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁹⁾ OECD: Education at a Glance, 2017.

⁽¹⁰⁾ OJ C 13, 15.1.2016, p. 49.

⁽¹¹⁾ <http://www.cedefop.europa.eu/en/events-and-projects/projects/validation-non-formal-and-informal-learning/european-inventory>

⁽¹²⁾ <http://www.cedefop.europa.eu/en/publications-and-resources/publications/3073>

⁽¹³⁾ Cedefop (forthcoming), Validation of non-formal and informal learning and career guidance.

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: Engaging, connecting and empowering young people: a new EU Youth Strategy’

(COM(2018) 269 final)

(2019/C 62/24)

Rapporteur: **Michael McLOUGHLIN**

Co-rapporteur: **Adam ROGALEWSKI**

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(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the EU Youth Strategy for 2019–2027 (hereafter Strategy) and in particular the creation of the EU Youth Coordinator as a part of it.

1.2. The Committee believes that, being cross-sectoral in its nature, the Strategy should be more connected with existing EU programmes, such Erasmus+, the Youth Guarantee and the European Solidarity Corps.

1.3. The EESC believes that, for the Strategy to deliver, it should focus on the three following objectives:

- The cross sectoral approach, taking a holistic view of young people and their needs and rights;
- The new EU Youth Coordinator should primarily lead on cross-sectoral work and be a senior position;
- The EU Youth policy should be included in the European Semester process to focus more on delivery, particularly in cross-sectoral areas.

1.4. The EESC believes that the scope of the Strategy should be extended by action aiming at protecting, supporting and equipping young people with rights, knowledge and skills to face global challenges such as digitalisation, climate change and the rise of populism.

1.5. The EESC recommends that the Strategy have high-level aspirations for cross-sectoral work regarding other relevant EU policy areas including employment, education, health, migration and equality.

1.6. The Committee recommends that the Strategy pays more attention to employment issues affecting young people, particularly in terms of the discussion on the future of work as well as other social issues such as mental health, equality and education.

1.7. While agreeing with the Commission that the Strategy should promote democracy, the EESC believes that it should also promote a broader civic engagement, including voting, volunteering, youth-led NGOs, workplace democracy and social dialogue.

1.8. The Committee is convinced that youth involvement in decision-making processes should be promoted beyond one-off events. Moreover, in further developing the Youth Dialogue, the role of youth voluntary organisations and National Youth Councils needs to be improved and additional avenues utilised. The EU institutions should take the lead in this regard, with the EESC being at the forefront of institutions enhancing youth involvement at EU level.

1.9. Increased spending on youth work along with long-term investments in public services need to be encouraged, especially where there have been cuts in public services.

1.10. The Strategy needs to reflect a rights-based approach, for example drawing on the UN Convention on the Rights of the Child where relevant.

1.11. The Strategy needs to give more attention to young women and girls, young LGBTIQ+, young people with disabilities and young migrants and refugees.

1.12. Greater upward convergence should be required amongst Member States in relation to youth policy, and national plans covering similar areas should be required to facilitate this. The Indicators process, which began in the last strategy, needs to be strengthened to achieve this.

1.13. The EESC suggests that the EU Youth Portal should use as many online tools as possible with reference to current youth engagement.

1.14. While welcoming the specific, new EU Youth Strategy, the EESC strongly recommends youth mainstreaming throughout the work of all the different directorates-general (DGs) of the European Commission.

2. Background

2.1. The proposed Strategy is the third framework proposed by the EU focusing on the young population in Europe. The new Strategy focuses on three areas of action: Engage, Connect and Empower, as opposed to the eight fields of actions in the EU 2010-2018 Youth Strategy: employment and entrepreneurship, social inclusion, participation, education and training, health and well-being, voluntary activities, youth and the world, creativity and culture.

2.2. The most important changes in the new Strategy comprise: creation of the EU Youth Coordinator, replacing the Youth Structured Dialogue with the EU Youth Dialogue, and the dilution of a series of previous objectives into cross-sectoral trends which aim at opening channels of communication between young people and policy makers.

2.3. As in the previous strategies, the Youth Guarantee is not included in the Strategy and is a part of the European Social Fund +.

2.4. In the field of the Strategy many initiatives exist at both national and EU level. Considerable work is done under Erasmus+, the Youth Guarantee, the Youth Employment Initiative and the European Social Fund. Other relevant areas referred to are the Agenda for Skills and the European Solidarity Corps. At the same time, other policies have a major impact on young people in what is referred to as cross-sectoral areas (for example transport, social affairs, health, external action and agriculture). In addition, Member States all have their own approaches to youth policies and to other issues impacting on young people.

2.5. Youth issues are embedded within the European Pillar of Social Rights, the UN 2030 Agenda for Sustainable Development and its Sustainable Development Goals and others.

2.6. The EESC has already adopted many opinions related to youth issues, such as the opinions on the Youth Employment Initiative ⁽¹⁾, the Youth Guarantee ⁽²⁾, the European Solidarity Corps ⁽³⁾ or more recently on an EU framework for quality and effective apprenticeships ⁽⁴⁾. It has also assessed, from a civil society perspective, the implementation of EU policies for youth employment in a selection of six Member States, and mainly of the Youth Guarantee.

⁽¹⁾ OJ C 268, 14.8.2015, p. 40.

⁽²⁾ OJ C 271, 19.9.2013, p. 101.

⁽³⁾ OJ C 81, 2.3.2018, p. 160.

⁽⁴⁾ OJ C 262, 25.7.2018, p. 41.

2.7. In the EESC's youth-led hearing organised for this opinion huge uncertainty was expressed by young people. They felt a lot of pressure and little acceptance of those who take a different path or those who leave school early. Some young people spoke of having to start thinking about pensions as teenagers. The transition to work remains a challenge and there was dissatisfaction about discrimination against young people in terms of pay when doing the same work, simply based on age. Housing and transport were critical issues too, along with digitalisation and problems with recognition and validation of skills gained through non-formal learning.

3. General comments

3.1. The EESC welcomes the Strategy. It believes that it should be a comprehensive plan that leads to effective desired results and provides added value for young people, adding up to more than the sum of its parts and being more effective than a collection of different actions. The EESC believes the Strategy should be more connected with existing EU programmes such as Erasmus+, the Youth Guarantee or the European Solidarity Corps.

3.2. The notion of a holistic approach to policy issues has gained ground in recent times and is common at the EU and Member State level. This is welcome, as it recognises that social problems may not always fit into neat administrative categories. However, breaking down the traditional departmental roles, budgets and cultures is immensely challenging and there is a need to ensure that a holistic approach does not become some sort of panacea when an issue is too difficult, or policy-makers simply do want to take other options.

3.3. The EESC considers that implementation of EU youth policy should be more visible and sustainable at EU and Member State level if it is to be properly evaluated, for instance within the European Semester and Social Scoreboard.

3.4. Overall the proposed Strategy needs to have a more rights-based approach. This is an important area, as the UN Convention on the Rights of the Child (which does not of course cover all those in the youth category) is designed this way and provides for regular reviews of states' performances using agreed metrics. The proposals are strong on the nature of youth work itself and the role of the voluntary sector; this is of critical importance, as there are new, more instrumentalist approaches to 'work with young people', evident internationally.

3.5. The EESC believes that the Strategy should aim to promote real upward convergence between Member States in the field of youth policies. This is particularly the case, as considerable EU funding (e.g. Erasmus) is provided for all Member States. In other areas of EU funding there is a co-financing approach which promotes convergence and a greater EU-wide common approach. The Committee believes there is much to be learnt here for the Strategy.

3.6. While agreeing with the Commission about the crucial role of youth workers and their unique benefits to young people in their transition to adulthood, the EESC stresses that the quality of youth work largely depends on the financing of public services. In some Member States, due to cuts in the public sector and pay freezes, not only has the quality of the work of youth workers deteriorated, but there are also many unfilled vacancies in this sector. Therefore, the EESC calls for more investment in public services.

3.7. Notwithstanding this, the Commission rightly points out that Member States must dedicate their own resources to youth policies. In this regard, the proposals on tracking funding are most encouraging but need to encompass the work of Member States and other cross-sectoral policy areas. The EESC believes that tracking should be conducted with the involvement of social partners and civil society organisations at all levels.

3.8. The Committee agrees with the Commission that there is a need for Member States to explore innovative and alternative forms of democratic participation. However, the EESC strongly believes that more support, including financial support, is needed for existing ways of societal engagement such as volunteering, youth councils, participation in civil society organisations, trade unions or works councils. Young people being the future of Europe, they should be encouraged to participate in local and European elections as well as to be active in all forms of civic and political engagement.

3.9. The EESC believes that, within the scope of the Strategy that focuses on three areas of action: ENGAGE, CONNECT, EMPOWER, the last action should be extended by tasks aiming to protect and support young people and equip them with skills to face global challenges such as digitalisation, climate change and growing populism. Since one of the EU's priorities is to 'protect' its citizens, the Committee believes that young people, similarly to the adult population, should also be included in this priority. Young people should also benefit from the concept of 'digital justice' promoted by the EESC ⁽⁵⁾, which aims to protect European citizens from the negative aspects of the digital revolution or within the wider framework of the 'just transition' endorsed by the ILO.

Young People and the world of work

3.10. Although the Strategy should be clear and not include numerous objectives, the Committee believes that the current Strategy should dedicate more attention to social and employment issues affecting young people, particularly in terms of the discussion on the future of work. These include, inter alia, digitalisation, platforms, fragmentation and casualisation of the labour market, which are particularly affecting young people.

3.11. Working and studying becomes a daily routine for many young people. For this reason, the EESC believes that future EU youth policies should promote workplace democracy by, inter alia, promoting social dialogue and protecting the employment rights of young people. Young people on the labour market should be treated in the same way as the adult population, particularly in terms of receiving the same minimum wage ⁽⁶⁾, access to pensions and protection against precarious employment contracts (zero hours) as well as unpaid traineeships or bogus self-employment. The voice of young people should also be heard in society and in their workplaces. Moreover, young people's participation in workplace representative structures (trade unions and works councils) should be more strongly encouraged, as is the case in some countries, which have special youth representative councils in workplaces.

3.12. Some young people are also parents and EU policies, such as a new directive on work-life balance, are relevant for young people combining work with education and looking after their relatives. Due to the digitalisation of workplaces, young people will undoubtedly be in a different employment situation than their parents. The EESC suggests that more attention should be given to social and employment policies in the Strategy, given the importance of labour market policies for the lives of the young generations.

3.13. The labour market is of particular importance because in many countries young people were those most affected by unemployment in the years following the economic crisis of 2008. Although the unemployment rate among young people decreased, the number of young people without jobs was almost double the number of those in work ⁽⁷⁾. In many instances recently created jobs are of lower quality or give lower access to permanent, full-time employment contracts than those before the crisis (e.g. temporary contracts, zero hours contracts).

Young People's Education and Health

3.14. The Strategy aims to make the voice of unrepresented youth heard by politicians. In order to achieve this, further action is needed to get the young people who are further from the labour market and the educational system integrated into society. Despite a slight improvement in the number of young people not in education, employment or training (NEET), 10,9 % of people aged 15-24 and 17,7 % of youth between 25-29 years were still trapped in this situation in 2017. The improvement of skills and competences has a positive impact on the employability of young people, yet this factor alone is not going to determine the growth of employment. Such disengagement has a significant impact on young people's lives and aspirations, as it can lead to poverty and social exclusion. Also, public authorities bear a cost for not getting the NEET population into education or employment, which is estimated by Eurofound (2012, 2014) at 1,2 % of national GDP. The NEET population is also more likely to be supportive of extremist and xenophobic ideologies.

3.15. Article 4 of the European Pillar of Social Rights on active support to employment states that: 'Young people have the right to continued education, apprenticeship, traineeship or a job offer of good standing within 4 months of becoming unemployed or leaving education. The Youth Strategy should contribute to the realisation of this principle, especially in promoting the building up of civil society and social partner alliances for the design and follow up of the different policies undertaken in this regard. Special attention should be given to outreach strategies for getting those young people who are further from the labour market back into employment or education.'

⁽⁵⁾ OJ C 237, 6.7.2018, p. 1.

⁽⁶⁾ OJ C 125, 21.4.2017, p. 10.

⁽⁷⁾ OJ C 125, 21.4.2017, p. 10.

3.16. The European Youth Strategy should therefore deploy a pan-European strategy to reach out to these groups. Close cooperation among national authorities, European social partners, national youth councils and the youth sector is key to the success of this endeavour.

3.17. Young people generally spend a large amount of their time in full- or part-time education and this is another area where there are limited competences at the EU level, other than ensuring that 'everyone has the right to quality and inclusive education, training and life-long learning in order to maintain and acquire skills that enable them to participate fully in society and manage successfully transitions in the labour market', as stated in the first principle of the European Pillar of Social Rights. Again this is an area that was covered by a dedicated pillar of the previous Strategy.

3.18. The area of young people's mental health is central to youth work and to any professional interaction with young people. Generally, health is a competence of the Member State, but mental health is an aspect of public health, where the EU has competence, so it should be prominent in the cross-sectoral work envisaged under the Strategy. Therefore special attention needs to be paid to issues such as anxiety, depression and suicide rates among young people.

3.19. There are more and more examples of best-practice working with young people at Member State level. Similarly, youth work has been shown to have a positive impact on young people's mental health. The EESC believes that the area of young people's mental health needs more attention in the Strategy.

3.20. Similarly, many national policies focus on young people's physical health. There are a number of issues of concern in this field. Increasingly childhood and youth obesity is seen as a cause for concern, as well as substance misuse and legal highs. Although Member States may still take quite divergent approaches, a cross-sectoral approach to young people's issues cannot ignore these issues and needs to engage with them, based on the relevant powers of the EU. These areas were dedicated pillars of the previous Strategy and it is important that a strong focus is maintained on them in cross-sectoral work.

Equality

3.21. There is a strong link between youth work, youth policy and equality. There has been considerable action by the EU in this field and all Member States have legislation in place. Nonetheless, there are still many instances of discrimination that young people encounter, such as in housing, and services that they rely on more than others such as public transport. Equality laws can often be more focussed on older people. There are nine universal grounds outlawing discrimination in EU Member States. We need to ensure that young people subject to this type of discrimination are adequately covered by the EU Youth Strategy. While there are a number of groups, we would highlight the following, which are in need of greater attention in the document.

- young people with disabilities
- young migrants and refugees
- young women and girls
- young LGBTIQ+.

3.22. Many EU policies relating to young people have recently been focused on radicalisation. However, integration needs to be part of a broader range of measures offered to young people and this needs to be emphasised in the Strategy. It also fits naturally into youth employment programmes.

4. Specific comments

4.1. The EESC welcomes the creation of a new position of EU Youth Coordinator, who should hear young voices and influence the cross sectoral dimension of youth policy. The emphasis should be on the latter. The coordinator should also encourage and facilitate a similar process at Member State level and thus should join any Commission presence at Council meetings.

4.2. The proposals for National Action Plans in the field of youth are also very welcome. There is a need for clear targets, monitoring and progression in supporting young people. The EESC strongly endorses the Commission's thinking that greater linkage is needed between funding and National Action Plans.

4.3. The move from a Structured Dialogue to a more inclusive Youth Dialogue is most welcome. However, more inclusion is needed, which could be achieved by broadening the type and nature of organisations involved and adding further groups. Youth voluntary organisations and National Youth Councils should still be central to this work as they are close to young people and have immense experience.

4.4. Consolidating the European Youth Portal as a digital single entry point for young people to engage with the EU is welcome, but special attention should be given to the availability of this portal through free internet connection and access to computers, especially for disadvantaged youth groups in the Member States. The Commission also needs to keep track of the constant movement in social media platforms amongst young people.

4.5. The proposals indicate that young people have an advantage as regards technological change. However, it should also be noted that there are digitally excluded young people too. Those working with young people also need to be aware of both the positives and the negatives (e.g. mental health issues and fake news challenges) of young people's technological engagement.

4.6. While mobility is a core European value and central to the youth programmes, it can have downsides, particularly in countries where there is emigration, population decline or a 'brain drain' or 'work force drain'. However there may be potential to ameliorate this issue availing of the new migrant and refugee population in Europe.

4.7. The EESC considers the Commission's proposals on validation of informal and non-formal learning valuable. It would be encouraging to see some developed templates in the youth field and elsewhere.

4.8. Fortunately there are now more youth events involving the EU institutions, so that an evaluation of them all would be worthwhile. It should also be checked whether greater synergy could be achieved among them. The structured dialogue has the advantage of being ongoing rather than one-off. Ongoing involvement of young people in decisions which affect them should be the priority and it is important that this happens in all policy areas, not just youth policy. Institutions carrying out one-off events should move towards ongoing involvement of young people in their work.

4.9. The Committee believes that a strong role for independent youth information is important in an era of fake news and excessive reliance on online tools. The relationship with trusted adults should remain a key feature of youth work and youth policy.

4.10. In the view of the EESC, the Strategy, along with other policies aimed at the young generation, should be an important tool to tackle anti-European sentiments and populism among the young population.

4.11. While welcoming the specific, new EU Youth Strategy, the EESC strongly recommends youth mainstreaming throughout the work of all the different directorates-general (DGs) of the European Commission.

Brussels, 18 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A New European Agenda for Culture’

(COM(2018) 267 final))

(2019/C 62/25)

Rapporteur: **Antonello PEZZINI**

Referral	European Commission, 18.6.2018
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Adopted at plenary	17.10.2018
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Outcome of vote	182/1/0
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC holds the view that Europe is a cultural community based on shared values and that the **social market economy** is a hallmark of the European way of life, one that combines economic freedom with social rights and the principles of respect for the person.

1.2. The EESC considers it vital to consolidate and develop the EU cultural dimension based on the common values enshrined in the Treaties, as a key factor in the integration process and the cornerstone of the cultural identity of Europe as it seeks to build an inclusive, pluralist, cohesive and competitive society.

1.2.1. According to the EESC, only by strengthening the sense of belonging in Europe and a common cultural identity will it be possible to promote European construction and cultural and linguistic diversity.

1.2.2. Europe’s tangible and intangible cultural heritage is, in the EESC’s view, the cement that holds the peoples of Europe together, representing a very strong bond in terms of identity and a valuable strategic resource for social cohesion.

1.3. Precisely because of the political and identity crisis currently assailing Europe ⁽¹⁾, the EESC thinks that it is extremely important to restore culture’s key role in transmitting links with identity and giving meaning to the common values enshrined in the Treaties.

1.4. Whilst welcoming the initiative to position culture at the heart of the Agenda, the EESC calls for the launch of the Agenda to provide an opportunity to reflect on the vision of a **New European Renaissance** aimed at creating a European Cultural Area (ECA) ⁽²⁾ founded on many common values, including solidarity, trust and shared responsibility.

1.5. A revitalised European Agenda for Culture must, in the opinion of the EESC, be based on a shared strategic vision comprising the following in order to bring about the ECA:

- common values of identity and on freedom and solidarity;
- pivotal principles of freedom of movement, establishment and provision regarding persons, goods and services operating in the cultural sphere in Europe;

⁽¹⁾ As can be seen from the widespread populist and sovereignist movements and aspects.

⁽²⁾ Along the lines of, and in support of, the European Research Area (ERA).

- schemes for managing and planning initiatives focusing on the cultural heritage;
- **practical measures to restore and preserve the vast artistic heritage, bringing European culture to life for future generations** ⁽³⁾;
- making full use of European culture in international relations;
- more robust governance of European policies, giving greater scope to those who produce and shape culture in its expressive forms and in the cultural and creative industries;
- support for bringing together small creative enterprises, particularly those with social objectives;
- cultural synergies and exchanges, as these contribute to sharing European society's myriad forms of expression.

1.6. **On the cultural supply side**, initiatives must be clear and readily accessible to recipients, making use of new channels of multilingual communication so that the European Cultural Area is in practice the heritage of everyone.

1.7. **On the cultural demand side**, the Committee believes it is essential for action to be geared directly to the end users of culture, so as to increase the level of participation in the development of a European value-based identity, through initiatives such as a **'cultural citizenship Erasmus'** and the launch of a **European Cultural Charter** for the people of Europe.

1.8. The EESC firmly believes that it can play a proactive role in a structured cultural dialogue, to strengthen democratic citizenship, cultural identity and the sharing of multiple creative expressions of society, including through joint initiatives, such as the launch of a European Week of Culture, European Cultural Nights, and the nomination of European Ambassadors for Culture.

1.9. The Committee is committed to monitoring the data in the roadmap for the new Agenda and to completing the ECA, based on regular reports to be submitted by the Commission.

2. Introduction

2.1. Culture lies at the heart of the European project and is the foundation of the European Union's 'unity in diversity'. It represents an essential component of communal life and, as an indispensable element of our behaviour in society and the day-to-day expression of our citizenship, a value that can enrich our humanity.

2.2. Culture therefore represents the ideal strategic resource for social cohesion and intercultural dialogue and a major opportunity to enhance Europe's common history, with the immense wealth inherent in the cultural diversity of Europe's regions and its shared tangible and intangible heritage.

2.3. The Treaty of Lisbon attaches great importance to culture: in the Preamble to this Treaty on European Union, it explicitly refers to the wish to draw inspiration from **'the cultural, religious and humanist inheritance of Europe'**, with objectives prioritising, for example, the commitment to respect 'its rich cultural and linguistic diversity, and [...] ensure that Europe's cultural heritage is safeguarded and enhanced'.

2.3.1. Many of these values, underpinning European society, are highlighted in the Treaty: 'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights[...]. These values — now an integral part of European culture — are coming to the fore and must continue to gain prominence in a society defined by pluralism, non-discrimination, tolerance, justice and solidarity.'

2.3.2. The Charter of Fundamental Rights, an integral component of the Treaty, brings together, highlights and summarises a wealth of values, some of which are already referred to in the Treaty.

2.3.3. The EU's initiative is thus designed to encourage cooperation between Member States so that their specific competence in the field of cultural policy increasingly takes as its reference the common values to which they have subscribed, **weaving them into the fabric** of social relations.

⁽³⁾ Cf. Specialist restoration services: www.opencare.it

2.3.4. Human behaviour, in social relations and day-to-day interactions, follows models that have been pre-established in the individual intellect ⁽⁴⁾. However, these models are acquired through instruction ⁽⁵⁾ and teaching ⁽⁶⁾, and are enhanced by developing relations with the world around us.

2.3.5. Hence the importance of disseminating and emphasising values which are the common basis of European civilisation. This is particularly important as regards young people, from pre-adolescence onwards, for the consolidation of the **'mirror neurons'** simulating action, sensations and emotions observed in others ⁽⁷⁾.

2.4. The concept of culture ⁽⁸⁾ is by definition dynamic and therefore calls for a series of initiatives to be developed by European and national policies, through education and by example. The values listed above, taken up by the Treaty, do not spring up spontaneously but are rather the fruit of social reflections and experiences, determining peaceful cohabitation and gradually gaining people's trust. They must be the subject of **educational processes and social interaction**, addressed above all to the younger generations so that they can subscribe to and share society's ethical values.

2.5. Over and above its value in terms of society and identity, culture is gaining recognition as a strategic economic driver in increasing Europe's per capita wealth, welfare and overall GDP, not to mention its role in international relations.

2.6. It is estimated that the cultural and creative sectors contribute 4,2 % to the EU's GDP, accounting for a 1,5 % increase in jobs growth. In absolute terms, culture generated EUR 89,9 billion in 2016 — the equivalent of a 1,8 % increase on 2015 — bringing in, thanks to its knock-on effect on ancillary sectors, more than EUR 250 billion and providing jobs for 1.5 million people ⁽⁹⁾.

2.7. Cultural participation is an essential aspect of the EU's efforts, but with the economic and financial crisis that beset Europe in 2008, subsequently spreading to the social and political arenas, this has declined in all European countries, especially those of southern Europe ⁽¹⁰⁾.

2.8. Under the 2007 European Agenda for Culture ⁽¹¹⁾, the EU and Member States pledged to:

- promote cultural diversity;
- preserve the cultural heritage;
- overcome obstacles to the free movement of professionals in the sector;
- support the contribution of cultural and creative industries.

2.8.1. In terms of European cooperation, the EU Work Plan for Culture (2015-2018) established four main priorities for cooperation in the area of cultural policies:

- culture that is accessible and open to all;
- safeguarding and enhancement of cultural heritage;
- support for cultural and creative sectors in an innovative economy;
- promotion of cultural diversity.

2.9. The European Parliament has adopted a number of resolutions ⁽¹²⁾ and recommendations on equal access to cultural services, on culture in the EU's external relations and mobility, and on the cultural and creative industries.

⁽⁴⁾ Nihil est in intellectu quod prius non fuerit in sensu (J. Locke).

⁽⁵⁾ From the Latin 'instruere', to prepare, to build.

⁽⁶⁾ Imprinting signs and models.

⁽⁷⁾ Cf. Neuroscience findings illustrating the mimicking of actions and the imitation of models.

⁽⁸⁾ From the Latin 'colere', to cultivate.

⁽⁹⁾ Source: Eurostat.

⁽¹⁰⁾ Report on Cultural access and participation http://ec.europa.eu/public_opinion/archives/ebs/ebs_399_en.pdf

⁽¹¹⁾ See OJ C 287, 29.11.2007.

⁽¹²⁾ See OJ C 377 E, 7.12.2012, p. 142; OJ C 93, 9.3.2016, p. 95, texts P8_TA(2016)0486.

2.10. At its meeting of 23 May 2018, the European Council adopted conclusions on mainstreaming cultural heritage into the other EU policies as well, and on strengthening dialogue with civil society organisations.

2.11. For its part, the EESC has on several occasions expressed its views on promoting the cultural and creative sectors and its support for a strategy for international cultural relations⁽¹³⁾, including the contribution of rural areas to Europe's cultural heritage⁽¹⁴⁾.

3. The proposals in the new Agenda

3.1. The main elements of the new Agenda proposed by the Commission can be summed up as follows:

- promoting cultural participation, professional mobility and protection of the heritage, harnessing the power of culture and cultural diversity for social cohesion and well-being;
- promoting the arts and culture in education;
- strengthening international cultural relations;
- strengthening links with industrial policy;
- making the most of the role of culture in reinforcing European identity;
- engaging in close cooperation with the Member States and civil society.

3.2. The key dimensions proposed can be summarised as follows:

3.2.1. *Social dimension*: harnessing the power of culture and cultural diversity for social cohesion and well-being.

3.2.2. *Economic dimension*: supporting cultural creativity in education and innovation, growth through new jobs and the development of cultural industries and skills⁽¹⁵⁾;

3.2.3. *External dimension strengthening international cultural relations*: supporting culture in the Enlargement countries and the Western Balkans, in the Mediterranean countries and through ACP Development Fund activities⁽¹⁶⁾.

3.2.4. *Cross-cutting dimension*: 'European Year of Cultural Heritage' and 'European Capitals of Culture' initiatives, new European Action Plan for Cultural Heritage 2019-2022, development of Digital4Culture, online directory of European films and support for digital transformation.

3.3. Strategic cooperation under the new Agenda will be supported by Creative Europe and other EU programmes.

4. General comments

4.1. The EESC considers the consolidation and development of an EU cultural dimension based on the common values enshrined in the Treaties a vital way of consolidating the sense of being a part of the process of creating an inclusive, cohesive and competitive society.

4.2. Europe's tangible and intangible cultural heritage is the *cement* that holds the peoples of Europe together, forming a very strong bond in terms of identity particularly at times when European identity and solidarity are in crisis.

4.3. The EESC believes that, precisely because of the political, identity and governance currently affecting Europe, it would make sense to restore European culture's role in transmitting values associated with identity, including through enhanced European training courses.

⁽¹³⁾ OJ C 288, 31.8.2017, p. 120.

⁽¹⁴⁾ NAT/738 (OJ C 440, 6.12.2018, p. 22).

⁽¹⁵⁾ Particularly with the P.I.S.A conversion of STEM (Science, Technology, Engineering and Mathematics) to STEAM (Science, Technology, Engineering, Arts and Mathematics) and in the digital field.

⁽¹⁶⁾ Africa, the Caribbean and the Pacific.

4.4. The process of incorporating values must be the launchpad for a quantum leap in a New Agenda for Culture and give rise to a fully-fledged European Cultural Area — ECA ⁽¹⁷⁾ — based on shared values, along the lines of and in tandem with the European Research Area.

4.5. The new ECA should comprise the following, accompanied by a timeframe:

4.5.1. Bolstering European cultural policies and instruments to support and disseminate identity values, based on the sense of belonging to a shared set of values.

4.5.2. Full roll-out of freedom of movement, of establishment and of the right to provide a service, across the whole of Europe, for individuals and firms operating in the cultural sphere.

4.5.3. An 'economy of culture' centred on socially inclusive systems, promoting new models for preserving and restoring the cultural heritage and developing the creative industries, including through new types of business with a strong social value.

4.5.4. The promotion of European culture in international relations as a tool for revitalising cultural diplomacy, as a 'soft power' mechanism in Europe's external relations and as an economic multiplier in international trade, capable of transforming artists/creators into **'European Cultural Ambassadors'**.

4.5.5. Bottom-up mechanisms, giving greater scope for all those who directly produce, create and shape culture, in the arts and in the cultural and creative industries;

4.6. In the Committee's view, common challenges need to be addressed by creating a fully-fledged 'cultural internal market' promoting:

- mobility of artists, services and cultural enterprises
- mobility of works of art
- cooperation through transnational projects
- inter-cultural dialogue
- targeted measures to enhance European cultural identity
- measures to restore and preserve the Europe's vast artistic heritage, with strands dedicated to multimedia R&I ⁽¹⁸⁾ and to sustainability
- greater creative independence
- the development of a humanistic digital culture capable of scaling back the manipulative domain of fake news algorithms and online disinformation.

4.7. In the Committee's view, it is crucial to promote — especially among young people, through education — the firm belief that cultural diversity and the multiplicity of art forms represent essential elements of human development and fundamental freedoms, and that cultural exchange helps to strengthen democratic citizenship.

4.8. The EESC emphasises the need for the new European Agenda for Culture — as part of a new, strategic vision that is shared and enriched — to be incorporated into and embedded in the next EU Multiannual Financial Framework.

4.9. In the view of the EESC, the beneficiaries of regulatory, structural and financial support programmes and measures must have access to clear and transparent information about them on social networks.

4.10. In the same vein, the Committee considers it essential to undertake action directly targeted at the final beneficiaries of European cultural policy to increase participation levels, as these have been severely affected by the economic and financial crisis, which then spread to the social sphere.

⁽¹⁷⁾ See also Council of Europe — Framework Convention on the Value of Cultural Heritage for Society (CETS No 199) 18/03/08 Faro, 27 October 2005.

⁽¹⁸⁾ See footnote 14.

4.10.1. The EESC thinks the launch of a **citizenship Erasmus** to boost cultural tourism in the EU and a **European Cultural Charter**, with easier access to Europe's cultural treasures — together with the launch of **European Cultural Weeks and Nights** — could be useful initiatives, particularly for the younger generations.

5. Specific comments

5.1. A **digital user guide**, with a user-friendly website that is updated in real time and is available in all EU languages, should ensure that the many EU instruments now available can be accessed. An initial list of examples includes:

- **DCI II**, development cooperation instrument ⁽¹⁹⁾
- **Interreg Med Programme** ⁽²⁰⁾ and **Med Culture Programme** (2014-18) ⁽²¹⁾
- **ENI**, the European neighbourhood instrument, formerly ENPI ⁽²²⁾
- **IPA II** (2014-20) ⁽²³⁾
- **Natura 2020 Network** ⁽²⁴⁾
- **Natura 2000 Action Plan for nature, people and the economy** ⁽²⁵⁾
- **LIFE** (2014-20) ⁽²⁶⁾
- **the Structural Funds** ⁽²⁷⁾
- **EMODnet, Phase III**, marine observation and data network on underwater sites ⁽²⁸⁾
- **EU's Blue Growth** strategy in the marine, transport and tourism sectors ⁽²⁹⁾
- **Leader plus**, upgrading of the rural and cultural heritage ⁽³⁰⁾
- **Europe for Citizens** (2014-20), for the history and diversity of the EU ⁽³¹⁾
- **State aid** in the area of cultural and heritage conservation ⁽³²⁾
- **the illicit trafficking of cultural goods** ⁽³³⁾
- **Copernicus** (former GMES), satellite information for monitoring the cultural heritage ⁽³⁴⁾
- **EDEN** (*European Destinations of Excellence*)
- **COSME**, funding initiatives in support of culture and tourism ⁽³⁵⁾
- **Cultural Routes of the Council of Europe** and the European Commission;

⁽¹⁹⁾ Regulation (EU) No 233/2014 (OJ L 77, 15.3.2014, p. 44).

⁽²⁰⁾ Interreg Med Programme.

⁽²¹⁾ Med Culture Programme.

⁽²²⁾ Regulations (EU) No 232/2014 (OJ L 77, 15.3.2014, p. 27) and (EU) No 236/2014 (OJ L 77, 15.3.2014, p. 95).

⁽²³⁾ Regulation (EU) No 231/2014 (OJ L 77, 15.3.2014, p. 11).

⁽²⁴⁾ Habitat Directive 92/43/EEC (OJ L 206, 22.7.1992, p. 7) and Birds Directive 2009/147/EC (OJ L 20, 26.1.2010, p. 7).

⁽²⁵⁾ COM(2017) 198 final.

⁽²⁶⁾ Regulation (EU) No 1293/2013 (OJ L 347, 20.12.2013, p. 185).

⁽²⁷⁾ The five Funds: ERDF, ESF, Cohesion, EAFRD and EMFF.

⁽²⁸⁾ Decision (EU) 2017/848 (OJ L 125, 18.5.2017, p. 43).

⁽²⁹⁾ EP Resolution of 2 July 2013 (2012/2297(INI)) (OJ C 75, 26.2.2016, p. 24).

⁽³⁰⁾ Regulation (EU) No 1305/2013 (OJ L 347, 20.12.2013, p. 487).

⁽³¹⁾ Regulation (EU) No 390/2014 (OJ L 115, 17.4.2014, p. 3).

⁽³²⁾ Regulations (EU) No 651/2014 (OJ L 187, 26.6.2014, p. 1) and (EU) No 2015/1588 (OJ L 248, 24.9.2015, p. 1).

⁽³³⁾ Fight against trafficking of cultural goods.

⁽³⁴⁾ Regulation (EU) No 377/2014 (OJ L 122, 24.4.2014, p. 44).

⁽³⁵⁾ Regulation (EU) No 1287/2013 (OJ L 347, 20.12.2013, p. 33).

- **C3 Monitor**, monitoring and comparing **Cultural Vibrancy**, the **Creative Economy** and the **Enabling Environment** in some 170 cultural and creative cities in 30 European countries
- public-private partnership (PPP) in the area of **energy efficiency of historic buildings**
- cultural heritage for sustainable development under **Horizon 2020**
- **Europeana** digital platform with more than 50 million digitised items, including books, music and works of art, using advanced research methods
- **Digital Agenda** for the study of European film heritage ⁽³⁶⁾
- **investments in cultural heritage**, made possible thanks to the rules on cohesion policy ⁽³⁷⁾
- **Erasmus+** ⁽³⁸⁾
- **European Heritage Label**, conferring recognition on sites in the European Union ⁽³⁹⁾
- **Creative Europe** programme (2014-20) with: a media component dedicated to the audiovisual sector (**Media sub-programme**); a cultural component dedicated to the creative and cultural sectors (**Culture sub-programme**); and a cross-sectoral component dedicated to all creative and cultural sectors (**Cross-sectoral strand**) ⁽⁴⁰⁾.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽³⁶⁾ COM(2010) 487 final and COM(2014) 477 final.

⁽³⁷⁾ OJ L 347, 20.12.2013.

⁽³⁸⁾ Regulation (EU) No 1288/2013 (OJ L 347, 20.12.2013, p. 50).

⁽³⁹⁾ Decision No 1194/2011/EU (OJ L 303, 22.11.2011, p. 1).

⁽⁴⁰⁾ Regulation (EU) No 1295/2013 (OJ L 347, 20.12.2013, p. 221).

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee Strengthening whistleblower protection at EU level’

(COM(2018) 214 *final*)

and on ‘Proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law’

(COM(2018) 218 *final*)

(2019/C 62/26)

Rapporteur: **Franca SALIS-MADINIER**

Consultation	European Parliament, 28.5.2018 Council of the European Union, 29.5.2018 European Commission, 18.6.2018
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Adopted at plenary	18.10.2018
Plenary session No	538
Outcome of vote	158/77/15
(for/against/abstentions)	

1. Conclusions and recommendations

1.1 The EESC considers that whistleblower protection apart from protecting whistleblowers, is an important tool to help companies to better address unlawful and unethical acts.

1.2 The EESC appreciates that some companies have introduced procedures aimed at protecting whistleblowers and that 10 out of 28 Member States have already in place comprehensive frameworks to cover whistleblower protection.

1.3 The EESC considers that the directive's scope should be assessed on the basis of the evaluation of its implementation, and that it should be broad enough to safeguard the general interest.

1.4 The EESC calls on the Commission to review the legal basis for the directive so as to include workers' rights under Article 153 of the Treaty on the Functioning of the EU (TFEU).

1.5 Former employees, trade union representatives and legal persons as defined in article 3 are able to report wrongdoing and benefit from the same protection; they must be clearly listed in Article 2 of the directive.

1.6 The Committee recommends (Article 13) a two-stage reporting procedure initially giving the whistleblower access to internal channels or to the competent authorities (whichever is preferred); and subsequently, if necessary, to civil society/the media, in the interests of fairness and legal certainty.

1.7 The EESC recommends that at any stage of the reporting process whistleblowers have access to trade union representatives, who should be empowered to represent them and to provide advice and support.

1.8 The directive should more clearly encourage the negotiation of internal reporting channels with trade union representatives, in the context of the social dialogue, as called for in the 2014 Council of Europe recommendation and the 2017 European Parliament report.

1.9 The Committee recommends that a whistleblower who initially acted anonymously and whose identity is subsequently revealed should benefit from the protection afforded by the directive.

1.10 The EESC recommends that the text of Article 15(5) relating to the *prima facie* burden of proof be amended. It is sufficient that the whistleblower 'provides evidence that he or she made a report'.

1.11 The EESC recommends that, under Article 15(6), compensation should not be referred to national law (variable), and that the directive should provide for full compensation for damages, without any ceiling, on the model of the United Kingdom legislation.

1.12 The EESC calls for the deletion of Article 17(2), which is superfluous (penalties for defamation and false accusation already being provided for in national law).

1.13 The EESC calls on the Commission to include an explicit non-regression clause in Article 19, in order to ensure that implementation of the directive in no way diminishes more favourable rights granted to whistleblowers prior to this directive in the Member States and in those areas to which the directive applies.

1.14 The EESC recommends that the publication of periodic reports by public bodies and the Member States be made mandatory.

1.15 The EESC calls on the Commission to make provision in the directive for awareness-raising campaigns at European and national level, including campaigns aimed at young people, to change the public perception of whistleblowers.

2. Background

2.1 Unlawful activities and abuse of law may occur in any organisation, whether private or public. They may take a variety of forms, such as corruption or fraud, professional misconduct, tax avoidance, or negligence, and if they are not addressed they can cause serious harm to the public interest and well-being of citizens in one or more EU Member States.

2.2 Being able to anticipate, remedy or end a risk situation (death or injury, prosecution, financial loss, reputational risk) is beneficial for businesses, the public and workers. Whistleblowing, which the Commission aims to protect with this directive, is an action carried out in the public interest, which benefits society as a whole.

2.3 People working for an organisation or connected with it through their work are often the first to become aware of wrongdoing. People who report (within the organisation concerned or in communication with an external authority) or bring to light such acts — whistleblowers — can therefore play an important role in putting an end to wrongdoing. However, many people fail to act. According to international studies, the main reasons for remaining silent are: fear of retaliation, believing that speaking out is pointless and not knowing who to turn to. 85 % of respondents to the 2017 public consultation carried out by the Commission believed that workers rarely or very rarely reported threats or harm to the public interest out of fear of legal or financial consequences, but also because of a negative perception of whistleblowers. In some countries, there is still a conflation of whistleblowers with traitors or informers. However, whistleblowing is an act of courage, unlike denunciation, which is an act of cowardice.

2.4 For all these reasons, it is important to ensure effective whistleblower protection. Instruments already exist at international level as well as in different Member States. The Council of Europe, the European Parliament, the Council of the EU, as well as civil society organisations and trade unions have already called for EU-wide legislation on the protection of whistleblowers acting in the public interest. Some European companies have introduced procedures aimed at protecting whistleblowers. The Commission proposal is based on the assumption that currently whistleblower protection in the EU is inadequate, fragmented between Member States and uneven across sectors.

2.5 The Commission is therefore proposing a directive introducing whistleblower protection in targeted areas, complemented by a communication setting out a policy framework at EU level, including measures to support national authorities.

2.6 The proposal sets out common minimum standards offering protection against retaliation to whistleblowers reporting breaches of Union law in the areas of: (i) public procurement; (ii) financial services; (iii) money laundering and terrorist financing; (iv) product safety; (v) transport safety; (vi) environmental protection; (vii) nuclear safety; (viii) food and feed safety; (ix) animal health and welfare; (x) public health; (xi) consumer protection; (xii) protection of privacy and personal data and security of network and information systems.

2.7 The proposal also covers infringements of EU competition rules, violations and abuses of the rules on corporate taxation and harm to the EU's financial interests.

2.8 In accordance with the proposal, Member States will have to ensure that companies with 50 or more employees (or an annual business turnover of EUR 10 million or more) and public entities put in place internal reporting channels and procedures for receiving and following-up on reports. They will also have to ensure that competent authorities have in place external reporting channels. These channels must guarantee the confidentiality of identities and information. Small and micro-companies are exempted from the obligation to have an internal reporting channel (except in the area of financial services or in sensitive sectors).

2.9 The proposal prohibits retaliation, either direct or indirect, against whistleblowers, and sets out the measures to be taken by Member States to ensure their protection.

2.10 Finally, it provides for effective, proportionate and dissuasive sanctions which are necessary to discourage: (i) the hindering of reporting, retaliatory actions, vexatious proceedings against reporting persons and breaches of the duty of maintaining the confidentiality of their identity, and (ii) malicious and abusive whistleblowing.

3. General comments

3.1 So far, only 10 out of 28 EU Member States already have comprehensive legislation on the protection of whistleblowers. In Europe, fragmentation and loopholes in this protection are damaging to the public interest and they might hinder reporting. A whistleblower reporting cross-border offences or those committed in multinationals does not benefit from the same protection, depending on the applicable national legislation and case law.

3.2 The EESC welcomes the aim of promoting voluntary responsible whistleblowing, in the defence of the public interest.

3.3 In 2016 ⁽¹⁾, the Commission noted that applying EU law remained a challenge and called for a 'stronger focus on enforcement in order to serve the general interest'. The objective is proactive and non-reactive legislation which is a 'systemic part of enforcement of Union law'.

3.4 The EESC notes that the proposal for a directive is consistent with previous European initiatives (Council of Europe, Parliament, Commission) in terms of standards and objectives, e.g. Council of Europe Recommendation CM/Rec(2014)7 of 30 April 2014, and to a great extent complies with international standards. The proposal is complementary to existing EU sectoral arrangements (financial services, transport, environment) and with EU policies (anti-corruption, sustainable finance, fairer taxation).

3.5 In line with the principle of subsidiarity, the material scope has been limited to infringements of EU law (unlawful activities and abuse of law) and specific areas where:

1. there is a need to strengthen enforcement of the law;
2. the virtual absence of reporting of breaches is a key factor;
3. breaches may result in serious harm to the public interest.

3.6 However, the EESC believes that the relationship between EU law and national law, which could lead to disputes and difficulties in applying the principles enshrined in the directive, will need to be clarified.

3.7 The EESC underlines the positive aspect of the directive, which encourages states to put in place comprehensive, broad and consistent national laws based on the principles set out in the Council of Europe recommendation and the case law of the European Court of Human Rights (ECHR). At the same time, it would be important to ensure the smooth functioning of well-established frameworks in Member States, as far as they respect the principles of the directive.

3.8 Similarly, the reference to the adoption of more favourable provisions in the Member States is positive. However, the EESC considers it essential that a non-regression clause be added, as the directive must not abrogate or undermine more favourable national provisions.

⁽¹⁾ OJ C 18, 19.1.2017, p. 10.

3.9 Lastly, the EESC recommends that the directive should be assessed in the light of evidence that may become available in the future and on the basis of the evaluation of the implementation of the directive. It endorses the reference to a possible future extension of the material scope of the directive, in the light of such an assessment.

3.10 The EESC reiterates the importance of the implementation of this directive in the Member States with a view to the more effective operation of democracy in order to tackle present and future challenges, and the strengthening of the rule of law, freedoms and public integrity, since the freedom to tell the truth (or 'parrhesia') has been considered an essential element of democracy.

3.11 The EESC supports the creation of a European Alert Agency or a European Ombudsman, which would be responsible for coordinating national alert authorities and monitoring alert lines.

4. Specific comments

4.1 The EESC considers it unacceptable that it was not possible to consult the social partners on the proposal for the directive, as provided for in Article 154 TFEU. The Commission must not repeat this practice.

4.2 The Committee recommends that the social domain also be covered by the directive by adding Article 153 TFEU to the 16 legal citations of the directive. The EESC points out that in Article 1 (material scope), the protection of workers is omitted from the list of kinds of abuse of law which a whistleblower may report. Nor does the proposal include discrimination, harassment or violence in the workplace etc. The Committee therefore calls for these subjects to be included in the directive.

5. Personal scope

5.1 The EESC notes the very broad range of persons to whom the directive applies: any public or private-sector worker who has acquired information in a work-related context. The concept of worker is broad: any employed worker within the meaning of Article 45 TFEU or self-employed worker within the meaning of Article 49 TFEU, but also volunteers, unpaid trainees, consultants, suppliers, subcontractors, shareholders and persons belonging to the management body. This directive should contribute to reducing the risk of reputational damage that companies might face.

5.2 Former employees, trade union representatives and legal persons as defined in article 3 are able to report wrongdoing and benefit from the same protection; they must be clearly listed in Article 2 of the directive.

5.3 The EESC notes that EU officials should enjoy equal protection to employees in the Member States.

6. Reporting procedures

6.1 The EESC recommends that workers and their trade union representatives be actively involved in the design and implementation of internal reporting channels.

6.2 The EESC considers that the principle of graduated reporting (internal, competent authorities, public) is in line with the principle of responsible whistleblowing. However, the EESC believes that a whistleblower must have a free choice between access to internal channels and to the competent authorities, and therefore recommends a two- rather than three-stage procedure, in the interests of fairness and legal certainty. On the one hand, international studies, even in countries that have no requirement to use internal reporting channels (United Kingdom, Ireland), show that employees resort first to internal procedures out of loyalty; there is therefore no danger of the internal channels being bypassed on a large scale. Furthermore, where use of internal channels is required, it is difficult to provide for all the necessary exceptions. On the other hand, national laws provide for direct involvement of the authorities (e.g. for criminal offences). Finally, this obligation only applies to employees, other workers being exempt. This leads to a breach of the principle of equality and to legal uncertainty.

6.3 The EESC considers that, in the workplace, the whistleblower must be able to contact and be represented by the trade unions at any stage of the whistleblowing procedure. Trade union representatives, being close to workers, can play a key role in advice and protection.

6.4 The Committee recommends that the follow-up guarantees applicable to external reporting should also apply to internal reporting: acknowledgement of receipt of the report and feedback on the action taken.

6.5 Studies show that the most vulnerable whistleblowers, or those in possession of information that could endanger their lives or those of their families, are forced to remain anonymous. If the identity of a whistleblower who has made an anonymous report is revealed, the EESC considers that he or she should benefit from the protection afforded by the directive. Finally, the fact that a report is made anonymously must not be an excuse for not acting on it.

7. Protection of whistleblowers: burden of proof and compensation

7.1 According to the proposal for a directive, a whistleblower who is subject to retaliation must provide *prima facie* evidence that the retaliation is the consequence of the report (double test) in order to benefit from the burden of proof. However, in accordance with the principle of reversal of the burden of proof (see the directive on discrimination), it is up to the employer to prove that the retaliatory measures are not the consequence of the whistleblower's report.

7.2 The directive must provide for compensatory measures in the event of retaliation (Article 15(6)) and not refer the matter to the national legal framework which, as we have seen, varies from country to country or may even be non-existent. In order to protect whistleblowers effectively from any kind of direct or indirect penalty, the directive must provide for full compensation for damages, without any ceiling (including loss of pension contributions in the event of dismissal), on the model of the 1998 Public Interest Disclosure Act.

8. Penalties

8.1 The EESC considers that the aim of the directive is to facilitate whistleblowing and to protect whistleblowers. In this connection, Article 17(2) should be dropped, as it creates confusion between responsible whistleblowing and defamation and false accusation, which are offences already covered by national law.

9. More favourable clause and non-regression clause

9.1 The EESC welcomes the option provided by the directive for Member States to adopt legislation that is more favourable to whistleblowers' rights. However, an explicit non-regression clause must be added in order to preserve more favourable legislation and provisions already existing in some states.

10. Reporting, evaluation and review

10.1 A review of the implementation of the directive should be made mandatory, through annual reports (using anonymised data and statistics) published by public entities and the Member States to feed into the Commission report scheduled for 2027 and to keep the public informed.

Brussels, 18 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

ANNEX

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

Point 3.11

Add a new point:

3.11. The EESC recommends addressing more fully the issue of preventing downside risks for public and private enterprises concerning undue use or unlawful disclosure of sensitive information. The reputation of enterprises and organisations should be sufficiently safeguarded in the event of malicious conduct.

Reason

The reputation of any organisation is crucial for all stakeholders, not at least for the employees.

Outcome of the vote

In favour 84

Against 130

Abstentions 15

Point 4.1

Delete:

~~4.1 The EESC considers it unacceptable that it was not possible to consult the social partners on the proposal for the directive, as provided for in Article 154 TFEU. The Commission must not repeat this practice.~~

Reason

Since the proposal is not based on Article 153 TFEU the consultation of social partners is not required.

Outcome of the vote

In favour 79

Against 133

Abstentions 18

Point 4.2

Amend as follows:

4.2. The Committee recognises that the legal basis for the directive is broad enough to ensure an adequate protection of whistleblowers. However, for the sake of legal certainty, the EESC calls for clarification regarding the legal basis applicable to workers' rights, recommends that the social domain also be covered by the directive by adding Article 153 TFEU to the 16 legal citations of the directive. The EESC points out that in Article 1 (material scope), the protection of workers is omitted from the list of kinds of abuse of law which a whistleblower may report. Nor does the proposal include discrimination, harassment or violence in the workplace etc. The Committee therefore calls for these subjects to be included in the directive.

Reason

Since there are divergent views about the legal basis for the directive the issue needs to be clarified by the Commission as regards the question of workers' rights (Article 153 TFEU).

Outcome of the vote

In favour 82

Against 139

Abstentions 14

Point 6.2

Amend as follows:

6.2. *The EESC considers that the principle of graduated reporting (internal, competent authorities, public) is in line with the principle of responsible whistleblowing, especially with a view to identifying and stopping infringements quickly and effectively at the source, and thus mitigating internal or external risks. However, the EESC believes that a whistleblower must have a free choice between access to internal channels and to the competent authorities, and therefore recommends a two – rather than three – stage procedure, in the interests of fairness and legal certainty. On the one hand, international studies, even in countries that have no requirement to use internal reporting channels (United Kingdom, Ireland), show that employees resort first to internal procedures out of loyalty; there is therefore no danger of the internal channels being bypassed on a large scale. Furthermore, where use of internal channels is required, it is difficult to provide for all the necessary exceptions. On the other hand, national laws provide for direct involvement of the authorities (e.g. for criminal offences). Finally, this obligation only applies to employees, other workers being exempt. This leads to a breach of the principle of equality and to legal uncertainty.*

Reason

It is important that the company has the opportunity to first solve the issue internally before the whistleblower goes to the public. The two-stage reporting procedure facilitates identifying and stopping infringements quickly and effectively at the source.

Outcome of the vote

In favour 78

Against 145

Abstentions 11

Point 7.2

Amend as follows:

7.2. *The directive ~~must~~ provides for compensatory measures in the event of retaliation (Article 15(6)) and ~~not~~ refers the matter to the national legal framework which, as we have seen, varies from country to country or may even be non-existent. In order to effectively protect whistleblowers from any kind of direct or indirect penalty, the implementation of the directive should be carefully monitored and assessed as to the effectiveness of the national frameworks. ~~must provide for full compensation for damages, without any ceiling (including loss of pension contributions in the event of dismissal), on the model of the 1998 Public Interest Disclosure Act.~~*

Reason

It is important that the sanction and compensation systems based on national frameworks fulfil the basic objectives of the directive as regards the protection of the whistleblower while respecting the principles of the national legal systems. This is one of the key issues to be monitored regarding the implementation of the directive.

Outcome of the vote

In favour 82
Against 144
Abstentions 10

Point 8.1

Amend as follows:

8.1. The EESC considers that the aim of the directive is to facilitate whistleblowing and to protect whistleblowers. In this connection, Article 17(2) should be clarified ~~dropped~~, as it might creates confusion between responsible whistleblowing and defamation and false accusation, which are offences already covered by national law.

Reason

While there is a need to address the consequences for false, misleading and unjustified disclosures by providing effective, proportionate and dissuasive penalties, the scope of these sanctions in Member States should be properly clarified.

Outcome of the vote

In favour 87
Against 147
Abstentions 6

Point 1.4

Amend as follows:

1.4. ~~The EESC recognises that calls on the Commission to review the legal basis for the directive is broad enough for ensuring an adequate protection of whistleblowers, so as to include workers' rights under Article 153 of the Treaty on the Functioning of the EU (TFEU). However, for the sake of legal certainty, the EESC calls for clarification regarding the legal scope applicable to workers' rights.~~

Reason

The articles determined by the EC as a legal basis can fully guarantee an enhancing of the enforcement of Union law by introducing new provisions on whistleblower protection to strengthen the proper functioning of the single market and the correct implementation of Union policies and at the same time to ensure consistent high standards of whistleblower protection in sectorial Union instruments where relevant rules already exist. However, to avoid confusion about the legal basis related to workers' rights some clarification is needed.

Outcome of the vote

In favour 84
Against 133
Abstentions 6

Point 1.4

Introduce new point after current point 1.4:

The EESC is convinced that a legal framework for the protection of whistleblowers should be constructed in such a way as to enable a distinction to be drawn between information that is only suitable to be disclosed within the company and information that is suitable to be disclosed to the authorities or even to the general public. This is particularly important when it comes to trade secrets.

Reason

The proposal should make it clear that whistleblowers must always report information that contains trade secrets internally to the company, because once this information has been made public the harm done to the company is irreversible.

Outcome of the vote

In favour 89

Against 149

Abstentions 7

Point 1.6

Amend as follows:

1.6. *The Committee recommends (Article 13) a two-stage reporting procedure initially giving the whistleblower access to internal channels with a view to identifying and stopping infringements quickly and effectively or to the competent authorities (whichever is preferred); and subsequently, if necessary, to the competent public authorities, and, if appropriate to civil society/the media, in the interests of fairness and legal certainty.*

Reason

It is important that the company has the opportunity to first solve the issue internally before the whistleblower goes to the public. The two-stage reporting procedure facilitates identifying and stopping infringements quickly and effectively at the source.

Outcome of the vote

In favour 89

Against 144

Abstentions 8

Point 1.10

Delete:

~~1.10. The EESC recommends that the text of Article 15(5) relating to the prima facie burden of proof be amended. It is sufficient that the whistleblower provides evidence that he or she made a report.~~

Reason

This recommendation is not based on the text of the draft opinion (7.1). While it could be contested, the principle of reversal of the proof has been neutrally stated in the text.

Outcome of the vote

In favour 93

Against 148

Abstentions 7

Point 1.11

Amend as follows:

1.11. ~~*In order to protect whistleblowers effectively from any kind of direct or indirect penalty, the implementation of the directive should be carefully monitored and assessed as to the effectiveness of the national frameworks. The EESC recommends that, under Article 15(6), compensation should not be referred to national law (variable), and that the directive should provide for full compensation for damages, without any ceiling, on the model of the United Kingdom legislation.*~~

Reason

It is important that the sanction and compensation systems based on national frameworks fulfil the basic objectives of the directive as regards the protection of the whistleblower while respecting the principles of the national legal systems. This is one of the key issues to be monitored regarding the implementation of the directive.

Outcome of the vote

In favour 95

Against 143

Abstentions 9

Point 1.12

Amend as follows:

1.12. ~~*The EESC calls for clarification the deletion of Article 17(2), as it might create confusion between responsible whistleblowing and which is superfluous (penalties for defamation and false accusations, already being provided for in national law).*~~

Reason

See point 8.1.

Outcome of the vote

In favour 96

Against 147

Abstentions 7

Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council on the European Social Fund Plus (ESF+)

(COM(2018) 382 final — 2018/0206 (COD))

(2019/C 62/27)

Rapporteur: **Krzysztof BALON**

Co-rapporteur: **Cinzia DEL RIO**

Referral	European Parliament, 11.6.2018 Council of the European Union, 19.6.2018
Legal basis	Articles 46(d), 149, 153(2)(a), 164, 168(5), 175(3) and 349 TFEU
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	26.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	183/2/2

1. Conclusions and recommendations

1.1. The EESC welcomes the Commission's proposal for the European Social Fund Plus (ESF+), aiming at improving consistency and synergies among EU instruments, merging some EU funds and simplifying some procedures. While underlining some critical aspects of the proposal, the EESC calls for a swift, responsible and balanced decision on the proposal before the EP elections next year.

1.2. Europe needs a sound mix of economic, investment and social policies to remain competitive in the global economy and to ensure quality employment, quality education and training universally available and accessible, as well as equal access to health services, social inclusion and active participation in society. An EU budget is required that can respond to major challenges such as youth unemployment, the skills mismatch, long-term unemployment, a fast-changing labour market and the impact of new forms of labour on people, challenges which create new social exclusion of marginalised groups, combined with persistently high poverty rates in some countries. Moreover, brand new challenges resulting from digitalisation require innovative approaches to EU funding ⁽¹⁾.

1.3. The EESC is highly critical of the proposal because it provides for a financial cut in EU cohesion policy. With specific reference to the ESF+, there is a 6 % decrease in real terms. Furthermore, the EESC does not agree with the elimination of the minimum share (currently set at 23,1 %) of cohesion policy funding under the ESF+. Bearing in mind that the ESF+ is the main funding instrument for implementing the European Pillar of Social Rights (EPSR), the EESC calls for 30 % of total resources for economic, social and territorial cohesion policies to be allocated to the ESF+, and within the ESF+ for 30 % of resources to be earmarked for social inclusion measures.

1.4. The merging of different funds and programmes under the new ESF+ 'umbrella' should be implemented with care, taking account of any potential increase in their effectiveness and efficiency compared to separate delivery frameworks. The EESC asks the Commission to further simplify the rules of the ESF+ for both managing authorities and beneficiaries, while

⁽¹⁾ See for instance the EESC opinion on the Multiannual Financial Framework post 2020 (OJ C 440, 6.12.2018, p. 106).

ensuring that projects comply with EU values. The enabling condition of active inclusion, under which Member States must have national strategies against poverty and social exclusion in order to qualify for funding under the ESF+, should continue to apply to all Member States during the next MFF funding period.

1.5. The ESF+ should be used in a manner consistent with the Charter of Fundamental Rights, the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Compliance with the rules of the European Code of Conduct on Partnership (ECCP) must be considered to be an enabling conditionality, and partnership agreements and operational programmes should be reviewed and be subject to sanctions if they do not fully respect ECCP obligations.

1.6. The European Union should make full use of the experience and capacity of the social partners and other civil society organisations (CSOs) operating at local, national and European level by involving them, alongside service users and according to their different roles, in the tasks of programming, implementing, monitoring and evaluating EU funding. Social partners and the other CSOs are crucial players in the European democratic project. In the ESF+ context, this means that public authorities should facilitate their access to the available resources. The EESC supports the revision of the composition of the ESF+ Committee as described in Article 40(2) of the Regulation, in accordance with Article 6(1)(c) of the Common Provisions Regulation and respecting the principles of the ECCP (European Code of Conduct on Partnership).

1.7. An adequate portion of available resources should be earmarked for projects driven by small local organisations, as well as for re-granting, in order to support the activities of locally active organisations. In-kind contributions should be dealt with on an equal footing with financial contributions.

1.8. Transnationality (or cross-border activities) should usually be part of the operational programmes of all Member States. This is necessary in order to foster a sense of European identity among citizens of different Member States.

1.9. The EESC deems it important to establish a high level of funding for key action fields for the future of Europe and its population. These would include: quality youth employment, gender equality initiatives, inclusion and employment of vulnerable groups, lifelong learning and up-skilling in the context of a fast-changing, digitalised labour market, strengthening public services of general interest, as well as capacity-building of the public administration, of the social partners — with a dedicated approach to strengthening social dialogue and undertaking joint activities — and of other CSOs, including their participation in the fund's management to ensure better governance.

1.10. Taking into account the growing role of the social economy in the social dimension of the EU, the EESC also considers that support for social economy activities should become a separate, specific objective of the ESF+.

1.11. The EESC welcomes the Commission's proposal to identify new indicators for allocating funding. Nevertheless, the current system is still mainly based on gross domestic product (GDP). Moreover, the EESC considers that the correlation between the ESF+ and the Country Specific Recommendations (CSRs) of the European Semester must be improved. The EESC is concerned that strict conditionalities might be applied. It therefore stresses that this correlation should be negotiated between the national and European authorities, with the full and active involvement of the social partners and other CSOs.

1.12. The social partners and other CSOs should be considered as equal stakeholders in the monitoring committees, with voting rights and the possibility of exercising specific steering functions. Monitoring should also assess the progress of social inclusion measures, rather than being confined to applying a set of quantitative indicators.

1.13. The EESC stresses the importance of keeping the ESF+ within the scope of economic, social and territorial cohesion policy.

1.14. The EESC does not agree with the proposal of a reduction of the European co-funding rate of the ESF+. In any case, such a reduction should not be charged to the promoters of the projects.

2. Introduction: the Commission's proposals for the Multiannual Financial Framework 2021-2027 and the current social situation in the EU

2.1. On 2 May 2018, the European Commission issued a communication on its proposals for the Multiannual Financial Framework 2021-2027; this was followed by the publication of regulations on the MFF and on the European Social Fund Plus on 29-31 May and 1 June 2018, respectively.

2.2. As requested by the European Parliament, the EU budget should be increased to 1,3 % of gross domestic product (GDP) (the proposal represents an increase of 1,08 %) and the own resources system should be reformed to stabilise the financing of new actions and address the new internal challenges. Only an increased budget can enable the EU, even after Brexit, to live up to its commitment to implement the UN Sustainable Development Goals (SDGs) and the EPSR, which sets objectives and principles for a new social and labour policy at European level, to promote quality jobs and equal opportunities, quality education and training — which should be universally available and accessible — in order to respond to the rapid changes in the labour market and to ensure fair working conditions, together with wider social inclusion and protection allowing the active participation of all in society.

2.3. Europe needs to remain competitive in the global economy and ensure high employment and social standards. The EESC calls for a swift, responsible and balanced decision on the MFF and EFS+ proposal to be taken before the European elections.

2.4. The Union is now facing new challenges arising from the need to overcome a long period of economic and social crisis, and it needs to address the impact of a fast-changing labour market and the related new forms of work, shortfalls in skills levels, low labour mobility, under-performance in active labour market policies (ALMP) and education and training systems, as well as 'new' social exclusion of marginalised groups, including Roma and migrants.

2.5. The youth unemployment rate still remains high in the EU. Adding to this is the increased use of non-standard employment contracts, again especially among young people, together with persistently high rates of NEETs (young people who are 'Not in Education, Employment or Training'). The mismatch between skills supply and the needs of employers has been underlined in several EESC opinions. This is why today's challenge is to increase quality employment and make youth employment a priority. In some Member States, however, the unemployment of other groups, such as women, elderly people and migrants, is becoming critical and requires specific solutions.

2.6. The introduction of new technologies, digitalisation and AI is having a major impact on jobs: quality basic education, high-standard and effective training, lifelong learning, up-skilling and re-skilling and matching the changing needs of EU economies with targeted skills and competences will be necessary tools for making the most of the job opportunities of the future and fostering business competitiveness⁽²⁾. Such tools need to be accompanied by a sound mix of economic, investment and social policies for inclusive and sustainable innovation-driven growth.

2.7. Another critical aspect is the level of poverty among citizens: 118 million EU citizens (or 23,7 % of the EU's total population) still live in, or at risk of, poverty and social exclusion⁽³⁾. At the same time in-work poverty remains at high levels in some countries, being accompanied by a significant increase in underemployment⁽⁴⁾.

3. Key aspects of the proposed Regulation on the European Social Fund Plus

3.1. To enhance coherence and synergies between complementary EU instruments, increase flexibility, allow the funds to be more responsive to the challenges, and simplify fund programming and management, the new European Social Fund Plus (ESF+) merges the following funds and programmes of the Multiannual Financial Framework 2014-2020:

— the European Social Fund (ESF) and the Youth Employment Initiative (YEI);

⁽²⁾ See OJ C 237, 6.7.2018, p. 8.

⁽³⁾ European Commission, Joint Employment Report 2017.

⁽⁴⁾ Eurostat and EU-SILC data. Here, and on some other points, the document reiterates positions expressed in the EESC information report Follow-up to SOC/537, forwarded to the European Commission after being unanimously adopted by the EESC at its 534th plenary session on 18 and 19 April 2018. This information report often quoted opinion OJ C 173, 31.5.2017, p. 15.

- the Fund for European Aid to the Most Deprived (FEAD);
- the Employment and Social Innovation (EaSI) programme; and
- the programme for the Union's action in the field of health (the Health Programme).

3.2. The total budget allocated for the ESF+ amounts to approximately EUR 101 billion (in current prices) for the 2021-2027 period, of which EUR 100 billion will go to the ESF+ strand under shared management (ex-ESF and ex-FEAD). The financial envelope for the direct management strands of the ESF+ will be EUR 1 174 million in current prices, of which EUR 761 million will be spent on employment and social innovation and EUR 413 million on health. The ESF+ also incorporates the Youth Employment Initiative (YEI), with 10 % of the financial allocation targeting young people aged 15-29. At least 25 % of national ESF+ resources will be earmarked for promoting social inclusion and tackling poverty. Additionally, Member States will have to allocate at least 2 % of their ESF+ resources for measures targeting the most deprived.

3.3. In order to simplify the implementation of the ESF+, reduce the administrative burden on beneficiaries and shift the focus to the achievement of results, several provisions are introduced in the Common Provisions Regulation (CPR). The ESF+ Regulation also provides for measures to tackle material deprivation, thus addressing the stakeholder request to maintain lighter requirements for this type of assistance and to simplify data collection, monitoring and reporting requirements.

4. General remarks on the proposed Regulation

4.1. The EESC welcomes the Commission's proposal for the ESF+, particularly on account of:

- its alignment with the European Pillar of Social Rights;
- its guidelines for quality outcomes through improved indicators;
- the recognition of the need for simplification and increased flexibility;
- the focus on three policy areas: employment, education and social inclusion;
- the introduction of priority 'innovative actions' to support social innovation and social experimentation, which strengthen bottom-up approaches based on partnerships;
- its consistency and compatibility with other funding programmes such as Erasmus⁽⁵⁾ and the European Regional Development Fund (ERDF) under the 'Investing in People' policy chapter of the MFF;
- the fact that it brings individual funds and programmes together under one umbrella in order to improve the fight against poverty, social exclusion, unemployment and underemployment in the European Union.

4.2. The EESC criticises the fact that the proposed overall level of the next MFF is about EUR 1,1 trillion, which in real terms is below the level of the current MFF. Moreover, the EESC is highly critical of the proposed financial cut to EU cohesion policy, which amounts to around 7 % in the Multiannual Financial Framework 2021-2027. With specific reference to the ESF+, the proposal accounts for 27 % of total allocations for cohesion policy. In real terms, this means a 6 % decrease in the ESF+. Furthermore, the EESC does not agree with the elimination of the minimum share (currently set at 23,1 %) of cohesion policy funding under the ESF+. Bearing in mind that the ESF+ is the main funding instrument for implementing the EPSR, the EESC also calls for 30 % of resources for economic, social and territorial cohesion policies to be allocated to the ESF+ and recommends that 30 % of the ESF+ resources be earmarked for social inclusion measures. The EESC does not agree with the proposal for a reduction of the European co-funding rate of the ESF+. In any case, such a reduction should not be charged to the promoters of the projects.

4.3. In this context, the EESC firmly reiterates that funding at both EU and national level needs to:

- address quality-of-life and work-life balance problems;

⁽⁵⁾ EESC opinion on Erasmus (see page 194 of this Official Journal) recommends keeping the title 'Erasmus+'.

- invest in inclusive, high-quality education and training, which should be accessible and affordable for all and oriented to current and future labour market needs;
- tackle unemployment and skills mismatches — particularly long-term and youth unemployment — and underemployment, as well as extending training and fair working conditions to include workers employed in the new (atypical), and in some cases illegal, forms of work;
- tackle demographic challenges and ensure adequate and sustainable social protection over the life cycle for all;
- promote inclusion of and accessibility for people with disabilities;
- develop, test, evaluate and upscale innovative solutions and strengthen bottom-up approaches and social experimentations based on partnerships involving public authorities, the private sector, social partners and the other CSOs;
- promote equal opportunities and combat all forms of discrimination;
- improve the employability and socioeconomic integration of marginalised groups, among them people experiencing homelessness;
- support migrants' integration;
- provide individualised family- and community-based support, enhancing access to affordable, sustainable and high-quality social services, as well as to health and housing services;
- promote joint actions of the social partners;
- support capacity-building for administrations/institutions, the social partners and civil society organisations.

4.4. As the EU Structural Funds are key drivers of a more competitive, cohesive, resilient and social Europe, Member States have a particular responsibility to invest ESF+ funding in social services being provided by public entities, social economy entities, and other non-profit organisations.

4.5. The merging of different funds and programmes under the new ESF+ 'umbrella' should be implemented with care, taking account of any potential increase in their effectiveness and efficiency compared to separate delivery frameworks ⁽⁶⁾.

4.6. The Commission proposes merging the Youth Employment Initiative (YEI) with the ESF+ in order to ensure the consistency and efficiency of actions focused on young people. The proposal is aimed at strengthening employment policies in the Member States. The procedures to access YEI funding should be simplified and guarantee a clear allocation of resources. Failing this, it could be more useful to leave the YEI as a separate financial initiative. Additionally, steps need to be taken to ensure that the calculations requiring Member States to use at least 10 % of the ESF+ budget for YEI are effective and reasonable. The risk of the YEI becoming marginalised and the allocated budget shrinking in 2021-2027 is to be avoided ⁽⁷⁾.

4.7. It is also important to recognise that the social partners and — on an equal footing — other civil society organisations are crucial players in the European democratic project. Hence public authorities have to facilitate their access to the available resources.

4.8. The European Union should make full use of the experience and capacity of the social partners and other CSOs operating at local, national and European level by involving them, according to their different roles, alongside service users, in programming, implementing, monitoring and evaluating EU funding ⁽⁸⁾. To this end, it will be necessary to make clear reference to the European Code of Conduct on Partnership. Compliance with this code must be considered as an enabling condition. The social partners and other CSOs should — once they have received adequate support — develop appropriate

⁽⁶⁾ See the study on monitoring, final report, CONTRACT NO VC/2017/0131, Implementing Framework Contract No VC/2013/0017, p. 50.

⁽⁷⁾ See the analysis of the European Youth Forum at: https://www.youthforum.org/sites/default/files/2018-07/_ESF%2B%20data%20analysis_website.pdf

⁽⁸⁾ See OJ C 173, 31.5.2017, p. 15.

evaluation tools and, where possible, make use of the expertise of direct beneficiaries ⁽⁹⁾. This can only be accomplished when bureaucratic burdens are reduced and funding rules to support the social partners and other CSOs simplified.

4.9. An adequate part of available resources should be earmarked for projects driven by small local organisations, as well as for re-granting. This would make it possible to support locally active organisations and self-help groups and would also avoid or mitigate the deterrent effect of excessive co-funding red tape facing CSOs. In-kind contributions should be dealt with on the same footing as financial contributions.

4.10. It should be noted that, in most cases, financial instruments such as loans, guarantees or equity do not provide adequate financing for social projects. Grants should therefore be chosen as the main implementation mechanism, unless other financial tools are more effective.

4.11. The EESC asks the European Commission to further simplify the rules of the ESF+ for both managing authorities and beneficiaries. However, the Commission and managing authorities should take specific measures to ensure that simplification would not expose to financial risks the CSOs working for and with people affected by poverty and social exclusion. Such risks are particularly associated with the extensive requirements for personal data collection.

4.12. Any simplification of the funds' rules should not result in removing mechanisms (e.g. the enabling conditions) that are in place to ensure that projects financed by EU funds comply with EU values, in particular the obligation to respect human rights. The enabling condition concerning active inclusion, whereby Member States must have national strategies against poverty and social exclusion in order to qualify for ESF+ funding, should continue to apply to all Member States during the next MFF funding period.

4.13. As the ESF+ is a European fund, transnationality (or cross-border activities) should usually be part of the operational programmes of all Member States. This is necessary in order to foster a sense of European identity among citizens of different Member States and make the financial support offered by the EU to its citizens far more visible. In order to help implement cross-border projects, good practice and successful formats from the current funding period (2014-2020) should be continued and shared among Member States.

5. Specific remarks and requirements regarding the proposed Regulation

5.1. The EESC deems it to be important to establish specific objectives ⁽¹⁰⁾ for the ESF+ with a high level of funding for key action fields for the future of Europe and of its population, such as:

- quality youth employment;
- gender equality initiatives;
- inclusion and employment of vulnerable groups, such as people with disabilities and migrants;
- access to lifelong learning in the context of a fast-changing, digitalised labour market;
- strengthening public services of general interest, as they contribute to better quality of life and a better work-life balance;
- capacity-building for public administrations, the social partners and other CSOs to ensure better governance, including in the fund's management.

⁽⁹⁾ Idem and 'Follow-up to SOC/537'.

⁽¹⁰⁾ See Articles 3 and 4 of the proposed Regulation.

5.2. Taking into account the growing role of the social economy in the social dimension of the EU, the EESC also considers that support for social economy activities should be made a separate objective of the ESF+ ⁽¹¹⁾. The measures envisaged should focus on the whole social economy in all its diversity across the Member States. The Commission is invited to work with the Member States to promote a favourable ecosystem for the social economy.

5.3. The EESC welcomes the Commission's proposal to identify new indicators for allocating funding for issues such as youth unemployment, low education levels, climate change and the hosting/integration of migrants, so as to better reflect the social and economic situation of European regions and territories and align them with the Social Scoreboard of the EPSR. Nevertheless, the current system for allocating funds is still mainly based on GDP ⁽¹²⁾.

5.4. The EESC considers that the correlation between the ESF+ and the Country Specific Recommendations (CSRs) of the European Semester is of great importance. At the same time, the EESC is concerned that strict conditionalities might be applied. It therefore stresses that this correlation should be negotiated between the national and European authorities with the full and active involvement of the social partners and other CSOs ⁽¹³⁾, since it is important to guarantee a medium-term as well as a long-term strategy.

5.5. The EESC stresses the importance of maintaining the ESF+ within the scope of economic, social and territorial cohesion policy, given the strong complementarities between growth, employment objectives and social inclusion. The added value of the ESF+ compared to Member State action is linked to territorial needs and to integration with other Structural Funds in order to carry out consistent and comprehensive initiatives at local level. In this framework, the regional/local dimension is crucial for programming and implementing tailored measures.

5.6. The EESC welcomes the obligation on Member States regarding adequate participation of the social partners and other CSOs in the delivery of policies supported by the ESF+ and allocation of an appropriate amount of ESF+ resources for capacity-building and joint actions. This should include a dedicated approach to capacity-building for the social partners, in line with the 2016 quadripartite statement on the new start for social dialogue, and ensuring that the managing authorities allocate resources according to needs, in the form of training, networking measures and strengthening of social dialogue and activities jointly undertaken by the social partners ⁽¹⁴⁾.

5.7. With a view to encouraging the adequate participation of the other CSOs in action supported by the ESF+, particularly in the areas of social inclusion, gender equality and equal opportunities, the managing authorities must ensure the allocation of an appropriate amount of ESF+ resources to capacity-building for these organisations.

5.8. Member States should make full use of Article 17 of the European Code of Conduct on Partnership (ECCP). Since partnership agreements and operational programmes are the result of negotiations between the Commission and the national authorities, the Commission could be more demanding when approving these agreements and should require that they be reviewed if they do not fully respect the obligations arising from the partnership principle ⁽¹⁵⁾. Moreover, for the new period 2021-2027, the ECCP should be revised and the role of the social partners and other CSOs should be clearly defined. The EESC supports the revision of the composition of the ESF+ Committee as described in Article 40(2) of the Regulation, in accordance with Article 6(1)(c) of the Common Provisions Regulation and respecting the principles of the ECCP (European Code of Conduct on Partnership). Article 40(2) should therefore state that each Member State shall appoint to the ESF+ Committee one government representative, one representative of the workers' organisations, one representative of the employers' organisations and one representative of civil society.

5.9. The Commission should provide clarification of the minimum requirements with which the Member States' authorities will have to comply when implementing partnerships, including sanctions in the event of inadequate implementation. Any failure by the Member States to comply with the ECCP should be penalised through different measures, culminating in the suspension of payments in serious cases of non-compliance, as provided for in the European Structural and Investment Funds ⁽¹⁶⁾.

⁽¹¹⁾ See Article 4 of the proposed Regulation.

⁽¹²⁾ See Article 4 of the proposed Regulation.

⁽¹³⁾ See Article 7 of the proposed Regulation.

⁽¹⁴⁾ See Article 8 of the proposed Regulation.

⁽¹⁵⁾ See Article 4 of the proposed Regulation.

⁽¹⁶⁾ See Article 34 of the proposed Regulation.

5.10. Monitoring committees should operate in a more transparent and meaningful way and should also exercise specific steering functions. The social partners and CSOs should be considered as equal stakeholders and therefore be mandatory members of the monitoring committees and have the right to vote. Monitoring should also ensure that all funds are used in a manner that is consistent with the Charter of Fundamental Rights and international human rights standards, including the UNCRC and the UNCRPD, ratified by the EU and 27 of its Member States. Moreover, monitoring should also assess the progress of social inclusion measures, rather than being confined to applying a set of quantitative indicators ⁽¹⁷⁾.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁷⁾ See Articles 38 and 39 of the proposed Regulation.

Opinion of the European Economic and Social Committee on ‘Proposal for a regulation of the European Parliament and of the Council on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States’

(COM(2018) 324 *final* — 2018/0136 (COD))

(2019/C 62/28)

Rapporteur: **Jukka AHTELA**

Referral	European Commission, 18.6.2018
Legal basis	Article 304 of the TFEU
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	26.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	156/2/7
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the Commission proposal for a regulation creating a new tool that would allow for economic corrective measures with regard to Member States that commit serious and persistent violations of the values listed in Article 2 of the Treaty on European Union (TEU). The EESC notes that the Commission already has similar corrective powers to encourage compliance with rules on sound economic governance⁽¹⁾, and looks favourably on the present proposal for making corrective measures to safeguard the rule of law. In this regard, the EESC welcomes the fact that implementing acts proposed by the Commission under this regulation would be adopted by reverse qualified majority voting in the Council.

1.2. The EESC emphasises the importance of the rule of law for citizens, as well as for business initiatives, innovation and investment. However, it recommends that the proposal be amended to include a broader notion of the rule of law that encompasses the protection of fundamental rights and guarantees protecting pluralist democracy. The rule of law is only one of the values on which the EU is founded, as set out in Article 2 of the TEU. The rule of law exists in an interdependent, inseparable, triangular relationship with fundamental rights and democracy. Only by guaranteeing these three values in conjunction with each other is it possible to prevent the abuse of state power.

1.3. The EESC agrees that effective respect for the rule of law is a prerequisite for the public to have confidence that EU spending in Member States is sufficiently protected. The EESC welcomes the fact that the proposal will further strengthen protection of the financial interests of the EU. However, the EESC insists that the mechanism proposed by the Commission should be activated automatically where a generalised deficiency as regards the rule of law risks affecting the financial interests of the EU.

1.4. Furthermore, the EESC is of the opinion that the main goal of the proposal should be the protection of Article 2 values, through the protection of the EU’s finances. Consequently, the EESC recommends that the proposal be amended to allow the Commission to propose an implementing act of the regulation in cases where there is a serious, persistent and systemic threat to the rule of law, fundamental rights or standards guaranteeing pluralist democracy, as such measures, by their very nature, may pose a direct risk to the EU’s financial interests.

⁽¹⁾ OJ L 347, 20.12.2013, p. 320, Article 23.

1.5. The EESC encourages the Commission, as a preventive measure, to further develop channels for political debate on Article 2 values in the Member States. The EESC therefore urges the Commission to propose the creation of a system of regular and independent monitoring of the implementation of these values in the Member States, along the lines previously suggested by the EESC and the European Parliament.

1.6. The EESC recommends that it be included among the bodies that the Commission will keep informed of measures proposed or adopted under this legislation, and that it be specifically named among the relevant sources of information for the purposes of the Commission's determination as to the existence of a serious deficiency as regards the rule of law. This would allow the EESC to make a meaningful and effective contribution to the protection of Article 2 values and ensure that the voice of organised civil society is represented

2. Introduction and overview of the proposal

2.1. The present Commission proposal is designed to protect the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States. The Commission justifies its proposal by referring to the need to protect the Union's finances by requiring Member States to maintain sufficiently robust safeguards concerning how EU funds are managed and spent. Member States are already required to demonstrate that they have adequate institutional and procedural safeguards in place to ensure that EU funds are spent effectively and legally. The correct functioning of these national verification mechanisms cannot, however, be guaranteed without oversight, in the form of an independent judiciary, public prosecutor's office and investigative bodies dealing with fraud and corruption.

2.2. The Commission's proposal would allow for the suspension or correction of payments, a prohibition on new legal commitments, a reduction of commitments or interruption of payment deadlines in response to the detection of a generalised deficiency regarding the rule of law. This will apply to all EU funds. The Commission may make a finding that a generalised deficiency in the rule of law has arisen in particular when: the independence of the judiciary is endangered; public authorities are not prevented from or corrected or sanctioned for arbitrary or unlawful behaviour; resources are withheld from public authorities which impairs their functioning; no measures are taken to avoid conflicts of interests among public authorities; the state limits the availability and effectiveness of legal remedies.

2.3. According to the proposal, the aforementioned deficiencies would give rise to corrective measures where they risk affecting sound financial management or the protection of the Union's financial interests, by impairing: national authorities implementing the EU's budget; the investigation or prosecution of fraud and corruption; effective judicial review of national authorities; prevention of fraud and corruption and imposition of effective and dissuasive penalties; recovery of unduly paid funds; cooperation with OLAF and EPPO investigations and prosecutions.

3. General comments

3.1. The EU is founded on the values common to its Member States, including the rule of law, as stated in Article 2 TEU. Respect for the rule of law also ensures legal certainty and a level playing field for business initiatives, innovation, investments and fair competition across the internal market for the benefit of consumers and citizens. This is a prerequisite for the mutual trust necessary for the smooth functioning of the EU. Disregard for the rule of law hampers balanced economic and social development in line with the Sustainable Development Goals, which is the engine that allows the EU and its governments to pursue the overarching goal of the Union 'to promote peace, its values and the well-being of its peoples', as stated in Article 3 of the TEU.

3.2. The EESC regrets that the EU treaties do not expressly stipulate that Member States must continue to satisfy the Copenhagen Criteria after accession⁽²⁾. The EESC notes that the EU institutions do not have sufficiently robust and well-tailored tools at their disposal capable of protecting against threats currently posed to the rule of law, fundamental rights and pluralist democracy in the Member States.

3.3. The rule of law is interdependent and indissoluble from guarantees protecting pluralist democracy and respect for fundamental rights. The rule of law ensures that governments respect fundamental rights standards, and pluralist democracy ensures that governments pursue policies that advance their peoples' well-being. Upholding the rule of law by

⁽²⁾ Established by the Copenhagen European Council in 1993.

itself does not guarantee that the law respects fundamental rights, nor that that law is made according to an inclusive and legitimate process based on well-informed, pluralist and balanced public debate and participation. To avoid mere 'rule by law', it is necessary to uphold fundamental rights and pluralist democratic standards alongside the rule of law.

3.4. The Commission characterises the proposed regulation as a means of protecting the EU's budget, which at the same time protects the rule of law. The EESC agrees that effective respect for the rule of law is a prerequisite for public confidence that EU spending in Member States is sufficiently protected. However, the EESC sees the proposal more as a potential tool to protect all Article 2 values through the vehicle of the EU budget.

3.5. The EESC stresses the importance of demonstrating to European citizens that EU funds are administered free of corruption and in accordance with EU law. It is equally important that the EU protect the values on which it is founded, which were created for the benefit of its citizens. The Commission should be empowered to take action under this regulation whenever Article 2 values are under a serious, systemic and persistent threat, as this threat, by its very nature, may pose a direct risk to the EU's finances.

3.6. As noted by recent resolutions of the European Parliament and statements by the European Commission and Council presidency, the rule of law, fundamental rights and pluralist democratic standards are increasingly under threat in the EU. While the situations in certain Member States pose the greatest challenges, populist authoritarianism, which stands against the EU's founding values and often against the Union itself, continues to grow in strength across the Member States.

3.7. The EESC notes the shortcomings of current tools available to the EU institutions to protect Article 2 values. Infringement procedures tend to be too narrow in their focus on technical legal questions to prevent or correct concerted attacks on the rule of law. While Article 7 of the TEU allows the Council to address, in an holistic manner, measures to undermine the rule of law, it has proven extremely difficult to marshal sufficient political will to activate the procedure.

3.8. As regards the 'framework' on the rule of law, although it is easier to activate than Article 7, it is a non-binding procedure, the effectiveness of which is questionable when faced with governments unwilling to cooperate with the Commission in good faith. Furthermore, the thresholds required to activate the rule of law framework and Article 7 are so high that, by the time these tools are used, deficiencies in the implementation of Article 2 values have become extremely serious and are, consequently, more difficult to resolve.

3.9. In light of the growing challenges and the absence of appropriate and effective tools, the EESC calls on the European Commission to pursue political debate with increased urgency on how the EU can better protect Article 2 values, and to develop additional tools for the protection of the rule of law, fundamental rights and guarantees of democratic pluralism.

3.10. EESC recalls its opinion on The European control mechanism on the rule of law and fundamental rights, which supports the creation of an EU level mechanism to monitor respect for the rule of law and fundamental rights through regular independent monitoring and dialogue between the Member States and the EU institutions ⁽³⁾.

3.11. The EESC maintains its position that the creation of such a preventive mechanism, as put forward by the European Parliament, would complement the EU's existing tools to protect Article 2 values ⁽⁴⁾. The creation of a preventive mechanism would identify shortcomings in the implementation of these values as they emerge at national level and allow for their resolution at an early stage.

3.12. As a further measure, the EESC proposes that a civil society platform or an annual forum be established at European level with the involvement of the EESC, firstly to allow EU decision-makers to receive early warning about emerging challenges to Article 2 TEU values directly from grassroots organisations and, secondly, to facilitate mutual learning and transnational collaboration between civil society organisations working primarily at national level.

⁽³⁾ OJ C 34, 2.2.2017, p. 8

⁽⁴⁾ 2015/2254(INL)

3.13. It is important that the EU consider ways of supporting civil society organisations and the media that are monitoring and reporting emerging challenges to Article 2. The EESC considers that a funding instrument to support civil society organisations promoting Article 2 values in the Member States would constitute an important complement to the present proposal by building grassroots support for these values among the public. In this regard, the EESC refers to its related opinion concerning the proposals for a new Justice, Rights and Values Fund ⁽⁵⁾ and calls on the Council and the European Parliament in the framework of the decision on the Multiannual Financial Framework post 2020 to increase substantially resources for this fund.

4. Specific comments

4.1. The EESC considers that the availability of effective judicial review by independent courts of actions and omissions by public authorities is essential not only to guarantee the effective spending of EU funds in line with EU law. It is also the only means of guaranteeing effective protection for all EU citizens of the rights that they derive from EU law, as well as the uniform interpretation of EU law across the Member States, on which the common market and the area of freedom, security and justice depend.

4.2. The EESC approves of the use of reverse qualified majority voting in the Council as a means of adopting the implementing act on the appropriate measures to be taken. This will allow measures to be taken objectively once the Commission deems a Member State to suffer from a generalised deficiency and minimise the risk of inaction or political selectivity that could result from requiring a vote in the Council.

4.3. The EESC understands the challenges of giving more detailed criteria concerning the determination of the existence of a generalised deficiency. Nevertheless, the EESC questions whether the proposal could be strengthened by the inclusion of such detailed criteria. The existence of more detailed criteria could help to ensure that the legitimacy of the Commission's decision is not undermined by allegations of bias or lack of objectivity. Such criteria could be included in the form of guidelines drawn up by the Commission subsequent to the adoption of the proposal and could draw on the Commission's own criteria under the 'framework' on the rule of law as well as the rule of law checklist of the European Commission for democracy through law (the Venice Commission).

4.4. As the EESC has underlined the rule of law, democracy and fundamental rights are interdependent, as stated in the Article 2 of the Commission proposal. In addition to more detailed criteria on the rule of law, the proposal should also include criteria allowing the Commission to determine the existence of a serious, systemic and persistent threat to respect for fundamental rights or guarantees of pluralist democracy. Where the situation in a Member State fulfils these criteria, the Commission should also be entitled to adopt corrective measures under this regulation.

4.5. The EESC notes that the Commission shall take into account all relevant information, including decisions of the Court of Justice, reports of the Court of Auditors and conclusions and recommendations of relevant international organisations. Certain supervisory bodies of the Council of Europe, such as the Venice Commission and the Group of States against Corruption (GRECO), play an important role in monitoring the rule of law in the Member States. The Venice Commission has issued several opinions concerning the state of the rule of law in a number of EU Member States and GRECO periodically issues recommendations to Member States. Similarly, the European Anti-Fraud Office (OLAF), national ombuds offices and associations of judges and judicial networks routinely report on the health of national judicial, anti-corruption and anti-fraud mechanisms.

4.6. Other international bodies periodically monitor and assess the implementation of fundamental rights standards and guarantees of pluralist democracy in the Member States, including the European Union Agency for Fundamental Rights, the Council of Europe's Commissioner for Human Rights, the European Court of Human Rights, the UN Human Rights Council and UN human rights treaty bodies. Furthermore, independent civil society organisations are also frequently a reliable source of information and analysis. Express mention of these entities in the proposal would reflect the special role they play in safeguarding the values listed in Article 2 TEU.

4.7. Furthermore, the EESC considers that, as the institution representative of civil society in the EU, its own analysis and observations are of particular relevance to the Commission when the latter is making a determination as to the existence of serious deficiencies as regards the rule of law in a given Member State both under this regulation and under other instruments. In this regard, the EESC draws the Commission's attention to the creation of an EESC working group on fundamental rights and the rule of law which will ensure special focus on the protection of Article 2 TEU values.

⁽⁵⁾ SOC/599 (See page 178 in the Official Journal) on COM(2018) 383 final and COM(2018) 384 final

4.8. Inclusion of the EESC among the bodies that the Commission will keep informed of measures proposed or adopted under this legislation and among the relevant sources of information for the purposes of the Commission's determination as to the existence of a serious deficiency as regards the rule of law would allow the EESC to make a meaningful and effective contribution to the protection of Article 2 values and ensure that the voice of organised civil society is represented.

4.9. The EESC concurs fully with the aim of the Commission that the consequences of triggering the proposed mechanism should fall on those responsible for the shortcomings and not on individual beneficiaries of EU funding, such as Erasmus students, researchers or civil society organisations ⁽⁶⁾.

4.10. The EESC notes that according to the proposal, in the event that measures are taken, the Member State shall remain responsible for distributing the funds in question. The EESC considers that while legally sound, this would do little to prevent a Member State in practice from refusing to distribute the funds in question and apportioning blame to the Commission for political gain. As the public are unlikely to appreciate the finer workings of EU legislation, Member States would be able to make a direct link between funding cuts and a Commission decision. This would create a situation where the Commission could be deterred from taking measures against a Member State because of the potential backlash in public opinion. This is a particular risk in those Member States where the government has control or influence over public and private media, which tends to be the case in Member States that suffer from serious deficiencies as regards the rule of law.

4.11. The EESC encourages the Commission to consider finding ways of mitigating the risk that individual beneficiaries may be affected negatively and that measures taken under this regulation could be subverted for political gain by governments violating Article 2 values. The Commission could consider alternative avenues through which to ensure that EU funds reach their intended beneficiaries. One possibility might be to create an executive agency to take over direct management of the relevant funds.

4.12. In bringing a generalised deficiency to an end with a view to lifting any measures taken under this regulation, the EESC stresses the importance of open dialogue between the Member State concerned and EU institutions, as suggested in the proposal. The institutions and Member States should take into account the views of civil society organisations regarding the situation in the Member State concerned, the adequacy of measures taken to bring the generalised deficiency to an end and the adequacy of measures taken to prevent their future recurrence.

Brussels, 18 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁶⁾ COM(2018) 98 final, p. 16.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the Rights and Values programme’

(COM(2018) 383 *final* — 2017/0207 (COD))

and on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the Justice programme’

(COM(2018) 384 *final* — 2017/0208 (COD))

(2019/C 62/29)

Rapporteur: **Jean-Marc ROIRANT**

Referral	European Council, 21.6.2018 European Commission, 18.6.2018 European Parliament, 14.6.2018
Legal basis	Articles 81(1) and (2) and 82(1) and 304 of the Treaty on the Functioning of the European Union Articles 16(2), 19(2), 21(2), 24, 167, 168 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	26.9.2018
Adopted at plenary	18.10.2018
Plenary session No	538
Outcome of vote	135/2/2
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the European Commission proposal, which is a merger of existing programmes, as a much-needed instrument for the promotion of EU values and history, fundamental rights, democracy, and the rule of law, the participation and support of a vibrant and diverse civil society, and the engagement of local communities.

1.2. The EESC calls for consistency of policy and funding to be ensured between the EU's external and internal policy engagement in human rights and democracy, and calls for overall funding of EUR 1,4 billion, of which at least EUR 500 million should be allocated to the strand on citizen engagement and participation.

1.3. The EESC believes that the Fund should be based on a truly participative and bottom up-approach in order to respond to the EU's current challenges as regards promoting rights and EU values, fostering democracy, bolstering citizens' trust in the EU through their direct participation in shaping Europe's future, and sustaining a vibrant civil society.

1.4. The EESC also calls for the use of innovative funding tools to allow civil society participation and capacity to be reinforced at local, national and transnational level such as through the provision of technical assistance, preparatory actions led by more experienced partners or cascading grants, thereby enabling different levels of grants or a two-step application process. It calls for specific earmarking of funding for civil society organisations, namely at least 50 % of the different strands.

1.5. The EESC welcomes the decision to extend the duration of operating grants on a multiannual basis for all programmes and strands of the Fund, and stresses the need to further ensure the sustainability and continuity of actions.

1.6. The EESC proposes to rename the Fund 'Citizens, Rights and Values' and the strand 'Citizen Engagement and Participation' within the Rights and Values programme 'Europe for Citizens' in order to ensure consistency with the Fund objectives, which are closely linked to the citizenship dimension and to empowerment, participation of rights holders, protection of victims, common history and memory.

1.7. The EESC regrets the fact that actions related to freedom of expression of the media, media pluralism and the need to address fake news and targeted misinformation have been removed from the final version of the Rights and Values programme and proposes therefore to create synergies with the Creative Europe programme given the relevance of these actions to EU values and to the promotion of a democratic and pluralist society.

1.8. The EESC calls for financial support under the Justice programme to be further extended to civil society organisations, encompassing activities ranging from awareness raising, mutual learning and exchange, analytical and monitoring activities, to training and capacity-building and calls for the participation of civil society organisations in the Justice Programme to be monitored.

1.9. The EESC takes stock of the Commission's ongoing work regarding the implementation of a preparatory action proposed by the European Parliament to develop an EU fund offering financial support for litigation cases relating to violations of democracy, the rule of law and fundamental rights targeted at civil society organisations and calls for these activities to be incorporated into the Justice programme.

1.10. The EESC considers this Fund to be an important tool for reinforcing gender mainstreaming, gender budgeting and gender disaggregating data collection. In particular, it welcomes the inclusion of actions aimed at preventing and combatting all forms of violence against women, children and young people in the Rights and Values programme and calls for further coherence and synergies with the Justice programme activities relating to victims' rights and enforcement. It also calls for a breakdown by sex of programme indicators for both programmes.

1.11. The EESC welcomes the proposal to extend the role of the National Contact Points of the Europe for Citizens programme to the different strands of the Rights and Values programme given their effective role in liaising with and supporting potential beneficiaries on the ground. It requires appointed entities to be independent of their national government and to have a thorough knowledge of the needs of the civil society sector and of local actors. It calls for adequate funding, the development of guidelines on their role and tasks, ways to ensure the programme's greater visibility, as well as training.

2. Description of the proposal

2.1. The EESC opinion concerns the Justice, Rights and Values Fund which includes two separate proposals for a regulation of the European Parliament and Council, one establishing the 'Justice programme' and another establishing the 'Rights and Values programme', both of which have complementary aims for the period 2021-2027.

2.2. The Fund's objective is to help sustain open, democratic, pluralist and inclusive societies, as well as to empower people by protecting and promoting rights and values and by further developing an EU area of justice, which is a key priority in the current EU context with the upsurge in extremism and radicalism, increased polarisation, reforms challenging the rule of law and shrinking civic space.

2.3. In order to promote European values and rights as enshrined in Article 2 TEU, Article 3 TEU and the EU Charter of Fundamental Rights, the Fund combines several existing instruments: the Rights, Equality and Citizenship programme, the Europe for Citizens programme and the Justice programme in an attempt to overcome fragmentation and address current gaps and new challenges, notably the confidence of citizens in democracy and support for upholding values and fundamental rights.

2.4. In addition to promoting equality and rights and fighting violence, the proposal for a Rights and Values programme is intended to sustain a vibrant civil society, encourage people's democratic and social participation and foster the rich diversity of European society, based on our common history and memory. This also follows up on calls for a European Fund for democracy, human rights and values by the EESC ⁽¹⁾, the European Parliament ⁽²⁾ as well as from 80 NGOs from 22 countries ⁽³⁾.

2.5. The Justice programme is based on Articles 81 and 82 TFEU concerning judicial cooperation in civil and criminal matters, while the Rights and Values programme is based on a combination of different TFEU articles: Articles 16(2) on data protection, 19(2) on combating discrimination, 24 on supporting European Citizens' Initiatives, 167 on culture and cultural heritage, 168 on the promotion of a high level of human health and prevention, as well as 21(1) (2) on citizens' right to free movement.

2.6. The two programmes would be endowed as follows: EUR 305 million would be given to the Justice programme and EUR 642 million to the Rights and Values programme, of which EUR 233 million would be allocated to citizen engagement and participation, and EUR 408 million to Equality and Rights and Daphne.

3. General comments

3.1. The EESC welcomes the European Commission proposal as a much-needed instrument for the effective promotion of human rights, democracy, the rule of law, respect of minorities, rights of discriminated, excluded groups and disadvantaged persons such as persons with disabilities and the Roma community, the participation, support and capacity-building of a vibrant and diverse civil society, as enshrined in the EU Treaties and the Charter of Fundamental Rights and in international human rights treaties endorsed by the EU and Member States such as the Convention on the Rights of Persons with Disabilities.

3.2. The EESC appreciates the Commission's efforts to strengthen respect for the values referred to in Article 2 TEU, and in this regard welcomes the Commission's Proposal for a regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States. This proposal is complementary to the present proposals on the Justice, Rights and Values programmes and would put economic pressure on Member States that commit serious and persistent violations of values enshrined in Article 2 TEU. While the former proposal aims to protect the rule of law through top-down pressure, the latter proposal has the potential to protect the rule of law and other Article 2 values by creating grassroots support among the public. In this regard, the EESC refers to its related opinion concerning the Union's budget and the rule of law ⁽⁴⁾.

3.3. The EESC regrets the fact that the Fund is built only on existing programmes which have had successful results, and notes that it needs to be upscaled and increased to respond to the changed realities within the European Union and to ensure greater visibility and to allow for comprehensive promotion and protection of values enshrined in Article 2 TEU.

3.4. The EESC calls for consistency of policy and funding to be ensured between the EU's engagement in human rights and democracy in external and internal policies. The EESC recalls in this context the Council Conclusions on the action plan on human rights and democracy which committed the EU to step up its efforts to promote a safe and enabling environment in which civil society and independent media can flourish ⁽⁵⁾.

⁽¹⁾ OJ C 81, 2.3.2018, p. 15

⁽²⁾ EP Resolution on a European Values Instrument (2018/2619(RSP)), and EP resolution on The next MFF: Preparing the Parliament's position on the MFF post-2020 (2017/2052(INI)).

⁽³⁾ <https://megacampaign.eu/support-csos-ask-your-mep-to-vote-for-the-european-values-instrument-resolution>.

⁽⁴⁾ SOC/598 (see page 173 of this Official Journal).

⁽⁵⁾ Joint Communication to the European Parliament and The Council Action Plan on Human Rights and Democracy (2015-2019) 'Keeping human rights at the heart of the EU agenda', JOIN/2015/0016 final.

3.5. The EESC welcomes the proposed legal basis for both the Rights and Values programme and the Justice programme as it allows the European Parliament and the Council of the EU to be equally involved in the decision-making process in an area that is critical for citizens and civil society in its broadest sense. However, the EESC considers that the legal basis should afford sufficient scope in terms of thematic areas and support to civil society at all levels and it proposes that consideration be given to inclusion of a reference to Article 11(1-2) TEU.

3.6. The EESC considers the proposed budget to be very low in view of the current challenges that the EU is facing in this area which is of critical importance to European societies, and calls ⁽⁶⁾ for overall funding of at least EUR 1,4 billion ⁽⁷⁾, of which at least EUR 500 million should be allocated to the strand on citizen engagement and participation.

3.7. The EESC also notes the positive evaluations of the programmes that have been incorporated into the Fund and highlights the fact that the limited availability of funds and high demand for the Europe for Citizens programme and for the Daphne strand of the Rights and Equality Programme generated frustration among applicants. The EESC regrets the fact that despite this there has been only a very limited increase.

3.8. The name of the Fund and programmes should be changed in order to make them more consistent with the programme title and objectives, which are closely linked to the citizenship dimension and to empowerment, participation of rights holders, common history and memory as well as to the corresponding heading of the Multiannual Financial Framework: Investing in People, Cohesion and Values. The EESC considers therefore that the Fund should be renamed *Citizens, Rights and Values*. In addition, the strand relating to citizen engagement and participation within the Rights and Values programme should be renamed *Europe for Citizens* in order to ensure consistency with the names of the other strands and to enhance visibility.

3.9. In order to respond also to the EU's current challenges as regards promoting rights and EU values, fostering democracy, bolstering citizens' trust in the EU through their direct participation in shaping Europe's future as well as building capacity and sustaining a vibrant civil society, the Fund should be based on a truly participative and bottom-up approach, in which legal considerations underpin these aims, rather than shaping them. In addition, support and capacity-building should cover the activities of independent civil society, and organisations at local, regional, national and transnational level that promote and monitor the implementation of EU values.

4. Specific comments

4.1. The EESC welcomes the inclusion among the activities of the programme of the support to civil society organisations in order to encourage and facilitate the active participation in the construction of a more democratic Union as well as awareness of rights and values. However the EESC considers that this activity should be supported by an overall objective to be included in Article 4(a) 'building the capacity of civil society organisations to increase civic and democratic participation'. In addition in Article 4(b) it should be made explicit that the promotion of citizen's civic and democratic participation should be supported at local, regional and national level.

4.2. The EESC welcomes the continued focus on the prevention and combatting of all forms of violence against women, children and young people within the Rights and Values programme and by fostering redress for victims through the Justice Programme. It notes that persons with disabilities face two to five times more domestic violence, the increased incidence of violence against elderly people, as well as the violence perpetrated on migrants, the Roma community and ethnic minorities, and calls for additional efforts as well as the need to ensure more coherence and synergies within the two programmes of the Fund.

4.3. The EESC considers this Fund to be a new opportunity to enforce gender mainstreaming, gender budgeting and gender disaggregated data collection. Such measures allow the promotion of further equality by undertaking analyses of the differing impacts of funding on women, girls, men and boys, as well as setting goals and targets and allocating funding more effectively in order to support these goals. It calls in particular for a breakdown by sex of the Rights and Values programme indicators.

⁽⁶⁾ See OJ C 81, 2.3.2018, p. 9.

⁽⁷⁾ To ensure consistency with EU support within external funding such as the European Instrument for Human Rights and Democracy.

4.4. The EESC highlights the key value and uniqueness of mutual learning and exchange of good practices activities among local communities within the Europe for Citizens programme and calls for closer involvement of citizens in town twinning through partnerships to improve the bottom-up nature of these actions. In particular, it notes the positive experience of Community Led Local Development ⁽⁸⁾ in order to ensure the participation and capacity-building of local communities and stakeholders.

4.5. The EESC welcomes the continued focus on increasing understanding of the Union, its history and its cultural diversity. It considers that, in view of the upsurge in extremism and radicalism, objectives should explicitly include remembrance activities and a critical reflection on historical memory.

4.6. The EESC regrets the fact that actions related to freedom of expression of the media, media pluralism, and the need to address fake news and targeted disinformation have been removed from the final version of the Rights and Values programme. Given the relevance of these actions to EU values and the promotion of a democratic and pluralist society, it proposes the creation of synergies with the Creative Europe programme.

4.7. The EESC calls for financial support under the Justice programme to be further extended to all its activities: awareness raising, public education and mobilisation, mutual learning and exchange, analytical and monitoring activities, training and capacity-building.

4.8. The EESC takes stock of the Commission's ongoing work regarding the implementation of a preparatory action proposed by the European Parliament to develop an EU fund offering financial support for litigation cases relating to violations of democracy, the rule of law and fundamental rights targeted at civil society organisations and calls for these activities to be incorporated into the Justice programme.

4.9. National contact points have proven to be generally effective in supporting the bottom-up approach of the Europe for Citizens programme, liaising with and supporting potential beneficiaries on the ground. The EESC welcomes the extension of their role to the other strands of the Rights and Values programme while stressing the need to ensure adequate funding and to appoint entities that are independent of their national Government and possess a thorough knowledge of the civil society sector, of local actors and their needs. It calls for the development of guidelines on their independence role and tasks, including on ensuring the programme's greater visibility as well as training.

4.10. The EESC welcomes the inclusion of civil dialogue meetings as part of the Europe for Citizens programme, and considers that such meetings should be maintained and extended to all the strands of the Fund in order to enable a thorough exchange on values, rights, democracy and the rule of law, based on Article 11 of the Treaty on dialogue with civil society. Such meetings should be open to relevant actors other than the programme beneficiaries and include discussion on the future priorities of the programme.

4.11. The EESC welcomes the fact that all the actions of the programmes will be funded through direct and indirect management and that funding will include a mixture of operating and action grants. The EESC stresses that the availability of small grants is critical to ensuring the participation and support of civil society organisations across the different actions of the Fund, and in particular for the maintenance of a bottom-up approach, reaching out to national and local beneficiaries.

4.12. The EESC also considers that the Rights and Values programme would benefit from the same mode of direct management for the different strands so as to ensure enhanced consistency in implementation, and it notes, in particular, the positive evaluation of the Education Audiovisual and Culture Executive Agency, under the supervision of the Commission, in terms of managing different types of grants, funding arrangements, use of simplified costs and the low percentage of errors.

4.13. The EESC calls for programmes to implement the new provisions of the most recent Financial Regulations as these are particularly relevant to civil society, such as use of co-funding in kind, and valuing volunteers' work as eligible costs. It also reiterates the need to limit the use of co-funding and to make increased use of simplification measures such as lump sums, flat rates and unit costs. It invites the Commission to involve civil society organisations in the development and monitoring of guidelines for the implementation of these rules. In addition, it calls on national governments to also include in their public funding programmes provisions for eligibility of co-funding in kind including volunteers' work.

⁽⁸⁾ OJ C 129, 11.4.2018, p. 36.

4.14. The EESC welcomes the decision to extend the duration of operating grants on a multiannual basis for all programmes and strands of the Fund and stresses the need to further ensure the sustainability and continuity of actions.

4.15. The EESC also calls for the development of new tools to allow civil society participation to be reinforced at national level, particularly in areas where it lacks adequate capacity, for instance through the provision of efficient technical assistance, preparatory actions led by more experienced partners or cascading grants, thus enabling, for example, different levels of grants or a two-step application process.

4.16. The EESC welcomes the inclusion of an indicator on civil society organisations to enable support and capacity-building activities within the Rights and Values programme and considers that the same should be done under the Justice programme. It also calls for specific earmarking of funding for civil society organisations, namely at least 50 % of the different strands.

4.17. The EESC invites the Commission in cooperation with the EESC to organise an annual meeting aimed at fostering coordination between public and private donors in the areas covered by the Fund to explore synergies and learn from good practices.

Brussels, 18 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund’

(COM(2018) 471 *final* — 2018/0248 (COD))

and on ‘Proposal for a Regulation of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the instrument for financial support for border management and visa’

(COM(2018) 473 *final* — 2018/0249(COD))

(2019/C 62/30)

Rapporteur: **Giuseppe IULIANO**

Referral	European Council, 25.7.2018 European Parliament, 2.7.2018
Legal basis	Article 77(2), Article 78(2), Article 79(2) and (4) and Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	26.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	101/0/3
(for/against/abstentions)	

1. Conclusions

1.1. Migration has been a constant thread throughout the European Union's history, with an evident impact on the EU's future and on the societies it comprises. Joint management of migration in the EU as a process is incomplete: over recent years, this situation has degenerated into an institutional crisis that has revealed the lack of a common European voice. The current state of affairs has been prompted by the inability of the EU Member States to put in place the common asylum system and give adequate protection to the hundreds of thousands of displaced persons and asylum seekers who are arriving at our borders.

1.2. The EESC considers that the policies of freedom, security and justice must be based on the protection of the fundamental rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and by the Charter of Fundamental Rights of the European Union.

1.3. A thorough overhaul in the areas of migration, asylum and external borders must be envisaged. It is also essential to make use of the work done by the various European institutions to revise current instruments and offer alternatives that are capable of implementing a common, integrated and coherent migration and asylum policy, in keeping with the principles and obligations that flow from the Treaty and international law.

1.4. Moving ahead with a comprehensive migration and asylum policy, that boosts integration and cooperation between Member States and more clearly reflects the positions of the various European institutions, is crucial if public concerns are to be met, and growing disenchantment with the European venture to be dispelled. The EESC is aware that failing to provide answers or to meet public expectations in these areas generates disappointment and fuels Euroscepticism.

1.5. The EESC views the rising intolerance, racism and xenophobia towards migrants and refugees in the countries of the European Union with concern, and also notes that in some Member States the protection of people's fundamental rights is being eroded.

1.6. The EESC welcomes the new funds, very different to each other, that will give continuity to the work undertaken, and approves of the increase in their financial allocation. It recalls that the funds are instruments that should help a comprehensive European migration and asylum policy to move forward. The funds cover such diverse areas as migration, asylum and the management of external borders, but the absence of any mention of regular channels for access to the European Union, which would also ensure smooth functioning in these areas, is to be regretted.

1.7. The EESC agrees with the reference to Article 80 as the legal basis of the regulation insofar as it expressly states that the common policies of asylum, migration and external borders are based on the principle of solidarity and fair sharing of responsibilities between Member States applying the Schengen provisions on external borders and visas ⁽¹⁾. It considers that application of the principle of solidarity should be strengthened so it is not seen as an empty word.

1.8. Equal treatment and anti-discrimination policies represent the pillars of European policies, including those concerning the integration of third-country nationals. The removal of the word 'integration' from the title is worrying, as this could be seen as reflecting diminishing concern for this aspect.

1.9. The EESC highlights the need to restore the references to closer cooperation between the Member States on asylum and migration, in particular by supporting funds to pool best practice on asylum. This can be done in part by setting up networks and exchanging information on legal migration and the integration of third-country nationals.

1.10. The EESC welcomes the importance given to flexibility in both funds, as this entails acknowledging the importance of better reflecting the needs of each Member State within the framework of joint action. It also approves of the simplification of procedures, together with the recognition of the importance of evaluation.

1.11. The EESC is pleased that border management can be used to increase the Union's internal security while fully respecting fundamental rights, but regrets that there is no specific mention of the protection of fundamental rights at border installations.

1.12. It is crucial to remind the Member States that sea border surveillance includes not only security and border control, but also search and rescue operations at sea. Reference is made here to the 2012 ECtHR ⁽²⁾ judgment prohibiting refoulement not only on the territory of a State, but also in its extraterritorial action, including action occurring on the high seas.

1.13. A number of EESC opinions ⁽³⁾ have argued that the EU should consider the Schengen area's external borders as common borders; responsibility should therefore be managed at European level.

2. Background

2.1. Migration has been a constant thread throughout the European Union's history, with an evident impact on the EU's future and on the societies it comprises. Joint management of migration in the EU as a process is incomplete: over recent years, this situation has degenerated into an institutional crisis that has revealed the lack of a common European voice. It is essential to make use of the work done by the various European institutions to revise current instruments and offer alternatives that are capable of developing a common, integrated and coherent migration and asylum policy, in keeping with the principles of international law and of the Treaties.

2.2. Migration is one of the political priorities of the Commission, whose main objective is to address this issue in a comprehensive manner. The European Agenda on Migration adopted in 2015 combines immediate responses to the humanitarian crisis situation on Europe's borders with long-term steps to manage migration comprehensively.

2.3. The crisis in the Mediterranean has highlighted immediate needs and has also revealed the structural limitations of EU migration policy and its tools. The EU needs to strike the right balance and send a clear message to Europeans that migration can be better managed collectively. The Asylum and Migration Fund (AMF) and its instrument for financial support for border management and visas are part of this process.

⁽¹⁾ See SOC/582 on the Visa code revision (OJ C 440, 6.12.2018, p. 142).

⁽²⁾ Case of Hirsi Jamaa and others v. Italy (Application No. 27765/09).

⁽³⁾ OJ C 303, 19.8.2016, p. 109; OJ C 451, 16.12.2014, p. 7; OJ C 458, 19.12.2014, p. 7; OJ C 44, 11.2.2011, p.162.

2.4. In the context of the Multiannual Financial Framework 2021-2027, the Commission has proposed to significantly strengthen the general budget for the management of migration and borders, providing the new AMF with a proposed total amount of EUR 10,415 billion (at current prices) ⁽⁴⁾ and EUR 9,318 billion (at current prices) for the Integrated Border Management Fund.

2.5. The AFM aims to contribute to the comprehensive management of migration, integration and return, as well as of the Common European Asylum System (CEAS), supporting the Member States as part of an approach based on solidarity and shared responsibility between them.

2.6. As part of the Integrated Border Management Fund, the financial support instrument for border and visa management sets out to assist the Member States to better achieve common measures on the movement of persons across internal borders and on border controls and the common visa policy. Sound management at the external borders of the European Union is a precondition for achieving an area without internal borders where persons and goods can move freely.

3. General comments

3.1. The Committee is pleased that the legal basis for both instruments is cited as being Article 80 TFEU, which states that the common policies on asylum, migration and external borders are governed by the principle of solidarity and fair sharing of responsibility between the Member States.

3.2. Both funds are to be implemented by providing clear and precise guidelines on the management and control systems and audit requirements. Their procedures need to be simplified and administrative burdens reduced, and progress must be made with measures that ensure greater transparency, enhanced accountability and achievement of objectives concerning the funds transferred to the Member States.

3.3. The instruments must be coordinated with other existing provisions, avoiding duplication and operating in full complementarity with the various EU agencies that also work in these areas. Work must be in line with relevant EU policies such as border management, internal security, social inclusion and integration of third country nationals, and the EU's external policy.

3.4. The instruments must be flexible enough to respond to changing challenges in the area of border management and visas. Therefore, in addition to the contribution set for each participating Member State, it is to be welcomed that the remaining funding is being allocated to specific actions where the EU contribution has added value.

3.5. The instruments should serve to coordinate solidarity and shared responsibility between those Member States that fully apply the Schengen provisions (or are preparing to participate fully) on external borders and visas, and should be used for the benefit of the EU's common policy for the management of its external borders. For Schengen to function smoothly, the external borders, which are common borders, should be managed jointly at European level.

3.6. It is essential to harmonise the terminology of 'irregular' or 'undocumented' migration in the texts, in line with the recommendations of the Council of Europe ⁽⁵⁾ and indeed of the European Parliament ⁽⁶⁾.

3.7. The EU needs a common migration policy with instruments and channels that facilitate regular, ordered migration and uphold the right of asylum. The EESC regrets that the recitals focus specifically on irregular arrivals on border control, making no mention of the need for progress and innovation in respect of an integrated European migration system. Reform of the Dublin system is also essential.

⁽⁴⁾ For more details on these figures, see ECO/460 — Multiannual Financial Framework post-2020 (OJ C 440, 6.12.2018, p. 106).

⁽⁵⁾ Parliamentary Assembly of the Council of Europe. Resolution 1509 (2006).

⁽⁶⁾ European Parliament resolution of 14 January 2009 on the situation of fundamental rights in the European Union 2004-2008 (2007/2145(INI))

4. Specific comments

4.1. The EESC considers the proposals for the two financial instruments to be appropriate, acknowledging that the technical and financial assistance provided by the EU to the Member States during the 2015-2017 period through the Asylum, Migration and Integration Fund⁽⁷⁾ amongst others helped to improve management in the fields of asylum, migration and external borders.

4.2. The increased budget for these funds is welcomed, provided it furthers the aim of an EU migration policy that is integrated, common, consistent and in line with the principles of international law and that simultaneously acknowledges the needs of host societies and EU citizens and works closely with partners around the world.

4.3. The word 'integration' needs to be put back into the AMF's title, since inclusion is a challenge for the Member States.

4.4. The EESC welcomes the fact that the AMF recognises the role that local and regional authorities (including those in the outermost regions), social actors and civil society organisations play in the short-term and long-term integration of third-country nationals, not least into the labour market. It regrets that innovative ways of improving AMF accessibility to these actors are not offered, and highlights the importance of upholding and applying the principle of subsidiarity.

4.5. The EESC welcomes the fact that, in the use of operating support, a Member State may be deemed not to be compliant with the relevant Union *acquis* by failing to fulfil its binding obligations under the Treaties, or if there is a clear risk of a serious breach of the Union's values in the field of asylum and return. It would be desirable for the consequences of such non-compliance in the operational use of the AMF be set out in more detail. The EESC points out that it is in favour of the Commission having the ability to intervene in emergencies provided it follows a transparent procedure to keep European legislators (Parliament and Council) directly informed⁽⁸⁾. It also advocates the ability to bring infringement proceedings immediately in the event of non-compliance by the Member States in these areas.

4.6. Cooperation with third countries for the proper management of flows of asylum-seekers requires economic incentives, but also incentives relating to technical cooperation and the strengthening of institutions. The Emergency Trust Fund for Africa is a necessary but not exclusive instrument: providing it with an adequate budget must go hand-in-hand with working towards a real partnership between the countries of the European Union and the African nations, with joint responsibility, shared objectives and fitting in with the Sustainable Development Goals. Efforts should be made to improve the coordination of these actions in the area of migration and asylum with DG DEVCO's measures to strengthen institutions and support democratic processes, avoiding duplication and ensuring coherence.

4.7. The EESC considers it necessary to monitor more closely the obligation to cooperate and establish coordination mechanisms with the authorities managing the ESF+ and the ERDF in each Member State in order to promote coordination and mainstreaming and explore how to apply them when they are also in the hands of sub-national authorities.

4.8. The AMF needs to bring added value to the efforts to strengthen the Common European Asylum System, the ability of Member States to deal with persons in need of international protection, the promotion of the use of legal channels to enter the EU territory and the support for the integration of regular third-country nationals.

4.9. In terms of integration, the distribution key only takes into account the flows of arrivals per year and the total percentages of foreign population, without using any qualitative indicator which could also serve to better identify the specific needs of the Member States. It is necessary to determine the objectives more precisely in this respect, and to establish indicators⁽⁹⁾ to continuously assess the success of the AMF's contribution in these areas.

⁽⁷⁾ April 2014 saw the adoption of Regulation (EU) No 516/2014, establishing a specific EU funding programme on migration and asylum for the period 2014-2020, with the aim of contributing, by means of financial assistance, to the efficient management of migration flows and to the implementation and development of a common EU approach to asylum and migration. The AMIF had four aims: (1) to strengthen the establishment of the Common European Asylum System (CEAS); (2) to support legal migration to the Member States in accordance with their economic and social needs, and promote the effective integration of third-country nationals; (3) to enhance fair and effective return strategies aimed at combating irregular migration; and (4) to enhance solidarity and responsibility-sharing between the Member States, in particular towards those most affected by migration and asylum flows.

⁽⁸⁾ OJ C 303, 19.8.2016, p. 109.

⁽⁹⁾ OECD/EU (2015) *Indicators of Immigrant Integration 2015* (the 'Zaragoza indicators').

4.10. It is vital to guarantee the mid-term and retrospective evaluations of the AMF and to introduce flexible mechanisms that make it possible to implement corrections in the actions evaluated. The EESC considers it necessary to combine impact and results assessments, particularly for actions that may be implemented by different administrative levels in each Member State.

4.11. Reducing the incentives for irregular migration through a policy on return and readmission is not straightforward. The Committee deems it essential to have a return and readmission policy that is efficient and that guarantees the human rights of those concerned, and stresses the need to improve the assessment of these policies and their real impact in reducing irregular flows.

4.12. Likewise, it is essential to stress the need to tackle irregular employment, especially of irregular migrants or in cases of abuse and labour exploitation. The EESC strongly welcomes the fact that the AMF can serve to finance measures aimed at counteracting the incentives to irregular migration, including irregular employment, which can act as a pull factor for irregular flows, leading to unfair competition between companies and creating a space in which rights are violated ⁽¹⁰⁾.

4.13. The Committee warmly welcomes the allocation of resources to the Union Resettlement (and Humanitarian Admission) Framework. It is hoped that the targeted Union resettlement scheme will turn this commitment into a reality that is effectively developed by the Member States. The EESC has previously voiced its support for a targeted Union resettlement scheme that would turn this initiative into a reality that is effectively developed by the Member States, with financial incentives for the most engaged Member States.

4.14. The instrument for financial support for border management and visas reaffirms the willingness to contribute to ensuring the internal security of the European Union while fully respecting fundamental rights, but it is to be regretted that it does not specifically mention the protection of these rights in border areas, nor in relation to non-EU nationals.

4.15. The EESC welcomes the fact that the instrument allows the Member States to implement projects with a third country or in the territory of that country, following prior consultation of the Commission. It considers that more information is needed on the requirements of such consultation (or notification of the information), laying down clear criteria that should also include the human rights situation in the country of destination. This is crucial, since actions with a third country may include actions such as monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings.

4.16. The Committee regrets that the Regulation systematically equates the fight against irregular migration with the fight against cross-border crime, without distinguishing the spurious objectives of the second from those of the first.

4.17. With regard to border management, it is disappointing that security continues to be seen as a basically 'military' matter, whereas the Global Strategy for the European Union's Foreign and Security Policy indicates that the EU will foster human security through an integrated approach. This entails action that seeks to reduce poverty and inequality, promote good governance and human rights, provide development aid and tackle the underlying causes of conflict and insecurity, among other aspects.

4.18. The Committee is pleased that note is taken of the fact that the instruments's objective is also to contribute to protecting and saving the lives of migrants, and that the Member States are reminded that sea border surveillance includes not only security and border control, but also search and rescue operations at sea.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽¹⁰⁾ See adopted opinions OJ C 204, 9.8.2008, p. 70, and OJ C 75, 10.3.2017, p. 81.

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund'

(COM(2018) 472 final — 2018/0250 (COD))

(2019/C 62/31)

Rapporteur: **José Antonio MORENO DÍAZ**

Referral	European Parliament, 2.7/2018 Council, 25.7.2018
Legal basis	Article 82(1), Article 84, Article 87(2) and Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	26.9.2018
Adopted at plenary	18.10.2018
Plenary session No	538
Outcome of vote	141/3/4
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC agrees with the need to allocate more resources to operational and preventive security-related actions and programmes and supports the creation of a flexible and transparent fund — distributing resources according to clear and predictable operational criteria and objectives — in order to strengthen them.

1.2. The Security Fund should be designed so as to strengthen a preventive policy, which requires active engagement and cooperation with civil society, especially in terms of caring for and making arrangements for victims, auditing security actors, and preventing radicalisation.

1.3. Grants from the Fund — in the case of both EU Member States and third countries — must only go to public institutions that can effectively ensure that human rights will be strictly upheld.

1.4. The EESC must be treated as an observer in the creation and development of this Fund so that the views of organised civil society can be heard at EU level.

1.5. We point out the need to specifically address the risk posed by the violent radicalisation of far-right groups.

1.6. We point out the need to counteract criminal organisations' financing mechanisms and capital flows.

1.7. The EESC believes that it is necessary to be more than merely reactive and to deepen preventive policies, addressing both the root causes of why some people become radicalised, posing a danger to others, and the financing mechanisms of violent groups.

1.8. Human rights — the philosophical cornerstone of the EU — must be an integral element and a prerequisite of any measure taken. In the case of a financing fund, this should be made clear by refusing resources from the Fund to those who do not demonstrate compliance with the minimum standards. This also comes through in the Commission's recent proposal ⁽¹⁾ on financial measures to ensure the rule of law in Member States, as well the EESC's group on Fundamental Rights and the Rule of Law.

⁽¹⁾ COM(2018) 324 final.

2. Text of the proposal

2.1. This document makes use of the methodology of Article 2 of the Commission proposal as regards the definitions of the various concepts involved in its development.

2.2. The EESC shares the concerns set out in the proposal under consideration, given the fact that threats to security in Europe have intensified and diversified, taking the form of terrorist attacks, new types of organised crime, and cybercrime.

2.3. Security has an inherently cross-border dimension and therefore a strong, coordinated EU response is required: beyond internal security challenges, the EU faces complex external threats that no Member State can meet on its own.

2.4. Security will remain a defining issue for the EU for years to come and Europe's citizens expect their Union and national governments to deliver security in a fast-changing and uncertain world. Thus, educational and pedagogical measures on the prevention of violent behaviour are desirable, including textbooks and school material that foreground respect for fundamental rights, pluralism and diversity.

2.5. It is clear that the challenges the Union is facing, notably from international terrorism, cannot be managed by individual Member States alone and without the financial and technical support of the EU. In an era where terrorism — both external and domestic terrorism and with either a religious or politically extreme (particularly far-right) dimension — as well as other dangers arising from drug trafficking, trafficking in human beings for exploitation and other serious crime, know no borders, the Member States continue to have a responsibility towards their citizens to deliver public security, in full compliance with the fundamental rights also enshrined in EU texts and in international treaties.

2.6. The EU can and must support these measures; in this connection, the Treaties envisage the need to ensure a high level of security, focusing in particular on preventive measures and coordination and cooperation between police, judicial and other competent authorities, such as the decentralised agencies.

2.7. The European Union Agency for Law Enforcement Cooperation (Europol), the European Union Agency for Law Enforcement Training (CEPOL) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) play key operational, coordination and supporting roles in the implementation of the EU priorities, objectives and activities in the security area.

2.8. The Internal Security Fund is set up to facilitate cross-border cooperation and exchange of information between Member State law enforcement officials and other relevant authorities. In particular, this cooperation is facilitated by enabling the interoperability of the different EU information systems for security, thereby making borders and migration management more effective and efficient, and by facilitating joint operational actions, as well as by providing support for training, for the construction of essential security-relevant facilities, for the collection and processing of passenger name records in line with the relevant EU *acquis*, and for the purchase of necessary technical equipment.

2.9. The Fund aims at intensifying cross-border operational cooperation in relation to the prevention, detection and investigation of cross-border crime and at supporting efforts to strengthen the capabilities to prevent such crime, including terrorism, in particular through increased cooperation between public authorities, civil society and private partners from across the Member States.

2.10. The role that civil society has played in addressing security concerns has been very useful and necessary in terms of raising standards regarding respect for fundamental rights, ensuring that there is no abuse on the part of the authorities, and condemning certain undesirable attitudes which, nonetheless, are a constant temptation. In our democratic context, we must not be carried away by a desire for effective and exclusively security-based solutions at all costs. The Fund should therefore be available to finance programmes that strengthen this kind of monitoring, and to increase support for legal structures that can subject the actions taken by security forces to independent judicial oversight. The same also applies to the crucial task of preventing radicalisation, providing education and raising public awareness.

2.11. Non-governmental organisations and other members of civil society already make quantitative and qualitative contributions to security by:

— preventing and prosecuting measures taken by Member State authorities that are excessive or infringe human rights,

- preventing and prosecuting all forms of ideological radicalisation,
- raising society's awareness about victims, integrating them into society and providing the necessary support,
- accomplishing organisational work and enabling victims, and all those who work in solidarity with them — as well as all those who are concerned by security-related issues — to be able to play a role and provide input,
- implementing measures in the field of education, especially of the youngest children, with the crucial role of both raising awareness and preventing radicalisation,
- undertaking many other measures that indirectly promote both domestic and border security, such as the abovementioned auditing of the actions of the security forces, education and awareness-raising, protecting and making arrangements for victims, etc.,
- along these lines, civil society must be permitted to continuously monitor how the fund is used.

2.12. This whole range of actions should receive direct support from the Union authorities, and, since they promote security, should also have a budget item within the abovementioned allocation.

2.13. Both the EU and the Member States need to be aware that certain civil society organisations could also — directly, or by indirect actions — promote speech and/or behaviour that runs counter to the EU's rights and values.

2.14. The main challenge the proposal aims to address is the need for greater flexibility in managing the future Fund, as compared with the current programming period. It is also important to have tools to ensure that funding is steered towards EU priorities and actions with a significant added value to the Union. Given that new mechanisms for the allocation of funding between direct, indirect and shared management systems are needed to address the latest challenges and priorities, it is essential that these mechanisms also allow for the inclusion of the active members of civil society mentioned above, with a view to meeting the objectives highlighted. **In this connection, we propose that the EESC be considered an observer in the creation and development of this Fund so that the views of organised civil society can be heard at EU level.**

2.15. Given the size of the total and envelope of the Fund (EUR 2 500 000 000), the criteria for allocating this amount should be clarified. It is right that they retain a necessary degree of flexibility, without prejudice to the need to clearly specify the budget items under which this money will be distributed.

2.16. These items should follow a simplicity criterion to avoid excessive bureaucratic obstacles to accessing the Fund and should be governed by the principle of mutual trust. Clarity and predictability in this regard will make it easier for decision-makers from various countries to launch task forces or rapid intervention measures, with the guarantee that they will be covered or supported by allocations from the Fund.

2.17. The EESC welcomes the proposal (regulation of the European Parliament and the Council to create an Internal Security Fund) and views the creation of the Fund as appropriate, on the basis of Article 3(2) of the Treaty on European Union. It also believes that the proposal is justified in light of the objectives referred to in Article 67 of the Treaty on the Functioning of the European Union, subject to the principles of solidarity and fair sharing of responsibility stated in Article 80 TFEU, as well as the principles of subsidiarity — as the subject-matter comes under the area of non-exclusive competences — and the principle of proportionality.

2.18. In any event, the establishment of an Internal Security Fund seeks to provide an instrument to complement the work of the other agencies and funds already available to the Union, as well as other national bodies, with the fundamental aim being to contribute to a high level of security within the Union, in particular through the fight against terrorism and radicalisation, serious and organised crime and cybercrime, as well as assistance to and protection of victims of crime. It makes use of specific objectives such as exchange of information, the stepping-up of cross-border joint actions, and capacity-building in relation to prevention, while always being underpinned by cooperation between the various public authorities, civil society and private partners in the Member States ⁽²⁾. In this context, it is also important to target criminal organisations' funding mechanisms and capital flows, and the Fund must consider this issue.

⁽²⁾ Article 3(1) and (2) of the proposal.

2.19. Finally, it is worth mentioning that the EESC has participated as an observer in the High-Level Commission Expert Group on Radicalisation set up by the European Commission in 2017 ⁽³⁾.

3. Recommendations

3.1. The Fund should address the root causes of why some people join and organise groups that pose a danger to others, by means of substantive studies and research to help prevent specific situations from occurring.

3.2. The creation of the Fund builds on the investments and achievements that preceded it, such as the 'Security and Safeguarding Liberties' programme, the instrument for police cooperation, and the drugs policy of the 'Justice' programme. In any case, the assertion that 'The facility will make it possible to address new priorities or take urgent action and to implement them through the delivery mode that is best placed to achieve the policy objective' ⁽⁴⁾ should be fleshed out. Innovation is a priority, especially when the groups we are fighting against are highly innovative.

3.3. Fund distribution criteria should be purely operational, meaning that measures and programmes are funded without recourse to criteria such as population or country size. Another priority should be total transparency in the allocation and economic framework of the Fund, which will be open to the media and civil society, enabling them to scrutinise the fulfilment of the conditions that are imposed in order to benefit from its resources.

3.4. It is also important that the creation of the Fund makes provision for a future evaluation of its significance and effectiveness by means of a periodic, up-to-date study on the general situation, enabling its evolution to be assessed.

3.5. The Economic and Social Committee would like to highlight some of these new priorities which do not appear to be reflected in the document and which deserve explicit mention, as they may represent an important aspect, especially of the objective of preventing radicalisation, which might even enjoy a degree of complicity on the part of certain authorities.

3.6. We are referring here to extreme-right, far-right, neo-Nazi, anti-Semitic, and white supremacist movements, or any others that glorify discrimination based on race, origin, sexual orientation etc., which pose a real threat to security and the rule of law (and come under the EU's remit), especially insofar as such movements, despite being driven by ultra-nationalism, are beginning to see the usefulness of forging international ties and of coordinating with members from other countries who share similar views ⁽⁵⁾.

3.7. Protecting and assisting the victims of human trafficking networks is seemingly conditional upon effective and efficient cooperation in pursuing those responsible for such trafficking. However, the fundamental objective of the Union's and the Fund's work must be to protect the victims, and this must not be conditional on better or worse cooperation in prosecuting those responsible for their mistreatment.

3.8. However, using the Fund to provide the necessary resources to victims directly and to those institutions that contribute to their protection and integration will undoubtedly, and quite naturally, result in such cooperation, to the benefit of prosecution and prevention measures at least over the medium term.

3.9. Preventing radicalisation is an important area which must cover more than the risk of only one strand of potential radicalisation, on the grounds that the most serious attacks suffered in recent years were carried out by extremist Islamist groups. We must also be very attentive to the prospect of political and ideological extremism, the origins of which are completely different as are the areas in which it grows and its potential victims.

3.10. Another section of the proposal of which the EESC is critical is the *ex-post* evaluations, stakeholder consultations and impact assessments. Certainly from the point of view of efficiency in relation to the objectives of the instruments applied, their costs, the reasoning behind them, their relevance, consistency and complementarity, this section is positive.

⁽³⁾ Final Report of the High-Level Commission Expert Group on Radicalisation (HLCEG-R).

⁽⁴⁾ Page 2 of the proposal's explanatory memorandum.

⁽⁵⁾ Final Report of the High-Level Commission Expert Group on Radicalisation (HLCEG-R); Recommendations on policy areas. 2.5: 'Ideology and polarisation'; the Group recognises that attention should also be paid to the rise in right wing extremism and the broader tendency of polarisation in society.

However, the analysis lacks an assessment of whether these instruments have helped improve not only cooperation, the exchange of knowledge and good practices, and trust between authorities, but also aspects of fundamental rights, to which only a short paragraph is dedicated — nothing more than a redundant commitment at the end of Article 3.

3.11. Given that security and fundamental rights have historically been in tension with one another, an instrument such as the one proposed, aimed at increasing the security that is undoubtedly needed, must be accompanied by specific objectives to enhance respect for fundamental rights in the security framework. Improving security must never come at the expense of fundamental rights.

3.12. If a particular country, whether it is a member of the European Union or not, fails to demonstrate the appropriateness of its law enforcement agencies' actions, or does not agree to the necessary training or for its actions to be subject to monitoring mechanisms in this regard, then it should not receive financing from the Fund and will be excluded from it. Compliance with minimum standards of respect for human rights must be a *sine qua non* to be able to receive support from other EU Member States, either through this Security Fund or any other solidarity mechanism.

3.13. In relation to the section on consistency with other EU policies, we must highlight the need to create synergy and consistency with the Asylum, Migration and Integration Fund and the Integrated Border Management Fund as well as the European Border and Coast Guard Agency. Specifically with regard to this section, doubts have been raised as to whether the actions taken through these funds and by the Agency give too much priority to the security objective over and above other tasks that are the responsibility of all European authorities and levels. This relates directly to the earlier call for more consideration to be given to this, resulting in better guarantees for the respect of fundamental rights.

3.14. The Fund is and must be open to supporting cooperation with third countries; however, these resources cannot be allocated directly to the authorities of those countries, but rather to projects and programmes carried out jointly between the authorities of Member States and third countries. Cooperation must be absolutely conditional on monitoring the funding allocated by the Fund; on respect for human rights by the countries benefiting from this cooperation; and, above all, on the acknowledged public character, in terms of state ownership and management, of the collaborating entities that might receive such funding. The resources from the Fund must at all costs be prevented from ultimately financing uncontrolled groups or cells that might even pose a threat to security in their countries or to the Union itself.

3.15. International maritime law instruments, as well as the Convention relating to the Status of Refugees and the remaining body of law on protecting people in the difficult situation of crossing borders by unconventional means, oblige the EU and all its members to include sea rescue among the main priorities of its border security policy, with due reception at ports located closest to those rescued at sea and incoming stowaways, respect for their fundamental rights, and implementation of return or repatriation procedures that include all the specific guarantees of their rights, especially the right to recognition of their refugee status. The Fund should also be used for these purposes, both by financing the needs of states and by supporting civil society, as discussed above.

Brussels, 18 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a regulation of the European Parliament and of the Council establishing “Erasmus”: the Union programme for education, training, youth and sport and repealing Regulation (EU) No 1288/2013’

(COM(2018) 367 final — 2018/0191 (COD))

(2019/C 62/32)

Rapporteur: **Tatjana BABRAUSKIENĖ**

Co-rapporteur: **Imse SPRAGG NILSSON**

Referral	European Parliament, 14.6.2018 Council, 21.6.2018
Legal basis	Article 165(4), 166(4) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
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Plenary session No	538
Outcome of vote (for/against/abstentions)	186/3/1

1. Conclusions and recommendations

The EESC:

- 1.1. welcomes the next Erasmus programme's objective to equip individuals with the knowledge, skills and competences needed to face social and economic challenges and to focus primarily on young **European citizens**;
- 1.2. expects that the future Erasmus programme will consider **education and training from a holistic perspective**, where key competences ⁽¹⁾ and basic skills play a crucial role alongside continuous upskilling as part of lifelong learning, with special focus on validation and recognition;
- 1.3. suggests that the name remain unchanged and that **the name ‘Erasmus+’** be retained, as the latter symbolises the fact that all the programmes are contained under one umbrella;
- 1.4. welcomes the proposal to double the programme's budget, but calls for it to be **tripled**, which would show a deeper commitment to the educational, professional and personal development of people in education, training, youth and sport, in order to ensure real inclusiveness and access for all;
- 1.5. finds that a higher budget should be combined with greater **flexibility and responsibility at national level**;
- 1.6. highlights the fact that the actions under the youth chapter were previously the most successful in reaching out to those with fewer opportunities and that this should be reflected in the allocation of funding;

⁽¹⁾ Council Recommendation of 22 May 2018 on key competences for lifelong learning. Key competences are defined as: literacy and languages; maths, science and engineering; digital competence; personal, social and learning competences; civic competence; entrepreneurship; and cultural awareness and expression. This also includes a comprehensive set of values, skills and attitudes for appropriate participation in democratic societies.

- 1.7. requests that **Discover EU** should contain a strong learning component if it is to be a part of the programme;
- 1.8. stresses that the physical experience should not be eclipsed by **virtual tools** or replaced by them but must remain complementary to such tools;
- 1.9. agrees with the increased number of objectives on **adult learning and continuing vocational education and training (CVET)**, and suggests that the widened scope be reflected in the allocation of funding;
- 1.10. asks for a stronger focus to be placed on **cross-sector cooperation** (KA2) in the 'lifelong learning approach', with a sufficient budget for implementing large-scale policy projects;
- 1.11. welcomes the **increase in budget for staff**, in particular for the mobility of teachers and trainers, to support their initial and continuing professional development;
- 1.12. welcomes the proposal's good intention to provide **small-scale grants** to support those who do not have experience of applying to the programme;
- 1.13. recommends giving priority in the new programme's Youth chapter to '**volunteer-led**' activities and **organisations** instead of using the terminology 'big' and 'small'. Also, **grants to large-scale European youth events** should be considered;
- 1.14. further welcomes the fact that the proposal emphasises the importance of an **independent audit body** in assessing the performance of the national agencies;
- 1.15. believes that the forthcoming programme needs to be disseminated and advocated by **career guidance** services in education and training institutions, employment services and other organisations in order to reach broader target groups;
- 1.16. finds that the proposal should encourage an **EU-level and EU-wide dissemination** of projects' results and the continuation of projects that have proved to be excellent;
- 1.17. stresses the absolute need for the **permanent committee governing the programme** to give all relevant European-level stakeholders and social partners a permanent position in its structure.
- 1.18. welcomes the youth participation activities. It is a format that was considered very successful under the youth in action (known then as youth initiatives), allowing **unorganised youth to take part** in the programme.

2. Introduction

- 2.1. Following the EU financial programme to support education, training, youth and sports via the present Erasmus+ programme (2014-2020), the European Commission published the next generation of the programme under the name 'Erasmus' as part of the Multiannual Financial Framework 2021-2027.
- 2.2. The previous Erasmus+ programme has greatly helped to support education and training at European, national, regional and local levels, to cultivate a sense of belonging to the EU (the 'European identity' in all its diversity), and to foster mutual understanding, democratic citizenship, European integration and social fairness, integration into the labour market, and consequently also economic growth.
- 2.3. The intention is that the next generation of the programme, with a doubled budget, will be strengthened and extended by reaching out to a greater number of target groups, be more inclusive, support small-scale projects and involve organisations which do not have experience in applying to the programme. It will continue to cover schools, vocational education and training, higher education and adult learning, including non-formal and informal learning and voluntary activities, and youth and sport, but in a more streamlined manner, building on the mid-term evaluation and stakeholder consultations.

3. General comments

3.1. The EESC points out that quality education, training and learning mobility should be accessible to all. The new Erasmus programme's commitment to inclusiveness and equality as essential goals is crucial. Currently, statistics show that the majority of mobile higher education students come from privileged socioeconomic and academic family backgrounds ⁽²⁾. The **insufficiency of Erasmus grants** provided for higher education students studying abroad and the high cost of living in another country were mentioned by 63 % of non-mobile students in 2016 as being the main obstacles to participation in Erasmus exchange programmes at university level ⁽³⁾. The programme's limited financial support has contributed to a large access gap between students from differing socioeconomic backgrounds.

3.2. The next Erasmus programme is essential in order to strengthen mutual understanding and a **sense of belonging to the EU, to improve young people's skills and competences, thereby allowing them to act as democratic citizens** and to have better opportunities in the labour market. It is crucial in order to support inclusiveness and common European values, to foster social integration, to enhance intercultural understanding and to prevent radicalisation through the participation of young people in democratic processes, supported by **learning mobility and cooperation** between European citizens, education and training institutions, organisations, stakeholders and Member States, all of which is of paramount importance for the Union's future.

3.3. The EESC welcomes the next Erasmus programme's objective, to equip young European citizens as future beneficiaries with the knowledge, skills and competences needed for participating in the constantly **changing labour market**, as well as for dealing with **social, economic and environmental challenges**. This will require education systems to be modernised, made accessible and **fit for the digital age**, and learners to be better prepared to become democratically active citizens and strong candidates for quality employment and fair jobs.

3.4. The EESC expects that the future Erasmus programme will consider **education and training from a holistic perspective**, where key competences and basic skills, in particular 'STEAM' ⁽⁴⁾, play a crucial role alongside continuous upskilling as part of lifelong learning. Primarily, it should support democratic citizenship and common European values in order to ensure peace, security, freedom, democracy, equality, the rule of law, solidarity and mutual respect and to contribute to open markets, sustainable growth and social inclusion and fairness, while respecting and enriching a sense of belonging and cultural diversity.

3.5. Concerning the policy objective, the EESC supports the fact that the regulation is based on the **European Pillar of Social Rights (EPSR)**. The EESC believes that the next Erasmus programme should serve as a tool to implement the first principle of the Pillar in order to ensure that quality and inclusive education, training and lifelong learning are rights for all.

3.6. The EESC also supports the fact that the Regulation is based on the **Charter of Fundamental Rights of the EU** ⁽⁵⁾ in order to ensure the **right of equality and access for all**. The EESC requests that the final regulation highlight still further that equal treatment, fairness and gender balance are applicable and strengthened through the programme.

3.7. While it is clear that the new Erasmus programme has considered 'people with disabilities and migrants, as well as Union citizens living in remote areas', the EESC asks that the provision of **specific personal assistance and financial support** to disabled people be guaranteed in the budget allocation, respecting the UN Convention on the Rights of Persons with Disabilities (CRPD) ⁽⁶⁾.

3.8. **Increased financial assistance to all young people** is needed in order to support their learning mobility and to provide people from socioeconomically disadvantaged backgrounds, including newly arrived migrants, with more opportunities to access **quality education and training** and to promote their inclusion in society.

⁽²⁾ The Erasmus Impact Study (2014) stated that almost two thirds of students had at least one parent working as an executive, a professional or a technician.

⁽³⁾ What are the obstacles to student mobility during the decision and planning phase? Intelligence brief No 02 (2016) http://www.eurostudent.eu/download_files/documents/EV_IB_mobility_obstacles.pdf

⁽⁴⁾ Science, technology, engineering, arts and mathematics (STEAM).

⁽⁵⁾ http://www.europarl.europa.eu/charter/pdf/text_en.pdf

⁽⁶⁾ <http://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

3.9. Bearing in mind that the **Charter of Fundamental Rights of the EU** provides for the fair treatment of everyone (not only EU citizens), **migrants, refugees and asylum seekers** also need support in order to gain recognition for their education and training levels and in order to provide them with further training so that they are integrated into the EU's education system and labour market.

3.10. The EESC also welcomes the fact that the next Erasmus programme will focus on the implementation of the **Paris Declaration on promoting citizenship and the common values of freedom, tolerance and non-discrimination through education** ⁽⁷⁾, given that the prevention of extremism and radicalisation in Europe is now more important than ever.

4. Specific comments

4.1. The EESC underlines the importance of the programme's **complementarity with the political objectives and activities of the Member States and the Union**. Among the political objectives which the programme should implement are the European Education Area, the EU Youth Strategy and the future Education and Training Strategic Framework with its sectoral agendas, as well as an explanation of how the programme will support the Member States, social partners and other stakeholders in reaching the indicators and benchmarks of these future strategies.

4.2. The EESC calls for a **tripling of the Erasmus budget**, which would show a deeper commitment to learning mobility and the need to invest in social cohesion, European values, integration and citizenship. The new Erasmus programme will have to cover the additional policy goals, as mentioned above. Policy-makers must make sure that this will not result in unacceptably low success rates in parts of the programme, as happened in previous programmes.

4.3. The EESC considers that the next Erasmus programme needs to be **complementary to other Union funds and programmes**, especially to the future ESF+. At the same time, the EESC would like to emphasise that **national education, training, youth and sport budgets need to be sustainable themselves** and that the Erasmus programme budget must not be used to fill their investment gaps. The European Semester process should continue to play an active role in order to ensure fair and sustainable national investment in education, training and lifelong learning.

4.4. The EESC stresses how important it is that the budget for the next Erasmus programme promotes **cooperation among Member States** to improve their education and training systems in line with democratically agreed political objectives and activities discussed and agreed by the Council and the European Parliament in consultation with the social partners and the EESC. A higher budget should be combined with greater **flexibility and responsibility at national level**. This applies to content-related objectives, such as any programme modifications made to align it with the current and future political and socioeconomic developments in Europe.

4.5. The EESC supports the fact that the Commission's proposal will allow third countries to participate in the programme and perceives this as an opportunity for further internationalisation and as a way to strengthen cooperation between different education institutions as well as youth and sport organisations all over the world, since this will provide more opportunities for young people in partner countries to study and train in Europe and vice versa. **Easier access and sufficient administrative, financial, and social support** for these participants are needed in order to ensure a place for European education in the global education scene.

4.6. The EESC acknowledges the greater relevance ascribed to **tools for virtual cooperation** and agrees that options like **blended mobility**, as also highlighted in the proposal, are a great way of facilitating access to groups facing particular obstacles to physical mobility such as those living in remote areas, family-carers or people with disabilities. These tools have the potential to increase transnational cooperation and communication and to help prepare and guide future participants. However, the EESC stresses that virtual tools should not replace the physical experience and that they must remain complementary to it. Priority must be given to investment in quality physical mobility.

4.7. The EESC suggests that the proposal refer to bureaucratic obstacles that may arise when groups of learners with different nationalities and status want to participate in a mobility initiative, in particular, if the country of destination is a non-EU country (e.g. different visa requirements or access restrictions for different nationalities).

⁽⁷⁾ http://ec.europa.eu/dgs/education_culture/repository/education/news/2015/documents/citizenship-education-declaration_en.pdf

4.8. The EESC believes that **the name of the programme** is crucially important and that it is necessary to ensure that the general public has a clear understanding of what the programme supports and that it covers **all education phases and learning forms, not just higher education**, since half of the Erasmus funding goes towards the promotion of education and training, adult learning and supporting youth and sports, thus enabling young people and staff to spend a period of time abroad. However, now that the '+' sign symbolising the fact that all the programmes are placed under one umbrella will disappear from the name, the programme risks 'losing' actors outside the higher education sector. The EESC therefore suggests that **the 'Erasmus+' name remain**.

4.9. The EESC agrees with the increased number of objectives on **adult learning and continuing vocational education and training (CVET)**, and suggests that the widened scope be reflected in the allocation of funding. The EESC points out that adult learning also targets **socioeconomically disadvantaged people**, including refugees. Therefore the EESC is concerned that once again adult learning and support for low-skilled adults will be allocated the smallest percentage of the budget. The EESC doubts that this amount, together with the future ESF+ budget, will be sufficient to support the 70 million low-skilled adults who need to be integrated into the labour market, to retain their jobs, and to be supported in their transition between jobs.

4.10. While the EESC appreciates the efforts made to **increase the VET budget**, it should be noted that no particular measures are envisaged to provide higher quality, attractive, accessible and inclusive VET. At the same time, mobility for VET learners and apprenticeships must be improved (only 1 % of European apprentices — the target for 2020 is 6 % — are currently opting for a stay abroad during their training⁽⁸⁾) in accordance with the **Council Recommendation on a European Framework for Quality and Effective Apprenticeship (EFQEA)**⁽⁹⁾, the European Credit System for Vocational Education and Training (ECVET) and the European Quality Assurance Reference Framework for Vocational Education and Training (EQAVET).

4.11. The EESC would like to see how the 'lifelong learning approach' is put into practice and believes that there should be a stronger focus on **cross-sector cooperation** (KA2), with a sufficient budget for **implementing large-scale policy projects**, given their high potential at both the national and EU level, as shown in the EESC Information Report on Erasmus+⁽¹⁰⁾.

4.12. The EESC also welcomes the increase in the budget for staff, in particular for **teacher and trainer mobility**, to support their initial and continuous professional development. The mobility of teachers, trainers and other (educational) staff is essential to help improve the quality of education and training. It also fosters essential international cooperation between education institutions and other organisations as well as their internationalisation. The EESC believes that the proposal could provide further support to teachers, trainers, other (educational) staff, university professors and researchers who need to be **replaced in their job while participating in mobility periods**. They should be supported in language learning and their mobility leave would need to be considered as part of their job and recognised continued personal and professional development.

4.13. The EESC believes that the next Erasmus programme needs to be disseminated and advocated by **career guidance services in education and training institutions, employment services** and engage more in media campaigns in order to reach broader target groups.

4.14. The EESC suggests that the regulation mention the importance of **linking budget allocation and concrete grants to strict quality assessment procedures and to a description of learning outcomes**. The proposal should also place special emphasis on the **validation and recognition of education and training abroad and online**. Thus, the proposal should make reference to the **Council Recommendation on Validation of Informal and Non-Formal learning**⁽¹¹⁾, the **EFQEA**⁽¹²⁾, the Bologna Process and its fundamental values and national credit systems, European tools and instruments such as the European Qualifications Framework (EQF), the European Quality Assurance Register for Higher Education (EQAR), ECVET and EQAVET.

⁽⁸⁾ <http://www.institutdelors.eu/wp-content/uploads/2018/01/extendingerasmus-fernandesbertoncini-june2017.pdf?pdf=ok>

⁽⁹⁾ <http://www.consilium.europa.eu/en/press/press-releases/2018/03/15/quality-and-effective-apprenticeships-council-adopts-european-framework/>

⁽¹⁰⁾ <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/information-reports/erasmus-mid-term-evaluation>

⁽¹¹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012H1222%2801%29>

⁽¹²⁾ <http://www.consilium.europa.eu/en/press/press-releases/2018/03/15/quality-and-effective-apprenticeships-council-adopts-european-framework/>

4.15. The Erasmus programme is a crucial element in supporting the efforts and daily work of youth organisations, especially the support for **Non-Formal and Informal Learning** as well as the development of **Youth Work**. Therefore the proposal that the youth chapter remain a separate entity in the next programme is to be welcomed. Nonetheless, in order to reach more young people and especially those with fewer opportunities, the activities under the youth chapter are crucial in helping to reach those targets. According to the interim evaluation of the current programme, the actions under the youth chapter, which apply inclusive and non-formal learning approaches, were the most successful in reaching out to young people with fewer opportunities. This should be considered when funding is being allocated for the different chapters. The youth chapter should thus have access to better funding. Also, **grants to large-scale European youth events** should be considered (by offering a 'per event' grant rather than 'per capita' grants to such events), as this would significantly increase the number of young people reached by Erasmus+.

4.16. The **European Voluntary Service (EVS)** — an important part of the previous Erasmus+ programme — has now been removed. Since the activities are now to fall under the remit of the European Solidarity Corps and not Erasmus+, the links between these two programmes should be further developed and clarified.

4.17. The EESC is concerned about the **lack of educational components in DiscoverEU**. The core of the Erasmus+ programme is mobility and it has a strong learning component. If this is lacking then it does not belong to Erasmus+. Additionally, it is to be welcomed that young people are supported in exploring the European continent, given the added value this represents with respect to learning about different countries, people, languages, cultures, etc. However, DiscoverEU gives the impression of being an initiative that primarily benefits privileged young people. It only covers travel costs and therefore excludes disadvantaged young people that cannot afford to travel. Furthermore, the role of youth organisations in the implementation of this action will require further explanation. To make this initiative truly meaningful and valuable it needs to have an educational component and to genuinely include all young people.

4.18. It is particularly necessary to **simplify and rationalise** applications to projects under the next Erasmus programme. According to the EESC Information Report on **Erasmus+ mid-term evaluation** ⁽¹³⁾ and the social partners' research ⁽¹⁴⁾, the **inclusiveness of all sizes and types of organisations** from all geographic areas and regions of the EU has been lacking. The EESC therefore welcomes the proposal's good intention to provide small-scale grants to support those who do not have experience of applying to the programme. Simplification, however, must ensure that mismanagement is avoided. The EESC therefore welcomes the proposal's emphasis on the importance of an independent audit body in assessing the performance of the national agencies.

4.19. Regarding the Youth chapter, the proposed terminology of 'small' vs. 'big' organisations does not correspond with the reality of beneficiaries. Instead, the EESC recommends **giving priority in the new programme to 'volunteer-led' activities and organisations**, where young people play a key role in leading their own educational development. Also, local youth groups should be enabled to register as beneficiaries as independent youth groups, regardless of the national legal entity. The local youth groups should receive the guidance they need from their respective national agencies. This would help in channelling funding to initiatives by young people themselves, and reduce the risk of a large share of the funding going to the professional operators, as has unfortunately happened under the current programme and was criticised during the EESC consultations on the mid-term review.

4.20. **Dissemination and sustainability of the projects** are very important too. The proposal should encourage adequate dissemination of project results, the continuation of projects that have proved to be excellent and an EU-level and EU-wide coordinated dissemination of project outcomes.

4.21. **Equal-sized operating grants** should be offered to both formal and non-formal education sectors. This would strengthen complementarities and empower the non-formal education sector to provide high-quality engaging programmes. Additionally, the operating grant should be proportional to the impact reach related to the priorities of the programme and also to the operating costs of the European platforms.

⁽¹³⁾ <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/information-reports/erasmus-mid-term-evaluation>

⁽¹⁴⁾ ETUC — ETUCE — CEEP — EFEE: Investment in Education, 2017. https://www.etuc.org/sites/default/files/publication/files/investment_in_education_and_training-etuc_-ceep.pdf

4.22. Furthermore, the EESC believes that the next program should allow European-level projects to apply through a centralised structure, rather than national agencies. This would ensure greater access for European networks and organisations, as well as counter duplicate funding for parallel projects.

4.23. As the programme's budget is based on the financial contribution of EU citizens, the EESC underlines the importance of **democratic governance in the future programme** and stresses the absolute need for the permanent committee governing the programme to allow all relevant European-level stakeholders and social partners to be given a permanent position in its structure and not just an 'observer status on an ad-hoc basis'.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the European Solidarity Corps programme and repealing [European Solidarity Corps Regulation] and Regulation (EU) No 375/2014’

(COM(2018) 440 final — 2018/0230 (COD))

(2019/C 62/33)

Rapporteur: **Michael McLOUGHLIN**

Referral	European Parliament, 2.7.2018 Council of the European Union, 10.7.2018
Legal basis	Articles 165(4), 166(4), 214(5) and 294 of the TFEU
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	26.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	184/1/3...
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the commitment to the renewed European Solidarity Corps (ESC) with an increased budget and target for participation.

1.2. We welcome the full and new legal basis for the ESC, a dedicated budget and the merging with the EU Aid Volunteers ⁽¹⁾.

1.3. There is a need for a new comprehensive EU volunteering policy which will address all relevant issues and engage with the Member States beyond the concept of the European Solidarity Corps.

1.4. We welcome the budget breakdown prioritising the volunteering strand and wish to see a continued emphasis on this.

1.5. In the future, the EU needs to develop two independent support programmes, one for youth and one for volunteering, while accepting there will be some overlap.

1.6. Attention must be given to ensuring that EU foreign policy priorities particularly at the harder end do not influence the ESC after the merging with the EU Aid Volunteers.

1.7. Robust statistics, including on the community impact of the ESC actions, must be produced in a timely manner to assist in evaluation and decision making on the ESC, and even if these are negative they should be public.

1.8. The employment strand needs to be subject to strict regulation and regular review to ensure commitments made in relation to it are met.

1.9. Consistent with a lifelong learning approach, there should be no age restriction on the ESC as it should be a support for volunteering.

⁽¹⁾ https://webgate.ec.europa.eu/echo/eu-aid-volunteers_en/

1.10. We reiterate our view that the ESC should be restricted to the not for profit sector and this value should be maintained regardless of who delivers projects.

1.11. Sharing best practice on volunteering needs to be facilitated and prioritised and this should involve EU Member States so as to gather all relevant information and facilitate more policy development in this area.

1.12. National Agencies should be provided with enhanced support to deal with the employment strand and labour market issues.

1.13. The major documents on ensuring fair treatment of people on internships, traineeships and other measures outlined in this report should be utilised and reported on in the monitoring of the ESC.

1.14. The main civil society platforms in the field (the European Youth Forum (YFJ) and the European Volunteering Centre (CEV)) should be centrally involved in the regulation and oversight of the ESC.

1.15. The simplification and streamlining of the programme is welcome.

1.16. The EU needs to show its willingness to invest in other forms and types of volunteering beyond the ESC.

2. Background

2.1. The European Commission proposes to set the overall budget for the European Solidarity Corps (ESC) at EUR 1,26 billion in current prices, for the period from 1 January 2021 until 31 December 2027. This would allow for about 350 000 young people to participate between 2021 and 2027, in addition to the 100 000 participants the Commission aims to support by the end of 2020.

2.2. As there is potential to further develop solidarity with victims of crises and disasters in non-EU countries, this proposal provides for extending the scope of the European Solidarity Corps to include support to humanitarian aid operations in non-EU countries, including those located in the EU outermost regions' neighbourhood.

2.3. The European Solidarity Corps aims to strengthen the engagement of young people and organisations in accessible and high-quality solidarity activities. It is a means to strengthen cohesion, solidarity and democracy in Europe and abroad and to address societal and humanitarian challenges on the ground, with a particular focus on promoting social inclusion.

2.4. The ESC shall enable participants to strengthen and validate their skills and facilitate their integration into the labour market.

2.5. The programme shall offer activities that can be undertaken in a country other than the country of residence of the participants (cross-border activities and volunteering in support of humanitarian aid) and activities that can be undertaken in their country of residence (in-country). The programme shall be implemented under two strands of action:

- Strand 1: participation of young people in solidarity activities addressing societal challenges: the actions shall contribute in particular to strengthening cohesion, solidarity and democracy in the EU and beyond, while addressing societal challenges, with particular efforts to promote social inclusion.
- Strand 2: participation of young people in humanitarian aid related solidarity activities (European Voluntary Humanitarian Aid Corps): these actions shall contribute in particular to providing needs-based humanitarian aid, aimed at preserving lives, preventing and alleviating human suffering and maintaining human dignity, as well as strengthening the capacities and resilience of vulnerable or disaster-stricken communities.

2.6. Any public or private entity established in a participating country as well as international organisations may apply for funding under the European solidarity corps. A quality label shall be obtained by the participating organisation as a pre-condition for receiving funding or implementing any self-funded actions under the European Solidarity Corps.

2.7. Special attention shall be given to ensuring that the activities supported by the European Solidarity Corps are accessible to all young people, notably the most disadvantaged ones. Special measures shall be put in place to promote social inclusion, the participation of disadvantaged young people, as well as to take into account the constraints imposed by the remoteness of a number of rural areas and of the outermost regions of the European Union and the Overseas Countries and Territories.

3. General comments

3.1. We welcome the commitment to the renewed ESC with an increased budget and target for participation. We do believe however there are still issues to be addressed and many were raised in our previous opinion ⁽²⁾ on the issue. There are also some other developments and potential issues relating to the merging with the EU Aid Volunteers entailing the expansion of the volunteering strand to neighbourhood countries, pre accession countries and the outermost regions of the European Union.

3.2. This opinion particularly focusses on what is new or novel in the latest proposal. Effectively the latest communication provides for a full and new legal basis for the ESC, a dedicated budget and effectively merges the EU Aid Volunteers. The European Solidarity Corps becomes one entity under the proposals as opposed to the sum of eight different ones heretofore, which is welcome.

3.3. There were several requests in our previous opinion on the European Solidarity Corps ⁽³⁾, which we believe remain valid. As many of these were not acted upon, some need repetition and others need systems and structures to guard against the outcomes we were concerned about at that time. Some of these requests refer to:

- Ensuring quality control for participants entering the ESC
- Ensuring quality control for projects and people in local communities
- The role of online resources in supporting volunteers
- The question of ‘fresh money’
- The role of organisations other than not for profits
- The definition of volunteering
- The role of youth organisations
- The need to support participants in their preparation to take part in the ESC
- The support and follow-up actions that will contribute to ensuring that engagement with the ESC has a higher likelihood of leading to life-long volunteering and other actions expressing solidarity.

3.4. It is important for us that relevant civil society organisations platforms like the European Youth Forum and the European Volunteering Centre are formally included in the monitoring body of the ESC so as to ensure that the voice of civil society is included and that feedback from the ground and users of the programme are included in the programme management.

3.5. It is important to examine the merging of the EU Aid Volunteers. This is a very different type of action. While there may be a lot to be said for simplifying and streamlining the process there are different and specific issues when it comes to development issues in relation to culture, power and project type. This challenge is recognised in the proposal. It is important not to rush these just for administrative convenience.

3.6. EU Aid Volunteers is a relatively small programme, however it catered to more than young people and the proposal appears silent on this. As the external evaluation of the EU Aid Volunteers found, it possessed a European standard of volunteer management, so such learning or systems should not be lost to the ESC.

⁽²⁾ OJ C 81, 2.3.2018, p. 160.

⁽³⁾ OJ C 81, 2.3.2018, p. 160.

3.7. Data from the ESC Portal⁽⁴⁾ needs to be analysed to begin to examine the impact even of its early operation. Evaluation and feedback systems will be critical. Even beyond these, formal compliance systems such as access to the European Ombudsman should be ensured for both participants and other stakeholders.

3.8. *Support for volunteering*

3.8.1. Support for volunteering can take many forms and much of it will continue to lie with Member States. The Commission points out that the European Solidarity Corps is only one programme and one aspect. However, it has come to be seen as a headline measure with a lot of political capital attached to it. This may take away from the potential for a more dedicated approach to volunteer support.

3.8.2. There will naturally be a concern that the ESC may attract people away from other forms of volunteering. Similarly, while we always welcome support for civil society organisations, there may also be a greater attraction to choose a civil society organisation over a public authority or perhaps individual volunteering, or to choose transnational volunteering over local volunteering.

3.8.3. Volunteering is a very diverse concept. It can be extremely limited in time or it can be quite extensive. It can involve differing degrees of altruism, enthusiasm and most particularly time. Volunteering is undoubtedly a public good and at the same time can serve vital social and economic interests in terms of taking the pressure off the State and ensuring vital tasks get done often in a very local concept. The State then needs to support volunteering as does the EU. While the European Solidarity Corps is only one programme, its focus on effectively full-time volunteering in a transnational context highlights this approach. Thus other types of volunteering may not get the same attention, even with the best will in the world.

3.8.4. Public support for volunteering must be diverse, it needs to cover the world of work, flexible social security arrangements, certification, the approach of public authorities in the field of health and education, the issue of compensation where relevant, training and much more. The EU needs critically to signal that all these issues are involved and while it may not have competences in all fields it needs to be careful in prioritising one form over another in the funding it provides. A broad ranging and comprehensive policy on volunteering is needed rather than one programme, no matter how welcome or well funded it is.

3.8.5. Even with the new proposals and after some initial bedding down, there remain some overall questions about the rationale and objectives. At the highest level it needs to be established whether the European Solidarity Corps is a volunteering programme or a support for young people's development. Straddling both objectives can create difficulties.

3.8.6. It may be preferable then to separate out the logic and rationale for volunteering support, which may take various forms and for youth programmes which may be supported under the youth strategy. Their mixing or overlap should be a matter of design and principle rather than history and available funding. Effectively for the future it would seem more appropriate to have stand-alone programmes to support young people and volunteering even if there would be some overlap. This might be the approach if we were, for example, to start with a 'blank page'.

3.8.7. There are a considerable number of objectives for the European Solidarity Corps. We need to constantly ask what is the rationale for the programme and whether it is the best way to deliver on this. Generally, we still believe the ESC should be for not for profit organisations only. This may involve partnerships with for profit organisations but the activity should clearly be carried out through a not for profit organisation and where necessary be governed by a legally enforceable agreement in this regard.

⁽⁴⁾ https://europa.eu/youth/solidarity_en

3.9. *The employment strand*

3.9.1. The employment strand of the European Solidarity Corps receives a lot of attention. It is our belief that it needs extremely tight regulation and most certainly should only be offered by not for profits. It appears to entail a lot of work and effort to create it for a very small number of places and needs to be kept under constant review. With the best will in the world, the National Agencies (the same ones as for Erasmus+) cannot be expected to have enough knowledge on occupational and labour market issues.

3.9.2. If an employment strand is to continue to feature it must then accord with the highest standards in that field. A variety of standards and external documents in the field of volunteering, work and young people continue to be relevant here and we continue to endorse them and recommend them to the Commission, the Executive Agency and the National Agencies, namely:

- (a) The Policy Agenda for Volunteering in Europe (PAVE) ⁽⁵⁾
- (b) The European Charter on the Rights and Responsibilities of Volunteers of the European Youth Forum ⁽⁶⁾
- (c) The European Quality Charter on Internships and Apprenticeships of the European Youth Forum ⁽⁷⁾
- (d) The European Parliament' Bureau decision on unpaid internships ⁽⁸⁾

3.10. *A Youth Programme?*

3.10.1. Understandably there is a major focus on the experience, welfare and progression of young participants and we endorse this fully. There must also be an equal focus on the quality of the interventions, whether these are meeting their objectives, if they observe the relevant expectations and standards in their respective fields. There is no trade-off between project quality and quality of the outcomes for the participant, they are equally important.

3.10.2. While volunteering for young people is a specific aim and priority at this point in time it may also in the context of life-long learning be time to begin to debate whether there should be any age limit to the ESC and related activities. Many people across society have something offer and indeed something to learn and solidarity between generations can be equally important.

4. **Specific comments**

4.1. It is not clear that the data on progress to date has been sufficient to make further decisions about consolidation and merging with new areas. There was a clear logic to the European Voluntary Service (EVS) ⁽⁹⁾ as a youth programme. We are not convinced that sufficient impact assessment was carried out on EVS before the European Solidarity Corps was introduced. While much of EVS has now become the European Solidarity Corps, there may be a fear that the available budget has driven this process as opposed to a vision for volunteering. We also are unclear about the amount of youth involvement in the decision making on this change.

4.2. The merging of EU programmes for humanitarian aid and voluntary service needs to have a clear and explicit logic. Increasingly there is a focus on security in some of the EU's external policies and the refugee crisis has also impacted. This may also contribute to a change in the nature of the European Solidarity Corps if it is used as part of the EU's External Action. Also this merger introduces an age cut off point for the humanitarian dimension which was not present before.

4.3. The new EU Youth Strategy's ⁽¹⁰⁾ objectives relating to increasing volunteering engagement in Member States beyond the ESC could find greater expression in the proposal. The EU Youth Strategy 2019-2027 seems to have more ambitious targets in terms of encouraging Member States to strengthen volunteering policies and strategies to encourage

⁽⁵⁾ http://www.kansalaisareena.fi/EYV2011Alliance_PAVE_copyfriendly.pdf

⁽⁶⁾ <https://www.youthforum.org/charter-rights-and-responsibilities-volunteers>

⁽⁷⁾ <https://www.youthforum.org/european-quality-charter-internships-and-apprenticeships>

⁽⁸⁾ <https://www.socialistsanddemocrats.eu/newsroom/unpaid-internships-european-parliament-and-elsewhere-must-be-banned-say-sds>

⁽⁹⁾ <https://europeanvoluntaryservice.org/>

⁽¹⁰⁾ https://ec.europa.eu/youth/policy/youth-strategy_en

more young people to be active. It would be important that specific funding is also included for offering Member States spaces to share best practices related to volunteering policies and strategies, for example to re-establish the Expert Group on Youth Volunteer Mobility. In particular, we are hoping that the recognition of learning outcomes instrument of the ESC could be used in all forms of volunteering engagement outside the ESC programme. The legal basis of the proposal does not exclude it but it would be useful to set up a broader target on this.

4.4. The new proposal promises the simplification of procedures and this is welcome. More detail would be useful for stakeholder in this regard. The local solidarity projects are a most welcome development and should be prioritised.

4.5. Some of the promotional material related to the European Solidarity Corps focusses very much on individual opportunities and development. While this needs to be part of the offer it is of course of utmost importance that the end product and result of volunteering is equally highlighted and promoted. Allied with the DiscoverEU initiative ⁽¹¹⁾, we might need to be careful that a perception does not develop that EU support is prioritised for 'gap years' and more well off young people.

4.6. We strongly endorse the indicative split of 90 % for volunteering in the budget set-up of the programme and the prospect of more mentoring for the disadvantaged. The budgetary breakdown for the strands should be maintained except where lack of demand entails shifts across budget lines by National Agencies. Generally the allocation should be made based on the demands of participating organisations.

4.7. There will be a need to resource National Agencies sufficiently, particularly to meet any challenges of delivering further on the occupational aspect of the European Solidarity Corps and for their cooperation with labour market agencies and other relevant national schemes.

4.8. The European Voluntary Service (EVS) had a strong framework for formal and informal training. The concept of Erasmus for cultural workers has been developed and could be valuable for the European Solidarity Corps. Non-formal learning is a critical area. The Pisa Approach where students can get credits for practical Erasmus-type work should be examined.

4.9. There is a follow-up dimension to the European Solidarity Corps but it is only envisaged relating to the sharing of knowledge. There is a need to strive for a more long term engagement in solidarity actions, including the (most common) part-time volunteering in free time of participants, beyond the volunteering opportunity offered by the ESC.

4.10. It is important to analyse and respond to the uptake of the occupational element to date. Some of the effectiveness measurements in *ex-ante* evaluation — focused more on output than outcome and future evaluations should address this.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹¹⁾ https://europa.eu/youth/discovereu_en

Opinion of the European Economic and Social Committee on 'Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment'

(COM(2018) 340 final — 2018/0172 (COD))

(2019/C 62/34)

Rapporteur: **Maria NIKOLOPOULOU**

Referral	Council, 15.6.2018 European Parliament, 11.6.2018
Legal basis	Articles 192(1) and 304 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	17.4.2018
Section responsible	Section for Agriculture, Rural Development and the Environment
Adopted in section	5.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	210/3/2

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) supports the proposal for a directive on single-use plastics and sees it as a crucial element in the circular economy strategy as well as with a view to achieving the Sustainable Development Goals.

1.2. In particular, the Committee stresses that the transition towards sustainability requires first and foremost the involvement of all political, economic, social, environmental and cultural stakeholders, as well as that of every member of the general public, in a new paradigm of production, consumption and recycling of products. This is why education, training and awareness-raising campaigns are fundamental at all levels, paying particular attention to young people of school age.

1.3. The Committee sees the Commission's proposal as an important pilot project, with a specific focus on those plastic products that are most commonly found in the seas and oceans. Nevertheless, the proposal could be even more ambitious; moreover, it should be accompanied by a roadmap and other initiatives aimed at ensuring effective implementation.

1.4. In particular the Committee makes the following recommendations:

1.4.1. consideration should be given to expanding the list of ten products, and other products should be included for which sustainable alternatives are already available on the market in sufficient quantity and at a reasonable price;

1.4.2. the principle according to which all biodegradable products must also be compostable should be clarified, with specific deadlines for photodegradation on land and sea;

1.4.3. fishermen can play a crucial part in cleaning the seas and oceans. The incentives for returning fishing gear should be extended as soon as possible to include all the waste collected while fishing. In order to fully develop a new system for cleaning up seas and oceans, all relevant stakeholders and local authorities should be involved. In addition, all ports, including smaller ones, should possess an advanced system for the collection and transparent management of waste;

1.4.4. although 90 % of the single-use plastic products present in the European market are produced in third countries, all companies in the sector should receive support in the transition towards more sustainable production. In particular, innovation and development of sectors such as ecodesign, bioplastics and secondary raw materials must be encouraged through the use of financial and fiscal tools. In this way, the EU can benefit from significant growth in the trade balance, as well as fostering the development of more sustainable companies and providing more high-quality jobs;

1.4.5. the 'polluter pays' principle established with Directive 2004/35/EC is a fundamental pillar of the Commission's proposal and lies at the heart of a fairer and more balanced distribution of the costs of waste management and recycling. If properly implemented, the directive will make it possible to lower these costs for those companies that have certified processes for the prevention of pollution or for the direct recovery of manufactured polluting products;

1.4.6. greater coordination with the rest of the existing legislation on waste management and recycling, focusing on separating rubbish. Member States should also harmonise authorisations and sanctions;

1.4.7. the strategy for single-use plastic will have a limited effect if the Commission does not intervene with an ad hoc strategy for more sustainable management and monitoring of inland waters (lakes and rivers), through which 80 % of the waste in the oceans passes. The Committee recommends fostering the dissemination of governance systems that involve public and private authorities and organised civil society, such as 'river contracts', which should be seen as a fundamental requirement for access to certain environmental protection funds (e.g. Interreg);

1.4.8. the introduction of labelling and traceability systems for plastic products could represent added value with regard to waste management and recycling processes. The creation of a specific logo could strengthen consumer confidence, especially for products manufactured with secondary raw materials;

1.4.9. the directive should be revised every three years as opposed to every six years. This proposal is justified by the fact that the monitoring mechanisms are already active and have been validated (counting method). Furthermore, such a measure would resolve any problems that may arise during the implementation phase and, if necessary, ensure that the list of the ten products could be modified or expanded based on the implementation status of the directive and any developments in the field of ecodesign;

1.4.10. the many good practices that already exist in the circular economy should be further shared, strengthening the EESC's European Circular Economy Stakeholder Platform, which is an effective tool for all stakeholders to exchange expertise.

2. Introduction

2.1. In the European Union, plastic waste accounts for 80-85 % of marine waste, of which 50 % comes from **single-use plastic (SUP) items** while another 27 % is made up of **fishing gear from traditional fishing and aquaculture that contains plastic**, lost or abandoned at sea.

2.2. The ten SUPs found most frequently on European beaches account for 86 % of all the items found and 43 % of total marine waste. These are commonly used products which are not always thought of as containing plastic⁽¹⁾: food containers, cups for beverages, cotton buds, plates, straws, sticks for balloons, beverage containers and their lids, tobacco product filters, wet wipes and plastic carrier bags. **These ten products, together with the fishing gear, account for approximately 70 % of all marine litter by count⁽²⁾.**

2.3. SUPs, which are generally made of polyethylene and polypropylene, require an average of 300 years to degrade in the environment, although in some cases photodegradation may take up to 1 000 years. Furthermore, degradation does not mean that the plastic becomes part of the natural cycle of life; rather, the item is transformed into microplastics, becoming invisible to the human eye.

2.4. Plastic is one of the most valuable inventions of the 20th century and has strongly influenced our lives. Its physical characteristics (flexibility, lightness and resistance) mean it has an infinite number of potential uses, such as in the case of SUPs, which are ideal for external use (e.g. picnics). This means that SUPs carry a high risk of being released into the environment, despite the intentions of many consumers and the efficiency of waste management and recycling systems. This risk and the environmental impact incurred by these products are disproportionate, especially considering that their anticipated service life may not exceed five minutes.

⁽¹⁾ 95 % of cigarette filters are made of plastic. <https://www.noordzee.nl/hele-noordzeekust-schoon-2764-vrijwilligers-ruimen-11163-kilo-afval-op/>

⁽²⁾ Beach litter item counts are internationally accepted as a way of measuring the composition of marine litter. The scientific community considers it a very reliable indicator for developing policies. The counting method is based on reports prepared by the Member States and compiled by the JRC as part of the implementation of the Framework Directive on the marine environment (2008/56/EC). Source of data: UNEP, 2017.

2.5. Those SUPs that do not enter the waste management chain accumulate in the seas and oceans with harmful effects on the environment as well as on human health, as they then enter the food chain. In addition, this phenomenon has an impact on several economic sectors such as tourism, fishing and maritime transport.

2.6. The problem of marine litter is cross-border in nature and is epitomised by islands of plastic⁽³⁾. The European Union is committed to fighting against this phenomenon in line with the United Nations Sustainable Development Goals⁽⁴⁾ and the Paris Agreement (COP 21). The Plastics Strategy⁽⁵⁾ represented an initial step in this direction, within the framework of the Circular Economy Action Plan⁽⁶⁾.

3. Gist of the Commission proposal

3.1. The aim of the proposal for a directive is to prevent and reduce plastic marine litter (macroplastics) from single-use plastic items and fishing gear, by complementing the measures already envisaged under the Plastics Strategy, addressing the identified gaps in the existing actions and legislation.

3.2. The directive also ties in with the initiative aimed at eliminating single-use plastic bags (in favour of others made with bioplastics or compostable materials), which has in a very short space of time radically changed consumers' habits, leading to very positive results for the environment⁽⁷⁾.

3.3. Single-use plastics (SUPs)

3.3.1. Following a count that took place on various European beaches, the proposal focuses on the ten SUPs that were most frequently found on these beaches. The Commission has planned a series of measures based on the availability of alternative products that are both sustainable and affordable. If these already exist on the market, their corresponding polluting versions (e.g. straws, plates and cotton buds) will be eradicated. If not, a set of measures aimed at reducing consumption through awareness campaigns and promoting eco-design will be put in place in order to produce alternative, biocompatible and recyclable materials as soon as possible (e.g. food containers, cups for beverages, balloons, packets and wrappers, beverage containers, tobacco product filters, wet wipes, light plastic bags).

3.3.2. The directive provides for the application of an extended producer responsibility scheme for all products that are not subject to marketing restrictions, in order to contribute to the costs of waste prevention and management.

3.3.3. The Commission also proposes a labelling system aimed at informing consumers about waste management with a view to encouraging selective collection and recycling. This measure also involves flagging up behaviour that should be avoided (e.g. using wet wipes).

3.3.4. The proposal introduces specific measures regarding the design of products (e.g. bottle caps) and ambitious aims in terms of recycling (such as recycling 90 % of single-use plastic bottles separately).

3.4. Fishing gear containing plastic

3.4.1. The directive proposes an integrated and more modern collection system for fishing gear based on three key points: the implementation of a specific mechanism and equipment for selective collection in ports, incentives for fishermen to return fishing gear or bring back gear they find abandoned in the sea, and the introduction of an extended producer responsibility scheme (EPR) for fishing gear manufacturers, including SMEs. The funds raised through the EPR scheme will be used to cover the costs of preventing rubbish generation (public awareness campaigns) and for waste management, including the cleaning-up of rubbish made up of single-use plastic products.

⁽³⁾ The islands of plastic are located in international waters and an agreement is needed at a global level in order to eliminate them. These islands have been formed over the years by marine currents, which gathered much of the plastic from developing countries (mainly in Southeast Asia).

⁽⁴⁾ SDGs Nos 3, 9, 12 and 14 (good health and well-being; industry, innovation and infrastructure; responsible consumption and production; life below water).

⁽⁵⁾ COM(2018) 28 final.

⁽⁶⁾ COM(2015) 614 final.

⁽⁷⁾ Directive (EU) 2015/720 (OJ C 214, 8.7.2014, p. 40). OJ C 214, 8.7.2014, p. 40.

3.5. A large proportion of SUPs are manufactured in countries outside the EU. This implies that the proposal could foster sustained productive development in Europe thanks to strong domestic demand. It is expected, therefore, that this directive will also help speed up the growth of a competitive, sustainable and decarbonised economy, with a clear advantage in the trade balance with third countries and positive effects for the creation of quality jobs.

4. General comments

4.1. The European Economic and Social Committee (EESC) has been one of the pioneers of sustainable development based on awareness-raising both among the general public and among all political, economic, social, environmental and cultural stakeholders. For this reason, education at all levels plays a key role in building the foundations of a new way of producing, consuming and living, while also respecting the environment. Businesses play a key role in raising awareness and boosting education, as part of their corporate social responsibility. Organised civil society has already implemented many voluntary measures which could provide significant added value for the Commission's initiative.

4.2. The EESC notes that pollution is a global problem. Any European initiative, regardless of its vision and scope, will be insufficient if it is not accompanied by a broader sustainable development project involving both the EU's major competitors and developing countries. In particular, synergies should be developed with neighbouring third countries with regard to the sustainable management of enclosed seas such as the Black Sea and the Mediterranean Sea. Therefore, the Committee expects the EU to take on an increasingly important role in leading sustainable development processes.

4.3. The EESC supports the proposal aimed at preventing and reducing plastic marine litter in oceans that comes from SUPs and fishing gear. The Committee understands that the focus should be on a limited number of products with high environmental impact in the form of a pilot project, and considers this initiative to be an important step towards creating a truly sustainable economy, within the framework of the Circular Economy Action Plan⁽⁸⁾ and complementing the strategy on plastic⁽⁹⁾. However, it feels that the Commission's initiative could be more ambitious, extending the list to include all sustainable products that are already available in sufficient quantities at a reasonable price (e.g. coffee capsules) and guaranteeing that they are safe, involving the EFSA.

4.4. The EESC considers that the proposal to proceed with marketing restrictions is appropriate only in cases where sustainable alternative products that are safe for the environment and for people, as well as being affordable for consumers, are already available.

4.5. To resolve the issue of the accumulation of plastic waste, both consumer habits and production models are important in addition to waste management. National governments therefore need to put in place all the necessary tools to encourage the use of sustainable plastic products, promoting and supporting the most streamlined production and consumption processes. At the same time, it is important to raise awareness among the general public, from school age upwards, so that they act responsibly and participate in the selective collection of rubbish.

4.6. SUPs are products that carry a high risk of being released into the environment despite the intentions of many consumers and the efficiency of waste management and recycling systems. The impossibility of putting in place a system for collecting and recycling waste that is 100 % effective means that alternative sustainable products need to be designed as soon as possible, and steps should be taken to reduce the level of pollution that has been generated⁽¹⁰⁾.

4.7. Eco-design is a key factor in the creation of alternative biocompatible products to replace those that are more polluting. The Committee recommends investing sufficient resources in this sector as part of the EU's new financial framework, particularly via the new Horizon Programme. The EESC considers that green innovation in the field of bioplastics and secondary raw materials, as well as enzymes such as PETase that are capable of 'eating' plastic, can represent added value for the entire EU, from an economic, social and environmental point of view.

⁽⁸⁾ OJ C 264, 20.7.2016, p. 98, OJ C 367, 10.10.2018, p. 97.

⁽⁹⁾ OJ C 283, 10.8.2018, p. 61.

⁽¹⁰⁾ OJ C 230, 14.7.2015, p. 33.

4.8. The Committee recommends adopting a specific approach towards plastic products that will be processed into secondary raw materials. In particular, the plastic should not contain toxic chemical additives that could prevent it from being recycled, thus causing harm to people, businesses and the environment. It is also important to establish an end-of-life for plastic products, since they cannot be endlessly recycled.

4.9. The EESC considers that one of the most obvious limitations of the initiative is the lack of a regulation backing up the concept of 'biodegradability'. Moreover, **the fact that a plastic product is biodegradable does not necessarily mean that it is sustainable from an ecological point of view.** Plastic products, and SUPs in particular, can be transformed into microplastics, contaminating the environment and entering the food chain. For this reason, the Committee recommends intervening as soon as possible to clarify the principle that all biodegradable plastic products should also be **compostable**, that is, neither toxic nor harmful to the environment. In this regard, specific deadlines for biodegradability on land and at sea should also be set out in line with harmonised standard EN 13432 ⁽¹¹⁾. Finally, a European labelling system must be put in place, with adequate screening mechanisms to avoid fraud.

4.10. The EESC supports the proposal to encourage the return of fishing gear by means of incentives for fishermen. The Committee notes that the act of separating rubbish is neither easy nor quick, and therefore hopes that the incentives will be appropriate to the amount of time spent by fishermen in sorting waste.

4.10.1. This measure should be extended to include the return of all waste collected during fishing activities, which, according to the laws currently in force, fishermen are obliged to pay for in order to dispose of them in the ports. This means that, nowadays, fishermen pay to clean up the ocean and dispose of waste that they have not themselves produced, but rather collected. For this reason it is recommended that the current measures regarding waste management be reviewed in view of the new European Fisheries Fund 2021-2026, with a view to encouraging proactive and responsible behaviour.

4.10.2. Since there are large amounts of waste, both floating and submerged, fishermen can provide important added value when it comes to collecting this waste. Following the recent introduction of limits to several fishing stocks, these incentives could be considered as a form of economic compensation ⁽¹²⁾. This means that, with adequate training and the direct involvement of fishing associations, the act of cleaning up could become another profitable economic activity along the same lines as fishing tourism (the blue economy), very common during those periods when there is a natural pause in fishing activity. This measure should be included in the new European Fisheries Fund and its implementation should form the subject of a specific European legislative initiative.

4.11. The Committee is in favour of introducing the EPR scheme, which is in line with the 'polluter pays' principle. To date, other productive sectors (tourism ⁽¹³⁾, maritime transport, fishing) and the general public (through higher taxes for the collection, management and recycling of rubbish) have paid the costs of sea pollution. At the moment of its implementation, it will be important to ensure that this principle is applied to those companies that actually manufacture polluting products and is not passed on to the final price paid by consumers ⁽¹⁴⁾.

4.12. The Committee, in line with the criteria of Directive 2004/35/EC ⁽¹⁵⁾, invites the Commission and the Member States to assess the possibility of reducing the economic burdens for businesses that develop certified actions for directly dealing with any pollution caused by their products (e.g. a returnable packaging system). Although the national authorities are directly responsible for evaluating these best practices, they should also be subject to secondary monitoring at EU level.

4.13. The EESC is aware that the transition to the circular economy will involve a range of high costs for many companies. For this reason, the Committee hopes that this process, which is so essential from an environmental point of view, will be accompanied by financial and fiscal incentives to enable companies to carry out the transition to sustainable production. It is important that this process is managed and monitored at European level to avoid situations of unfair competition in the internal market.

⁽¹¹⁾ UNI EN 13432:2002 is a harmonised standard laid down by the European Committee for Standardization setting out the characteristics that a material must have in order to be defined as biodegradable or compostable.

⁽¹²⁾ OJ C 283, 10.8.2018, p. 61.

⁽¹³⁾ OJ C 209, 30.6.2017, p. 1.

⁽¹⁴⁾ OJ C 81, 2.3.2018, p. 22.

⁽¹⁵⁾ Directive 2004/35/EC sets out the 'polluter pays' principle. This means that a business that causes environmental damage bears the responsibility for that damage, and so it must take all necessary measures with regard to prevention or repair as well as covering all related costs.

4.14. The transition to the circular economy could represent an opportunity for the whole of the European Union in terms of competitiveness and employment. In order to take advantage of this opportunity, an advanced system of education and training needs to be developed. This also implies an adequate system of active labour policies aimed at updating workers' skills.

4.15. The Committee shares the idea of developing a directive enabling each Member State to implement the legislation in line with its own national specificities, although it would be important to limit any variations relating to authorisation and penalties as soon as possible⁽¹⁶⁾. In this regard, it is essential that national governments involve **organised civil society** at all stages, from the preparation to the implementation, monitoring and evaluation of legislation. When it comes to implementing the directive, in some cases there are time limits to achieve the set aims, while in many others (such as PET recycling) no time limits are defined. The EESC considers that the absence of clear and equal deadlines for every element could exacerbate a lack of balance in the transposition phase of the legislation.

4.16. The Committee notes that the monitoring mechanisms are already active and have been validated (counting method). For this reason it is recommended that a revision of the directive take place every three years instead of six as was initially proposed. This measure would resolve any problems that may arise during the implementation phase and, if necessary, enable the list of the ten SUPs to be modified or expanded depending on the state of operation of the directive and any developments in the field of eco-design.

5. Specific comments

5.1. According to UNEP⁽¹⁷⁾, 80 % of the rubbish that has accumulated in the seas and oceans was produced on land and reaches the sea via rivers. This implies the need to intervene with increasingly coordinated measures to prevent rubbish from reaching the sea. Action targeting SUPs will improve the situation of lakes and rivers; however, no specific provisions have been put in place with regard to fishing gear. For this reason, the EESC recommends extending this directive to include lakes and rivers, by means of a European-wide strategy for more sustainable management of inland waters.

5.2. *River contracts*⁽¹⁸⁾ are a widespread and highly successful example of best practice in Europe. They can prove very effective for managing inland waters in the event of hydrogeological and environmental risk. The strength of this tool lies in open governance that enables all public, private and organised civil society stakeholders to get involved at regional level. These experiences should be collated in a new European database, in order to facilitate organic and structured development throughout the EU. In line with the new Horizon Europe programme, according to which 35 % of the budget should be earmarked for climate-change and environmental measures, the Committee recommends that these contracts be a key prerequisite for access to certain European funds relating to research and innovation on environmental sustainability, as well as those set aside for territorial protection against hydrogeological and environmental risks (e.g. Interreg).

5.3. The Committee considers it fundamental to apply the directive in a coherent and coordinated way alongside other EU legislation in the field of water and waste: the Waste Framework Directive⁽¹⁹⁾; the Packaging and Packaging Waste Directive⁽²⁰⁾; the Marine Strategy Framework Directive⁽²¹⁾; and the Urban Waste Water Treatment Directive⁽²²⁾. Particular attention should be paid to European regulations on waste management⁽²³⁾.

5.3.1. Proper waste management structures (e.g. separate collection of compostable waste so that it can be treated effectively and appropriately in recycling plants) are important, along with clear consumer information. Appropriate separation will also encourage the use of 3-D printing techniques, as plastics can easily be used as raw materials for creating new objects.

⁽¹⁶⁾ OJ C 283, 10.8.2018, p. 61

⁽¹⁷⁾ PNUMA, Marine plastic debris and microplastics, 2016.

⁽¹⁸⁾ River contracts are an example of best practice that originated in France in the 1990s. In 2000, during the World Water Forum, their importance and usefulness were recognised. Initially, the river contracts were aimed at preventing hydrogeological risk. In recent years, they have become a fundamental tool in many EU countries for ensuring that inland waters are managed responsibly and sustainably by means of a bottom-up approach.

⁽¹⁹⁾ Directive 2008/98/EC.

⁽²⁰⁾ Directive 1994/62/EC.

⁽²¹⁾ Directive 2000/60/EC.

⁽²²⁾ Directive 91/271/EEC.

⁽²³⁾ Directive 2008/98/EC.

5.3.2. Although these are not SUPs, the Committee calls on the Commission to take account of the increasing volume of bio media filters found on many beaches after waste water management failures.

5.4. Digitalisation could be a powerful ally in the fight against pollution and in favour of a sustainable economy. The introduction of labelling and traceability systems for plastic products could represent added value with regard to waste management and recycling processes. The creation of a specific logo could strengthen consumer confidence, especially for products manufactured with secondary raw materials ⁽²⁴⁾.

5.5. The Committee recommends that a common and high-quality framework for environmental certification be created. This initiative is fundamental in enabling companies to achieve the highest standards of sustainability, avoiding overlapping requirements and additional economic burdens.

5.6. The EESC is once more raising the issue of the different port systems in the EU ⁽²⁵⁾. There are hundreds of small ports in Europe that represent a key factor in the development of the small local communities that owe their livelihood to the sea and fishing. The Commission proposal sets out a process of modernisation (of methods, technology and infrastructure) that, without the financial support of the European Union, can be carried out at local level only with difficulty. This process is fundamental in order to counteract depopulation while at the same time preserving both the unique nature of local productivity and the communities themselves.

5.6.1. The Committee recommends that funds raised via extended producer responsibility, based on Directive (EU) 2018/851, should also be used to renovate port infrastructure in line with the highest standards for waste collection and management. At the same time, the EESC considers it essential to involve institutions and civil society at local level, with a specific focus on small coastal towns (with fewer than 5 000 inhabitants), so that together they can find cheaper, mutual long-term solutions.

5.7. Together with the Commission, the EESC has a circular economy platform ⁽²⁶⁾ which has already achieved significant results, facilitating collection and exchange of the abundant expertise and good practices existing among the various stakeholders already involved, and encouraging dissemination and reproduction thereof. This platform is a key tool which deserves to be more widely used.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽²⁴⁾ OJ C 283, 10.8.2018, p. 61

⁽²⁵⁾ OJ C 288, 31.8.2017, p. 68.

⁽²⁶⁾ <https://circulareconomy.europa.eu/platform/en>

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council’

(COM(2018) 392 *final* — 2018/0216 (COD))

on ‘Proposal for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013’

(COM(2018) 393 *final* — 2018/0217 (COD))

and on ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands’

(COM(2018) 394 *final* — 2018/0218 (COD))

(2019/C 62/35)

Rapporteur: **John BRYAN**

Referral	European Parliament, 11.6.2018 Council of the European Union, 22.6.2018
Legal basis	Articles 43(2) and 304 of the Treaty on the Functioning of the European Union
Bureau decision	22.5.2018
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	5.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	201/11/19
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. A strong CAP policy, with a strong CAP budget based on the European Model of Agriculture and Food Production, supporting an economically socially and environmentally sustainable European agriculture policy and farming sector involving the highest standards, and contributing to ensuring a competitive agricultural sector, is very important for the European Union and all its citizens. Modernising and simplifying the CAP in this reform is essential to make it more fit for purpose to meet the needs for a more sustainable and viable EU farming and agriculture sector everywhere in Europe and in order to address the new challenges on climate change and the environment.

1.2. Proposals to reduce the CAP budget are unacceptable. The maintenance of an appropriate financial envelope for the CAP is a precondition for the sustainability (economic, environmental and social) of EU farming in order to preserve incomes and jobs and ensure the production of environmental public goods, thus contributing decisively to the vitality of

the rural environment and to the stability of the economy as a whole. The EESC supports the view that the EU budget should be increased to 1,3 % of GNI to provide adequate funding for the CAP and the new policy objectives and challenges identified.

1.3. The EESC welcomes the new direction proposed for CAP on subsidiarity, with greater responsibility and flexibility for Member States through the CAP Strategic Plans and new delivery model based on performance. However, the EESC is keen to ensure that the CAP remains a strong common policy across all Member States and that the single market is fully preserved. Maintaining the current two-pillar CAP structure with strong direct payments under Pillar I to support farm incomes and rural development measures in Pillar II to support vulnerable sectors, regions and social infrastructure and foster the transition to more sustainable and innovative farms is essential. The common organisation of the markets and an effective single market are also critical.

1.4. The increased emphasis and higher ambition in the CAP proposals on the environment and climate change is positive. The specific objectives are clear and strong, covering key issues like water, air and soil as well as landscape and biodiversity, and the sustainable production of quality food. The measures set out in the text of regulation to achieve the objectives must, however, be described much more clearly and specified. An adequate CAP budget is essential to deliver on these objectives, with proper incitative payments for farmers.

1.5. 40 % of agricultural expenditure is to go towards the EU's climate change objectives. The EESC welcomes this goal, but expects the EU to set out a clearly defined set of measures in this connection.

1.6. Having been promised in several previous reforms of the CAP, the EESC is strongly of the view that the commitments on simplification at farm level must be delivered in this reform. However, the EESC is concerned that the new subsidiarity and conditionality involving CAP strategic plans for both CAP Pillar I and II and additional Statutory Management Requirements (SMRs) and Good Environmental and Agricultural Conditions (GAEC) will increase rather than reduce the volume of bureaucratic burden on individual farmers.

1.7. CAP Pillar I direct payments and Pillar II funding must be fully protected to ensure viable and sustainable farms. Direct payments should only go to genuine farmers and clear objective criteria should be adopted at EU level to better define a genuine farmer.

1.8. Increased support for generational renewal and young farmers is positive. This increase in aid must be accompanied by additional measures that allow for effective generational renewal.

1.9. Any proposals on internal or external convergence, flattening, degressivity and redistribution must be based on objective and non-discriminatory criteria and cannot be allowed to undermine viable farm units and erode fair competition conditions or farmers' competitiveness in the various regions of the EU.

1.10. Any cuts to CAP Pillar II funding are unacceptable, as a strong Rural Development Programme is critical to support more vulnerable areas and sectors and lead to more balanced territorial development.

2. Key issues in the CAP reform 2021-2027

Introduction

2.1. The EESC acknowledges the legislative proposals on the reform of the CAP and particularly the increased emphasis and ambition on climate change and the environment, opposes the cuts to the CAP budget as a strong budget is necessary for a sustainable agriculture sector and to maintain farm incomes, acknowledges the changes regarding subsidiarity and considers that there needs to be real delivery on simplification at farm level.

2.2. The EESC provides the following opinion on the legislative proposals with a list of detailed proposals for changes and amendments, and requests that it be taken on board in the future debate in the European Parliament and Council.

European Model of Agriculture and Food Production

2.3. A strong CAP supporting an economically, socially and environmentally sustainable European agricultural policy and farming sector is essential for the European Union in terms of food security and food sovereignty and also to meet the growing demand for higher quality food from the Community's 512 million citizens ⁽¹⁾. In addition, the EU must be mindful of global population growth, estimated to reach 9,5 bn by 2050, with 3,0 bn living in water stressed areas, leading to increased food shortages and famine. The EESC finds it therefore necessary that the EU concentrates on knowledge transfer and experience-sharing about how more and better food can be produced sustainably and locally in other parts of the world.

2.4. The CAP must deliver for all European citizens and rural communities on the original objectives set down in the Treaty of Rome and also meet the new challenges on climate and development set out in the EU commitments of the Paris Agreement and the UN's Sustainable Development Goals (SDGs).

2.5. The EESC is strongly of the view that the CAP policy 2021-2027 must support and facilitate in all parts of Europe the European Model of Agriculture and Food Production involving the family farm structure, as well as cooperatives, producer groups and other forms of farming, and food produced to the highest standards in the world ⁽²⁾. The new CAP must better address the issue of low agricultural incomes and closing the widening income gap between farmers and salaries in the wider economy ⁽³⁾. The European agricultural model cannot be brought under world market conditions and at world market prices. The European agricultural model is therefore now more than ever under threat from current developments and for that reason needs to be supported and promoted by a strong CAP ⁽⁴⁾.

2.6. While recognising the benefits of trade for the agriculture sector, it is essential that EU agricultural policy through the CAP protects the highest level of standards in farming, food production, environmental controls, health and safety and workers' rights in the world. The EESC believes that there needs to be a much more coherent EU policy approach towards international trade deals in the agriculture and food sector and the CAP ⁽⁵⁾. While the CAP is striving to maintain the highest standards, in some trade negotiations, such as Mercosur, the EU is accepting food imports which fail to meet EU food safety standards and are produced with lower environmental standards. Globalisation cannot be allowed to undermine European standards, markets and EU citizens.

2.6.1. The Committee notes with concern the large number of farmers in the UK who voted in favour of Brexit, apparently due to the intrusiveness and complexity of the CAP on the ground. In order to prevent similar issues in other Member States, thereby increasing populist and anti-EU pressures, the EESC requests the Commission to ensure that real and practical simplification measures at farm level are a central part of the CAP proposals for 2021-2027.

2.7. Given the diverse nature of European agriculture, culinary heritage and market prospects, quality differentiation is a strategic goal and part and parcel of the future of European agriculture, together with efforts to improve efficiency and competitiveness. The CAP should therefore provide different ways to promote quality policy, as has been the case in the past. To meet this objective, quality should also be highlighted when developing the CAP strategic plans.

2.8. Any proposed changes to the CAP, involving subsidiarity, must ensure that the EU single market is not affected and continues to operate in a strong and well-functioning manner. It is essential that the national CAP strategic plans do not interfere with the operation of the single market.

⁽¹⁾ Eurostat — EU population January 1st 2017.

⁽²⁾ EESC opinion — *A possible reshaping of the CAP*, (OJ C 288, 31.8.2017, p. 10).

⁽³⁾ Presentation by R. Ramon Sumoy, DG Agri, Unit C.1, to the EESC study group on 25/6/2018.

⁽⁴⁾ OJ C 354, 28.12.2010, p. 35

⁽⁵⁾ OJ C 283, 10.8.2018, p. 69, Sections 10.2/10.3/10.4.

Need for a strong CAP budget

2.9. The proposals to reduce the CAP budget from 38 % of the EU budget over the 2014-2020 period down to 28,5 % in the 2021-2027 period is unacceptable to the EESC, particularly considering that there is an increase in the overall EU budget. The cuts to the CAP budget vary between 3 % and 4 % in current prices and 11 % to 16 % in 2018 prices (taking account of inflation at 2 % p.a.), depending on the method of calculations used ⁽⁶⁾. For the rural development funds, the proposed cuts in 2018 prices are higher than 25 %.

EUR thousand	2014-2020 (EU28+EDF)	7*2020 EU27+EDF	2014-2020 (EU27+EDF)	2021-2027	% change vs EU27 2020*7	% change vs EU27 2014-2020
MFF (Current prices)	1 115 919	1 151 866	1 063 101	1 279 408	+ 11 %	+ 20 %
% GNI	1,03 %	1,14 %	1,16 %	1,11 %		
CAP (Current prices)	420 015	394 659	391 849	378 920	– 4 %	– 3 %
MFF (2018 prices)	1 136 105	1 107 138	1 082 320	1 134 583	+ 2 %	+ 5 %
CAP (2018 prices)	428 354	379 334	399 608	336 623	– 11 %	– 16 %

Source: European Commission Working Document on Comparison between MFF 2021-2027 and MFF 2014-2020.

2.10. In line with the view of the EP Budget Committee, the EESC feels strongly that the EU budget should be increased to 1,3 % of GNI. The CAP budget should retain its current percentage funding from the EU budget. This would provide for an adequately funded CAP budget in order to meet the objectives and ambitions of the CAP policy as well as the other major challenges such as Brexit. Without an adequately funded CAP budget, it is not possible to deliver on the objectives put forward by the Commission in the legislative proposals.

2.11. The cuts to the CAP budget are not consistent with the policy objectives of the CAP set down in Article 39 TFEU, particularly:

- to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- to ensure that supplies reach consumers at reasonable prices.

The EESC strongly opposes the cuts in the CAP Pillar II (EAFDR) funding outlined in the proposals as this disproportionately affects many Member States where Pillar II makes up a comparatively larger share of overall CAP funding and points out that Pillar II funding supports the more vulnerable sectors and areas as well as investments, modernisation, learning, resource efficiency and animal welfare across the European agriculture sector.

⁽⁶⁾ EU working document on Comparison of the MFF 2021-2027 proposals and MFF 2014-2020.

Transfers between pillars and co-financing

2.12. The EESC is concerned about the level of flexibility afforded to Member States on the transfer of funds between CAP pillars. In order to prevent Member States from avoiding their obligations on co-financing under Pillar II, the EESC is of the view that Member States should only be allowed to use the flexibility to transfer funds between pillars if they fully co-finance these transfers. The EESC is not in favour of allowing Member States to transfer funds from Pillar II to Pillar I ⁽⁷⁾.

CAP structure and new measures

2.13. The legislative proposals retain the key components of the CAP (CAP Pillar I on direct payments, CAP Pillar II on rural development measures and the Common Market Organisation (CMO) involving market support measures) in line with the promise by Commissioner Hogan that this reform is an evolution rather than a revolution.

2.14. The EESC welcomes the proposal in Article 14 to make provision for a total of four types of decoupled payments and also coupled payments that should help to stabilise incomes:

- ‘basic income support’ — important: the EESC proposes that ‘for sustainability’ be deleted here and included in the heading of Article 14, as more and sufficient sustainability can only be achieved through a genuinely balanced combination of all four decoupled payments;
- ‘complementary redistributive income support’ — here too it is important to delete ‘for sustainability’ and include it in the title;
- the ‘complementary income support for young farmers’ and the
- ‘schemes for the climate and the environment’.

2.15. The proposals contain new measures on additional environmental and climate change conditionality for all CAP payments (Pillar I and Pillar II) as well as new subsidiarity proposals with a new delivery model (CAP Strategic Plans) designed to provide Member States with much more responsibility and flexibility in terms of how they meet specific objectives, how they tackle specific problem areas and how they implement and apply compliance. This increase in subsidiarity should not result in greater renationalisation; rather, it should lead to the adaptation of the general measures to the specific circumstances of each territory.

2.16. The EESC welcomes the retention of the key aspects of the CAP in terms of Pillar I and Pillar II payments, highlighting the importance of direct payments for farmers and farm incomes, and also welcomes the increased focus on environmental and climate change conditionality and delivery.

Increased environmental and climate change ambition

2.17. While recalling that farmers already contribute to environmental and climate protection, the EESC acknowledges the increased emphasis and higher ambition in the proposals on the environment and climate change and the alignment with the EU commitments under the Paris Agreement and the Sustainable Development Goals (SDGs). However, the EESC points out that achieving delivery on these ambitious targets should not hamper the competitiveness of the sector and will require an adequate CAP budget.

2.18. Society is demanding that food production and farming be environmentally sustainable and it is essential that the CAP is modernised and focused to meet these demands. Sustainability consists of three inseparable elements; economic, social and environmental. All three are equally important. Delivery on care for the environment and action on climate change are essential in the new CAP. The EESC is pleased that one of the three general objectives set down in the proposals is to ‘bolster environmental care and climate action and to contribute to the environmental and climate objectives of the Union’ ⁽⁸⁾. Such measures should have sufficient budgetary support so as not to compromise the overall cost-effectiveness of family-run farms.

⁽⁷⁾ OJ C 283, 10.8.2018, p. 69, Section 7.13.

⁽⁸⁾ COM(2018) 392 final, Article 5 — General objectives, p. 41.

2.19. The EESC is pleased that of the nine specific objectives set down in the proposals, three are dedicated to environmental and climate change improvement. Specifically, these proposals:

- contribute to climate change mitigation and adaptation, as well as sustainable energy;
- foster sustainable development and efficient management of natural resources such as water, soil and air;
- contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes.
- it is crucial that the relevant actions and programmes under the schemes for the climate and the environment be backed up with an incitative component which would encourage uptake among farmers and send a strong signal to the public.

2.20. The new 'whole CAP approach' which will be covered in the Member State strategic plans is set to involve both CAP Pillar I and Pillar II interventions and conditionality. The new enhanced conditionality involves additional cross-compliance and greening proposals covering:

- climate change mitigation such as maintenance of permanent grassland, appropriate protection of wetland and peatland, ban on burning arable stubble;
- protection of water through implementation of the Community action on water policy, the control of phosphate pollution, the Nitrates Directive and establishing buffer strips along water courses as well as the use of sustainable tool for nutrients (Nutrient Management Plans);
- soil protection and quality, focused on tillage management reducing the risk of soil degradation, no bare soils in most sensitive periods and crop rotation.

2.21. In terms of biodiversity and landscape, the proposals on conditionality set out the details on the conservation of wild birds, natural habitats and wild flora and fauna: a minimum share of agricultural surface devoted to non-productive features or areas, retention of landscape features, ban on hedge cutting or trees during birds' breeding and rearing season and measures to avoid invasive species (GAEC 9), establishment of buffer strips along watercourses (GAEC 4) or crop rotation (GAEC 8). However, the EESC proposes that the EU should attach clear quantitative targets to the GAECs, which should be binding on the Member States.

2.22. The EESC welcomes the requirement whereby Member States must spend at least 30 % of the EAFRD budget on interventions directly targeting the environment and climate change, and 40 % of the total budget (EAGF and EAFRD) must be relevant to climate change.

2.23. 40 % of agricultural expenditure is to go towards the EU's climate change objectives. The EESC welcomes this goal, but expects the EU to set out a clearly defined set of measures in this connection.

2.24. The EESC points out that it is critically important that Member State strategic plans give priority to environment and climate change interventions contributing to the resilience and long-term profitability of farms and employment maintenance, and that implementation focuses on the delivery of targets.

Subsidiarity — CAP Strategic Plans and new delivery model

2.25. The EESC supports the concept of changing the CAP policy focus from compliance to performance and providing the Member States with more flexibility and responsibilities through subsidiarity under the new delivery model and CAP strategic plans.

2.26. However, the EESC is keen to ensure that the CAP remains a common policy across all Member States and that the single market is fully preserved. CAP Strategic Plans cannot allow Member States to renationalise markets or create barriers to or restrictions of fair competition in the single market. Under no circumstances shall the implementation of these strategic plans be seen as a step towards the co-financing of the whole CAP.

2.27. It is critically important that a level playing field be maintained in terms of implementation at farm level, particularly in relation to cross-compliance and GAEC. Member States and regions must be prevented from adopting gold plate or light-touch variation on implementation plans.

2.28. The EESC welcomes the requirement under the CAP Strategic Plans that Member States may make a greater contribution to the achievement of the specific environmental and climate objectives set out. Farmers should be given the choice of a menu of measures to better adapt to their specific circumstances (e.g. crop rotation not possible in rice fields or in multiannual or permanent crops).

2.29. The proposal requiring Member States to develop and submit CAP Strategic Plans for both CAP Pillar I and II will be more complex than the current system. It is essential that this requirement is not allowed to delay implementation and under no circumstances can it delay the efficient and timely delivery of direct payments to farmers. The regions should be involved here, and their expertise fully harnessed.

2.30. As well as the key elements set out in the proposals, the EESC proposes that the CAP Strategic Plans at Member State level should address the following issues;

- how a Member State addresses a country-specific issue in their state, e.g. land abandonment/desertification in parts of southern Europe, water quality/nitrates in parts of north-western Europe, loss of biodiversity in Europe;
- a Member State plan on simplification at farm level;
- delivery plan and payment deadlines dates for all CAP payments;
- incentive system for good environmental and climate change performance;
- performance and delivery targets at national level.

Simplification and conditionality

2.31. The EESC strongly supports simplification and requests that the political commitment made on this must be delivered on at farm level under the new CAP proposals. While recognising positive elements, the proposed functioning of the new delivery model, the enhanced conditionality, the introduction of indicators in Pillar I and the obligation to prepare detailed CAP strategic plans are particularly worrying and go against real simplification.

2.32. Despite the positive moves on simplification in the Omnibus Regulation, the extension of the yellow card system and the adoption of satellite technology for area checking, the CAP proposals still retain a large volume of detailed requirements with a heavy bureaucratic burden on individual farmers, the vast majority of whom are operating as sole operators under severe income pressure.

2.33. The EESC is concerned that there is a contradiction in the approach taken by the Commission proposals between simplification and subsidiarity. On the one hand the Commission advocates simplification while on the other hand new proposals around the delivery model and the CAP strategic plans extended to both Pillar I and Pillar II, as well as the additional and more detailed Statutory Management Requirements (SMR) and GAEC requirements (Annex III) ⁽⁹⁾ at farm level, will render the policy more complex and bureaucratic to implement at both Member State and farm level. The different exemption categories established during the 2014-2020 greening scheme must be carried over to the post-2020 conditionality rules.

2.34. To deliver real simplification at farm level, while maintaining full and adequate controls, it is necessary to reduce the volume and burden of bureaucracy on farmers. The current CAP delivery system relies on detailed requirements at EU level and features tight controls, penalties and audit arrangements ⁽¹⁰⁾. There should be a full review and redesign of the control system at farm level: increased use of technology, satellite inspection and remote sensing, increased tolerances and inspections cannot be allowed to delay payments ⁽¹¹⁾. In relation to the increased use of remote sensing, the correct identification of the eligible area should also fall on the authorities responsible for monitoring.

⁽⁹⁾ COM(2018) 392 final, Annex 3 — Rules on conditionality pursuant to Article 11

⁽¹⁰⁾ COM(2018) 392 final, p. 3.

⁽¹¹⁾ OJ C 283, 10.8.2018, p. 69, Section 1.9/6.4

2.35. The current inspection and penalty regime is designed to catch and penalise as opposed to correcting and improving. The EESC is proposing the concept of the right to rectify with a close-out model introduced at farm level which would allow farmers to correct unintentional non-compliances without penalty.

2.36. There is a strong need for further simplification and less bureaucracy at EU and Member State level in relation to CAP Pillar II programmes ⁽¹²⁾.

2.37. Member States should be required as part of their strategic plan to draw up a specific section on simplification and how they propose to reduce the bureaucratic burden on farmers and outline how it differs from the current regime.

Generational renewal

2.38. The EESC welcomes the increased focus on generational renewal and additional supports proposed for young farmers, who require easier access to land, training and finance. Incentives must be provided to farmers who retire and transfer their holding to a young farmer.

3. Specific proposals from the EESC

Genuine farmers

3.1. The EESC strongly supports the objective whereby direct payments should only go to genuine farmers. Land ownership alone should not qualify a person to receive direct payments, if they are not farming. However, the situation as it affects virtually all farms in the EU must be recognised.

3.2. The EESC is of the view that vital definitions such as genuine farmers and eligibility criteria should be defined in a clear, robust, unified way at EU level in order to have a level playing field, to prevent competitive advantage/disadvantage and prevent any weakening of common rules.

3.3. As well as examining income tests and labour inputs on the farm as proposed, the definition of a genuine farmer should be expanded to include objective and non-discriminatory criteria such as income, assets, time input, output and education criteria among other things. In line with the recent changes introduced in the Omnibus Regulation, Member States could maintain the flexibility to better target the eligibility of support. Thus, it should be possible to design a common framework whilst leaving the possibility to adapt the definition to the real needs and conditions of Member States.

Young farmers

3.4. The EESC proposes that the definition of a young farmer be reviewed so as to ensure payments only go to genuine young farmers. Support for the incorporation of newcomers should be a priority measure in Pillar II.

General objectives

3.5. The EESC wishes to point out that it is not possible to achieve the general objectives around smart, resilient and diversified agriculture, food security, environmental care and climate action and strengthening the socioeconomic fabric of rural areas without having an economically sustainable farming sector in the first place. Achieving a viable farming sector must be a general objective of the CAP.

Specific objectives

3.6. The EESC fully supports the nine specific CAP objectives set out in the legislative proposals. However, the EESC proposes that section (f) include the additional objective of avoiding land abandonment and protecting farmland against takeover. In addition, the EESC believes that balanced territorial development should be part of the specific objectives. The EESC would also call for objective 6(1)(b), 'increase competitiveness', to be reworded as follows, so as to be more inclusive: 'increase the viability of farms on local, national and international markets'. The EESC also recommends emphasising the objective of promoting social inclusion and including the development of social infrastructure as a specific objective.

⁽¹²⁾ CAP Pillar II programmes — Ex post evaluation of rural development programmes 2007-2013.

Indicators

3.7. The EESC considers that the proposal to introduce indicators to measure the achievement of the objectives set out with quantified milestones and targets against detailed criteria set down in Annex I⁽¹³⁾ should apply at national level only and must not increase the bureaucratic burden on farmers. The new CAP indicators must be simple, realistic, easily quantifiable, controllable and applicable to local realities. They should be directly linked to the defined CAP objectives.

GAEC

3.8. The EESC proposes that having a minimum and a maximum stocking rate for grasslands should be considered in the context of maintaining land in GAEC.

Farm advisory services

3.9. Support and further development of AKIS, including advisory services, knowledge exchange and vocational training, are important to help farmers with the uptake of innovations and new technologies which will, in turn, improve their competitiveness and sustainability. Any EU initiatives regarding advisory services, innovations systems must build upon existing ones at Member State level and focus on delivering added value. With the CAP budget under pressure, the legislative proposals should make it clear that there can be no leakage of CAP Pillar I direct payments to non-farming professionals.

Direct payments

3.10. The EESC fully recognises and supports the vital importance of CAP Pillar I direct payments in supporting farm incomes. In this regard, the EESC is of the view that CAP Pillar I payments must be fully protected and any adjustments to the new basic income support must be kept to an absolute minimum.

Capping and reduction in payments

3.11. The Commission in its proposal provides for two different forms of direct payments, specifically four different uncoupled payments and various coupled payments.

3.12. Regarding uncoupled payments, the EESC clearly stated in its opinions that: 'Pillar I direct payments should be capped at a fair and reasonable level for individual farmers, (e.g. equal to the comparable income of a qualified worker). Adjustments should be possible and account should be taken of partnerships, cooperatives, companies and the number of employees with social security.'⁽¹⁴⁾

3.13. It also recommended not to apply the cap to payments that reward public services, especially payments in the area of the environment and climate, for which it called for a clear incentive component.

3.14. The Committee also advocated a higher premium for grassland.

3.15. The EESC welcomes in principle the inclusion of salaries in accordance with Article 15(2)(a) and (b), but does not consider that this should be at the rate of 100 %. It is not justifiable for public budgets to finance in full the salaries and related taxes of a specific occupational group and for even unpaid work to be fully included in the calculation. A maximum rate of less than 100 % has to be designed by the EU.

Convergence of payments

3.16. The EESC supports the proposals on external convergence for the continued harmonisation of the level of direct payment support between Member States. The proposal aims to close 50 % of the existing gap between the current average Member State direct payment level and 90 % of the EU average of direct payments from 2021 to 2027. With an adequate CAP budget, however, the Commission proposals could be more ambitious, particularly with regard to the Member States with the lowest level of aid. The Committee takes the view that at the end of the next budgetary period, the direct payment level should be at least 85 % of the EU average.

⁽¹³⁾ COM(2018) 392, Annex I — Impact, result and output indicators pursuant to Article 7.

⁽¹⁴⁾ OJ C 288, 31.8.2017, p. 10 and OJ C 283, 10.8.2018, p. 69.

3.17. Flattening payment entitlements is a very crude approach and fails to take into account any objective criteria such as the level of investment made on the farm, the type of farming system, income level, labour requirement, future viability of the farm and how reliant the farm may be on direct payments and the commitment of the farmer.

3.18. For farmers to benefit from the internal convergence to move minimum payment entitlements up to 75 % of the average by 2026, they should be required to meet certain objective criteria.

National reserve

3.19. The EESC supports the concept of a national reserve for young new farmers and first time new entrants. However, the criteria for allocation from the national reserve must be such that the allocation of entitlements is not abused and entitlements are only allocated to genuine farmers based on clear objective criteria, such as age, income, education, time input and output.

3.20. In addition, it should be compulsory that any entitlements allocated from the national reserve be activated and used by the recipient for a minimum period of time set by the Member State, and it should not be possible for national reserve recipients to sell allocated entitlements before this 10 year period.

Complementary redistributive income support

3.21. While the redistributive income support has yielded very good results in some countries, in other contexts it may further reduce the level of direct payments and incomes to farmers who are most dependent on direct payments for their incomes, many of whom are full-time farmers, and transfer payments to part-time farmers and farmers who are less dependent on direct payments for their entire income.

3.22. The proposals highlight the importance of direct payments towards farm incomes and make it clear that securing an adequate level of support and thus farm income remains a key element of the future, in order to ensure food security and environmental and climate ambition, as well as rural vitality. However, the EESC also points out that any option that significantly redistributes direct payments towards farms and regions of lower productivity will, in the short term, lead to a reduction of EU competitiveness⁽¹⁵⁾ on international markets; at the same time, this will more closely live up to the expectations of consumers and citizens as regards orientating the CAP more towards meeting the needs of the internal market.

3.23. The EESC is of the view that the complementary redistributive payment, in the event that it is applied, should be financed only from the funds released from capping and, in order to reduce the wide disparities that exist within the sector, be targeted and directed to farmers who are mainly dependent on farming for their income.

Complementary income support for young farmers

3.24. The EESC supports the proposal to have a complementary income support for young farmers. In order to make sure that this does not harm genuine farmers, appropriate mechanisms will need to be established to avoid financial allocations that do not lead to genuine involvement in farming activity.

Voluntary scheme for climate and the environment ('eco-scheme')

3.25. The EESC notes the introduction of a voluntary eco-scheme for climate and the environment at farm level in Pillar I. However, it is important that the proposed 'eco-scheme' in Pillar I should not discourage or undermine farmers from applying and participating in important environmental and climate change schemes in Pillar II.

3.26. Provision should be made to allow for a grassland payment for livestock production with a minimum and maximum stocking rate under this measure. In addition provision should also be made for animal welfare payments on a per animal basis, as is currently the case with this type of scheme.

⁽¹⁵⁾ COM(2018) 392 final, p. 7.

Coupled payments

3.27. Coupled payments have a very important role to play in protecting vulnerable sectors and vulnerable areas. Coupled payments can provide essential targeted and higher level direct payments to low income sectors such as extensive suckler beef or sheep farming, protein crops or livestock farming in mountainous areas, where the retention of livestock is essential to the ecosystem balance. The option of coupled payments should continue to be restricted in general, but should be available to help prevent land abandonment and to promote and encourage pasture farming ⁽¹⁶⁾.

Rural development

3.28. The EESC supports the eight broad EU interventions under rural development. As outlined earlier, the EESC is opposed to all cuts proposed for Pillar II funding, as they disproportionately affect some Member States and raise doubts about a smart, sustainable and competitive development of agriculture.

3.29. The EESC considers that, in line with the current CAP, there should be provision for specific animal welfare interventions under the rural development programmes and that this should be included under one of the broad interventions.

3.30. The EESC proposes that, in order to increase farmer participation and uptake, a higher proportion of the payment should be allocated for transaction costs or incentives.

3.31. The EESC considers that environmental, climate and other management commitments should be considered for periods longer than seven years provided that also the financing of those commitments is guaranteed accordingly.

3.32. The EESC considers that ANC ⁽¹⁷⁾ payments should be mandatory in the relevant areas in order to prevent land abandonment in Member States. In addition, measures should incorporate minimum and maximum stocking rate measures and specify a range for the period of time animals should spend grazing. ANC payments should be allowed to qualify as part of the environmental expenditure under Pillar II.

3.33. Under the proposals on natural or other area-specific constraints, it is important that the principle of no restrictions without compensation be established. In order to change practices, it is very important that compensation be calculated for full losses and that proper incentives be paid.

3.34. The EESC favours a positive list of investment proposals as opposed to a negative list.

3.35. The EESC considers that the proposals on risk management tools should be voluntary as opposed to compulsory at Member State level. In general, the EESC is of the view that the best protection against income volatility is strong Pillar I direct payments, and that these should not be eroded in any way to transfer funds towards insurance schemes or mutual funds. In addition, the EESC proposes that any funding for risk management should be sector-specific.

3.36. The EESC welcomes the new flexibility and range of supports outlined under financial instruments.

Crisis reserve

3.37. The EESC recognises the need for an effective and properly financed permanent crisis reserve fund. The EESC proposes that funding for the crisis reserve should be provided from a new item of expenditure, outside the CAP budget and thus cannot involve any reduction in direct payments to farmers. Under the current CAP legislation, unused funds from the 2020 crisis reserve must be returned to farmers in 2021.

Common Market Organisation

3.38. The legislative proposals leave the CMO largely unchanged, involving a safety net of public intervention and private storage and exceptional measures. In addition, the CMO provides for marketing standards and rules on farmers' cooperation. The EESC thinks that the Commission should consider further stepping up market regulation to ensure better incomes.

⁽¹⁶⁾ The Policy Roadmap for the EU Sheep meat Sector — Recommendations from the EU Sheep Meat Forum, chaired by John Bryan.

⁽¹⁷⁾ Areas facing natural or other specific constraints.

3.39. The EESC considers that the proposals should re-examine and re-set the reference prices, taking into account the evolution of production costs, and trigger levels for the introduction of market support at more practical levels, with a view to providing more realistic and worthwhile market support when required. The Commission should focus on market management instruments, in particular by limiting fluctuations in the prices of agricultural products, as this represents the main source of income for farmers.

Payments

3.40. The EESC proposes that advance payments from 16 October each year be increased to 80 % (currently 50 % but usually 70 % allowed) for direct payments and to 90 % (currently 75 % but usually 85 % allowed) under rural development measures.

Timing

3.41. The timing of the MFF agreement and the new CAP proposals are unclear, particularly in the context of the next EP elections. The reform proposal introduces several new elements such as the Strategic Plan, a basic component of the reform that will not be easy for national administrations to put in place, and a new CAP structure laying down certain obligations for farmers (new enhanced conditionality, compliance with the indicators of the Strategic Plan, etc.) which will require a certain period of time in order to be adopted and implemented by the farmers themselves. The EESC recommends an early agreement on the MFF before the EP elections in May 2019 and a timely agreement on the future of the CAP so that farmers and the agricultural sector can properly plan for the future with certainty. It is therefore essential that a proper transitional period based on the current support system be adopted well in advance for any period post-2020 before the new arrangements are in place.

Food chain

3.42. The EESC reiterates its call for the development of a comprehensive food policy in the EU ⁽¹⁸⁾. In particular, the EESC welcomes that the Commission has stressed the important role of the CAP in promoting healthier diets, making nutritious food products such as fruit and vegetables available for EU citizens. Concrete proposals and recommendations on this will be made in an ongoing own-initiative opinion. The EESC welcomes the proposals to strengthen the farmer's position in the food supply chain. Increased market price transparency is essential at every level from consumer right through to primary producer. In addition, greater incentives and support should be provided for producer organisations.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽¹⁸⁾ OJ C 129, 11.4.2018, p. 18.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EU) No 1293/2013’

(COM(2018) 385 *final* — 2018/209 (COD))

(2019/C 62/36)

Rapporteur-general: **Lutz RIBBE**

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1. Conclusions and recommendations

1.1. Nature and the environment in the EU are undergoing a major crisis. In the view of the European Economic and Social Committee (EESC), the LIFE programme (with its wholly insufficient level of funding) is an inadequate response to this contemporary environmental crisis and will be unable to have any sort of substantial impact. The Committee does however explicitly welcome the continuation of the programme in general.

1.2. In addition to significantly increasing the budget for the LIFE programme, there needs to be much more consistency between all EU policies. The EESC has already repeatedly criticised this inconsistency, which has a negative impact on nature and the environment, but nothing has changed.

1.3. In recent decades, the mainstreaming approach favoured by the Commission has proved to be unsuited to the funding of biodiversity protection, and the EESC therefore reiterates its proposal that LIFE should be developed into a real financing facility for Natura 2000.

1.4. In the new funding period, the mainstreaming approach could potentially work for climate protection action, since at least 25 % of EU funds will be earmarked for climate-related measures.

1.5. In particular, the EESC welcomes the fact that the new LIFE programme can provide financial support to efforts to develop and implement bottom-up initiatives for innovative, decentralised and sustainable economic models.

1.6. The EESC welcomes the fact that the new LIFE Regulation is less restrictive and, among other things, enables projects to be funded in full. It also welcomes the fact that organisations that are important to the further development and implementation of European environmental policy are able to be supported.

2. Background

2.1. The Commission has set out its proposals for medium-term financial planning for the period 2021-2027. The United Kingdom's withdrawal from the EU, and the setting of new priorities, mean that these proposals will have a significant impact on EU funding policy, particularly on certain programme areas.

2.2. For example, the current funding structure of the multiannual financial framework features 58 different programmes; this will be cut to 37.

2.3. The LIFE programme is not affected by this structural change: it will continue to be an autonomous programme with its own budget heading, promoting the development and implementation of innovative solutions to environmental and climate issues such as the energy transition. In the next EU budget, LIFE will have EUR 5,45 billion of its own resources.

3. General comments

3.1. In the past, the EESC has always regarded the LIFE programme as a valuable element in European nature and environmental policy, and therefore welcomes its continuation as a standalone programme in the 2021-2027 funding period.

3.2. The EESC notes, in general, that nature and the environment in the EU are undergoing a major crisis. This is in part because the EU's funding programmes for nature and environmental protection are far too poorly resourced; another point of criticism is that there is not enough consistency between the EU's various sectoral programmes. The EESC strongly urges the Commission and the Council to address these shortcomings, which the Committee has already criticised on a number of occasions. If they do not, the LIFE programme — which undoubtedly funds some very good projects — will remain mere tokenism.

3.3. The EESC sees a serious conflict between the policy priorities set in statements, strategies, concepts and legislation, on the one hand, and the way these supposed policy priorities are embedded in the budget, on the other. In essence, the budget reveals the truth about what the policy priorities actually are.

3.4. The EESC most recently commented on LIFE in its opinion on the mid-term evaluation of the LIFE programme ⁽¹⁾, in which it made various proposals for revamping the programme that have unfortunately not been taken into account in the new proposal for a Regulation; these proposals related, inter alia, to the scope of and financial resources for LIFE.

Financial resources for LIFE

3.5. Just looking at the appropriations for the new 'clean energy transition' subprogramme puts into perspective the initially impressive-sounding increase in the LIFE programme's budget from EUR 3,45 billion (for the 2014-2020 funding period) to EUR 5,45 billion (for the 2021-2027 period). It should also be borne in mind that around EUR 2,6 billion — i.e. half of the total — is made up of commitment appropriations that, under current plans, will not be able to be spent until after 2027.

3.6. In the current programming period, 'climate action' has a budget of EUR 864 million; for the new period this will be EUR 1,95 billion, including EUR 1 billion for the new 'clean energy transition' subprogramme, which is currently funded under Horizon 2020. This means that the actual increase for the previous programme's 'climate action' strand is too low, at around EUR 100 million (and this over seven years).

3.7. In the current funding period, EUR 2,59 billion is available for 'environment and resource efficiency', of which EUR 1,15 billion is allocated to biodiversity. This is increased significantly for the new funding period, to EUR 2,15 billion (an increase of nearly 100 %), but this figure too needs to be put into perspective.

3.8. As the Commission quite rightly states in recital 14, 'one of the main underlying causes for insufficient implementation of Union nature legislation and of the biodiversity strategy is the lack of adequate financing'. The European Court of Auditors specifically underlined the underfunding of biodiversity protection in its special report on Natura 2000 ⁽²⁾.

⁽¹⁾ OJ C 173, 31.5.2017, p. 7.

⁽²⁾ European Court of Auditors (2017): Special Report No 1/2017: 'More efforts needed to implement the Natura 2000 network to its full potential'.

3.9. The planned increase does not even come close to solving this problem. Quite the opposite — the EESC is very concerned about the severe underfunding of the Natura 2000 network in particular, which is a crucial part of European biodiversity protection. This underfunding will, in the EESC's estimation, get even worse in the 2021-2027 funding period, due to the cuts in resources for the EAFRD programme and for regional development.

3.10. Instead of increasing the budget for the LIFE programme, as the EESC considers necessary, the Commission is proposing to step up the mainstreaming approach — i.e. funding from other budget headings. The EESC acknowledges that mainstreaming can work if appropriate earmarked funding is available elsewhere, and would refer in particular here to climate protection, due among other things to the fact that the Commission has proposed that at least 25 % of the EU budget should be spent on climate-related measures⁽³⁾.

3.11. In the field of biodiversity protection, however, the mainstreaming approach of funding the Natura 2000 network primarily via the EU's regional development funds and the second pillar of the Common Agricultural Policy has been a miserable failure. The EESC therefore advocated, in its opinion of 23 February 2017 on the mid-term review of the LIFE programme⁽⁴⁾, that LIFE 'should be made the main instrument for funding the Natura 2000 network'. It would draw attention to this opinion⁽⁵⁾ and others in this connection, and continues to call for the LIFE programme to be supplemented with appropriately earmarked funds. Another proposal for achieving ambitious environmental objectives could consist in rerouting any outstanding balances in cases of non-compliance under the CAP to measures to conserve biological diversity.

3.12. Taking the calculations used in Germany to determine funding for implementing Natura 2000 and extrapolating them to the EU-28 results in an estimated funding requirement of up to EUR 21 billion a year⁽⁶⁾. Increasing LIFE's budget for biodiversity/nature conservation by EUR 1 billion for a seven-year period is therefore no more than a drop in the ocean.

3.13. Moreover, a significant proportion of the aforementioned costs for the Natura 2000 network have to be used for the long-term maintenance and management of the over 27 000 Natura 2000 sites. But even under the new proposal, LIFE offers limited options for funding long-term maintenance costs in Natura 2000 sites, and in the EESC's opinion therefore cannot adequately contribute to solving the EU's biodiversity crisis, contrary to the requirements set out in recital 14.

3.14. The EESC is thus extremely disappointed that its suggestion has not been taken on board. The Commission does explain in its proposal that the impact assessment considered how LIFE 'could play a stronger role in the implementation of the Union nature and biodiversity policy. [...] [T]he option for a large shared management fund under LIFE was considered inefficient [...]', but it is not apparent to the EESC how the gross underfunding of Natura 2000 is to be solved. Moreover, the EESC has never advocated a shared management fund, as such a fund would indeed be difficult to manage efficiently. Instead, it has recommended completely redesigning LIFE (as the European Environmental Finance Instrument) and then using it to fund the EU's commitments in terms of implementing the relevant nature directives.

3.15. Furthermore, recital 18 states that in future LIFE should also support projects which contribute to the implementation of the Water Framework Directive (2000/60/EC). The EESC welcomes this in principle, but notes that unless the budget is further increased it will lead to further underfunding of the other important subprogrammes. The EESC has the same reservation concerning the support referred to in recital 19 for projects to implement the Marine Strategy Framework Directive (2008/56/EC).

3.16. The EESC is surprised that the proposed LIFE Regulation refers to the pioneering concept of 'green infrastructure' only once, and only in passing. Given that the multiannual financial framework 2021-2027 does not mention the TEN-G funding programme for 'green infrastructure' proposed in the Commission's communication⁽⁷⁾ of 6 May 2013, the EESC recommends that LIFE — with a substantially higher budget — should also specifically support green infrastructure projects.

⁽³⁾ The EESC considers this to be too low still, and has called for 40 % (EESC opinion on the European Finance-Climate Pact) (see page 8 of this Official Journal).

⁽⁴⁾ OJ C 173, 31.5.2017, p. 7.

⁽⁵⁾ See EESC opinion NAT/681 on the biodiversity policy of the EU (OJ C 487, 28.12.2016, p. 14).

⁽⁶⁾ See EESC opinion (OJ C 129, 11.4.2018, p. 90).

⁽⁷⁾ COM(2013) 249 final.

3.17. It is already becoming clear that the 2020 biodiversity protection targets agreed within the EU will not be met. If even fewer resources are available for the 2021-2027 financial period, there is a danger that the EU will be unable to make any significant improvements even by 2030. This major biodiversity crisis makes it necessary to increase funding for LIFE massively. The EESC therefore urges the Council and the European Parliament to discuss and take account of the ideas it has put forward in the ongoing debate on the medium-term financial plan.

4. Specific comments

4.1. In the explanatory memorandum to the proposal for a Regulation, the Commission repeatedly emphasises the small scale of the projects supported, which distinguishes LIFE from, for example, Horizon Europe. It states that LIFE 'help[s] citizens to take action on the climate and for their communities'. In the EESC's view, exactly this approach of promoting bottom-up action by civil society stakeholders is hugely important and should be supported.

4.2. It should, however, cover more than just the elements indicated by the Commission in recitals 8 and 10. Projects to 'facilitate the uptake of already available technology' are certainly to be welcomed, but the role of 'citizens' goes far beyond implementing practices that have already been developed.

4.3. After all, the European Innovation Council mentioned in the proposal is not the only body that can, as the Commission puts it, 'provide support' to develop, 'scale up and commercialise new breakthrough ideas'.

4.4. For example, SMEs, small and large civic initiative groups, trade unions, private individuals and municipalities can do this as well. Indeed, they are already developing (sometimes very simple) ideas, practices and innovative applied technologies that, in some cases, neither policy-makers/public authorities nor established businesses were willing or able to conceive.

4.5. LIFE should help to offer support precisely for these efforts, especially given that it is often very difficult for these less established players to find support for innovation.

4.6. This can be illustrated with two examples that fit in well with the new 'clean energy transition' subprogramme:

4.6.1. It is well known that the development of charging infrastructure for electric vehicles is an important task that also needs to be taken on at policy level. Citizens' initiatives are starting to consider making direct, decentralised use of e.g. electricity generated by wind-power cooperatives to run community-operated charging stations or to provide private charging stations in homes, residential areas and workplaces. The extensive experience that has now been gained with 'solar filling stations' (i.e. carports fitted with PV systems) could thus be translated to wind farms. This would create completely new participation opportunities for civil society stakeholders, which would be of significance both for regional economic development and for acceptance of the new supply structure that needs to be put in place⁽⁸⁾. It could also breathe new life into the EU's ambition of 'putting citizens at the heart of the energy transition'. However, such new conceptual approaches are not generally developed by the established energy supply operators. They need initial support, particularly since in many cases the legal framework and detailed technical issues require in-depth examination. LIFE absolutely must provide support for such innovations that are not yet 'market-ready'.

4.6.2. The same applies to an innovative approach that was developed in the town of Łapy in Podlaskie, Poland, but which cannot be implemented because they have simply not been able to find the funds for the necessary in-depth investigations. Like many other municipalities in central and eastern Europe, the town suffers from high emissions levels caused by coal-fired communal district heating systems. It has been calculated that replacing coal with renewable energy sources (e.g. biomass) or less polluting sources (such as gas) would increase consumer prices, which would not be socially acceptable. It is quite probable that building and running a municipal wind farm, and converting the generated electricity into heat using heat pumps, would result in lower heating costs, but the municipality does not have the resources for the necessary preliminary technical and legal studies that are absolutely crucial for implementing a model project of this kind, and to date no support has been forthcoming from elsewhere.

⁽⁸⁾ EESC opinion on 'The effects of a new carbon-free, decentralised and digitalised energy supply structure' (OJ C 367, 10.10.2018, p. 1).

4.7. The EESC therefore welcomes the fact that the 'clean energy transition' subprogramme sets a new focal point within the climate action strand of the LIFE programme, which, with EUR 1 billion for the period 2012-2027, will encompass almost 20 % of the overall budget of EUR 5,45 billion.

4.8. In the EESC's view, the application and implementation procedures chosen for the LIFE programme must be as simple as possible. It welcomes the Commission's constant efforts to further reduce red tape in project application and implementation.

4.9. The new LIFE Regulation is much less restrictive than the current programme, giving the Commission considerably more flexibility in the selection and funding of projects. In the EESC's view, this will result in significantly more efficient use of resources.

4.10. Good, innovative projects should not fail simply because the applicant might not have adequate co-financing options. The EESC is pleased to note that the new LIFE Regulation no longer includes an article ruling out full financing of projects (see Article 20 of the old Regulation).

4.11. The EESC also welcomes the fact that the LIFE programme is constantly evolving, and that the catalytic role played by LIFE and the projects it funds is now highlighted. However, it is not clear to the EESC what form this catalytic role is expected to take in practice.

4.12. The EESC can well imagine that the Commission could select a certain number of particularly innovative projects that are receiving funding and ask the project coordinators to undertake a smaller-scale follow-up project describing in more detail what factors were especially responsible for the success or failure of the project. At the moment, many innovative ideas (see point 3.8) fail due to red tape or an obstructive — or even non-existent — legal framework. In order for the policy side to be able to learn and draw conclusions from LIFE-supported projects, it is important to understand the success and failure factors in detail.

4.13. Recital 17 states that public awareness about air pollution is high and that 'citizens expect authorities to act'. This is true, and LIFE will also be able to help with this in future, if relevant information gained from the projects is implemented in practical policy.

4.14. What LIFE cannot and must not do is take on a kind of 'clean-up' role to compensate for public authorities' failure to act. Air quality in Europe could already have been improved significantly if, for example, (a) the limit values set previously had been consistently complied with, (b) the promised internalisation of external costs had been consistently enforced, and (c) environmentally harmful subsidies had been abolished, as has been promised for years.

4.15. Recital 27 therefore quite rightly also focuses on enforcement aspects, including monitoring and permitting processes and the quality of the environmental inspection and law enforcement mechanisms. Given their contribution to these objectives, the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), the European Network of Prosecutors for the Environment (ENPE) and the European Union Forum of Judges for the Environment (EUFJE) could also, under Article 12 of the proposal, be awarded grants — i.e. get official support — 'without a call for proposals'. The EESC welcomes such grants, and stresses the importance of ensuring that other key stakeholders in society that can advance EU environmental policy can also be supported with relatively little red tape, as provided for in Article 10(5) of the proposal.

Brussels, 18 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a Decision of the European Parliament and of the Council amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism'

(COM(2017) 772 final — 2017/0309 (COD))

(2019/C 62/37)

Rapporteur: **Dimitris DIMITRIADIS**

Referral	European Commission, 18.6.2018
Legal basis	Articles 196 and 304 of the Treaty on the Functioning of the European Union
Date of Bureau decision	26.6.2018
Section responsible	Section for Agriculture, Rural Development and the Environment
Adopted in section	5.10.2018
Adopted at plenary	18.10.2018
Plenary session No	538
Outcome of vote	205/2/1
(for/against/abstentions)	

1. Conclusions and recommendations

Conclusions

1.1. In the light of new and constantly changing circumstances arising as a result of the effects of climate change and dramatically affecting human activity and life, the EESC urges the European institutions to adopt new joint measures and policies.

1.2. Addressing these phenomena requires increased vigilance and solidarity-based development not only of projects, but also of practical solutions. The proposed revised Union Civil Protection Mechanism, rescEU, which for the first time includes European aerial forest fire-fighting instruments, urban search and rescue instruments, field hospitals and emergency medical teams, is a step in this direction.

1.3. Aside from the four capacities described, the EESC considers it essential to lay down provisions enabling the Commission to establish additional capacities for rescEU, thereby ensuring the necessary flexibility.

1.4. The EESC considers that the Communication takes into account the concept of European solidarity, but stresses that this does not alter the responsibilities and obligations of Member States.

1.5. With the new Civil Protection Mechanism, the EU as a whole and each individual Member State will benefit jointly from the capabilities of a mechanism that will have its own resources, as well as resources contributed by the Member States.

1.6. The EESC considers that with its current proposal the Commission has understood the need for coordinated sharing of information, as well as the fact that for full use to be made of this knowledge it should be made available to interested parties systematically.

1.7. Education of the general population and the resulting preparedness should serve as the focal point of a common European policy in cooperation both with Member States and with non-Member States participating in joint actions, with the active cooperation of local and regional authorities.

1.8. Civil protection is a matter for each and every one of us. However, our response to challenges will be improved not only through individual responsibility but also through collective effort and common understanding. In this context, civil society, non-governmental organisations (NGOs), volunteers and independent bodies need to be mobilised and participate both in devising emergency plans in the event of natural disasters and in implementing those plans.

1.9. Through collective actions, the business sector and its employees can help to us to adapt to or even reverse the adverse effects of climate change, as well as to minimise the impact of natural disasters or the causes of man-made disasters (for example, concerning gas and particulate emissions).

1.10. Modern innovative technologies and digital tools (IoT) must be made available to forces operating as part of the civil protection cycle, at every level. When used correctly, the tools of operators in this field developed in the area of prevention, control and guidance, and/or information make it possible to avoid risk.

1.11. The EESC considers that the rescEU mechanism proposed by the Commission has the potential to:

- (a) convey a strong message of European solidarity to European citizens at a time when the EU has a great need for this;
- (b) boost the cooperation of EU accession countries but also help create a corresponding solidarity mindset which should prevail in EU Member States;
- (c) introduce countries cooperating within the European institutions to sensitive and important matters, making them aware of what a union of states like the EU means in practice, over and above the normal areas that tend to be discussed;
- (d) strengthen regional cooperation through bilateral agreements and help reduce tensions in sensitive political areas, as has been demonstrated repeatedly in the past when major natural disasters were addressed collectively.

1.12. The EESC notes that, in addition to the information provided by the Commission on the intensity of natural phenomena and disasters up to 2017, this summer further demonstrates the need to revise and reinforce the current framework of the Union Civil Protection Mechanism. Fires, heat waves and floods, the intensity of which is unprecedented across the EU — even in areas not hitherto regarded as being vulnerable to such disasters — and linked to climate change, as well as unpredictable strong earthquakes with a high rate of recurrence, causing massive destruction and loss, demonstrate the need for initiatives similar to that proposed by the Commission in the form of rescEU.

1.13. The EESC believes that, in the coming years, the approach to civil protection issues will need to become increasingly holistic and include policies at all levels of human activity. The EESC points out the urgent need to adopt a wider political and regulatory framework within the EU for civil protection.

Recommendations

1.14. The EESC understands the problems and commitments that current EU legislation (mainly primary legislation) entails for the Commission, but believes that every effort should be made to get Member States to subscribe to the idea of a common approach to civil protection, especially in the areas of prevention, response and recovery.

1.15. The voluntary but funding-based development of national risk assessment studies and prevention and response action plans at local, regional and national level should serve as an incentive for Member States to maximise the benefits of rescEU.

1.16. The Commission, working together with the Member States, should develop general principles and guidelines to change national laws in order to achieve a common, modern and compatible European legislative framework on issues such as early warning, volunteering and institutionalised involvement at all levels of civil protection, commitments from Member State budgets for preventive measures, etc.

1.17. The EESC believes that creating common administrative procedures in the Member States would ensure the corresponding 'common language', maximise the benefits of the new rescEU mechanism and provide the flexibility and efficiency needed so as to take full advantage of them, particularly in emergency operations.

1.18. The EESC considers that tools such as the European Grouping of Territorial Cooperation (EGTC) should be used, so that joint Member State action in the area of civil protection can be ensured across borders.

1.19. The EESC believes that an initiative should be developed to incentivise innovative enterprises and start-ups to improve, develop and/or create new, high-tech tools in the areas of prevention and response, e.g. forecasting, warning and response systems.

1.20. Forest fires are one example requiring the development of such systems with the parallel use of European industry in the field of aviation, IT, automotive, fire-fighting systems and others.

1.21. The EESC believes that the Commission should actively include the scientific and research community in the dialogue on the appropriate action at the different phases of the civil protection cycle.

1.22. The initiative to create an annual European forum, potentially under the auspices of the EESC, involving the scientific community, political leaders and the authorities responsible for civil protection, would be useful for exchanging best practices, information on new technological capabilities, etc.

1.23. It is essential that the Commission recommend a series of best practices to the Member States, especially in the area of recovery and prevention, introducing models to ensure viability and sustainability.

1.24. The EESC views the voluntary movement, and therefore civil society, as one of the key drivers of civil protection mechanisms. Consequently, the Committee believes it is essential to bolster it through parallel measures and equipment at European level and to formally include it in the new rescEU mechanism.

1.25. Ensuring that workers can join voluntary groups, if they so wish, with similar provisions to guarantee their basic rights, such as insurance and entitlement to leave when participating in civil protection operations on the ground, should perhaps be a point for discussion in the EU institutions, with a view to creating a single resolution framework.

1.26. It would be useful to create a common European certification system for voluntary civil protection teams and the means they use, which would be accompanied by relevant training at local, regional, national and/or European level.

1.27. The EESC reminds the Commission that the European Structural and Investment Funds should without delay acquire the necessary flexibility to finance reconstruction and recovery projects following natural disasters, stressing that these should be accompanied by studies to support the sustainability of these efforts and also maintain everyday life in the affected areas, particularly in rural areas, in order to avoid depopulation.

1.28. If possible, it would be useful if the 'capacities' to be purchased or rented, as provided for under the new rescEU mechanism, could combine multiple possibilities so as to ensure the investment produces optimum returns. For example, aerial equipment could be used both for fighting forest fires and for search and rescue, border surveillance in cases of cross-border natural disasters and, of course, preventive measures.

1.29. Providing for combined capabilities covering areas of safety and security could be a solution that will not only save resources but will also help to develop integrated EU operational activities and contribute to the objective of complementary actions.

1.30. The distribution of capacities to be created within the framework of rescEU should be the subject of a separate study that takes into account not only geographical, geological and economic data, but also and above all the potential for direct response and coverage of EU regions for each risk, as a function of the risk.

1.31. The EESC proposes in any case, and at the very least when the European mechanism is activated and in operation, that the Member State or region responsible be required to compile a disaster file in order to build know-how and improve future operational practices, and that a pan-European database thus be created, for which a model could be produced by the Commission. It is also suggested that indicators be introduced to measure intervention time and the real impact of rescEU.

1.32. The EESC welcomes the possibility of making the application of planning provisions for risk assessments and risk management a conditionality under cohesion policy and the European Agricultural Fund for Rural Development. It notes, however, that this should be preceded by an extensive information campaign so as not to disrupt the production process.

1.33. The EESC deems it necessary to increase Member State participation in the European Civil Protection Pool. However, the envisaged preparatory measures to be taken by the Member States for this participation should also include their own investments in additional equipment in order to avoid weakening them as well as to enhance the overall operational capacity of the EU.

1.34. The EESC considers it necessary to point out that particular attention should be paid to small and medium-sized enterprises in relation to recovery after any type of disaster, as they are key drivers of everyday economic and social activity.

2. General comments (background)

2.1. The Union Civil Protection Mechanism provides a framework for cooperation and assistance in the event of major emergencies inside and outside the EU. The legislative framework was established by Council Decision 2001/792/EC, Euratom establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions.

2.2. In the years that followed, the original Decision was amended successively by Council Decision 2007/779/EC, Euratom establishing a Community Civil Protection Mechanism (recast) and Decision No 1313/2013/EU of the European Parliament and of the Council on a Union Civil Protection Mechanism.

2.3. Participants in the mechanism are currently the 28 EU Member States, the EEA countries (Iceland and Norway), as well as Montenegro, Serbia, FYROM and Turkey. The EESC believes it would be very useful to include more countries in the mechanism, so as to improve its flexibility, response time and use of resources.

2.4. On 23 November 2017, the Commission adopted a proposal, accompanied by a communication, to amend the legislative framework of the EU Civil Protection Mechanism. The Commission proposal, which was based on knowledge acquired through cumulated experience, is essentially designed to:

(a) establish a dedicated reserve of EU civil protection capabilities (resources);

(b) deploy assistance more quickly and reduce bureaucracy;

(c) implement additional measures in the field of prevention and preparedness.

2.5. The main financial tool to date has been the European Union Solidarity Fund (EUSF) established in 2002 (Regulation (EC) No 2012/2002).

2.6. The EESC has also been consulted in the past and has adopted a number of opinions: see NAT/314 (2006) ⁽¹⁾ NAT/375 (2008) ⁽²⁾, NAT/438 (2009) ⁽³⁾, ECO/355 (2013) ⁽⁴⁾ and ECO/426 (2017) ⁽⁵⁾ on issues relating to civil protection, natural disasters and the European Union Solidarity Fund.

⁽¹⁾ OJ C 139, 11.5.2001, p. 27.

⁽²⁾ EESC opinion on *Improving the Community civil protection mechanism — a response to natural disasters* (OJ C 204, 9.8.2008, p. 66).

⁽³⁾ EESC opinion on *A Community approach on the prevention of natural and man made disasters* (OJ C 318, 23.12.2009, p. 97).

⁽⁴⁾ EESC opinion on the *European Union Solidarity Fund* (OJ C 170, 5.6.2014, p. 45).

⁽⁵⁾ EESC opinion on *Specific measures for Member States affected by natural disasters* (OJ C 173, 31.5.2017, p. 38).

2.7. The current functioning of the Civil Protection Mechanism is principally supported by: the Emergency Response Coordination Centre (ERCC) in Brussels, the Common Emergency Communication and Information System (CECIS), the emergency teams, civil protection modules and technical support teams, with the resources provided, as well as the training programme and the exchange of experts programme.

3. The mechanism in its current form

3.1. The Lisbon Treaty introduced new areas of competence in which the European Union may intervene. The new competences in the area of civil protection are mainly of a supportive nature.

3.2. Among other things, the Treaty of Lisbon aims to improve the EU's ability to deal with natural or man-made disasters. Thus its Article 196 enables the EU to take measures to prevent risks, to prepare civil protection personnel, to respond to natural or man-made disasters, to promote operational cooperation between national civil services, and to promote consistency of activities undertaken at international level.

3.3. Moreover, these civil protection provisions are linked to the solidarity clause in Article 222 of the Treaty. This clause allows the EU to assist a Member State if it has suffered a terrorist attack or has been hit by a natural or man-made disaster.

3.4. It is now a fact that the extreme weather events caused by climate change are spreading to Europe. The EESC agrees with the Commission and European Parliament that 2017 and 2018 have been critical years in terms of natural disasters in Europe. Losses have included human lives, vast areas of forest, property and infrastructure. Agriculture, forestry, and commercial and industrial activities were hit hard, while the occurrence of phenomena such as forest fires in parts of northern Europe previously considered safe, at least from this risk, was worrying.

3.5. The EESC considers that the existing European Civil Protection Mechanism — under the new conditions taking shape — has had its day, often proving to be powerless, slow and ineffective, especially in the event of natural disasters happening in different regions concurrently. The very limited resources, which cover only transport and not operational or other costs, which are much higher, also constitute a significant disadvantage.

3.6. At the same time, there is daily evidence that the Member States are unable to cope with major disasters on their own, that the cost of acquiring or renting all of the operational equipment is prohibitive for one country alone, and that intervention is needed at the European level.

3.7. An example is the cost of acquiring a modern and efficient Canadair-type fire-fighting aircraft (a type widely used by the Member States), estimated at approximately EUR 30 million: its production has been suspended and, even if new orders are placed, the manufacturer can only deliver one or two new aircraft per year.

3.8. In addition, despite the current possibility of activating the mechanism in order to find resources when a Member State is threatened by a major disaster, more often than not it proves impossible to provide any assistance from other Member States, either because of a manifest lack of resources or because the unfolding situation in the small number of countries that do have resources prohibits them from undertaking any operational activity in another Member State.

3.9. In many cases, the current capacity of the Civil Protection Mechanism renders the above-mentioned provision of Article 222 of the Lisbon Treaty ineffective **as resources are limited, a direct response and rapid intervention are impeded by bureaucracy, and any interconnectivity at the level of knowledge and best practice sharing remains theoretical.**

4. General comments on the Commission's proposal

4.1. The EESC reiterates the need to improve, modify and transform the Union Civil Protection Mechanism into an integrated European system that focuses on disaster management, with the aim of covering the civil protection cycle beginning with prevention and ending in recovery.

4.2. With the proposal to reinforce EU disaster management (rescEU), the EU and the Member States can display their human face both in theory and in practice, as well as unity and solidarity, key concepts of both the founding Treaties and associated agreements, at a time when Europe needs to return to its core values.

4.3. It should be emphasised that to date there have been no serious European incentives to create strong proposals and alliances in response to natural disasters, while voluntary efforts are regularly irrelevant and ineffective. There is now a crucial need to increase the frequency of joint exercises between countries with common risks and a shared border, including participation and training of volunteers, and also to provide incentives to communities (exemption from or reduction of other activities such as army reserve duties) to increase the number of volunteers.

4.4. The EESC agrees with strengthening disaster prevention and preparedness mechanisms in conjunction with increasing the resilience of infrastructure and ecosystems. Not only will this save lives and protect communities, but the direct economic benefits resulting from reduced response needs will improve protection of agricultural activities by lowering disaster risks from fires or floods, which cause major damage to the primary sector.

4.5. The Commission's recognition that risks of natural origin (floods, fires, earthquakes, etc.) and anthropogenic origin (technological accidents, terrorist attacks, etc.) are now changing or emerging is fully consistent with the nature of risks in the modern age and the role of climate change as a multiplier. The concept of 'resilience' introduced in relation to managing disaster risk reflects the way in which all economic activity, especially in the field of infrastructure, must be pursued. The most advanced digital tools and most innovative technologies should be used when assessing and enhancing the resilience of infrastructure.

4.6. The emergent concept for strengthening capacity in respect of disaster prevention, preparedness, response and recovery identifies the pillars that underpin the goal of sustainable development. The EESC agrees with the detailed mapping of the whole civil protection cycle, as this will highlight the need for social, economic and environmental vigilance. This holistic approach ensures the involvement of the whole range of responsible parties involved in the cycle and the dissemination/communication of expertise and practices. The success of this approach will be achieved through joint programmes and exercises/training by groups of countries with shared risk exposure.

4.7. The programme operates within the framework of the UN's 2020 Agenda and the Sendai Framework for Disaster Risk Reduction (UNISDR), and more specifically its Priority 1, understanding disaster risk.

4.8. The EESC also agrees with the general principle of establishing a knowledge and training network as described by the Commission. However, the Committee notes the need to formally involve the scientific community and universities and to commission research activities (projects and studies) to map out and assess potential dangers, associated vulnerability and risk to communities. The cooperation of private enterprise and businesses as well as of civil society is necessary in view of their existing knowledge and experience, but also as community systems can be mobilised more easily and rapidly at local level in the event of a disaster. Informing and educating citizens about the risks they face is considered to be a priority.

4.9. The EESC agrees with the development of the specific capabilities proposed by the Commission within the framework of rescEU, i.e. reserve fire-fighting aircraft resources, high-capacity pumping, urban search and rescue, and operational capacities to be developed for public health through the acquisition of field hospital units and emergency medical teams, as referred to in the second paragraph of point 3.1 of COM(2017) 773 final. The EESC recognises the need for interoperability between resources and for it to be possible to use them flexibly in order to achieve economies of scale with a view to sustainable development. For example, acquisition of aerial resources could be considered that would serve simultaneously for: (a) aerial fire-fighting, (b) aerial early warning patrols and surveillance, (c) search and rescue, and (d)

evacuation of casualties from hard to reach or remote island regions. In this way, use could be made of these aerial means throughout the year, so that costs, including financial costs, are recouped more quickly.

4.10. The EESC proposes establishing local structures in regions at a higher risk of requiring a more immediate response. Local communities must also be strengthened by providing them with first-response tools and trained local groups should be set up equipped with early-warning systems. It is also essential to draw up and distribute certified manuals with common guidelines.

4.11. The EESC agrees with expanding the areas of funding for Member States for civil protection activities such as adaptation and repair, as well as increasing the co-financing rate in the area of transport. For example, in the event of a major disaster caused by an earthquake, it is entirely legitimate to use EU-Member State co-financing for transporting and installing temporary container accommodation and for creating an appropriate site with the relevant infrastructure and facilities (electricity, water supply, sanitation, communications), in order to restore social and economic activity more quickly and ensure that social cohesion is maintained.

4.12. The EESC is not opposed to the inclusion of operational costs in co-financing but points out that provision should be made for an objective mechanism to estimate and, most importantly, evaluate these costs, in order to make appropriate use of resources. The Committee also considers it essential to use all alternative sources of funding, such as the Structural Funds and co-financing through the European Investment Bank.

4.13. The EESC has in a number of opinions consistently advocated making mechanisms less bureaucratic and ensuring the necessary flexibility in the use of EU funds, without waiving the requirement of transparency and independent auditing, in order to ensure that the use of funds is legal and that taxpayers' money is efficiently channelled.

4.14. The EESC welcomes the Commission's references to addressing the effects of terrorism and considers that there should be a clear framework for prevention, response (to consequences) and recovery actions. In this context, the Commission could, in the short term, develop a resource pool development plan for man-made natural disasters due to chemical, biological, radiological and nuclear (CBRN) incidents, without exonerating companies operating in these areas from their responsibility and obligations. The EESC notes that failure to address such incidents promptly can, among other things, severely impair primary production, with huge long-term consequences for food and the health of the general population.

4.15. The EESC believes that it is essential to mobilise civil society on a formal basis within the framework of rescEU at the levels of substantiating policy and prevention, as well as response wherever feasible. The European Solidarity Corps should also be included.

5. Specific comments

5.1. The EESC also considers it necessary to enhance the role of local and regional authorities in the area of civil protection and the new EU civil protection mechanism by:

- (a) including local and regional authorities in the prevention, planning and implementation stages of risk management measures and measures to deal with natural and man-made risks;
- (b) strengthening and integrating the specific capabilities of local and regional authorities, which are the first to be called upon to deal with a disaster;
- (c) using the available capabilities of local and regional authorities in all types of coordination and operational development activities, in order to minimise duplication and enhance interoperability;
- (d) strengthening their role in cases of cross-border cooperation by implementing joint projects and programmes and through joint training.

Brussels, 18 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Directive of the European Parliament and of the Council on the re-use of public sector information (recast) and Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘Towards a common European data space’

(COM(2018) 234 *final* — 2018/0111 (COD); COM(2018) 232 *final*)

(2019/C 62/38)

Rapporteur: **Baiba MILTOVIČA**

Consultation	European Parliament, 28.05.2018 Council of the European Union, 4.6.2018 European Commission, 18.6.2018
Legal basis	Articles 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	6.9.2018.
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	122/0/3

1. Conclusions and recommendations

1.1. The reuse of public sector data will strengthen the EU's data economy and assist the development of society and general prosperity. The EESC takes the view that the directive and the planned improvements and additions to it are particularly important in resolving the problems that are so important for the whole of society relating to the implementation of the Digital Single Market Strategy.

1.2. The EESC has evaluated the consistency of the planned changes to the directive with the aims for improvement, generally welcomes the Commission's proposal for a revised directive and is sure that the proposed changes will have a beneficial effect on the general aims for improvement. It does, however, think that the proposed changes are not sufficient to effectively improve the problematic areas.

1.3. The EESC has studied the Commission Communication ‘Towards a common European data space’ and endorses the principles and measures set out therein, which will make it easier for companies and the public sector to access and re-use data from different sources, economic sectors and specialist areas.

1.4. Conclusions

1.4.1. The EESC takes the view that the proposed changes to the directive concerning the general aims for improvement should seek to achieve the following:

- Improving the already existing positive impact of the PSI Directive, strengthening the EU data economy, increasing the amount of re-usable public sector data;
- Establishing comparable conditions for the provision of data across the Union and ensuring fair competition (see point 3.2.2);

- Reducing administrative burden over the long term for holders of re-usable public sector information (see point 3.2.3);
- Strengthening the position of SMEs in the data market by making sure that obstacles do not prevent them from re-using public data for commercial purposes (see point 3.2.4). However, the aim of strengthening SMEs must not be jeopardised by overly strict prohibitions of data lock in impeding the development and output of innovative, local projects with SMEs.

1.4.2. The EESC thinks that the planned changes to the directive regarding the challenges identified will improve the situation in general and make it easier to solve the problems targeted. However, the following observations should be made regarding the individual problems identified:

- **‘Dynamic data/APIs’** — the changes are only partially appropriate for improving the problem area, since the result of the amendments is neither verifiable nor foreseeable. In the short term, in particular, the improvement may prove inadequate (see points 3.1.3, 3.3.1);
- **‘Charging’** — the changes are appropriate for improving the problem area and will establish compensation for increased charges and encourage the re-use of data, primarily by making it more accessible for SMEs (see points 3.1.5, 3.3.2), at the same time, the EESC points out that appropriate compensation for the expenses incurred is essential for public companies;
- **‘Scope of the PSI Directive’** — the changes are insufficient, since extending the directive's scope is a pure formality and does not involve any real additional obligations. This does not solve the problem at hand (see points 3.1.1, 3.1.3, 3.3.3);
- **‘Lock-in of public sector data’** — the changes are insufficient and will only partially and indirectly help to solve the issue of the lock-in of public sector data (see points 3.1.4, 3.3.4).

1.5. Recommendations

1.5.1. **EESC position:** The ‘lower legislative intensity’ options chosen by the Commission are not sufficient to address all the problems identified regarding the effectiveness of the directive (see point 4.1.3).

EESC recommendation: If one of the main reasons for amending the directive and one of the main goals is to tackle the problems identified, a more active and targeted approach is needed and a ‘high legislative intensity’ option must be chosen in order to solve specific problems. This may be accompanied by a change to the options listed in the impact assessment.

1.5.2. **EESC position:** It is essential to remedy the shortcomings identified by the Regulatory Scrutiny Board and to take the corresponding corrective measures in relation to the amendments to the directive (see point 4.1.2).

EESC recommendation: One such corrective measure is to set out plainly and simply in the directive which legal provision takes precedence in the event of conflicts between this directive and some other pieces of legislation: the General Data Protection Regulation, the Database Directive or the INSPIRE Directive.

1.5.3. **EESC position:** The impact assessment insufficiently reflects the views of stakeholders on the choice between high or lower legislative intensity options (see point 4.1.4).

EESC recommendation: A further evaluation should be conducted of the position of the stakeholder groups concerning the choice of solutions for tackling the individual problems and assessing the overall societal relevance of the various stakeholder groups, leading to a more objective and more informed choice of options for individual issues.

1.5.4. **EESC position:** Because information and documents increasingly have to be produced within a short period, the maximum processing time of twenty working days is in some cases too long (see point 3.1.2).

EESC recommendation: The possibility should be considered to give more flexibility.

1.5.5. **EESC position:** The draft directive and the impact assessment take insufficient account of the main aims of a number of stakeholder groups (see point 4.2.1).

EESC recommendation: The following points, which have received insufficient attention, should be further assessed.

- a possible reduction in employment in the public sector due to automation, the need for retraining of workers and the resolving of social problems;
- equal rights and obligations for the public and private sectors, with regard to access to data;
- compensation for public enterprises;
- protection of critical infrastructure;
- making sure the directive does not overlap with local or industry-specific legislation;
- distortion of competition for public undertakings.

1.5.6. **EESC position:** In the proposed recast of the Directive, the Commission purposely points to the need to modify the previously identified shortcomings of the directive. However, it does not provide significant improvements in relation to the previously identified shortcomings because it does not strike a balance between the varying interests of the different stakeholder groups and especially does not provide similar conditions for the public and private companies in connection with the exchange of information.

EESC recommendation: The Committee would urge the Commission to reconsider its position on improvements of problems found in the assessment of the previous Directive and should specify:

- the objectives to be achieved by recast of the directive, taking into account the current situation with different interests and concerns of the different stakeholder groups;
- the conditions of transition for gradual progress towards the objectives of the recast of the directive, by relating the different points of the Directive with other legislative documents or activities that allow to balance differing interests of the stakeholder groups.

2. Overview of the contents of the proposal for a directive

2.1. Background to the amendment to the directive

2.1.1. The public sector in the EU Member States produces huge amounts of data that are used to bring greater efficiency to the delivery of private and public services and to improve decision-making. The EU has therefore been promoting the re-use of public sector information (PSI) for several years. The review of the PSI Directive is an important initiative on accessibility and re-use of public and publicly funded data announced by the Commission in the Mid-Term Review of the Digital Single Market (DSM) Strategy.

2.1.2. The Commission has revised the directive and adapted it to the recent developments in the field of data management and use:

- Directive 2003/98/EC of the European Parliament and the Council on the re-use of public sector information ('PSI Directive') was adopted on 17 November 2003.

The aim was to facilitate the re-use of PSI throughout the Union by harmonising the basic conditions for re-use and removing major barriers to re-use in the internal market.

- Directive 2003/98/EC was amended in July 2013 by Directive 2013/37/EU.

The changes introduced an obligation to allow the re-use of generally accessible public data and expanded the scope of the directive. A default charging rule was established that limited charging to the marginal cost for reproduction, provision and dissemination of the information and **required public sector bodies to be more transparent about their charging rules and the conditions they apply.**

- A proposal for a **recast** of the PSI Directive was presented on 25 April 2018 (COM(2018) 234 final). This proposal substantially amends Directive 2003/98/EC and adds a number of new provisions. In accordance with Article 13 of the PSI Directive, the directive's current application was reviewed and attention drawn to matters of concern. To better capitalise on the potential of public sector information, **the revised directive provides for the improvement of a number of areas identified as problematic in the assessment.**

2.1.3. The proposed amendment of the directive is **part of the third data package**, which was adopted by the European Commission on 25 April 2018. This also includes the Communication *Towards a common European data space*⁽¹⁾, in which access to private sector data is considered to be in the public interest and in which the principles are laid down for the exchange of data between businesses (B2B), and between businesses and public authorities (B2G).

2.1.3.1. The communication lists the key principles for the re-use of private-sector data (B2B):

- Transparency;
- Shared value creation;
- Respect for each other's commercial interests;
- Ensure undistorted competition;
- Minimised data lock-in.

2.1.3.2. The communication also lists the key principles for the re-use of private-sector data in the public sector (B2G):

- Proportionality in the use of private sector data;
- Purpose limitation;
- 'Do no harm';
- Conditions for data re-use;
- Mitigate limitations of private sector data;
- Transparency and societal participation.

2.2. Aims of the amendment to the directive

2.2.1. General aims:

- strengthening the beneficial effect of both the PSI Directive and the EU's data economy by increasing the amount of public sector data available for re-use;
- establishing comparable conditions for the provision of data across the Union, thereby ensuring fair competition;

⁽¹⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Towards a common European data space (COM(2018) 232 final).

- reducing administrative burden for holders of re-usable public sector information;
- strengthening the position of SMEs in the data market by making sure that obstacles do not prevent them from re-using public data for commercial purposes.

2.2.2. Specific aims:

- improving the four main areas in which the earlier impact assessment of the directive's effectiveness identified problems.

2.3. *The main problem areas regarding the effectiveness of the directive (areas where there is room for improvement)*

2.3.1. Problem area: **Dynamic data/APIs:**

- incomplete real-time access to data held by public sector bodies, especially to dynamic — i.e. periodically updated — data;
- insufficient allocation and use of appropriate technical means (Application Programming Interfaces (API)).

2.3.2. Problem area: **Charging:**

- public bodies make use of various currently allowed exceptions and charge far higher fees for the re-use of public sector data than are needed to cover costs, leading to market distortions: support is given to large companies, while obstacles are put in the way of small and medium-sized enterprises (SMEs), which cannot afford to buy public sector data.

2.3.3. Problem area: **Scope of the PSI Directive:**

- the directive does not apply to those operating in the transport and utilities sector;
- the directive does not apply to research data obtained with the help of public funding.

2.3.4. Problem area: **Lock-in of public sector data**

- holders of public sector data conclude exclusive agreements with the private sector to secure additional revenue from their data, thus limiting the number of potential re-users of data.

2.4. *The options for improving problem areas and the option chosen*

2.4.1. The impact assessment ⁽²⁾ considered possible options for future measures:

- (a) a baseline scenario (maintaining the current approach without changes);
- (b) discontinuing existing EU action (repeal of the PSI Directive);
- (c) soft law measures alone;
- (d) a packaged solution consisting of both amendments of the PSI Directive and soft law.

2.4.2. Choice of option to improve the problem areas:

- option (a) was retained as the baseline scenario against which the benefits of the other options were compared;
- options (b) and (c) were discarded at an early stage;

⁽²⁾ Impact assessment (SWD(2018) 127).

- option (d) served as the basis for two sub-options:
 - one option with all elements of lower legislative intensity;
 - one option with all elements of higher legislative intensity.

The option chosen by the Commission is a mixed package of lower intensity regulatory intervention combined with an update of existing soft law — overall, a ‘lower legislative intensity’ approach.

3. General comments

The EESC has assessed the proposed amendments to the directive from a threefold perspective:

- Main changes and additions to the original text of the directive (see point 3.1);
- Consistency of the amendments and additions to the directive with the general aims of the amendments to the directive (see point 3.2);
- Consistency of the amendments and additions to the directive with the most important areas with scope for improvement (see point 3.3).

3.1. *Main changes and additions to the original directive*

3.1.1. Chapter I of the directive — General provisions

Amendments to the directive in Article 1 — Subject matter and scope:

- Extension of the scope of the directive to include data from public services and transport services as well as research data;
- The explanatory text of the directive ⁽³⁾ states:
 - Data in the transport and utilities sector: A limited set of obligations will apply: ‘public undertakings can charge above marginal costs for dissemination and are under no obligation to release the data they do not want to release’.
 - Research data: ‘Member States will be obliged to develop policies for open access to research data [...]’. This is in reality an empty stipulation and leaves all activity relating to this matter to the discretion of Member States (as is currently the case).

EESC position:

- The Committee endorses in part the changes proposed, but considers that they offer an inadequate solution to the issue of the scope of the PSI Directive, since the extension of this scope may lead to market distortions between public companies and private companies operating in the same market. The extension of the scope also to private companies can solve that problem and, at the same time, promote innovation in public companies.
- The planned changes involve additional work and costs.

3.1.2. Chapter II of the directive — Requests for re-use

Amendments to the directive in Article 4 (Requirements applicable to the processing of requests for re-use):

- Exceptions identified where the requirements applicable to the processing of requests for re-use do not apply.

⁽³⁾ Proposal for a Directive of the European Parliament and of the Council on the re-use of public sector information (recast), COM (2018) 234 final.

EESC position: The EESC supports the proposed changes regarding the exceptions, but takes the view that, because information and documents increasingly have to be produced quickly, the maximum processing time of twenty working days can be shorter in the case of requests involving data that can be easily made available.

3.1.3. Chapter III of the directive — Conditions for re-use

Amendments to the directive in Article 5 — Available formats

- Public sector bodies and public undertakings are required to make dynamic data available for re-use immediately after collection, via suitable Application Programming Interfaces (APIs);
- The directive requires that: Where making available documents immediately after collection would exceed the financial and technical capacities of the public sector body or the public undertaking, documents referred to in paragraph 4 shall be made available *in a timeframe that does not unduly impair the exploitation of their economic potential*.
- The option is chosen which provides for ‘a “soft” obligation for Member States to make dynamic data available in a timely manner and to introduce APIs’ (lower legislative intensity option).

EESC position:

- The EESC endorses in part the proposed changes and takes the view that this will generally help to solve the problem of ‘dynamic data’. However, the result of the amendments is neither verifiable nor foreseeable and — particularly in the short term — the result of the improvement may prove insufficient;
- Data holders will initially incur additional costs (for establishing APIs and technology take-up) but gains for data holders are expected in the long run through improved working practices (consideration should also be given to possible changes in employment in the civil service due to automation and the need to solve social problems).

Amendments to the directive in Article 10 — Availability and re-use of research data

- It is specified that Member States shall support the availability of research data by adopting national policies and relevant actions aiming at making all publicly funded research data openly available (‘open access policies’).

EESC position: The EESC endorses in part the new version, which it thinks will generally improve the effectiveness of the PSI Directive but is not the answer to the problem regarding the scope of the PSI Directive, since it is declarative, with the effect that nothing is required at EU level and all possible activities are left to the discretion of the individual Member State.

3.1.4. Chapter IV of the directive — Non-discrimination and fair trading

Amendments to the directive in Article 12 — Prohibition of exclusive arrangements

- It is required that legal or practical arrangements that, without expressly granting an exclusive right, could restrict the re-use of documents must be made publicly available at least two months before their coming into effect;
- The chosen option only sets transparency requirements (‘lower legislative intensity’ option), but no practices are prohibited that lead to the lock-in of data (‘high legislative intensity’ option).

EESC position: The Committee endorses in part the proposed changes and considers that they generally help to resolve the problem concerning the lock-in of public sector data. However, the aim of strengthening SMEs must not be jeopardised by overly strict prohibitions of data lock in impeding the development and output of innovative, local projects with SMEs.

3.1.5. Chapter V of the directive — High value datasets

Amendments to the directive in Article 13 — List of high value datasets

- The Commission sets out a list of high value datasets and arrangements for how they are published and re-used.

EESC position:

- The EESC supports the proposed changes and thinks that this will increase the re-use of public sector information;
- It should be borne in mind that this could involve additional expenditure for the introduction of new technology and reduced revenues for data holders;
- There is no clear information on procedures for the compilation, maintenance and use of high-quality data sets;
- There is no clear information on mechanisms for compensating data holders for making data available free of charge.

3.2. Consistency of the amendments and additions to the directive with the general aims of the changes to the directive

3.2.1. **Aim:** Further improving the already existing positive impact of the PSI Directive, strengthening the EU data economy, increasing the amount of re-usable public sector data.

EESC position: The planned changes are generally in line with the overall objective.

3.2.2. **Aim:** Establishing comparable conditions for the provision of data across the Union, thereby ensuring fair competition.

EESC position: The proposed amendments are directly and unequivocally targeted at this objective, in that:

- the provisions governing charging are improved — (Article 6 of the directive);
- the opportunities to conclude exclusive agreements are more strictly regulated — (Article 12 of the directive);
- provision of data free of charge and of high-value datasets is closely regulated — (Article 13 of the directive);
- at the same time, the EESC points out the danger that unilateral obligations for public companies which are in direct competition with private companies result in market distortions.

3.2.3. **Aim:** Reducing administrative burden for holders of re-usable public sector information.

EESC position: The planned are generally welcome:

- They will lead in the long term to a reduction in the administrative burden for holders of re-usable public sector information, in particular in conjunction with the use of new technological methods (Articles 5 and 13 of the directive);
- However, possible changes in employment in the civil service should be expected, with a consequent need to solve the related social problems.

3.2.4. **Aim:** Strengthening SMEs in the data market by making sure that obstacles do not prevent them from re-using public data for commercial purposes.

EESC position: This aim is addressed in the proposed amendments and, if implemented, they will improve the position of SMEs with regard to the re-use of public sector data (Articles 6, 12 and 13 of the directive). However, output, innovation and development of SMEs shall not be hindered by excessive obligation of passing on data of cooperation partners from the public sector or by the prohibition of exclusive rights.

3.3. *Consistency of the amendments and additions to the directive with the most important areas with scope for improvement*

3.3.1. Problem area: **Dynamic data/APIs**

Proposed improvements:

- There is a ‘soft’ obligation on Member States to make dynamic data available in a timely manner and to introduce APIs — (Article 5 of the directive);
- A stricter obligation on Member States to ensure the possibility of re-using a limited number of high-value datasets — (Article 13 of the directive).

EESC position:

- The proposed amendments are partially appropriate for improving this problem area (see point 3.1.3);
- The proposed amendments will help, in the long term, to solve the questions relating to access to dynamic data and to further the re-use of dynamic data and the use of new technologies (APIs) for automated data exchange. Making data available in a timely manner should be a soft obligation, making it possible to compensate for difficult local conditions and to address local practices.

3.3.2. Scope for improvement: **Charging**

Proposed improvements:

- Tighter rules on invoking the exceptions to the general rule that public sector bodies cannot charge more than marginal costs for dissemination — (Article 6 of the directive);
- Creation of a list of high value datasets that must be freely available in all Member States — (Article 13 of the directive).

EESC position:

- The proposed amendments are appropriate for improving this problem area (see point 3.1.5), at the same time, the EESC points out that appropriate compensation for the expenses incurred is essential for public companies;
- the proposed amendments will establish compensation for the increased charges and encourage the re-use of data, primarily by making it more accessible for SMEs.

3.3.3. Scope for improvement: **Scope of the PSI Directive**

Proposed improvements:

- Extension of the directive’s subject matter and scope — (Article 1 of the directive);
- Member States will be obliged to develop policies for open access to research data resulting from publicly funded research while keeping flexibility in implementation (Article 10 of the directive).

EESC position: The proposed amendments are not enough to improve this problem area (see points 3.1.1, 3.1.3).

3.3.4. Problem area: **Lock-in of public sector data**

Proposed improvements: More rigorous requirements on non-exclusivity and transparency for public-private agreements related to public sector information — (Articles 11 and 12 of the directive).

EESC position:

- The proposed amendments are not enough to improve this problem area (see points 3.1.4);
- The proposed amendments will help in part to solve the problem of the lock-in of public sector data and promote the re-use of data. However, excessive measures to avoid data lock in must not create obstacles to innovative projects and partnerships.

4. Specific comments

4.1. *Assessment of the impact of the planned amendments*

4.1.1. The impact assessment of the proposed changes is an important document. It is the basis for conclusions and decisions on what the changes and additions should look like, which in turn will have a significant impact on the EU Member States. This is why it is essential the impact assessment has a solid methodology that leads to objective and reliable results.

4.1.2. The main shortcomings identified in the opinion of the Regulatory Scrutiny Board ⁽⁴⁾:

- The impact assessment does not adequately reflect stakeholder views. In particular, it does not sufficiently address stakeholder concerns about personal data security and database protection.
- The impact assessment does not sufficiently explain how the planned changes relate to the Database Directive and the General Data Protection Regulation.
- In the impact assessment the conceivable alternatives to the changes are not described thoroughly enough and the range of them is too narrow (or too uniform) to provide a genuine selection of alternative solutions.

EESC position:

- The main shortcomings identified by the Regulatory Scrutiny Board must be corrected;
- Corresponding corrective measures must, where necessary, be taken in relation to the amendments to the directive.

4.1.3. Interests of the affected groups listed in the summary of the impact assessment ⁽⁵⁾:

- Data holders (public entities) tend to support the maintenance of the status quo regarding the re-use of public sector information, i.e. the 'lower legislative intensity' option.
- Data re-users (including SMEs) prefer the option of swifter and more effective progress in increasing the amount of data re-used, i.e. the 'high legislative intensity' option.

⁽⁴⁾ Opinion of the Regulatory Scrutiny Board, SEC(2018) 206.

⁽⁵⁾ Executive summary of the impact assessment (SWD(2018) 128).

EESC position:

- Although the aim of the directive is to increase the volume of re-used data and to strengthen the position of SMEs in the data market, the possible market distortions must not be disregarded, thus the Commission has nevertheless decided to opt for 'lower legislative intensity' action and so does not fully exploit the potential for improvement of the problem areas;
- In order to pursue the aims of the revision of the directive more effectively, the effectiveness of the measures taken must be evaluated.

4.1.4. Stakeholder views identified and evaluated in the impact assessment ⁽⁶⁾:

- Choosing the appropriate measures to solve problems ('lower legislative intensity' or 'high legislative intensity' options) requires that the views of stakeholders be identified;
- The impact assessment reflects the views of the various stakeholders on the overall evaluation of the operation of the directive and desirable changes.

EESC position:

- The impact assessment does not reflect the views of stakeholders on the choice between high or lower legislative intensity options in a sufficiently specific way;
- No distinction is made within stakeholder groups on the basis of different interests and opportunities, type of information, type of activity (e.g. data holders who are not paid for providing data, data holders who are paid for providing data, data users — large companies, SMEs, other public sector entities);
- The position of each interest group on each possible solution option for each individual problem has not been identified;
- There is no assessment of the overall societal relevance of each stakeholder group and thus an assessment of its representativeness and of the actual scale of the impact.

4.2. Other insufficiently covered points concerning the directive

4.2.1. The EESC believes that key concerns of several stakeholder groups have not been given sufficient consideration in the proposal for a directive and the impact assessment. The Committee calls for detailed consideration of the following issues:

- equal rights and obligations for the public and private sectors, with regard to access to data;
- compensation to the public sector for providing free access to public data;
- protection of 'critical infrastructure' — exemptions for critical infrastructure from the application of the directive;
- avoidance of duplication — adapting the directive to the existing sectoral legislation on the exchange and use of data;
- fair competition — threat to public undertakings in cases where they have to provide competing private firms with information free of charge;
- a possible reduction in employment in the public sector due to automation, the need for retraining of workers and the resolving of social problems.

⁽⁶⁾ Impact assessment (SWD(2018) 127).

4.3. *Communication from the Commission — Towards a common European data space*

4.3.1. The EESC welcomes and supports the view expressed in the Commission communication that access to public and publicly funded data and its re-use are cornerstones of a common European data space. This is fully in line with the activities related to the review of the directive on the re-use of public sector information. The communication sets out the objectives of the review of the directive, and the EESC believes that progress on the achievement of the objectives will increase the availability of data for re-use.

4.3.2. The EESC endorses the basic principles set out in the communication for businesses-to-business (B2B) and business-to-government (B2G) data sharing and considers them as a potentially good basis for future cooperation with stakeholders.

4.3.3. The EESC supports the measures proposed in the Commission communication, which will, it believes, make it easier for companies and the public sector to access and re-use in the EU data from different sources, economic sectors and specialist areas.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

ANNEX

The following section opinion texts were rejected by the assembly in favour of amendments, but at least one-quarter of the votes cast were in favour of retention of the section opinion texts:

Amendments to the directive in Article 1 — Subject matter and scope

- Extension of the scope of the directive to include data from public services and transport services as well as research data;
- The explanatory text of the directive ⁽¹⁾ states:
 - Data in the transport and utilities sector: A limited set of obligations will apply: ‘public undertakings can charge above marginal costs for dissemination and are under no obligation to release the data they do not want to release’.
 - Research data: ‘Member States will be obliged to develop policies for open access to research data [...]’. This is in reality an empty stipulation and leaves all activity relating to this matter to the discretion of Member States (as is currently the case).

EESC position:

- The Committee endorses in part the changes proposed, but considers that they offer an inadequate solution to the issue of the scope of the PSI Directive, since the extension of this scope is a formality and establishes no real additional duties and responsibilities.
- The planned changes involve additional work and costs. Data holders have to invest in the short term, while both they and re-users stand to profit in the long term.

Outcome of the vote

Votes in favour: 80

Votes against: 52

Abstentions: 16

3.1.2. Chapter II of the directive — Requests for re-use

Amendments to the directive in Article 4 (Requirements applicable to the processing of requests for re-use):

- Exceptions identified where the requirements applicable to the processing of requests for re-use do not apply.

EESC position: The EESC supports the proposed changes regarding the exceptions, but takes the view that, because information and documents increasingly have to be produced quickly, the maximum processing time of twenty working days is too long and should be reduced with a view to better workflow in the public sector.

Outcome of the vote

Votes in favour: 83

Votes against: 55

Abstentions: 7

⁽¹⁾ Proposal for a Directive of the European Parliament and of the Council on the re-use of public sector information (recast), COM (2018) 234 final.

3.1.4. Chapter IV of the directive — Non-discrimination and fair trading

Amendments to the directive in Article 12 — Prohibition of exclusive arrangements

- It is required that legal or practical arrangements that, without expressly granting an exclusive right, could restrict the re-use of documents must be made publicly available at least two months before their coming into effect;
- The chosen option only sets transparency requirements ('lower legislative intensity' option), but no practices are prohibited that lead to the lock-in of data ('high legislative intensity' option).

EESC position: The Committee endorses in part the proposed changes and considers that they generally help to resolve the problem concerning the lock-in of public sector data but that the results achieved will not be sufficient to resolve the essence of the problem. The EESC believes that a more effective approach to this problem would be to choose an option that prohibits activities leading to the lock-in of data.

Outcome of the vote

Votes in favour: 80

Votes against: 60

Abstentions: 12

3.2.2. **Aim:** Establishing comparable conditions for the provision of data across the Union, thereby ensuring fair competition

EESC position: The proposed amendments are directly and unequivocally targeted at this objective, in that:

- the provisions governing charging are improved — (Article 6 of the directive);
- the opportunities to conclude exclusive agreements are more strictly regulated — (Article 12 of the directive);
- provision of data free of charge and of high-value datasets is closely regulated — (Article 13 of the directive).

Outcome of the vote:

Votes in favour: 80

Votes against: 61

Abstentions: 9

3.2.4. **Aim:** Strengthening SMEs in the data market by making sure that obstacles do not prevent them from re-using public data for commercial purposes

EESC position: This aim is addressed in the proposed amendments and, if implemented, they will improve the position of SMEs with regard to the re-use of public sector data (Articles 6, 12 and 13 of the directive). However, the choice of a 'high legislative intensity' option would have been more efficient.

Outcome of the vote

Votes in favour: 76

Votes against: 53

Abstentions: 6

3.3.1. Problem area: **Dynamic data/APIs:**

Proposed improvements:

- There is a ‘soft’ obligation on Member States to make dynamic data available in a timely manner and to introduce APIs — (Article 5 of the directive);
- A stricter obligation on Member States to ensure the possibility of re-using a limited number of high-value datasets — (Article 13 of the directive).

EESC position:

- The proposed amendments are partially appropriate for improving this problem area (see point 3.1.3);
- The proposed amendments will help, in the long term, to solve the questions relating to access to dynamic data and to further the re-use of dynamic data and the use of new technologies (APIs) for automated data exchange. However, given the fact that the obligation on Member States ‘to make dynamic data available in a timely manner’ is a ‘soft’ one, the result of the amendments is neither verifiable nor foreseeable. In the short term, in particular, the improvement may prove inadequate.

Outcome of the vote

Votes in favour: 77

Votes against: 58

Abstentions: 10

3.3.3. Scope for improvement: **Scope of the PSI Directive**

Proposed improvements:

- Extension of the directive’s subject matter and scope — (Article 1 of the directive);
- Member States will be obliged to develop policies for open access to research data resulting from publicly funded research while keeping flexibility in implementation (Article 10 of the directive).

EESC position:

- The proposed amendments are not enough to improve this problem area (see points 3.1.1, 3.1.3);
- Extending the directive’s scope while using the chosen ‘lower legislative intensity’ option is a pure formality and does not involve any real additional obligations. This does not solve the problem at hand.

Outcome of the vote

Votes in favour: 78

Votes against: 61

Abstentions: 10

3.3.4. Problem area: **Lock-in of public sector data**

Proposed improvements: More rigorous requirements on non-exclusivity and transparency for public-private agreements related to public sector information — (Articles 11 and 12 of the directive).

EESC position:

- The proposed amendments are not enough to improve this problem area (see points 3.1.4);
- The proposed amendments will help in part to solve the problem of the lock-in of public sector data and promote the re-use of data. However, the planned 'lower legislative intensity' option chosen will not be sufficient to effectively address the problem of data lock-in. The EESC believes that the option involving 'high legislative intensity' action would be more appropriate here.

Outcome of the vote

Votes in favour: 82

Votes against: 57

Abstentions: 8

4.1.3. Interests of the affected groups listed in the summary of the impact assessment ⁽¹⁾:

- Data holders (public entities) tend to support the maintenance of the status quo regarding the re-use of public sector information, i.e. the 'lower legislative intensity' option.
- Data re-users (including SMEs) prefer the option of swifter and more effective progress in increasing the amount of data re-used, i.e. the 'high legislative intensity' option.

EESC position:

- Although the aim of the directive is to increase the volume of re-used data and to strengthen the position of SMEs in the data market, the Commission has nevertheless decided to opt for 'lower legislative intensity' action and so does not fully exploit the potential for improvement of the problem areas;
- In order to pursue the aims of the revision of the directive more effectively, a more active and targeted approach must be taken and the option of action with a 'high legislative intensity' chosen when seeking to resolve specific problems. This may be accompanied by a change to the options identified in the impact assessment.

Outcome of the vote

Votes in favour: 87

Votes against: 58

Abstentions: 6

⁽¹⁾ Executive summary of the impact assessment (SWD(2018) 128).

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Europe on the move — Sustainable mobility for Europe: safe, connected and clean’

(COM(2018) 293 final)

(2019/C 62/39)

Rapporteur: **Giulia BARBUCCI**

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(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The European Economic and Social Committee welcomes the **Third Mobility Package**, viewing it as a further step towards sustainable mobility for Europe. The EESC notes, however, that the Commission's proposal is limited almost exclusively to road transport. In order to develop effectively sustainable and safe mobility, a more ambitious project needs to be developed, taking all available forms of transport into consideration, with a particular focus on intermodality in freight and passenger transport.

1.2. The EESC considers that the Commission's proposals for safe, connected and clean mobility will require a huge economic effort, primarily on the part of the Member States, to make the necessary adjustments to physical and digital infrastructure (5G). It is therefore important that these initiatives be supported with sufficient funds for a prolonged period, setting realistic and achievable objectives.

1.3. The EESC welcomes the Strategic Action Plan on Road Safety and agrees with the Vision Zero target of zero deaths or serious injuries in road accidents by 2050. The Safe System method promoted by the World Health Organization (WHO) will certainly contribute to this aim by reducing the number of accidents and minimising injury to passengers and pedestrians. Furthermore, there is an urgent need for national laws on traffic rules and the corresponding sanctions to be harmonised and, at the same time, for the mandatory nature of motor vehicle safety devices to be extended to all public and private road vehicles for freight and passenger transport. Lastly, it is recommended that new, 'safe' cars be affordable for consumers and businesses.

1.4. Digitisation, connectivity and automation are the main tool for developing the Safe System method and moving towards the Vision Zero target. The EESC supports the project to build an automated, connected and safe road network. The Committee recommends that the Commission take account of the varying state of road and motorway infrastructure across the Member States and, in particular, envisage extending the project to urban centres, where most of the serious non-fatal accidents occur.

1.5. The Commission's proposal emphasises the importance of developing driverless vehicles and their role in increasing safety. However, it does not map out a detailed strategy towards autonomous transport; this approach is likely to aid progress in the field but might be problematic for Member States in terms of adapting their transport policies to new technologies and making use of these technologies. The EESC would also point to problems concerning the technological feasibility of ensuring maximum safety in a 'mixed traffic' system (human, assisted and automated driving).

1.6. Full vehicle automation raises numerous questions of ethics, economics, employment, social acceptance and legal liability. The EESC upholds the principle that only humans can, by definition, make 'ethical' choices and that machines, however sophisticated, must operate alongside humans and not replace them. It is important for organised civil society to be fully involved in the governance of this process and that social dialogue and collective bargaining be applied to avoid possible negative effects on employment and workers.

1.7. The EESC supports the proposals for more sustainable transport and the Strategic Action Plan for Batteries which aims to narrow the European energy gap and create a value chain for batteries. However, the Committee stresses that there is a range of factors inhibiting the plan's full fruition: reliance on third countries for raw materials; absence of alternative fuels; delays in managing, processing and disposing of used batteries; and the lack of a skilled workforce.

1.8. These factors mean that substantial investment in research and innovation is essential in order to identify new, fully renewable, zero-impact alternative fuels. It will be similarly important to invest in education and training, involving universities and research centres, if there is to be a skilled workforce.

1.9. The transition towards electric vehicles will also mean that a large part of the European vehicle fleet will be replaced in just over a decade. Cleaner and safer vehicles should be affordable for everyone, individuals and businesses, and the Member States should facilitate the transition by means of appropriate tax incentives.

1.10. This replacement of the vehicle fleet will also give rise to the problem of disposing of and recycling a large part of the current vehicle fleet. This issue must be central to the Commission's circular economy strategies. Organised civil society should be involved at all stages of the transition process and is called on to inform and raise awareness among the public as part of the drive to achieve sustainable mobility.

2. Introduction

2.1. The transport sector has undergone numerous developments and transformations over many years, becoming one of the key drivers of development. Innovation, technology, digitalisation and interconnectivity are bringing about a new transport revolution, geared to greater safety, accessibility, sustainability and competitiveness and jobs.

2.2. In the wake of the European Strategy for Low-Emission Mobility ⁽¹⁾, the European Union has built an ad hoc agenda for the sector split into three 'mobility packages' ⁽²⁾, published in May 2017, November 2017 and May 2018. This opinion refers to the last of these legislative initiatives, entitled 'Europe on the Move'.

2.3. The Commission communication and the package's proposals refer primarily to road transport, with a particular focus on motor vehicle transport, giving no consideration to any other form of transport.

3. Gist of the proposal

3.1. Commission communication **COM(2018) 293 final — Europe on the move. Sustainable Mobility for Europe: safe, connected and clean** is the key document in the third mobility package, establishing as it does the reference framework. It has three chapters: safety; connectivity and automation; and sustainability. There are also the two annexes to the communication containing key initiatives relating to the **Strategic Action Plan on Road Safety** and the **Strategic Action Plan on Batteries**.

3.2. Safe mobility

3.2.1. Despite progress in recent years, the number of serious or fatal accidents on roads is still too high. In 2017, 25 300 deaths and 135 000 serious injuries due to accidents were recorded, generating huge economic and social costs. Since 90 % of accidents are caused by human error, the Commission thinks that automation, connectivity and new design standards could be very helpful in keeping this dramatic state of affairs in check ⁽³⁾, the aim being to have no recorded fatalities and serious accidents on the roads by 2050 (Vision Zero). There is also an interim target of a 50 % reduction in fatalities and the seriously injured by 2030.

⁽¹⁾ COM(2016) 501 final.

⁽²⁾ COM(2017) 283 final; COM(2017) 675 final; COM(2018) 675 final.

⁽³⁾ COM(2016) 686 final.

3.2.2. In order to help achieve these goals, the EU intends to deploy new technological and regulatory tools based on the WHO's Safe System. The principle behind this is that, while accidents cannot be entirely eliminated, action can nevertheless be taken to reduce the number of fatalities and serious casualties.

3.2.3. The European Union intends to take a comprehensive approach to tackling the causes of accidents, building protection levels that ensure the various components compensate for one another where one falls short. This involves putting technologies into vehicles and road infrastructure, with more information passing between them. Each measure is embodied in an ad hoc legislative initiative:

- a) **Strategic Action Plan on Road Safety** ⁽⁴⁾. The Action Plan lays down the goal of zero casualties, together with criteria for bolstering European governance, increased funding for upgrading the road network through the Connecting Europe Facility (EUR 200 million), rolling-out of the Safe System approach, new requirements to increase vehicle safety, goals for vehicle-to-vehicle and vehicle-to-infrastructure connectivity and automation, and a proposal for European safety standards to be exported to third countries (with the Western Balkans a priority).
- b) **Regulation on the protection of vehicle occupants and vulnerable road users** ⁽⁵⁾. Among other things, this provides for the introduction of advanced emergency braking systems, lane departure warning and the different design of heavy duty vehicle cabins to facilitate visibility of cyclists and pedestrians, as well as sensors to detect them.
- c) **Road Infrastructure Safety Management Directive** ⁽⁶⁾. The aim is to map the risks in the entire European network: not just TEN-T motorways, but all other motorways and trunk roads. Urban roads are not included. The directive also lays down improved quality standards for road infrastructure (clear road markings and road signs and the introduction of new technologies such as lane departure avoidance).

3.3. *Connected and automated mobility*

3.3.1. The Commission's strategy for '**connected and automated mobility**' ⁽⁷⁾ is based on a course already charted at EU level, and in particular in the **Artificial intelligence for Europe** communication ⁽⁸⁾ and the **Declaration of Amsterdam**, in which the Member States asked the Commission to frame a European strategy on automated and connected driving, to adapt the regulatory framework, to support research and innovation and to disseminate Cooperative Intelligent Transport Systems (C-ITS).

3.3.2. The Commission has gathered in a single document a number of long-term goals (reduction of emissions, traffic and accidents): to afford tangible support to the automotive industry in connection with research and innovation; to quickly tackle the questions of an ethical or social character, such as the new relationship between man and machine, cybersecurity and the impact of these technologies on jobs before fully automated vehicles are placed on the market.

3.3.3. One of the main pluses of automation is access to mobility for all those (primarily people with disabilities and the elderly) who are currently excluded. To make the most of what automation has to offer, it is essential that vehicles and road infrastructure exchange information constantly, the prospect being that a 'mixed system' could emerge in the coming years in which vehicles with different technologies (human, assisted and automated driving) come into contact. To complete this framework, and with a view to developing intermodality, ad hoc requirements are also laid down for a European Maritime Single Window ⁽⁹⁾ and electronic information on freight transport ⁽¹⁰⁾.

⁽⁴⁾ COM(2018) 293 final, Annex 1.

⁽⁵⁾ COM(2018) 286 final.

⁽⁶⁾ COM(2018) 274 final.

⁽⁷⁾ COM(2018) 283 final.

⁽⁸⁾ COM(2018) 237 final.

⁽⁹⁾ COM(2018) 278 final.

⁽¹⁰⁾ COM(2018) 279 final.

3.4. Clean mobility

3.4.1. The decarbonisation of transport and the transition to clean energy are among the core elements of the third mobility package. This initiative is part of the wider ambit of the Circular Economy Action Plan. In order to attain higher levels of sustainability and competitiveness, the EU is launching a series of initiatives:

- a) **The Strategic Action Plan on Batteries**⁽¹¹⁾; this stems from the need to raise Europe's energy self-sufficiency, following on from the creation of the European Battery Alliance involving industrial players, Member States and the EIB. The plan's goal is the production of batteries that are sustainable throughout the value chain, starting with the mining of raw materials (primary and secondary), the design and production of battery cells and battery packs, and their use, re-use, recycling and disposal;
- b) **Regulation on emissions of new HDVs**⁽¹²⁾, which aims to specify a set of CO₂ emission performance indicators for trucks and buses, complementing and supplementing the existing legislation. The initiative also provides for measures to encourage companies to purchase more energy-efficient and less polluting vehicles. This measure ties in with a proposal to rapidly bring into force new design standards for aerodynamics and the weight of heavy duty vehicles, with a view to reducing CO₂ emissions⁽¹³⁾;
- c) **Regulation to facilitate comparison of different fuels**, using a single unit of measurement to boost the purchase of new vehicles with low environmental impact⁽¹⁴⁾;
- d) **Regulation on the labelling of tyres**⁽¹⁵⁾ highlighting their standards of safety, energy efficiency and noise;
- e) **Revision of the taxation framework for energy products**, promoting electro-mobility;
- f) **Regulation to streamline measures for implementing the core Trans-European Transport network (TEN-T)**⁽¹⁶⁾, to speed up project authorisation procedures.

3.5. This set of initiatives comes with a total investment of EUR 450 million under the **Connecting Europe Facility** and funds projects that improve road safety, digitalisation and multimodality. A further EUR 4 million will also be earmarked under the same programme for cybersecurity and cooperative, connected and automated mobility systems.

4. General comments

4.1. The European Economic and Social Committee welcomes the Third Mobility Package, viewing it as a further step towards safer, more accessible and more sustainable mobility for Europe. The EESC notes, however, that the Commission's proposal is limited almost exclusively to a single part of the road transport sector. To develop sustainable, safe mobility all available forms of transport need to be considered, planning ever-closer, effective and efficient connectivity between public and private transport, cutting travel times and traffic volumes.

4.2. The package comprises a set of interrelated legislative initiatives that the EESC thinks deserve to be dealt with in particular depth in separate opinions. For this reason, this opinion focuses on an analysis of the reference communication and must be read and understood in connection with the EESC's previous opinions on the first and second mobility packages, as well as with those opinions drafted in alignment with it and which scrutinise specific aspects of it⁽¹⁷⁾.

⁽¹¹⁾ COM(2018) 293 final, Annex 2.

⁽¹²⁾ COM(2018) 284 final.

⁽¹³⁾ COM(2018) 275 final.

⁽¹⁴⁾ Commission Implementing Regulation (EU) 2018/732 (OJ L 123, 18.5.2018, p. 85).

⁽¹⁵⁾ COM(2018) 296 final.

⁽¹⁶⁾ COM(2018) 277 final.

⁽¹⁷⁾ TEN/668, European Maritime Single Window environment and Electronic freight transport information (see page 265 of this Official Journal); TEN/669, Implementation of the TEN-T projects (see page 269 of this Official Journal); TEN/675, CO₂ standards for lorries and Weights and dimensions of road vehicles (see page 286 of this Official Journal); TEN/672, Connecting Europe Facility (CEF) (OJ C 440, 6.12.2018, p. 19); TEN/673, Connected and automated mobility (see page 274 of this Official Journal); TEN/674, Tyre labelling, 2018 (see page 280 of this Official Journal); TEN/667, Road infrastructure safety management (see page 261 of this Official Journal); INT/863, Vehicle safety/protection of vulnerable road users (OJ C 440, 6.12.2018, p. 90).

4.3. The EESC thinks the Commission's communication and accompanying proposals are in keeping with previous Committee opinions on this matter and that it may be helpful in raising safety standards, as well as the competitiveness of the European automotive industry as a whole.

4.4. The EESC points out that the Commission's communication is not supported by a sufficient assessment of the impact of the measures it proposes. More specifically, the effects on the ownership and use of vehicles and on the consequent development of traffic volumes are not clear. Given promotion of transport, these volumes could rise rather than fall, increasing the time people spend on the move and with it, the risk of accidents. It is crucial that the Commission convey a comprehensive, ambitious vision for transport, encompassing intermodality between public and private transport as a factor for efficiency, quality of life and safety. The EESC stresses the importance of producing proper impact assessments for all of the proposals containing specific measures. When preparing for new modes of transport, there must be no let-up in the large-scale implementation of smart technological solutions (e.g. lighting) which increase the efficiency of (particularly public) transport and reduce the likelihood of accidents.

4.5. The Committee endorses the Vision Zero goal, to be achieved through the Safe System method. This will require the involvement of all sectors and of all road users to achieve a strengthened governance. It is important that the indicators set for meeting these goals are clear, realistic and can be monitored. The EESC would particularly like to see civil society organisations actively involved in all stages of the shaping, implementation, monitoring and evaluation of the strategy.

4.6. The EESC welcomes the decision to allocate EUR 450 million (in the period 2018-2020) to digitalisation and road safety through the Connecting Europe Facility. However, the Committee reiterates that the next multiannual financial framework (the 2021-2027 MFF) must significantly increase the financial envelope available to ensure continuity in the long term, so that the ambitious targets the EU has set itself can be met.

4.7. The Committee believes that mapping risk across the European TEN-T network and all motorways and trunk roads is a crucial step in planning the scale and type of infrastructure measures to be taken on the European road network. It is important that physical and digital infrastructure are developed in parallel. It is also important to complete 5G coverage on all of Europe's motorway and trunk road networks as soon as possible to enable effective connectivity between roads and vehicles and between vehicles and vehicles. The EESC however notes that conditions on the road and motorway networks in the various European countries differ greatly. It is consequently important to support individual Member States in this fundamental process of modernisation by means of appropriate funds and by setting realistic and achievable objectives.

4.8. The EESC welcomes the Commission's proposal to make mandatory some important vehicle safety features of either a technological character (intelligent speed adaptation, autonomous emergency braking, etc.) or a design character (improving direct vision in heavy goods vehicles). The Committee however calls for all of the new safety devices to be extended to all forms of road transport in order to produce a complete, clear and homogeneous legislative framework.

4.9. The proposed new tyre labelling scheme, containing specifics on safety standards (but also environmental and noise standards), could be a key factor in reducing accidents by promoting proactive and informed consumer choice. It is important for the information included on labels to be immediately clear and understandable for consumers.

4.10. It is also important, on the road safety front, for the European Union to set about an incremental unification of existing national regulations and corresponding sanctions (road signs, speed, use of belts and helmets, bans on driving under the influence of alcohol or drugs, etc.). Alongside these measures, individual human testing will have to be used in developing appropriate technologies (alcohol ignition interlock devices, driver drowsiness detection, etc.) in order to detect situations of risk or danger. It is also important that no form of technology unduly raises the price of vehicles. Safer vehicles must be available to all⁽¹⁸⁾.

4.11. The Vision Zero goal sets great store by the development of connected and automated mobility. The EESC considers that automation could play a key role in reducing accidents. Nevertheless, it thinks it crucial to raise some concerns and doubts about the development trajectory envisaged by the Commission. For this reason, the existing technologies must be improved, with test procedures rolled out simultaneously for existing and new technologies, which

⁽¹⁸⁾ OJ C 157, 28.6.2005, p. 34.

ensure that proper safety standards are reached. The lack of a detailed strategy towards autonomous transport undoubtedly aids progress in this field but might be problematic for Member States in terms of adapting their transport policies to new technologies and making use of these technologies.

4.11.1. The way to develop the strategy should be to maximise the role of automation and connectivity in supporting humans. The Committee is particularly concerned that the Commission sees the levels of assisted driving and full automation (with humans exclusively as passengers) as being close to one another. Full automation entails both a problem of socioeconomic acceptance and one of technological feasibility and infrastructure, since maximum security will have to be guaranteed in a mixed system (vehicles with and without assisted driving and completely automated vehicles). Before fully automated vehicles come to market, then, there should be a test phase that ensures efficiency and safety levels similar to those of aircraft or trains.

4.11.2. The EESC welcomes the proposals for an exchange of digital information in maritime transport (Maritime Single Window and recognition of freight documents), but considers that these proposals could be further developed.

4.12. The EESC welcomes the Strategic Action Plan on Batteries, which puts the European Battery Alliance at the heart of the process and highlights the problem of the EU's serious energy dependency on third countries.

4.12.1. The choice of creating a value chain for batteries based on the circular economy model is certainly to be welcomed. However, the Committee stresses that there are currently a range of factors inhibiting the plan's full fruition: reliance on third countries for raw materials (lithium, for instance); a barely beginning search for alternative raw materials viable for the circular economy; the inability to completely manage the processing of used batteries (secondary raw materials) and their disposal, and the lack of a skilled workforce.

4.12.2. More specifically, the EESC thinks huge funds must be put into research and innovation if these issues are to be overcome. The funds allocated for 2018-2020 are certainly considerable, but they must be continued in the subsequent 2021-2027 MFF. In particular, it is crucial to continue searching for alternative, fully renewable, clean, zero environmental-impact sources of energy, overcoming the obvious limits in terms of availability of raw materials and environmental impact that are currently features of batteries for electric motors. It is also essential to build up a skilled workforce, drawing on Erasmus+ programme funds and bringing in universities and research centres.

4.12.3. The Committee points out that the Commission's initiative will entail the almost complete replacement of the entire European vehicle fleet over a decade, giving rise to a new problem relating to the disposal and recycling of millions of vehicles. This issue must be central to the Commission's circular economy strategies. Organised civil society must be involved at all stages of the transition process and is called on to inform and raise awareness as part of the drive to achieve sustainable mobility.

4.13. The EESC supports the initiative of setting CO₂ emission limits for HDVs, as is already the case for other categories of vehicles. Since SMEs in the transport sector could come up against difficulties when replacing their fleets, Member States are recommended to use specific tax incentives to ease the transition towards a low CO₂ emission economy.

4.14. The EESC believes that the streamlining proposal to advance the construction of the TEN-T network should take due account of legal proceedings in order to be fully effective ⁽¹⁹⁾.

5. Specific comments

5.1. The risk classification carried out on European motorways and trunk roads does not cover the development of appropriate and coordinated technology in cities, where the majority of serious, non-fatal accidents occur. Furthermore, it is important to also start the process in the six Western Balkan countries that have already launched their EU accession negotiations.

⁽¹⁹⁾ TEN/669, Implementation of the TEN-T projects (See page 269 in the OJ).

5.2. The eCall system in cars, with automatic calling to road and healthcare authorities in the event of accident, is undoubtedly another element that could mitigate the consequences of accidents on the road. The EESC hopes that such equipment is made mandatory on all the most common vehicles at risk of accident (heavy duty vehicles, buses and motorcycles) and that the EU supports greater integration of emergency road safety and emergency medical services.

5.3. Ethical aspects are a crucial part of the development of automation. Particularly at issue are situations where machines could be called upon to make 'ethical' choices. The Committee reaffirms the principle that only humans can, by definition, make ethical choices and that machines, however sophisticated, must operate alongside humans and not replace them.

5.4. Regarding the development and marketing of completely automated vehicles, the EESC calls on the Commission to examine more rigorously the employment and social aspects this entails. Specifically, the Committee is fearful that, in a relatively short period, entire sectors (such as haulage) could be wiped out, with jobs lost not being offset by new trades. Furthermore, with such a scenario on its hands, the EU would be faced with a huge number of unemployed people whose skills and knowledge it would be difficult to reconfigure in the new automated transport system. This is why social dialogue and collective bargaining must be enlisted in managing change and launching training courses to give all workers in a given sector the skills needed.

5.5. The Committee believes that insurance companies should cut premiums as a way of giving people an incentive to buy safer vehicles. More broadly, the Committee considers it vital to launch a serious debate on the legal aspects of introducing fully automated vehicles, first of all clarifying who bears civil or criminal liability in a road accident.

5.6. The Committee has its misgivings about the system the Commission has adopted for comparing different fuels ⁽²⁰⁾. Based on the cost per 100 km travelled by passenger car, this system neglects numerous parameters needed to quantify the true cost of fuel and this could lead to confusion among consumers. Moreover, the consumer consultation mechanism put in place by the Commission has in fact marginalised the EESC's role and that of consumer associations active in this field, while also focusing on a statistically insignificant sample (3 000 respondents in three EU countries) and using overly similar alternatives.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽²⁰⁾ Implementing Regulation (EU) 2018/732.

Opinion of the European Economic and Social Committee on ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/96/EC on road infrastructure safety management’

(COM(2018) 274 final — 2018/0129 (COD))

(2019/C 62/40)

Rapporteur: **Brian CURTIS**

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1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the proposal to amend Directive 2008/96/EC on Road Infrastructure Safety Management (RISM). In particular, the Committee believes that the measures put forward by the Commission should overcome the shortcomings of the current directive (harmonisation, information sharing and limited scope) and should play a key role for the implementation of the Strategic Action Plan on Road Safety.

1.2. The Committee endorses the initiative ‘Vision Zero’, which aims to record no fatalities and serious accidents on the roads by 2050, to be achieved adopting the ‘Safe System’ approach, promoted by the World Health Organisation. The implementation of this strategy will require the involvement of all sectors and of all road users to achieve strengthened governance. It is important that the indicators are clear and can be monitored. Civil society organisations should be actively involved in all stages of shaping, implementing, monitoring and evaluating the strategy.

1.3. The Committee believes that a systematic and proactive risk mapping procedure across the TEN-T network and on all motorways, as well as all primary roads, is a crucial step in planning new infrastructure measures. Nevertheless, due to the different states of implementation of the current RISM directive, it is important to establish realistic targets and deadlines for all Member States and to provide financial support for the most backward regions, included Six Western Balkans Countries. Furthermore, the Committee argues that the scope of the RISM should be extended to all main rural and urban streets, in order to achieve an effective drastic reduction in fatal and serious accidents by 2030.

1.4. The EESC considers the achievement of high road safety performances to be strategic, but an increased budget is needed in the next Multiannual Financial Framework 2021-2027, in order to ensure continuity in the long term, so that the ambitious targets the EU has set itself can be met. In particular, the Committee points out that the EU strategy is mainly focused on financing the building of new infrastructure, but adequate funds should also be allocated to the maintenance and upgrading of existing roads. Moreover, the EESC believes that a stronger budget for transport will have an additional positive impact for Europe’s growth and jobs.

1.5. The Committee supports the proposal on new performance requirements for road markings and signs, to develop cooperative, connected and automated mobility systems (C-ITS). The EESC recommends extending such an approach to all available transport (intermodality), in order to maximise the impact of such a strategy. Also, the EESC considers that any strategy on road safety should start from proper education and training for private and professional drivers, because human error is still the main cause of accidents.

1.6. The EESC supports the proposal to take vulnerable road users into account systematically in all road safety management procedures. In particular, the Committee recommends parallel development with other specific safety provisions for vehicles to close the loop.

2. Introduction

2.1. Road safety in the EU has greatly improved over the past few decades. Between 2001 and 2010, the number of road deaths in the EU fell by 43 %, and by another 19 % between 2010 and 2016. Nevertheless, the number of road fatalities remains high (25 620 people lost their lives on EU roads in 2016 ⁽¹⁾) and the statistics show a progressive stagnation in the EU process towards safe mobility.

2.2. For this reason, the Valletta Declaration encouraged the European Commission to launch a new initiative to adapt **Directive 2008/96/EC on Road Infrastructure Safety Management (RISM)** to the changes in mobility resulting from societal trends and technological developments. This initiative, focused on road safety, has a crucial role in the **Strategic Action Plan on Road Safety** ⁽²⁾, published in May 2018, in the framework of the **3rd Mobility Package** ⁽³⁾.

3. Gist of the proposal

3.1. Despite progress in recent years, the number of serious or fatal accidents on roads is still too high. Since 90 % of accidents are caused by human error, the Commission thinks that automation, connectivity, new design standards for roads and vehicles could reduce the number of the accidents and their consequences on drivers, passengers and vulnerable road users (e.g. cyclists).

3.2. In particular, the Commission has established the goal '**Vision Zero**', which aims to record no fatalities and serious accidents on the roads by 2050. The proposal also introduces *an interim* target of a 50 % reduction in fatalities and serious injuries by 2030.

3.3. In order to achieve these goals, the EU intends to adopt new technological and regulatory tools based on the World Health Organisation's '**Safe System**' ⁽⁴⁾. The principle behind this approach is that, while accidents cannot be entirely eliminated, action can nevertheless be taken to reduce the number of fatalities and serious injuries.

3.4. The current RISM Directive was adopted in 2008 to ensure that road safety considerations are at the forefront of all phases of the planning, design and operation of road infrastructure. Nevertheless, there are many differences in the state of implementation of this Directive at national level. These differences often correspond to a higher level of fatal and serious accidents ⁽⁵⁾. For this reason, it is crucial to harmonise safety regulations and to improve the safety performance of road infrastructure. Member States should receive specific financial support through the Connecting Europe Facility (EUR 200 million) for the period 2018-2020.

3.5. The revised Directive aims to achieve the above-mentioned objectives by introducing the following measures:

- mandating transparency and follow-up of infrastructure safety management procedures;
- a network-wide road assessment and a systematic and proactive risk mapping procedure to assess the 'in-built', or inherent, safety on roads across the EU;
- extending the scope of the Directive beyond the trans-European transport network (TEN-T) to cover motorways and primary roads outside the network, as well as all roads outside urban areas that are built using EU funds in whole or in part (The TEN-T network is characterised by significant traffic volumes but, thanks to the high safety standards, fatal accidents are not particularly frequent (8 %). The primary EU road network represents 39 % of all road fatalities in the EU. Coordinated EU action on the primary road network (including the non-TEN-T part) should help to achieve the 'Vision Zero' targets;);

⁽¹⁾ EU road accident database, 2016.

⁽²⁾ COM(2018) 293 annex 1.

⁽³⁾ COM(2018) 293 final.

⁽⁴⁾ World Health Organization 'Save LIVES — A road safety technical package', 2017.

⁽⁵⁾ Care — EU Road accident database.

- setting general performance requirements for road markings and road signs to make it easier to roll out cooperative, connected and automated mobility systems;
- making it mandatory to take vulnerable road users into account systematically in all road safety management procedures.

4. General comments

4.1. The EESC welcomes the Commission proposal aimed at amending Directive 2008/96/EC on Road Infrastructure Safety Management. In particular, the Committee endorses the Valletta Declaration and believes that an enhanced European approach is needed to achieve better road safety performances.

4.2. The 3rd Mobility Package consists of a set of interrelated legislative initiatives. The Committee decided to deal with each legislative proposal in a separate opinion. For this reason, this opinion should be read and understood in connection with the EESC's previous opinions, but also with those opinions drafted in alignment with it and which scrutinise specific aspects of the 3rd Mobility Package ⁽⁶⁾.

4.3. The Committee endorses the 'Vision Zero' goal to be achieved using the 'Safe System' approach. This will require the involvement of all sectors and of all road users to achieve strengthened governance. It is important that the indicators set for meeting these goals are clear and can be monitored. Civil society organisations should be actively involved in all stages of the shaping, implementation, monitoring and evaluation of the strategy.

4.4. The EESC welcomes the decision to allocate EUR 200 million (period 2018-2020) to road safety. However, the Committee considers it necessary to increase the financial envelope available in the next Multiannual Financial Framework (MFF) 2021-2027, in order to ensure continuity in the long term, so that the ambitious targets the EU has set itself can be met ⁽⁷⁾. (The European Commission has estimated that the investments needed to deliver the core TEN-T network will amount to around EUR 500 billion for the period 2021 to 2030, while the finalisation of the comprehensive network will cost around EUR 1 500 billion.)

4.5. The EESC believes that a stronger budget for transport will have an additional positive impact for Europe's growth and jobs. The funds invested will have a leverage effect, helping to create 13 million jobs a year up to 2030 and to generate additional revenue of up to EUR 4 500 billion (1,8 % of the EU GDP). This means that every billion euro invested in the TEN-T network should create up to 20 000 jobs ⁽⁸⁾.

4.6. The Committee believes that the initiative for a systematic and proactive risk mapping procedure across the European TEN-T network and on all motorways (outside of the TEN-T network), as well as all primary roads, is a crucial step in planning the scale and type of infrastructure measures to be taken on the European road network. Nevertheless, due to the different states of implementation of the current RISM Directive, it is important to establish realistic targets and deadlines for all Member States, and to provide adequate financial measures to support the most backward regions and countries ⁽⁹⁾.

4.7. The Committee points out that the EU strategy is mainly focused on financing the building of new infrastructure. Nevertheless, the maintenance and upgrading of existing roads should also receive adequate funds, because these factors are equally crucial for keeping a high standard of road safety.

⁽⁶⁾ TEN/666, Sustainable Mobility for Europe, Barbucci, 2018 (see page 254 of this Official Journal); TEN/668, European Maritime Single Window environment + Electronic freight transport information, Back, 2018 (see page 265 of this Official Journal); TEN/669, Implementation of the TEN-T projects, Dumitru Fornea, 2018 (see page 269 of this Official Journal); TEN/675, Weights and dimensions of road vehicles, Back, 2018 (see page 286 of this Official Journal); TEN/672, Connecting Europe Facility (CEF), Plosceanu and Watson, 2018 (OJ C 440, 6.12.2018, p. 191); TEN/673, Connected and automated mobility, Sann, 2018 (see page 274 of this Official Journal); TEN/674, Tyre labelling, 2018 (see page 280 of this Official Journal); TEN/667 (see page 261 of this Official Journal); INT/863, Security of vehicles/protecting vulnerable road users, Hencks, 2018 (OJ C 440, 6.12.2018, p. 90).

⁽⁷⁾ COM(2018) 277.

⁽⁸⁾ TEN/672, Connecting Europe Facility (CEF), Plosceanu and Watson, 2018.

⁽⁹⁾ TEN/669, Implementation of the TEN-T projects, Dumitru Fornea, 2018.

4.8. New performance requirements for road markings and signs are crucial to developing cooperative, connected and automated mobility systems (C-ITS). The Committee considers it essential to enable vehicles and road infrastructure to exchange information constantly in order to face the 'mixed traffic system', characterised by vehicles using different technologies: human, assisted and automated driving ⁽¹⁰⁾. To complete the strategy on safe mobility it is important to extend such an approach to all available transport (intermodality), with a direct impact on the reduction and safety of traffic volumes ⁽¹¹⁾.

4.9. The EESC is convinced that new technologies can make a sensible contribution to upgrading road safety standards, taking into account their limitations and the precautions that needed when using them. Also, the EESC considers that any strategy on road safety should start from proper education and training for private and professional drivers, because human error remains one of the main causes of accidents.

4.10. The EESC supports the proposal to take vulnerable road users into account systematically in all road safety management procedures. This approach is in line with new trends and habits of EU citizens (e.g. more cyclists). The Committee recommends parallel development with other specific safety provisions for vehicles to close the loop (e.g. advanced emergency braking systems, lane departure warning and a different design for heavy-duty vehicle cabins to facilitate visibility of cyclists and pedestrians, as well as sensors to detect them) ⁽¹²⁾.

5. Specific comments

5.1. The EESC considers it important that physical and digital infrastructure be developed in parallel. It is also important to complete 5G coverage on all of Europe's motorway and primary road networks as soon as possible to enable effective connectivity between roads and vehicles and between vehicles and vehicles ⁽¹³⁾. Here too, the EESC recommends adequate and long-term financial support in the next MFF 2021-2027.

5.2. The Committee, in line with the recommendation of the European Transport Safety Council ⁽¹⁴⁾, argues that the scope of the RISM should be extended to all main rural and urban streets. This wider approach is necessary to achieve an effective drastic reduction in fatal and serious accidents by 2030. This proposal is based on the fact that the Commission proposal has an impact on half of the accidents that occur on EU roads, and that the great majority of the serious injuries occur on urban roads.

5.3. In 2015, the EU began a new venture to extend TEN-T strategy to the Western Balkans ⁽¹⁵⁾. This initiative, supported through the Western Balkans Investment Framework (WBIF) and the Connecting Europe Facility (CEF), should have a crucial impact on the EU enlargement process. The EESC recommends including the implementation of the Strategic Action Plan on Road Safety in the framework of this ambitious infrastructural project. This measure should be in line with the Commission proposal to extend the scope of RISM to road infrastructure outside urban areas completed using EU funding. In particular, it should enable six Western Balkans Countries to join the EU without experiencing a safety and infrastructural gap.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽¹⁰⁾ TEN/673, Connected and automated mobility, Samm, 2018.

⁽¹¹⁾ TEN/666, Sustainable Mobility for Europe, Barbucci, 2018.

⁽¹²⁾ INT/863, Security of vehicles/protecting vulnerable road users, Hencks, 2018.

⁽¹³⁾ TEN/673, Connected and automated mobility, Samm, 2018.

⁽¹⁴⁾ COM(2018) 274, p. 7.

⁽¹⁵⁾ http://europa.eu/rapid/press-release_STATEMENT-15-4826_de.htm

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU’

(COM(2018) 278 *final* — 2018/0139 (COD))

and on ‘Proposal for a Regulation of the European Parliament and of the Council on electronic freight transport information’

(COM(2018) 279 *final* — 2018/0140 (COD))

(2019/C 62/41)

Rapporteur: **Stefan BACK**

Referral	European Parliament, 11.6.2018 Council, 14-15.6.2018
Legal basis	Article 91, 100(2), 192(1), 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	4.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	210/2/2

1. Conclusions and recommendations

1.1. The EESC welcomes both proposals as important steps toward the digitalisation of transport, which is one of the aims of the 2011 White Paper on transport policy and a step in the implementation of the new industrial strategy presented by the Commission in October 2017, as well as the 5 December 2017 conclusions of the Council of Ministers on the digitalisation of transport and the Digital Transport Days Declaration signed in Tallinn on 10 November 2017.

1.2. The EESC supports the form of legislative act chosen; experience shows that clear and mandatory obligations on Member States are a necessity if an electronic information system is to work adequately across the European Union.

1.3. Each proposal aims at an adequate degree of harmonisation considering the tasks to be fulfilled.

1.4. The EESC underlines that the adequacy of the standard and certification requirements to be defined by the Commission in delegated or implementing acts will be of key importance to the correct operation of the planned concepts and to the confidence of users in digital solutions. With regard to the freight information proposal, this could be key to the possibilities of making this system mandatory, not only for authorities, but also for users.

1.5. The EESC believes that flawless functioning of the systems, ensuring security, integrity of communications, privacy and confidentiality of commercial and, as appropriate, other sensitive information, are key elements for creating confidence. The EESC draws attention to the ongoing work in the Economic Commission for Europe (UNECE) of the UN Economic and Social Council to ensure high and universal standards in this regard.

1.6. The EESC would like to see the rapid development of the Proposal for a Regulation of the European Parliament and of the Council on electronic freight transport information [COM(2018)279] (the Freight Information proposal) into a system that is also mandatory for users in order to optimise efficiency gains, cost reductions and environmental added value. A suitable occasion to do this could be the review of the Regulation provided for in Article 15 of the proposal.

1.7. The EESC also regrets that the scope of the Freight Information proposal appears to be limited to information requirements set out in Union acts regarding the conditions under which transport may be performed under the Chapter on transport in the TFEU. The EESC takes the view that the benefits of digitalisation should also apply to other administrative requirements regarding such transport operations. Point 3.8 below contains a drafting suggestion. It is important to send a general signal in this sense, without prejudice to existing or future dedicated provisions.

1.8. The EESC also draws attention to the potential added value of being able to submit electronic information to authorities worldwide in accordance with harmonised standards such as those being developed by UNECE.

1.9. Specifically, regarding the Proposal for a Regulation of the European Parliament and of the Council establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU [COM(2018) 278] (the Maritime Single Window proposal), the EESC is concerned that the option left open for specific national requirements could easily turn into an obstacle to the smooth functioning of the internal market. The EESC expects that the implementation of this option will be closely monitored by the Commission and that a continuous dialogue between the Commission and the Member States will help to limit specific national requirements.

1.10. The EESC points to the importance of addressing the social effects of digitalisation in this context too. This includes providing early information, establishing a dialogue, addressing the changing character of jobs and the need to develop new skills, and enabling the workforce to adapt to the new context. In the opinion of the EESC, digitalisation of the transport sector may make it more attractive as a workplace and therefore help to resolve current recruitment problems in the sector.

2. The Commission Proposals

2.1. The Commission has submitted two connected proposals, namely the:

- Proposal for a Regulation of the European Parliament and of the Council establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU [COM(2018) 278] (the Maritime Single Window proposal); and the
- Proposal for a Regulation of the European Parliament and of the Council on electronic freight transport information [COM(2018) 279] (the Freight Information proposal).

2.2. Both proposals are functionally interlinked, since they both establish a system for electronic communication between companies and public authorities to facilitate control of compliance with a number of legal obligations through a system that guarantees the authentic character of the information provided as well as the integrity of the information provided and respect of privacy requirements.

2.3. The Maritime Single Window proposal is to replace Directive 2010/65/EU, which had a similar objective but which has proven inefficient because it gave Member States too much leeway in implementation, leading to varying standards, routines and coverage of digitised notification, and resulting in an increased administrative burden for shipping and a residue of administrative routines to be accomplished manually.

2.4. It appears that the Maritime Single Window system as such is open to all ships legally subject to reporting obligations when entering ports of the Member States.

2.5. The Freight Information proposal is aimed at establishing an obligation on Member State authorities to accept electronic documentation for the purpose of complying with the obligation on businesses to submit documents to prove compliance with requirements under a number of EU legislative acts concerning the transport of goods as well as the conditions for the shipment of waste. To this end, the Freight Information proposal creates an electronic freight transport information (eFTI) system consisting of a service provision framework including a common data set, procedures and access rules, requirements for eFTI platforms and services and a certification system.

2.6. The option provided for in the Freight Information proposal is available to operators subject to the legal information or documentation obligations set out in the proposal.

3. General comments

3.1. The EESC welcomes both proposals, which pursue the general aim of digitising transport set out originally in the 2011 transport policy White Paper and thereafter pursued in, for instance, the Digital Single Market strategy and the new industrial strategy presented by the Commission in October 2017, as well as the 5 December 2017 conclusions of the Council of Ministers on the digitalisation of transport as a follow-up to the Digital Transport Days Declaration signed in Tallinn on 10 November 2017.

3.2. The EESC reiterates its support for innovative solutions and supports the form of legislative act chosen, considering that clear and mandatory obligations on Member States are a necessity if an electronic information system is to work adequately across the European Union.

3.3. In this context, the EESC calls to mind its warnings about problematic implementation — because its substance is predominantly non-mandatory — of the directive that the Maritime Single Windows proposal would, if adopted, repeal.

3.4. That said, the EESC agrees that it may be necessary to strike a balance between full harmonisation and interoperability. Clearly, there is a need for far-reaching harmonisation in the context of a system that is to facilitate clearance of ships arriving at and leaving EU ports, which will for instance require a flawlessly functioning interface between ship and shore with harmonised standards and procedures. A lesser degree of harmonisation may be accepted in a system that basically serves to ensure adequate and secure procedures for making available to public authorities the documents needed to ensure compliance with EU legislation.

3.5. Against this background, the EESC considers that each of the two proposals seeks the right level of harmonisation.

3.6. The EESC takes note of the fact that the Freight Information proposal essentially creates an option, not an obligation, to enable the submission of documents in electronic form. The EESC accepts the reasons for this choice at this point in time but would nevertheless like to see a rapid evolution towards a mandatory system, considering the facilitation of compliance monitoring at all times that this would entail, and the reduced volumes of paper it would mean, particularly for operational staff such as lorry drivers. A suitable occasion to address this issue could be the review of the Regulation provided for in Article 15 of the proposal.

3.7. The Freight Information proposal, according to its Article 1(2), applies to 'regulatory information requirements set out in Union acts laying down the conditions for the transport of goods on the territory of the Union in accordance with Title VI of Part Three of the Treaty or laying down the conditions for the shipments of waste'. The EESC wonders whether this does not excessively circumscribe the right to submit information and documents in electronic form. The Union acts enumerated in Annex I to the Freight Information proposal only appear to be those directly addressing market access conditions.

3.8. The EESC considers that other administrative documentation or information requirements could also benefit from the right of submission in electronic form. Examples of this are for instance posting notifications and information to be provided in the context of posting of workers, or information provided to prove compliance with the provisions on driving and resting time. In the EESC's view, the scope of the proposal could be widened by adding the words 'and other provisions concerning' between the words 'conditions for' and 'the transport of goods' in Article 1(2). The EESC considers that it is important to send a general signal in this sense, without prejudice to existing or future dedicated provisions.

3.9. The EESC also points to the sustainability aspect of reducing the volumes of printed paper, as also mentioned in the Freight Information proposal.

3.10. The EESC takes note of the specific provisions in both proposals to ensure confidentiality of commercial and, in the case of the Maritime Single Window, other sensitive information. Furthermore, the EESC would like to draw attention to the high levels of security against tampering and the high level of protection of privacy inherent in a well-conceived and well-managed Pipeline Data Exchange Structure.

3.11. The EESC points out the importance of the ongoing work in UNECE on the issues set out in point 3.10 above, and in particular its White Paper on a Data Pipeline Concept for Improving Data Quality in the Supply Chain. In the opinion of the EESC, this is a further argument for making electronic documentation mandatory to the widest extent possible.

3.12. The EESC draws attention here to the potential added value of being able to submit electronic information to authorities worldwide in accordance with harmonised standards such as those being developed by UNECE.

3.13. With respect to both proposals, the Commission has a vital task in developing standards and certification criteria. The EESC underlines that a framework that inspires confidence and that works well without unnecessary complexity is essential for the proposed systems to work well and deliver the planned added value. It is also an essential element in creating confidence in digital solutions over the entire transport sector.

3.14. The EESC points to the need to address the social aspects of digitalisation in this context too. Clearly digitalisation will change the working environment, create new jobs and require new skills; it is important to address in good time the need to enable the workforce to adapt to the new context. The EESC also underlines the importance of providing early information and enabling a dialogue on changes to come. In the EESC's view, digitalisation of the transport sector may make it more attractive as a future workplace and therefore help to resolve the current recruitment problems in the sector.

4. Specific comments

4.1. *The Maritime Single Windows proposal*

4.1.1. Compared to Directive 2010/65/EU, the Maritime Single Window proposal is very complete. It appears to provide an adequate framework to facilitate arrival and departure formalities and therefore seems to have eliminated the missing elements and the lack of harmonisation that produced adverse effects for users in the implementation of Directive 2010/65/EU.

4.1.2. The EESC agrees with the choice of the Commission not to propose an EU Single Window, but rather, National Single Windows. Although there are strong reasons in favour of an EU-level Single Window, a solution built on National Single Windows will avoid sunk costs arising from national-level investments already made, and allow for such specific national administrative requirements as may be necessary.

4.1.3. The EESC underscores that harmonisation aimed at facilitating the smooth operation of the internal market is a key element in the proposal and that it is important to ensure that this is not lost.

4.1.4. The EESC therefore has some misgivings about the option left open for specific national requirements, which could easily turn into obstacles to the smooth functioning of the internal market. The EESC therefore calls on the Commission to closely monitor specific national requirements from an internal market perspective and pursue a continuous dialogue with Member States in order to limit specific national requirements as far as possible.

4.2. *The Freight Information proposal*

4.2.1. The EESC takes particular note of the significant role that will be played by the implementing and delegated acts to be adopted by the Commission under this proposal and stresses the importance of those coming rapidly into effect since they are key to the proper functioning of the proposed Regulation.

4.2.2. In this regard, the EESC would draw the attention of the Commission to the above-mentioned UNECE White Paper and the elements of a Pipeline Data Exchange Structure (PDES) described therein as a useful structure for ensuring a secure and tamper-proof system for data exchange at different stages in the transport pipeline.

4.2.3. The EESC refers to the statements above about the high security of a well-conceived and well-implemented system for the exchange of electronic documents and reiterates that, in particular with respect to the compliance monitoring objective of this proposal, there is a good case for considering making electronic documentation mandatory in the context of the review of the Regulation provided for in Article 15 of the Freight Information proposal.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council on streamlining measures for advancing the realisation of the trans-European transport network'

(COM(2018) 277 final — 2018/0138 (COD))

(2019/C 62/42)

Rapporteur: **Dumitru FORNEA**

Referral	European Parliament, 11.6.2018 Council, 15.6.2018
Legal basis	Article 172(1) of the Treaty on the Functioning of the European Union
Plenary Assembly decision	22.05.2018
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	4.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	210/3/4

1. Conclusions and recommendations

1.1. The EESC believes that the initiatives grouped together in the third 'Europe on the Move' package are necessary in order to provide an efficient legal framework at European level and to reaffirm the Member States' political and financial commitment to deliver the trans-European transport network (TEN-T) on time: the core network should be finalised by 2030 and the comprehensive network by 2050.

1.2. The EESC notes that the proposal for a regulation provides added value as on the basis of best practices identified across the EU, it regulates a number of key aspects for complying with deadlines for project delivery and for continuing to attract and interest public and private investors in submitting tenders for transport infrastructure.

1.3. The EESC endorses the Commission's approach, considering that it is appropriate and relevant given the key purpose of the proposal for a regulation which is to reduce delays encountered in the implementation of TEN-T infrastructure projects. In fact, these delays can be reduced significantly by recognising the priority status of projects of common interest, designating one single competent authority to be staffed with competent personnel and equipped with adequate resources. The authority should merge entities and bodies with competing roles so as to achieve real administrative simplification, integrating and coordinating procedures, and applying one single national legislation to purchases made by a joint entity.

1.4. The EESC welcomes the establishment by the Commission of a benchmark for the length of permit granting processes and considers that it is reasonable to limit the entire permit granting process to a maximum of three years, but would point out that it is important to take into account the views of the competent national authorities to ensure that the proposed deadlines are realistic in light of the specific situations in the Member States.

1.5. The EESC is of the view that in some Member States, compliance with the mandatory deadlines set by the proposal for a regulation will call for some legal and administrative reforms. These will enable the competent legal and administrative bodies to make their working methods quicker and more efficient so as to avoid legal action at national or European level for failing to comply with the deadlines.

1.6. The EESC endorses the technical assistance proposed under Article 9, but would point out to the Commission that further details are needed with regard to the eligibility criteria and the procedure to be followed in order to be accorded the technical assistance provided for in the proposal.

1.7. The EESC believes that the pace of infrastructure project implementation could be picked up if standardised terms and conditions and specific arrangements for public procurement were established at European level.

1.8. The EESC believes that national authorities can cut back on potential conflict in the implementation of TEN-T projects by involving the stakeholders/parties involved from the very planning stage of transport infrastructure and by organising consultations with the public, civil society organisations and relevant local authorities in an efficient and timely manner.

1.9. The EESC points out that awareness raising activities and timely identification of attempts to denigrate TEN-T projects are key to a political and social climate conducive to the implementation of European transport infrastructure policies. The European authorities can neutralise the harmful effects of misinformation by staying in contact with the mass media and by further developing the institutional tools for providing accurate information and consulting the public.

1.10. The EESC takes note of an incoherence in the text of the proposal since in the definitions in Article 2(e) 'Cross-border project of common interest' that notion is limited to projects implemented by a joint entity. However, in Article 7(2) and Article 8(1) the notion also seems to cover projects where no joint entity is in place.

1.11. The EESC believes that the cross-border coordination mechanisms provided for the TEN-T network can be strengthened by boosting the authority of and stepping up the tools available to European coordinators. In order to make optimal use of the experience and capacity of European coordinators, it might be necessary to revise the legislation laying down their remit, extending their responsibilities with a view to consolidating European leadership in implementing the cross-border transport infrastructure projects undertaken by the Member States.

1.12. The EESC notes that it is not clear which sanctions are laid down for the failure to comply with the legal provisions established by the proposal for a regulation. In view of the proposal's chief objective, specifically reducing delays, this aspect needs to be clarified so as to bolster the legally binding nature of the regulation and ensure that Europeans, civil society, public authorities and national and European-level courts and tribunals will have a transparent and predictable legal framework.

2. General comments

2.1. The proposal for a regulation considered in this opinion was issued by the Commission in May 2018. The Commission intended to supplement the initiatives grouped together in the third 'Europe on the Move' package by focusing on the legislative and administrative measures which can speed up the implementation of investment programmes so as to deliver the trans-European transport network (TEN-T) on time: the core network should be finalised by 2030 and the comprehensive network by 2050.

2.2. The European Commission has estimated that the investments needed to deliver the core TEN-T network will amount to around EUR 500 billion for the period 2021 to 2030, while the finalisation of the comprehensive network will cost around EUR 1 500 billion. The funds invested in this European transport infrastructure will have a leverage effect, helping to create 13 million jobs a year up to 2030 and to generate additional revenue of up to EUR 4 500 billion (1,8 % of the EU GDP).

2.3. In June 2018, the Commission announced that it intended to allocate EUR 30,6 billion to the Connecting Europe Facility under the 2021-2027 Multiannual Financial Framework, a nominal increase of 47 % over the 2014-2020 period. Nonetheless, the EU's strong commitment and contribution to the completion of the TEN-T network will not be enough unless the Member States really step up to the plate and identify alternative solutions for co-financing or fully financing transport infrastructure projects.

2.4. The implementation of the TEN-T investment programmes involves both identifying investors and making the necessary funds available, and laying the legal and administrative groundwork to ensure that the investments can be delivered on time and meet the standards set. Public consultations have shown that all stakeholders (public and private investors, businesses, civil society organisations and members of the public) want the administrative procedures involved in implementing infrastructure projects to be efficient, predictable, in line with the principles of sustainable development and with developments in digital technologies, and geared towards achieving the targets set by European and national policies on mobility in the EU.

2.5. Article 6 of the proposal for a regulation establishes phases and deadlines for the implementation of the permit granting process: a pre-application phase, which should not exceed two years, and a phase entailing the assessment of the application and decision making by the single competent authority, which should not exceed one year. The time limits set in the proposal are without direct prejudice to, inter alia, administrative appeals and judicial remedies before a court or tribunal.

2.6. The pre-application phase includes deadlines which the single competent authority must meet in order to finalise key stages of this phase. Therefore:

- no more than two months following receipt of the notification drawn up by a project promoter, the single competent authority must either acknowledge the launch of the permit granting process or reject the notification in writing if it considers that the project is not mature enough,
- within three months of the start of the permit granting process, the single competent authority, in close cooperation with the project promoter and other authorities concerned, must establish and communicate a detailed application outline which must be submitted before the permits needed to go ahead with the project can be granted,
- no more than two months from the date of submission of the complete application file, the competent authority must inform the project promoter in writing whether the file is complete.

2.7. Given the issues mentioned above, ***the Commission is working to achieve four main objectives with this legislative initiative:***

- I. Reducing delays encountered in the implementation of infrastructure projects to deliver the TEN-T network;
- II. Clearer procedures to be followed by those involved in promoting or implementing projects, particularly in connection with permit granting or public procurement procedures, but also regarding requests for state aid or other situations requiring public authority involvement;
- III. The systematic application of one single framework for cross-border projects implemented by a joint entity, unless the participating Member States decide otherwise;
- IV. More clarity for the public and civil society by strengthening the transparency framework and the arrangements for involving them in the planning and implementing of TEN-T projects;

3. Specific comments

3.1. The EESC feels that the completion of the TEN-T network will not be possible without firm political commitment from the Member States and strong leadership and cooperation at European level. On the basis of best practices identified across the EU, the proposal for a regulation provides added value as it regulates a number of key aspects for complying with deadlines for project delivery and for continuing to attract and interest public and private investors in submitting tenders for transport infrastructure.

3.2. The EESC endorses the Commission's approach, considering that it is appropriate and relevant given the key aspects regulated by the proposal. These are as follows: recognition of the priority status of TEN-T projects of common interest; the integration of permit granting processes; designation of one single authority competent for granting permits; establishment of a timeframe for granting and implementing permits; coordination of the procedure for granting cross-border permits; simpler public procurement in cross-border projects of common interest; EU technical assistance for the application of this regulation and the implementation of projects of common interest.

3.3. The Commission's policy option of ***limited, decentralised mandatory actions implemented at national level*** is understandable given the current political developments in some Member States and gives us an interesting picture of the way in which national governments position themselves with regard to EU legislative initiatives proposing European-level cooperation in areas subject to subsidiarity requirements.

3.4. The deadlines for permit granting processes regulated by the proposal are welcome but fairly optimistic in view of the constraints regarding compliance with national legislation in the field of investments and public procurement.

3.5. The EESC welcomes the establishment by the Commission of a benchmark for the length of permit granting processes, but would point out that it is important to consult the competent national authorities to ensure that the proposed deadlines are realistic in light of the specific situations in the Member States. On the basis of experience to date, it is possible that the time required to comply with each stage in the procedure — including approval of the technical documents, the technical and economic indicators and the public procurement procedures, and concluding and delivering on the relevant contracts by the deadlines set and in accordance with national legislation — may exceed the deadlines proposed in this regulation by a considerable amount.

3.6. Some of the delays to date noted in the implementation of TEN-T projects are due to the unsuitable and in some cases overly politicised national institutional architecture, with public authorities unable to enact reforms and to adopt modern working methods, and which continue to use outdated administrative procedures which were dropped a long time ago by institutions which have taken up digital revolution applications on a broad scale.

3.7. Given this situation, the regulation will have a direct impact on the administrative structures of Member States performing below European standards. A reform of these institutions should be considered, and the technical assistance proposed under Article 9 is thus valuable for those Member States who request it with a view to the implementation of projects relevant to the delivery of the TEN-T core network. Nonetheless, further details are needed with regard to the eligibility criteria and the procedure to be followed in order to be accorded the technical assistance provided for in the proposal.

3.8. Many of the delays are due to legal disputes following conflicts between stakeholders or parties affected by the implementation of the projects. One facet of the delivery of justice is striking a balance between the rights of individuals and national law. The fact that the Member States have exclusive competence in the field of justice and the highly complex national and European legal framework for granting permits for infrastructure projects produce a mosaic of inevitable legal conditionalities which could substantially undercut the Commission's ambitious objectives.

3.9. The length of administrative appeals and court procedures and the effect of suspensive conditions, the technical challenges to the completion of infrastructure work, the lack of vital administrative documents needed to establish the legality of the procedure and the lack of the necessary funds all affect the length of the project permit granting processes. The European institutions are therefore required to take these factors into consideration when taking the final decision on the permit granting deadlines regulated at European level by the proposal for a regulation.

3.10. Similarly, better, more specialised training of magistrates, justice officials and lawyers in the area of public interest infrastructure projects could lead to shorter court proceedings and deliver a higher standard of justice, while complying fully with legal requirements.

3.11. Procurement procedures for transport infrastructure works are extremely time consuming, and a major factor in TEN-T project delays. The EESC believes that the pace of infrastructure project implementation could be picked up if standardised terms and conditions and specific arrangements for public procurement were established at European level.

3.12. The EESC believes that national authorities can cut back on potential conflict in the implementation of TEN-T projects by involving the stakeholders/parties involved from the very planning stage of transport infrastructure and by organising consultations with the public, civil society organisations and relevant local authorities in an efficient and timely manner. Social and civic dialogue at national, regional and local level can make a key contribution to boosting public acceptance of transport infrastructure projects and to improving the administration's working methods by establishing and implementing integrated permit granting processes.

3.12.1. The EESC takes note of an incoherence in the text of the proposal since in the definitions in Article 2(e) 'Cross-border project of common interest' that notion is limited to projects implemented by a joint entity. However, in Article 7(2) and Article 8(1) the notion also seems to cover projects where no joint entity is in place.

3.13. In some Member States, TEN-T and TEN-E infrastructure projects are subject to misinformation and denigration campaigns as they sometimes clash with the geopolitical interests of states or interest groups which want to make political capital from the progress or lack of progress made in infrastructure projects promoted by the EU. Awareness raising activities and timely identification of such threats are key to a political and social climate conducive to the implementation of European transport infrastructure policies. The European authorities can neutralise the harmful effects of misinformation by staying in contact with the mass media and by further developing the institutional tools for providing accurate information and consulting the public.

3.14. The EESC believes that the cross-border coordination mechanisms provided for the TEN-T network can be strengthened by boosting the authority of and stepping up the tools available to European coordinators. The proposal for a regulation considers this aspect and specifies the key role of these TEN-T coordinators who are tasked with closely monitoring the permit granting process for European projects of common interest and providing regular progress reports. In order to make optimal use of the experience and capacity of European coordinators, it might be necessary to revise the legislation laying down their remit, extending their responsibilities with a view to consolidating European leadership in implementing the cross-border transport infrastructure projects undertaken by the Member States.

3.15. The EESC notes that no sanctions are laid down for the failure to comply with the legal provisions established by the proposal for a regulation. Clarification regarding this point would bolster the legally binding nature of the regulation, and Europeans, civil society, public authorities and national and European-level courts and tribunals will have a transparent and predictable legal framework.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions — On the road to automated mobility: An EU strategy for the mobility of the future’

(COM(2018) 283 final)

(2019/C 62/43)

Rapporteur: **Ulrich SAMM**

Referral	European Commission, 18.6.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Sector responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	4.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	207/1/1

1. Conclusions and recommendations

1.1. The EESC welcomes the communication on connected and automated mobility that offers a wealth of new features for consumers and transport businesses. The EESC is convinced about the **benefits of automated mobility** for our society as it will provide new services for the mobility of people, with more possibilities for the shared economy, potential for optimisation of traffic with environmental advantages, and mobility for those who cannot drive themselves.

1.2. The EU **automotive industry**, with its expertise in developing vehicle technologies, is well-positioned to seize these opportunities, provided, however, that the EU defines standards to enable operation across borders and interoperability between different car brands.

1.3. A key feature of automatic or semi-automatic driving is that it could significantly improve the active **safety of ground vehicles** and might reduce fatalities significantly, or even eliminate them entirely. Fatal accidents with automated vehicles during the pioneering phase, however, could become a showstopper for this technology. The EESC recommends, therefore, that all pilot projects and test procedures with autonomous driving be performed under the **highest safety standards** possible, even when this boundary condition may slow down developments compared to competitors outside the EU. In the long run this will provide better products with higher acceptance.

1.4. The EESC believes that **driverless cars** (level 5) will only be accepted when they provide the same safety as other transport systems for passengers like trains or large airplanes (almost **100 % safety**). This represents a big hurdle, as long as autonomous vehicles and conventional cars and other road users (cyclists, pedestrians, special-purpose vehicles) are driving on the same roads. ‘100 % safety’, however, may be key to solving specific **ethical issues** linked to autonomous vehicles.

1.5. The EESC acknowledges that **semi-automatic vehicles** (level 1-4) with a number of assistance systems can already reduce fatalities, and therefore supports the Commission’s approach of enhancing the number of new safety features for vehicles as part of the revision of the General Safety Regulation for motor vehicles. The EESC, however, notes two problematic areas which may be a hurdle for public acceptance: a) additional **costs** and b) the growing **complexity** of driving a car.

1.6. The usual training for getting a driver's licence does not cover the most modern technology of assistance systems. Obviously there is a need for additional training. The EESC believes that the automotive industry, together with municipalities, must as a matter of urgency offer **training courses** and **training areas** for private and professional drivers; otherwise the introduction of the new safety-related technologies will be hampered significantly.

1.7. Training in semi-automatic driving requiring new skills and responsibilities will be key to the development of a modern profile for **professional drivers** and to responding to the growing demand in transport.

1.8. The EESC recognises the potential for the eventual large-scale loss of jobs (i.e. lorry and bus drivers) if full automation (level 5) does become successfully introduced in the future. The EESC asserts that the benefits of automation must be shared by society as a whole and therefore urges the **social partners** to jointly plan the future developments and eventually negotiate new collective bargaining agreements on the introduction of automation in road transport.

1.9. The **product liability** directive should be reformed so that it covers both movable products and services as well as products with embedded software, so that consumers do not have to search to find out who is liable. Moreover, in a more complex digital environment the **burden of proof** in case of product failures is also a matter of concern and should be regulated in a consumer-friendly way. The Committee urges the Commission in particular to anticipate the changes in the insurance directive related to driverless motor vehicles and to guarantee the compensation of accident victims.

1.10. With increased **connectivity** vehicle data can be accessed from every corner of the world. We know from the area of smartphones and PCs that this causes significant risks and challenges regarding safety, security and privacy. The same standards cannot be accepted for vehicles, where there is a risk of death or injury. The EESC emphasises, therefore, that any new regulation on data access for vehicles must follow the **safety first** principle.

1.11. The EESC welcomes the approach of the Commission in giving priority to regulating the protection of vehicles against cyber-attacks, ensuring secure and trustworthy communication between vehicles and infrastructure and providing a sound **data protection** level in compliance with the General Data Protection Regulation.

1.12. The EESC is ready to participate in the anticipated **assessment** by the Commission of the socioeconomic and environmental impacts of driverless mobility and the **EU forum** to address specific ethical issues.

2. Introduction

2.1. The '**Europe on the Move**' initiative comprises a number of legal initiatives being delivered in three packages. The first package reflected Europe's ambition to make rapid progress towards putting in place a clean, competitive and connected mobility system by 2025, which is key to a well-functioning Single European Transport Area ⁽¹⁾. The second package focused more on instruments to reduce emissions from road transport ⁽²⁾. The third package, which is currently being delivered and is dealt with in this opinion, focuses on safety issues with the strategy presented in the Communication '**On the road to automated mobility**' ⁽³⁾.

2.2. Ground transport technology in particular will most likely be revolutionised by **digitalisation**. This communication, therefore, has to be seen in the wider context, comprising other issues such as the future of work, research and innovation, Artificial Intelligence (AI), and the skills agenda.

3. Gist of the proposal

3.1. With this Communication, the Commission proposes a comprehensive EU approach towards connected and automated mobility, setting out an ambitious European agenda, providing a common vision and identifying supporting actions for the development and deployment of key technologies, services and infrastructure.

⁽¹⁾ OJ C 246, 28.7.2017, p. 64.

⁽²⁾ OJ C 262, 25.7.2018, p. 75.

⁽³⁾ COM(2018) 283 final.

3.2. The Commission is pursuing the **Vision Zero by 2050** project because automatic driving has the potential to be a game-changer and may significantly reduce fatalities or even eliminate them entirely. In this way it also contributes to the achievement of the **Sustainable Development Goals** on Good Health and Well-Being as well as on Sustainable Cities and Communities.

3.3. In order to make the EU stronger in terms of technology and infrastructure for automated mobility, the Commission is funding various instruments and proposes a set of initiatives:

- the **Connecting Europe Facility** with EUR 450 million to support digitisation in transport with the aim of facilitating automation;
- large-scale testing based on **5G** cross-border corridors;
- priorities in **research and innovation funding** (Horizon 2020 and the next Framework Programme).

3.4. By 2019, the EU will offer **Galileo's** initial high-accuracy services for free, making it the first to be able to offer such a navigation service on a worldwide basis.

3.5. In order to ensure an internal market for the safe take-up of automated mobility, the Commission is proposing (mostly as part of the revision of the General Safety Regulation for motor vehicles):

- to work with Member States on guidelines to ensure a harmonised approach for national ad-hoc vehicle **safety assessments** of automated vehicles;
- to initiate work with Member States and stakeholders on a new approach for vehicle **safety certification** for automated vehicles;
- **new safety features** for automated vehicles as part of the revision of the General Safety Regulation for motor vehicles;
- to regulate **data recorders** for automated vehicles;
- to regulate **platooning** so as to ensure standardisation of data exchanges across different brands;
- to regulate the protection of vehicles against **cyber-attacks**;
- to address the need for specifications relating to **access** to vehicle data for **public authorities'** needs;
- to adopt a delegated regulation to ensure secure and **trustworthy communications** between vehicles and infrastructure and a sound **data protection** level in compliance with the General Data Protection Regulation.

3.6. Following a Council conclusion, the Commission intends to assess the **socioeconomic and environmental impact** of automation and digitalisation in the field of transport, taking into account the new skills needed in that sector. For this purpose the Commission will:

- consult interested parties on the socioeconomic and environmental impacts of driverless mobility;
- support the acquisition of new skills, retain and reskill the workforce in the sector through the **new skills agenda** for Europe;
- provide an EU forum to address specific **ethical issues** raised by driverless mobility.

4. General comments

4.1. Digitalisation and automation based on fast and reliable internet offer a wealth of **new features** for consumers and businesses that seek better quality, convenience, flexibility, affordability and safety in road transport.

4.2. The EU automotive industry, with its expertise in developing vehicle technologies, is well-positioned to seize these opportunities. The EESC emphasises that the general aim must be to harmonise systems or find technical solutions to enable them to operate across borders, as this is vital to the smooth functioning of the **internal market**.

4.3. The **connectivity** among vehicles and between vehicles and fixed infrastructure is a key feature that will be necessary to make full use of digital technology. The EESC therefore welcomes the timetable for developing high-capacity broadband infrastructure at European level that would provide uninterrupted 5G coverage with very high-capacity internet connectivity along all major terrestrial transport paths⁽⁴⁾.

4.4. The EESC once more encourages the Commission to pursue the **Vision Zero by 2050** project further. A key feature of automatic or semi-automatic driving is that it could significantly improve the active safety of ground vehicles and might reduce fatalities significantly, or even eliminate them entirely.

5. Public acceptance and socioeconomic impact

5.1. The new technologies can only be implemented successfully when the socioeconomic impact has also been addressed properly. Public acceptance is key for the introduction of automated mobility.

5.2. The EESC is convinced about the benefits of connected and automated mobility for our society as it will provide **new services** for the mobility of people, with more possibilities for the shared economy and the environment, and mobility for those who cannot drive themselves.

5.3. For **safety and** liability issues one has to distinguish clearly between semi-automatic and autonomous driving. In semi-automatic vehicles (**levels 1-4**) new technologies (radar, camera, laser) assist the driver, while autonomous cars (level 5) do not require a driver at all. In the first case the driver remains responsible in all circumstances, while in the second case the liability issue needs to be clarified. The EESC is convinced that autonomous cars have to fulfil the same safety standards as other passenger transportation systems such as trains or large airplanes. When human error is eliminated then automatic transport systems must be 100 % safe.

5.4. Our society is to a certain degree tolerant towards human error, which explains the acceptance of about 25 000 road fatalities in the EU (2016). This is quite different in other transport systems where passengers are passive. The demand for 100 % safety for autonomous vehicles represents a big hurdle as long as these vehicles, conventional cars and other road users (cyclists, pedestrians, special-purpose vehicles) are driving on the same roads.

5.5. Fatal accidents with automated vehicles could become a showstopper for this technology, even when the rate of accidents is relatively low. The EESC recommends, therefore, that all pilot projects and test procedures with automatic driving be performed under the highest safety standards possible. This boundary condition may slow down development compared to competitors outside the EU, but on the other hand it will enhance public acceptance and in the long run provide better products. The EESC notes that 100 % safety with automated vehicles might only be made possible with the significant re-designing of the road system.

5.6. For the development of ethical guidelines for highly automated vehicles the EESC recalls the 'human in command approach' principle, as emphasised several times in other opinions. According to this principle, only humans make 'responsible decisions', which has consequences for the design of autonomous vehicles and the environment in which they are allowed to operate. Nevertheless, the safety-critical actions of driverless vehicles, e.g. to avoid accidents, can raise serious 'ethical issues' at programming level which must be addressed.

5.7. The EESC acknowledges that semi-automatic vehicles (level 1-4) can already reduce fatalities and therefore supports the Commission's approach of enhancing the number of new safety features for vehicles as part of the revision of the General Safety Regulation for motor vehicles. The EESC notes two problematic areas which may be a hurdle for public

⁽⁴⁾ OJ C 125, 21.4.2017, p. 51.

acceptance: a) additional technical features can increase the cost of a car significantly and b) a growing number of assistance systems can make driving a car much more complex.

5.8. The usual training for getting a driver's licence (light vehicles, lorries and buses) has not covered and does not cover the most modern technology of assistance systems. Obviously there is a need for additional training for newcomers as well as for experienced drivers. Moreover, consumers must be given clear and unambiguous information about the features of a modern vehicle at the time of purchase, rental or car-sharing. The EESC proposes that the automotive industry, together with municipalities, offer training courses and training areas for private and professional drivers. The driving test for new drivers wishing to obtain a licence should incorporate safety training on the use of new technology/automation features. Training in semi-automatic driving will be key to the development of a modern profile for professional drivers, and may require new skills and responsibilities.

5.9. The EESC recognises the potential for the eventual large-scale loss of jobs (i.e. lorry and bus drivers) if full automation (level 5) does become successfully introduced in the future. We call on the Commission to acknowledge the wider concern that the introduction of new technology/digitalisation/automation across a wide range of sectors (transport, manufacturing, financial services etc.) may lead to large-scale job losses with relatively few new jobs being created to take their place. The EESC asserts that the benefits of new technology/digitalisation/automation must be shared by society as a whole, and not simply be used to benefit private businesses in the reduction of their labour costs. It is also important to notice, however, that even today professional drivers do more than simply steer a vehicle and in future, when the need for pure driving is reduced (with level 5), the tasks of professionals in the transport business can be further extended, which might largely compensate for the reduction of pure driving tasks.

5.10. The EESC fully recognises that the introduction of semi-automatic (levels 1-4) and fully automatic (level 5) systems to lorries and buses will have impacts on jobs and conditions of work. We therefore urge the social partners to jointly plan future developments and eventually to negotiate new collective bargaining agreements on the introduction of new technology/digitalisation/automation in road transport. It is to be welcomed that some trade unions (e.g. UNITE in the UK) have already developed model collective bargaining agreements to protect jobs, ensure retraining and up-skilling and ensure that any cost savings are fairly shared with the workforce.

5.11. The product liability directive should be reformed so that it covers both movable products and services as well as products with embedded software, so that consumers do not have to search to find out who is liable (see also opinion INT/857). Moreover, in a more complex digital environment the burden of proof in case of product failures is also a matter of concern and should be regulated in a consumer-friendly way.

5.12. The EESC welcomes the fact that EU data protection rules are increasingly recognised at international level as setting out some of the highest standards of data protection in the world and welcomes the approach of the Commission in giving priority to regulating the protection of vehicles against cyber-attacks, ensuring secure and trustworthy communication between vehicles and infrastructure and providing a sound data protection level in compliance with the General Data Protection Regulation.

5.13. With increased connectivity, vehicle data can be accessed from every corner of the world. This possibility opens the door to plenty of untapped potential. However, this also brings significant risks and challenges regarding safety, security and privacy. Vehicles require much higher standards in safety, security, and privacy compared with smartphones, for example. The EU is urged to develop such standards and to negotiate corresponding worldwide agreements on these standards.

5.14. The access to vehicle data is highly relevant for the competition in after-sales care, in particular for independent repair and maintenance providers, with possible consequences for consumer choice and costs. The EESC encourages the EC to implement the rules for data usage as soon as possible, in particular in view of the fact that EU automotive industries (for example the detailed 'Nevada' concept developed by the EU automotive industries (*source* VDA)) have already provided detailed proposals for a fair platform for data exchange with third parties in a secure and discrimination-free manner, as well as taking into account customers' privacy rights.

5.15. The Commission should take into account the fact that the infrastructure needed for the operation of connected and autonomous cars differs tremendously among Member States. Also the market surveillance authorities in all Member States should have sufficient resources to be able to cope with the new technologies.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the labelling of tyres with respect to fuel efficiency and other essential parameters and repealing Regulation (EC) No 1222/2009’

(COM(2018) 296 *final* — 2018/0148 (COD))

(2019/C 62/44)

Rapporteur: **András EDELÉNYI**

Referrals	European Parliament, 11.6.2018 Council, 14.6.2018
Legal basis	Articles 194(2), 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	4.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	215/1/2

1. Conclusions and recommendations

1.1. The EESC welcomes this new **review**, by the European legislator, of the overall performance and quality, as well as labelling, of tyres used in the EU, in keeping with its own recommendations. Tyres, as the only point of contact between a vehicle and the road, make a substantial contribution to the **safety** of transport in general and in terms of **fuel consumption**.

1.1.1. The EESC agrees that **improving the labelling** of tyres will give **consumers** more information on fuel efficiency, safety and noise, allowing them to obtain relevant and **comparable information** when purchasing new tyres, and to make informed decisions.

1.1.2. A further important aspect is the fact that good labelling enables **consumers to make choices** based on a more realistic balance between deciding factors, i.e. performance data, brand image and pricing. This also assists informed buyers in making **profitable and environment-friendly** purchasing decisions that simultaneously benefit the environment and save money — a not insignificant factor.

1.1.3. The EESC acknowledges that the proposal for a regulation will help improve the **effectiveness** of the tyre **labelling** scheme so as to ensure cleaner, safer and quieter vehicles and to maximise the scheme's contribution to the **modernisation and decarbonisation** of the transport sector.

1.1.4. Developing, producing and re-treading high-quality tyres can indirectly make a considerable contribution to safeguarding high added-value **European manufacturing** and, consequently, **high-quality employment**. With regard to society as a whole, this could lower the **total costs for end-users** and expenditure, both in financial terms and with regard to health and accident prevention.

1.1.5. The EESC backs the review of the tyre labelling scheme, as it feeds into the EU's efforts to **reduce greenhouse gas emissions and air pollution** and thereby to improve road transport safety, health protection and **economic and environmental efficiency**.

1.1.6. The EESC considers that it is essential for tomorrow's **mobility system** to be safe, clean and efficient for all EU citizens. The aim is to make European mobility safer and more accessible, European **industry more competitive**, European **jobs more secure**, and for the Union to be cleaner and better adapted to the imperative of tackling climate change. This will require the **full commitment of the EU, Member States and stakeholders**.

1.2. The EESC welcomes the strengthening of the **requirement to display the label** in situations where consumers do not see the tyre(s) they are considering buying (because the tyres are stocked elsewhere, or with distance or internet selling).

1.2.1. The Committee approves the proposal's plan to include tyres in the **product registration database** recently established under Regulation (EU) 2017/1369 in order to improve market surveillance and information for consumers.

1.2.2. The EESC agrees that suppliers should be required to enter information in the new product database. This is information that they currently have to provide to national market surveillance authorities on request. The ensuing additional burden is therefore considered minimal and **proportionate** to the benefits, particularly since it is possible in this regard to link with **existing databases**, and prevent consumers from being inundated with information.

1.2.3. The deadline for **implementing** the regulation should be **extended by one year** to allow for detailed preparation. Regarding the reference date, account should be taken of the **date of manufacture** indicated on the product rather than the date of placing on the market, which entails a risk of overlap or double entry.

1.2.4. The proposal for **compulsory inclusion** on the label of performance on **snow and the brand new ice logo (design to be introduced by ISO by December 2018)** is a positive initiative, and especially relevant for countries in northern Europe. A sure testing method for grip on ice is yet to be developed and finally adopted; a gradual introduction is therefore justified.

1.2.5. The EESC welcomes the increase in the number and importance of **safety-related aspects** among the parameters appearing on the label. However, this does not appear to be compatible with the proposed change to the **format of the label**, in particular its internal proportions and overall dimensions.

1.2.6. Arrangements for the **regular re-examination of the regulation**, facilitated by research, impact analysis and consultation, operate smoothly and, due to the considerable complexity of the subject, should continue to apply in the future, before any substantial technical amendment. The Commission's delegated powers between re-examinations are justified for minor, logical amendments on the grounds of technical progress.

1.2.7. The **existing classes of parameter** are appropriate for at least one additional re-examination cycle, given that an amendment to the scale is not justified in the light of the top classes which are currently practically empty.

1.2.8. It is up to the **Member States to encourage** manufacturers to secure stable and high-quality results in terms of emissions and technical **development**, but these must be kept within class C and above on the basis of standard principles.

1.2.9. The inclusion of **mileage and abrasion** information on the label, or among the technical data, could be encouraged in the future. However, until there is a standardised and **adequate testing method available**, we cannot afford to undermine the credibility of labelling by introducing uncertain and insufficiently grounded information.

1.2.10. The future introduction of labelling for **re-treaded C3** tyres is to be welcomed. Here again, relevant and **reliable testing methods** will need to be finalised in advance. **SMEs** carrying out re-treading must be protected from any excessive cost arising from testing methods.

1.2.11. If all the rules are to be successful, it is vital to provide appropriate **information** and ensure that consumers and users have the necessary **knowledge** and are **well prepared** by means of training, information, campaigns, purchase advice and the broad involvement of **civil society**.

2. Introduction: background and key points of the proposal

2.1. The proposal for a regulation under examination repeals and replaces **Regulation (EC) No 1222/2009**⁽¹⁾ on the labelling of tyres with respect to fuel efficiency and other essential parameters (the Tyre Labelling Regulation, **TLR**).

⁽¹⁾ OJ L 342, 22.12.2009, p. 46.

2.1.1. The TLR was amended twice in 2011 before it entered into force in 2012. First, to include a new testing method for **wet grip**, and subsequently to add a stricter laboratory alignment procedure for the measurement of **rolling resistance**. The proposal currently presented by the Commission incorporates these two amendments.

2.2. In 2009, the EU adopted **two sets of rules** relating to tyres, to reflect new requirements and professional advice:

- the **TLR**, which set out Union requirements **harmonising the information** on tyre parameters to be provided to end-users to enable purchasers to make an informed choice; and
- the Regulation ⁽²⁾ on **type-approval requirements** for the general safety of motor vehicles (**GSR**), which put in place harmonised technical requirements that tyres must satisfy before they can be placed on the Union market.

2.2.1. The GSR puts in place minimum requirements, inter alia, for tyres as regards: **(i) rolling resistance; (ii) wet grip performance; and (iii) external rolling noise of tyres**.

2.3. These requirements became applicable from 1 November 2012, with a second stage of more stringent requirements for rolling resistance starting to apply on 1 November 2016 (with further adjustments coming into application in 2018 and 2020).

2.3.1. The **general energy labelling framework** was updated in 2017 with the adoption of Regulation (EU) 2017/1369 ⁽³⁾. This repealed and replaced Directive 2010/30/EU and introduced a number of new elements, such as a product registration database and new rules on visual advertising and on distance and internet sales.

2.4. The Council referred the first proposal to the **EESC** on 17 December 2008, and the section responsible adopted its opinion on 12 March 2009 (**TEN/369**, rapporteur: Virgilio Ranocchiaro). The EESC then adopted its opinion on 25 March 2009 during its 452nd plenary session.

2.5. The European Commission commissioned a detailed study and impact assessment [SWD(2018) 189 final] in order to assess the effectiveness of Regulation (EC) No 1222/2009. Their conclusions have served as the basis for presenting its proposal for an amendment. It adds two parameters to the GSR, i.e. the possibility of indicating: **iv. snow performance**; and **v. ice performance**. The correlation between the parameters measured and the areas concerned is set out in the following table:

Area	Parameter				
	Rolling resistance	Wet grip	Noise	Snow	Ice
Environment	X		X		
Energy	X				
Safety		X		X	X

3. General comments

3.1. Transport accounts for more than 30 % of energy consumption in the EU. Road transport in particular is responsible for about 22 % of the EU's total greenhouse gas (GHG) emissions. The aim of the 2016 communication on A *European Strategy for Low-Emission Mobility* is to reduce, by 2050, GHG emissions from transport by at least 60 % compared to 1990. The **third mobility package** seeks to reduce emissions from cars and lorries, improve the safety of road

⁽²⁾ OJ L 200, 31.7.2009, p. 1.

⁽³⁾ OJ L 198, 28.7.2017, p. 1.

transport and reduce pollution. It also contributes to reducing the EU's **dependence on energy imports**. Vehicle tyres affect fuel consumption (and thus GHG emissions), noise and safety.

3.2. Stocktaking of the current Tyre Labelling Regulation has shown that **it is not sufficient to fully achieve the aim** of increasing the environmental efficiency of road transport by promoting fuel-efficient and safe tyres with low noise levels. This is **principally due to**:

- a) the low visibility, and low public awareness, of tyre labelling;
- b) compliance problems and inadequate enforcement of the rules by Member States;
- c) uncertain performance classes and inaccurate and incomplete information.

3.3. EU **regulatory** action **ensures**:

- a) the same, harmonised information for end-users in whichever Member State they purchase their tyres;
- b) reduced costs for suppliers, who are able to market their tyres throughout the EU with only one label.

3.4. These advantages primarily **benefit consumers, increase safety** and strengthen the competitiveness of the EU tyre industry. They facilitate the **trade of tyres** within the internal market, also benefiting consumers in terms of lower overall costs and a wider range of products. For action at EU level to be effective, the **market surveillance effort** must be consistent across the EU to support the internal market. Manufacturers should be **incentivised** to invest resources in designing, making and selling energy-efficient tyres.

3.5. The open public consultation revealed a consensus on the need to improve **awareness of the label** through awareness campaigns, mandatory online labelling and the labelling of tyres sold originally with new cars. To improve **consumer confidence**, respondents agreed on increasing market surveillance and creating a better platform for the authorities to enforce and coordinate activities.

3.6. The increase in the number and importance of **safety-related** parameters among the items appearing on the label is to be welcomed. However, this does not appear to be compatible with the relative reduction of the area given over to showing these parameters, leading to an amendment to the **appearance of the label**. Neither is it clear why the **label dimensions** must be changed.

3.7. The in-depth impact assessment showed that **confidence in labelling systems** was a sensitive and important issue, meaning that regulation bears a heavy responsibility, since **a small number of precise and reliable information parameters** must be selected and communicated. This is a costly task for national market surveillance bodies as they must **protect** not only **consumers**, but also honest manufacturers, so that the latter are not put at a competitive disadvantage compared to businesses that are less reliable — or not reliable at all — and therefore carry lower costs and charge lower prices.

3.8. A combination of all the elements mentioned above can establish an appropriate **framework to support research, development and innovation** and properly guide the objectives and key resources allocated to them.

4. Specific comments

4.1. In order to introduce new requirements and bring the annexes into line with technical progress, the European Commission will have to **consult experts**, using delegated powers. However, amendment of the regulation **using delegated powers must be restricted to measures arising from technological progress, and must not concern substantial changes such as new provisions on mileage, abrasion or re-treaded tyres**, for which regular re-examination is proposed. This enables better law-making⁽⁴⁾. In this regard, **strong representation of civil society professional organisations** must be ensured. These organisations — unlike other institutions, which have only isolated, cyclical and/or indirect data — receive direct, permanently updated information through the user community (individual consumers and vehicle fleet managers).

⁽⁴⁾ OJ L 123, 12.5.2016, p. 1.

4.2. On the basis of the research report drawn up with a view to the re-examination of the regulation and market research data, the EESC considers that it is **too early to change the parameter classes**: in practice, where rolling resistance and wet grip classes are concerned, fewer than 1 % of products on the market obtain an A, and so this category is practically empty. In accordance with Regulation (EU) 2017/1369, an amendment to the scale is only justified if 30 % of products have reached the highest class. Moreover, a scale with six or seven steps, the top two of which are unused, provides little motivation. From the technical point of view, account should also be taken of the fact that tests carried out on a single series of tyres may sometimes give rise to a difference of two classes.

4.3. The EESC endorses the future aim of introducing parameters concerning **mileage and abrasion** — provided that clear and meaningful data are available. In this connection, however, it points out that no adequate and suitable testing method (other than practical testing) has been found over the last century. These test parameters should reflect and characterise sustainable, changing and long-term use. Efficient and reasonably-priced laboratory modelling of all these parameters necessarily comprises an accelerated overload test, which will certainly not be representative of the **diversity of real requirements** and **different natural behaviours** under these conditions. These tests, carried out under variable conditions, lead to different classifications and rankings of products with regard to mileage and abrasion.

4.3.1. It may be concluded from this that it would be dangerous, and fatal for **label credibility**, for consumers to observe performances in practice differing from the information given on the label. No such problem arises for the other parameters, since it is isolated, one-off behaviours that are modelled and demonstrated. Including the two above-mentioned parameters on labels would be highly risky and is not recommended at present.

4.3.2. The identification of several negative environmental impacts **demonstrates the importance of reducing wear**: firstly, the presence of **plastic particles in water**, even if the proportion of rubber in it is relatively low, and secondly, the presence in the air, albeit at extremely low concentrations, of **benzopyrene**, most likely as a result of energy recovery, which is in turn largely responsible for the formation of **smog** and for certain respiratory disorders.

4.4. More broadly, the EESC shares the view that **re-treading C3 tyres** would permit **savings in raw materials and energy** to be made around the world. It should, however, be noted that only the three parameters currently appearing on the label can be applied to re-treaded tyres, and only on a limited basis. In the case of data on life expectancy and abrasion, the division of responsibility for quality between the manufacturer of the tyre carcass and the re-treader is even less clearly defined. Including these parameters on the label is therefore not recommended. In view of their negligible market share, it is unreasonable, from an economic and environmental point of view, to include **re-treaded C1 and C2** tyres within the scope of the TLR. On the other hand, consideration should be given to **voluntary** labelling by manufacturers of re-treaded C1 and C2 tyres, to meet the demand for buyers wanting minimum label performance.

4.4.1. The EESC warns of the exponential increase in the number of entries to the **product database** which will be caused by the inclusion of **re-treaded** tyres, in comparison with new tyres. The combination of tyre re-treader and tyre carcass manufacturer, the number of re-treadings, and the various re-treading techniques are all aspects that generate a new item number. The large number of product tests represents an excessive **financial burden** for manufacturers, the vast majority of whom are **SMEs**, and consumers cannot have a clear view of the **excessively high variety** of products.

4.5. The EESC considers the **deadline for preparing** for the implementation of the regulation in question is **short**, and should be extended by a year. For the products covered by these provisions, it would be far simpler and more manageable to consider the **date of manufacture** rather than the date of placing on the market. The date of manufacture is permanently visible on the tyre, and reduces the risk of being entered twice into the database.

4.6. In addition, the new regulation alone will still not enable consumers to compare the performances and prices of tyres according to fuel consumption. Although information on consumption is often available at sales points or in the instructions for use of the vehicle, most **consumers** still do not have **sufficient knowledge or full information** on this subject.

4.6.1. Since tyre **performances** are, moreover, **linked** but also **contrary** to each other, the information will thus concern the greatest possible **optimisation** of the **choice** between these parameters. This does not, however, enable consumers to make fully informed choices, because they are unaware of the **links between the parameters** provided.

4.6.2. The EESC recommends that national and European professional organisations, **civilian and police bodies** responsible for road and transport safety, and driving schools include knowledge about tyres, together with all the technical parameters and symbols that will be applicable under the regulation, in their **educational, communication and ongoing training** programmes and examinations.

4.6.3. It is also important that **manufacturers** should ensure that their commercial partners, often tyre **dealers**, should properly **inform** buyers about the vehicle sold or the tyres they wish to purchase and, insofar as is possible, offer them **alternative options** backed by advice.

4.6.4. In the EESC's view, the EU should press the **Member States** to develop information and awareness-raising **campaigns**, not only about the regulation, but also about other tyre-related issues such as the use of the right tyres according to season, general use of tyres, etc.

4.7. *Remarks for future consideration*

4.7.1. In the longer term, the Union should consider introducing advisory information concerning the **end-of-life recyclability** of tyres, not on the label but rather in the technical documentation and technical promotional material.

4.7.2. After the next review period of the regulation, it could be worth reconsidering whether additional **differentiation** needs to be applied concerning **snow tyres** (in tests, in the technical documentation and technical promotional material or on the label).

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council setting CO₂ emission performance standards for new heavy-duty vehicles’

(COM(2018) 284 final — 2018/0143 (COD))

and on ‘Proposal for a Decision of the European Parliament and of the Council amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length in case of cabs delivering improved aerodynamic performance, energy efficiency and safety performance’

(COM(2018) 275 final — 2018/0130 (COD))

(2019/C 62/45)

Rapporteur: **Stefan BACK**

Referral	European Parliament, 11.6.2018 and 5.7.2018 Council, 8.6.2016 and 5.7.2018
Legal basis	Article 91(1), Article 192(1), Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	4.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	216/2/3

1. Conclusions and recommendations

1.1. The EESC welcomes the Proposal for a Decision of the European Parliament and of the Council amending Council Directive 96/53/EC (‘The Decision proposal’) and notes that it only means the earlier implementation of substantive amendments to Directive 96/51/EC, already agreed. The EESC underscores the need to consider the drivers’ working environment when adopting implementing rules and urges the Commission to consult with appropriate stakeholders in this context.

1.2. The EESC also welcomes the Proposal for a Regulation of the European Parliament and of the Council setting CO₂ emission performance standards for new heavy-duty vehicles ⁽¹⁾ (the ‘Regulation proposal’) as a balanced approach to addressing the need to reduce CO₂ emissions from HDVs as a contribution to the implementation of the undertakings made under the Paris Agreement and taking into account the specific provisions made by the October 2014 European Council regarding the transport sector.

1.3. The EESC also welcomes the objective of the Regulation proposal of promoting innovation and the competitiveness of the EU automotive industry in low-emission HDVs in the face of competition in this sector from China, Japan and the United States of America.

1.4. Still, the EESC regrets the complexity of the proposal which makes it difficult to access. The EESC also regrets that a common terminology and common criteria are not used for what the Regulation proposal calls zero and low emission vehicles, as different designations are used in other proposals in the mobility package. Common terminology and, where possible, common criteria, would have made the texts clearer.

⁽¹⁾ COM(2018) 284 final — 2018/0143 (COD).

1.5. The choice of a technology-neutral approach is necessary, in the opinion of the EESC, bearing in mind the dynamic developments in the field of alternative energy sources and also in view of the need to avoid national solutions that would create an obstacle to the smooth operation of the internal market.

1.6. The 15 % reduction level regarding average specific CO₂ emissions 2020-2025 is challenging but still in line with the reduction level adopted by the October 2014 European Council as what could reasonably be demanded from the transport sector.

1.7. The EESC also welcomes the flexibility provided by the proposed debit/credit system.

1.8. The EESC underlines the importance of foreseeability regarding both the automotive and the transport industries, considering the time and investment required to develop new products and the need for foreseeability regarding the legal framework when making investments in new equipment. For that reason, the EESC would also wish to see more precise targets for the CO₂ trajectory after 2030.

1.9. The EESC draws attention to the fact that innovation often means changed working conditions and a need for training to adapt to new requirements. This calls for efforts to make transformation possible in a socially sustainable way and to facilitate a dialogue between social partners.

1.10. The EESC also underlines the importance of testing the actual CO₂ performance of vehicles in real driving conditions, bearing in mind for instance the additional effects on CO₂ emission levels of digitalisation and more efficient driving techniques, bringing improved efficiency, better capacity utilisation and reduced costs per unit transported.

1.11. The EESC therefore takes the view that the Regulation proposal would also contribute to the improved competitiveness of the European transport industry.

1.12. The EESC notes a problem of clarity regarding the status under the Regulation proposal of 'vocational vehicles', as further developed under point 5.1. In the opinion of the EESC, the effects of the specific status of vocational vehicles should be better explained, possibly by an addition to recital 17.

1.13. The revenues from the penalties to be paid in case of non-compliance with the targets set by the Regulation proposal should, in the opinion of the EESC, be earmarked for financing the development of innovation and sustainable transport solutions to reduce the CO₂ footprint of HDVs.

1.14. The EESC finally remarks that the term 'excess emission premium' used in Article 8 to designate what is in fact a sanction does not appear appropriate and should be changed for instance to 'excess emission penalty'.

2. Background

2.1. Under the Paris Agreement, the EU has committed to reduce greenhouse gas (GHG) emissions to forestall negative effects of climate change. The EU undertaking was made on the basis of the conclusions of the European Council of October 2014 which committed to a reduction of at least 40 % by 2030, albeit with a less ambitious target — a reduction of 30 % — for the non-emission trading sectors, particularly transport ⁽²⁾.

2.2. The European Strategy for Low-Emission Mobility ⁽³⁾ (the Low-Emission Mobility Strategy) sets a target of at least a 60 % reduction of GHG emissions by 2050 compared to 1990 levels and sets the objective of having low-emission vehicles account for a significant market share by 2030.

2.3. One of the main objectives of the 'Europe on the Move' initiative (the Mobility Package) is to deliver on the Low-Emission Mobility Strategy and the renewed EU Industrial Policy Strategy ⁽⁴⁾. The Mobility Package was delivered in three instalments: on 31 May and 8 November 2017 and on 17 May 2018. The overarching communications accompanying the three parts of the package have highlighted the importance of delivering on this strategy and a number of proposals in this direction have been made, including the proposal for a Regulation on the monitoring and reporting of CO₂ emissions from

⁽²⁾ European Council Conclusions, 24 October 2014.

⁽³⁾ COM(2016) 501 final.

⁽⁴⁾ COM(2017) 479 final.

and fuel consumption of new heavy-duty vehicles ⁽⁵⁾ and the proposal for a Regulation setting emission performance standards for new passenger cars and for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles and amending Regulation (EC) No 715/2007 ⁽⁶⁾. It should be underscored that the objective of these measures is not only environmental, but also a matter of maintaining competitiveness in relation to countries such as China, Japan and the United States, where environmental standards for HDVs are already in place.

2.4. The two proposals dealt with in this opinion are part of the third instalment in the package and concern emission performance standards for new heavy-duty vehicles, and shortening the time it takes for special rules on the dimensions of cabs delivering improved aerodynamic performance to be enacted in national law.

3. The proposals

3.1. *Proposal for a Decision of the European Parliament and of the Council amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum lengths in case of cabs delivering improved aerodynamic performance, energy efficiency and safety performance* ⁽⁷⁾ (the 'Decision proposal')

3.1.1. The special rules mentioned above aim to enable the use of cabs with improved aerodynamics, which would improve energy performance and reduce GHG emissions. Directive 96/53/EC as it now stands includes a three-year moratorium for the introduction of aerodynamic cabs after the end of the transposition period. This is now proposed to be reduced to four months from the entry into force of the Decision, to make it possible to use aerodynamic cabs without unnecessary delay. Implementation requires modification of rules on type approval.

3.1.2. The Decision proposal does not modify the substantive provisions of Directive 96/53/EC.

3.2. *Proposal for a Regulation of the European Parliament and of the Council setting CO₂ emission performance standards for new heavy-duty vehicles* ⁽⁸⁾ (the 'Regulation proposal')

3.2.1. The Regulation proposal sets targets for CO₂ emissions reductions from the HDVs covered by the Regulation proposal as follows: by 15 % for the period 2025-2029; and, for the period from 1 January 2030 onwards, by at least 30 %, the latter subject to a review to be undertaken in 2022. The reference emissions are based on 2019 data established through the monitoring foreseen in the proposal for a Regulation on the monitoring and reporting of CO₂ emissions from and fuel consumption of new heavy-duty vehicles (reference year emissions) ⁽⁹⁾.

3.2.2. The Regulation proposal covers lorries with a laden weight above 16 tonnes, tractors, and also — with regard to the incentives under the special provisions that apply to zero- or low-emission vehicles — coaches, buses and lorries that otherwise fall outside the Regulation proposal. Vocational vehicles and HDVs not intended for the delivery of goods are, in principle, not covered by the CO₂ reduction targets under the Regulation proposal.

3.2.3. Starting in 2020, average specific emissions of each manufacturer as from 2019 shall be calculated for each preceding calendar year according to implementing acts, and based on information collected under the proposed monitoring regulation (see point 3.2.1 above) and on the zero- or low-emission factor to be established.

3.2.4. For zero- and low-emission vehicles, a zero- and low-emission factor shall be determined by the Commission from 2020 for each manufacturer as of 2019. Each zero- or low-emission vehicle shall be counted as two vehicles. The zero- and low-emission factor shall reduce the average specific emissions by a maximum of 3 % or, with respect to buses, coaches and lorries normally not falling under the regulation, by a maximum of 1,5 %.

⁽⁵⁾ COM(2017) 279 final — 2017/0111 COD.

⁽⁶⁾ COM(2017) 676 final — 2017/0293 (COD).

⁽⁷⁾ COM(2018) 275 final — 2018/0130 (COD).

⁽⁸⁾ COM(2018) 284 final — 2018/0143 (COD).

⁽⁹⁾ COM(2017) 279 final — 2017/0111 (COD).

3.2.5. Starting from 2026, manufacturers' specific emission targets for the following year shall be defined by the Commission by means of implementing acts on the basis of data for the preceding year. They shall be based on the targets set out in the regulation, the reference year emissions (2019), the manufacturers' share of vehicles in each category, and the annual mileage and payload of each category.

3.2.6. Credits and debts may be acquired. These are calculated on the basis of the difference between a reduction trajectory) — to be set for each manufacturer based on the reference year emissions and the 2025 and 2030 targets — and the average specific emissions of a manufacturer; a positive difference produces a credit. Meanwhile, a negative difference between the average specific emissions and the specific emission target of a manufacturer gives rise to an emission debt.

3.2.7. Emission credits may be acquired over the period 2019-2029, but credits for the period 2019-2024 may only be used against the specific emission target for 2025. Debts for the period 2025-2029 may not exceed 5 % of the manufacturer's specific emission target for 2025 multiplied by the manufacturer's number of HDVs in that year ('emission debt limit'). Debts and credits may be carried over during the period 2025-2028, but must be fully cleared in 2029.

3.2.8. Excess emissions by year or for the period 2025-2029 will result in the Commission imposing an excess emission premium calculated on the basis of EUR 6 800 /gCO₂/tkm. Excess premiums shall be considered as revenue for the general budget of the Union.

3.2.9. The Regulation proposal also contains provisions on monitoring the conformity of vehicles and the publication of data and manufacturer performance.

4. General comments

4.1. *The Decision proposal*

4.1.1. The EESC supports the initiative to enable earlier implementation of the provisions on the use of a cab design that should improve energy efficiency and hence reduce emissions as well as improving the competitiveness of the EU automotive industry. The EESC underscores that the proposal does not entail any substantive changes to Directive 96/53/EC, but only adjusts the implementation timetable.

4.1.2. The EESC notes that new regulations are required prior to implementation of aerodynamic cabs that exceed current restrictions on weight/dimensions of the vehicle. As required under Article 9 of Directive (EU) 2015/719/EC, these new regulations will cover four areas:

- aerodynamic performance
- safety of vulnerable road users e.g. visibility, elimination of blind spots etc.
- the reduction in damage or injury to drivers and other road users in the event of a collision
- the safety and comfort of drivers, e.g. internal dimensions of the cabin.

4.1.3. The EESC urges the Commission to consult with relevant stakeholders, e.g. trade unions representing drivers, road haulage operators etc., before finalising these proposals.

4.1.4. The EESC assumes that the amended type approval rules required will ensure a working environment for drivers that is at least equal to current standards.

4.2. *The Regulation proposal*

4.2.1. The EESC welcomes the Commission's proposal, which appears to strike a reasonable balance between the aims of reducing GHG emissions in relation to mobility, encouraging innovation in the EU automotive industry, and improving its competitiveness. It is a follow-up to the proposal on the monitoring and reporting of CO₂ emissions from HDVs, mentioned in point 2.3 above and welcomed by the EESC.

4.2.2. The EESC takes note that the Regulation proposal is a very complex piece of legislation. The EESC regrets that it seems to have been impossible to draft a clearer and more easily accessible text. In this context the EESC also regrets that the terminology for the designation low — or zero — emission vehicles varies so much in the three proposals relating to vehicle CO₂ emissions that are part of the mobility package. For instance, Article 4 and Table 2 in Annex of the proposal

with amendments to Directive 2009/33/EC on the promotion of clean and energy efficient vehicles ⁽¹⁰⁾ and Article 3 of the proposal for a recast of Regulation (EC) No 715/2007 on the CO₂ standards of cars and vans ⁽¹¹⁾ each define low — or zero emission in a different way. A third terminology is used in the Regulation proposal. It is regrettable that a coherent common terminology has not been used.

4.2.3. As well as the environmental objectives of the proposal, the EESC also particularly welcomes the competitiveness aspect, bearing in mind that CO₂ standards and monitoring systems for HDVs are in place in, for instance, China, Japan and the United States. It is therefore important that the EU automotive industry is encouraged to achieve similar standards, in order to be able to compete efficiently in these and other markets.

4.2.4. The EESC appreciates the technology-neutral approach of the Regulation proposal, as this should create the conditions for a broad approach to developing zero- or low-emission powertrains, including further development of the combustion engine.

4.2.5. The EESC draws attention to the importance of developing alternative powertrains for HDVs, also bearing mind the commercial context in which those vehicles are generally used. In this context, the EESC also draws attention to the wide spectrum of currently available solutions and the dynamic evolution in this field, which means that the picture is constantly changing. The EESC therefore underlines the importance, particularly with respect to HDVs, of avoiding diverging national solutions that hamper the functioning of the internal market by impeding cross-border mobility.

4.2.6. The EESC takes note of the 15 % target for CO₂ emission reduction during the period 2020-2025 and takes the view that this must be considered to be a challenging objective, bearing in mind that this kind of obligation is new for HDVs, which are also a type of vehicle that is new to the kind of requirements set out in the Regulation proposal.

4.2.7. Nevertheless, the EESC is satisfied that the target set is considerably below the general target for CO₂ reduction set for the EU, which is also in line with the view taken by the October 2014 European Council regarding the demands that could reasonably be made on the transport sector. In this context, the EESC also welcomes the debit/credit system proposed, which provides a flexibility that may be necessary, at least for a certain time.

4.2.8. Foreseeability is important to both the automotive industry and the transport sector. For the former, it is a question of knowing what to expect when developing new models and new technical solutions, both of which are long-term projects. For the latter, it is a question of being able to make well-informed choices, for instance when investing in a new vehicle. For that reason, it is important that more precise targets are defined for the CO₂ trajectory after 2030.

4.2.9. Innovation could also lead to changes in working conditions in the automotive industry, and a need for new competences. This could also follow from a changed working environment and new technologies which could put new demands on, for example, drivers. This social aspect of technological developments must be sufficiently dealt with in order to ensure adequate working conditions and training to acquire new skills. Dialogue between social partners is also necessary to ensure a sustainable transition.

4.2.10. The Regulation proposal deals only with the technical characteristics of the vehicle. The EESC would therefore also draw attention to the digitalisation of transport — including the development of automatic vehicles and of driving routines — which, in addition to improvements made to the CO₂ performance of vehicles, will also reduce HDVs' carbon footprint. Likewise, the potential improved efficiency brought by digitalisation — e.g. thanks to improved journey planning and grouping of cargoes made possible by digital platforms — could have significant effects on actual emission performance.

⁽¹⁰⁾ COM(2017) 653 final — 2017/0291 (COD).

⁽¹¹⁾ COM(2017) 676 final — 2017/0293 (COD).

4.2.11. Improved efficiency and better capacity utilisation will also bring down costs per unit transported and hence improve the competitiveness of the transport industry.

4.2.12. It is therefore important that the VECTO simulation data to be used for monitoring and checking standards is complemented by real-life data. Thus, the EESC welcomes the statement made by the Commission, in the context of the adoption by the European Parliament of the legislative resolution on the Regulation on the monitoring of HDV CO₂ emissions, that it intends to complement current data collection methods with on-road tests, covering the on-road performance of HDVs ⁽¹²⁾.

5. Specific comments — the Regulation proposal

5.1. According to the explanatory memorandum, exemptions from the CO₂ emission standards are provided for vocational vehicles. Specific exemptions are set out in Article 1, second subparagraph (calculation of reference CO₂ emissions), and in Article 4 (average specific emissions of a manufacturer). On the other hand, they are not mentioned in Article 2 (scope) nor in Article 6 (manufacturer specific emission targets). The situation of those vehicles under the Regulation proposal therefore does not seem entirely clear. It appears, however, that vocational vehicles are in fact covered by the CO₂ reduction aims set out in Article 1(a) and (b) and taken into account when establishing the manufacturer-specific emission targets and for the purpose of establishing emission debts under Article 7. In the opinion of the EESC, the effects of the specific status of vocational vehicles should be better explained, possibly by an addition to recital 17.

5.2. The term 'excess emission premium' in Article 8 of the Regulation proposal implies more something that is received rather than a kind of penalty to be paid, which it in fact is. It might be useful, for the sake of clarity, to consider a change, such as 'excess emission penalty', which corresponds more to the reality.

5.3. Article 8 of the Regulation proposal states that the amounts of the excess emission premium shall be considered as revenue for the general budget of the Union. The EESC takes the view that such amounts should be earmarked for the development of sustainable solutions either in the automotive sector or in the transport sector.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹²⁾ European Parliament P8_TA-PROV(2018)0246.

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council establishing the Digital Europe programme for the period 2021-2027'

(COM(2018) 434 final — 2018/0227 (COD))

(2019/C 62/46)

Rapporteur: **Norbert KLUGE**

Co-rapporteur: **Ulrich SAMM**

Consultation	European Parliament referral, 14.6.2018 Council referral, 25.6.2018
Legal basis	Articles 172, 173(3) and 304 of the Treaty on the Functioning of the European Union
Date of Bureau decision	19.6.2018
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	4.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	212/0/2

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the fact that the European Commission has established a Digital Europe programme, which underscores the intention to make Europe a leading player in digitalisation and to increase its economic strength and competitiveness on the world stage. The aim of the Digital Europe programme is to enable a digital single market and to shape the digital transformation in a positive way for all citizens of Europe. This programme has the potential to have a successful impact, but only if the as yet unknown details are arranged correctly.

1.2. Researchers are among the drivers of social and economic development, Skills and capabilities are the prerequisite for a high level of research and for the practical implementation of the programme. They are thus among the key factors in the programme's success. The EESC notes that the programme therefore places great value on the promotion of research and development.

1.3. In order to ensure that the results of research and development are disseminated and benefit all European Union (EU) citizens, the EESC would like to step up dialogue between researchers, the social partners and civil society organisations. Complex issues must be presented in such a way that they can be understood and followed by non-experts. The EESC also suggests that the programme should be linked with the principles of research funding under Horizon 2020 (Horizon Europe), which are based, inter alia, on the European Charter for Researchers and the principles of 'responsible research and innovation' and 'open science'.

1.4. The EESC takes a positive view of the fact that support for digital skills has been made a key element in the programme. Digital knowledge and skills are the prerequisite for being able to achieve the other four priorities. It is regrettable that the budget for this priority is lower than that for the others. The EESC therefore supports the European Parliament's proposal that the budget should be increased from EUR 700 million (7,6 % of the total budget) to EUR 830 million (9 % of the total budget). It also stresses, however, that it is primarily the Member States, and their national budgets, that are responsible for education issues. The EESC notes that the budgets for digital training differ greatly between the EU Member States. It therefore calls upon the Commission to remind the Member States of their own large responsibility in this field to ensure that all people can benefit equally from digitalisation.

1.5. The EESC sees the need to train and recruit highly qualified young people in order to improve the attractiveness of Europe as a place of employment for this group in the global marketplace. At the same time, the EESC also emphasises that the programme must not focus solely on specific efforts to gain high-level and advanced digital skills and capacities. There should be comprehensive support for businesses, workers and consumers for the introduction and use of both basic and advanced digital technologies, as this is of decisive importance for the quantity and quality of jobs in Europe, and for its competitiveness. The EESC notes that there are still many companies, workers and citizens who lack basic technical equipment and skills. In this connection, the EESC would refer to the European Council conclusions of 19 October 2017, which state that investment in digital skills should aim 'to empower and enable all Europeans' ⁽¹⁾.

1.6. The Digital Europe programme will be successful in this field if it 'takes the lead' and maintains contact with other EU support programmes with similar objectives. Funds from the ESF+, for instance, must be included in the financing of key measures.

1.7. The EESC hopes that the social partners and civil society will be involved as a matter of course in the implementation of the digital innovation hubs. They should be given access to the digital innovation hubs. As non-governmental organisations, they can make the impact of the innovation hubs more visible and enhance their acceptance.

The EESC would, right from the outset, like to avoid a possible social imbalance in the implementation of the programme. As digitalisation affects all people and all areas of life, it is of the utmost importance that everyone in the EU can benefit from it. The EESC therefore considers it important to design the programme such that the advantages and opportunities of digital Europe can be seized by all parts of European society. Digitalisation in Europe must be made inclusive. People must not be excluded from digital progress on account of factors like gender, social status, education level, skills, digital capabilities, origin, age or disability. The resultant 'digital dividend' must be distributed fairly, by means of appropriate policy measures. It must not only benefit a small number of stakeholders. Measures to implement the programme must take account of the principle in the EU that individuals are the owners of their data and will remain so.

1.8. The EESC would like the programme to be more closely tied to social realities. The effects on labour market policy and variations in the impact of digitalisation on the regions need to be taken into account. It therefore feels that an essential criterion for the success of the programme will be for digitalisation to lead to economic participation and jobs across all the regions of Europe.

1.9. The EESC would like the EU to be viewed as an actor on the global stage that communicates knowledge and can keep pace with China and the US in the international marketplace. This also includes businesses and workers trusting the technology. The Digital Europe programme can create added value particularly in areas where individual countries cannot achieve much on their own. This applies in particular to the objective of cybersecurity, involving the joint development of methods and strategies to combat cyber attacks originating outside of Europe. This includes, for instance, establishing an independent European microchip industry.

1.10. The EESC supports ethical principles being observed in any and all activity under the programme. In this context, the EESC would like to reiterate its demand that the 'human in command' principle be enforced, especially in the further development and application of AI in the workplace. Based on such ethical principles, further statutory measures (e.g. regarding liability issues, data protection, worker protection and consumer protection) are essential. In the final analysis, the further digitalisation of our society will only be successful if appropriate cultural developments to sensitise people to benefits and risks are promoted alongside legislation.

2. Background — the Digital Europe programme

2.1. On 2 May 2018, the Commission adopted a proposal for the next Multiannual Financial Framework for 2021-2027. As part of this framework, on 6 June 2018 the Commission published a Regulation establishing the Digital Europe programme for the period 2021-2027.

⁽¹⁾ EUCO 14/17 — European Council meeting (19 October 2017) — Conclusions.

2.2. The Commission's aim with the Digital Europe programme is to give the Digital Single Market strategy a sound financial framework and to bridge the investment gap, for which purpose it has set aside a total budget of EUR 9,2 billion. The general objective of the programme is to support the digitalisation of industry. The aim is to increase the gains from the digital transformation, to the benefit of all European citizens, public administrations and businesses in the EU.

2.3. The Digital Europe programme covers five specific objectives: (1) high performance computing; (2) artificial intelligence; (3) cybersecurity and trust; (4) advanced digital skills; and (5) ensuring widespread use of digital technologies throughout the economy and society. It also deals with the digitalisation of industry.

2.4. The 'high performance computing' objective involves using supercomputers to create capacities to improve the ability to process the ever-increasing quantities of data. With a budget of EUR 2,7 billion, the programme is intended to increase the EU's capacities in high performance computing and data processing and make full use of those capacities in tackling climate change and improving health care and security.

2.5. The Commission wants to use the EUR 2,5 billion budgeted for artificial intelligence (AI) to build up and strengthen the EU's capacities in this area. This will include enabling the development and storage of, and secure access to, large datasets and algorithms. Existing AI testing and experimentation facilities in the Member States will also be reinforced, and cooperation between institutions will be promoted. The technological progress achieved will be used by businesses and public institutions.

2.6. The EUR 2 billion allocated to 'cybersecurity and trust' will be used to ensure that the EU has the technological and industrial capacities it needs to secure its economy, society and democracy. These investments will be used, *inter alia*, to co-invest with the Member States in advanced cybersecurity equipment and tools, to ensure the deployment of the latest cybersecurity solutions in all sectors of the economy, to make the best possible use of existing European knowledge, and to reinforce capabilities in this area in the Member States and the private sector.

2.7. In order to capitalise on investment in digital technology, we need an empowered society and workforce. The Commission is allocating EUR 700 million to the fourth specific objective of promoting advanced digital skills, particularly in high performance computing, artificial intelligence, distributed ledgers (e.g. blockchain) and cybersecurity. The aim is to design and deliver long-term training and courses for students, IT professionals and the workforce, and also to support short-term training and courses, and on-the-job training. This training will primarily be delivered through digital innovation hubs.

2.8. Public administration and the provision of services in areas of public interest will be supported under the fifth specific objective. The EUR 1,3 billion budget will be used to ensure that the public sector and areas such as health and care, education, transport and the cultural and creative sectors can deploy and access state-of-the-art digital technologies. In addition, public administrations and industry — especially small and medium-sized enterprises (SMEs) — will be helped to introduce digital technologies.

3. General comments

3.1. Digitalisation and the changes to our working and living environments entailed by technological progress are omnipresent. There are barely any spheres of life that are not already affected.

3.2. The EESC welcomes the Commission's presentation of the Digital Europe programme, as it shows how much importance the Commission attaches to the subject. The priorities set may bring clear EU added value by promoting modern, cutting-edge technology that may help to tackle the most challenging issues of our time and have a positive impact on employment, competitiveness and the general living conditions of all citizens. This is confirmed by the fact that, in the communication on the multiannual financial framework, the Commission presents a scenario whereby investment in digital would be doubled ⁽²⁾. The EESC also stresses the need for social investment in connection with the digital transformation, in order to ensure that society as a whole benefits from that transformation. It is highlighted that a person must always retain control of the machine (human in command) — especially in the field of AI.

⁽²⁾ COM(2018) 98 final.

3.3. The EESC is pleased that, with the Digital Europe programme, the Commission is supporting the introduction and optimal use of digital capacities. The EESC agrees with the Commission that digital capacities provide the basis for innovation in areas of general interest and in the economy. To achieve a positive digital transition in the EU, it is indispensable to have access to leading digital technologies and the right skills. The EESC considers the proposed budget to be substantial, but not comparable with that of the competition from the US and China. It is nevertheless convinced that the stated objectives can be achieved with this budget while warning that there will also need to be a substantial increase in investment in the EU Member States to maintain a world-class level in Europe.

3.4. The EESC considers it important that everything should be done to ensure that the whole of European society can participate in technological development. The aim of the Digital Europe programme should be to ensure that the digital dividend gained in various areas over the coming years and decades is distributed fairly among the entire population of Europe, such as the ownership of data. As digitalisation affects all people and all areas of life, it is of the utmost importance that everyone can benefit from it. The full economic and social benefits of digitalisation will only be delivered if Europe can provide high-capacity networks in urban and rural areas and across all of society. This will require public investment since, on its own, the market will not cover all remote areas and guarantee minimum digital access for the vulnerable members of our society.

3.5. For the EESC, it is important that a focused and coordinated approach in the EU can provide added value that the individual countries could not achieve on their own. This includes, in particular, establishing an independent European microchip industry via the support programme for high performance computing ⁽³⁾, jointly developing methods and strategies to combat external cyber attacks ⁽⁴⁾, setting standards for the digital single market, consistently applying the European General Data Protection Regulation, and further developing it in particular for applications relating to AI ⁽⁵⁾ and self-driving vehicles ⁽⁶⁾. The application of European values (data protection, privacy, social protection, sustainability) in the development of AI could one day be a competitive advantage, when people become increasingly aware of third-party data usage methods (USA) and the surveillance potential of AI systems (China).

3.6. The EESC welcomes the fact that the Digital Europe programme repeatedly puts the spotlight on the digitalisation of industry. There is no doubt that the digital transformation can only succeed if all businesses and their workers can benefit from it. It would therefore be a good idea to integrate this aspect more consistently into the programme so that the progress made can be identified, for example by means of indicators of digitalisation among businesses of various sizes.

3.7. In order to boost technical and digital capacities, a large proportion of the budget will go to research projects and innovation programmes. The EESC emphasises the need for the support to be closely linked with the principles of research funding under Horizon 2020 (Horizon Europe), which are based, inter alia, on the European Charter for Researchers ⁽⁷⁾ and the principles of 'responsible research and innovation' ⁽⁸⁾ and 'open science' ⁽⁹⁾. Compliance with these principles is the only way of ensuring that the research is undertaken in the interests of humanity. The research results should be made comprehensible to non-experts, disseminated and utilised. In short, the research should be relevant to society.

3.8. In order to ensure that the research is relevant to all of European society, dialogue sessions should be held on a regular basis, in which researchers can exchange views and inspiration both with each other and with society at large.

⁽³⁾ OJ C 283, 10.8.2018, p. 89.

⁽⁴⁾ OJ C 227, 28.6.2018, p. 86.

⁽⁵⁾ OJ C 288, 31.8.2017, p. 1, INT/851 on Artificial Intelligence for Europe (OJ C 440, 6.12.2018, p. 51), and TEN/664 on the Initiative addressing online platform challenges as regards the spreading of disinformation (OJ C 440, 6.12.2018, p. 183)

⁽⁶⁾ TEN/673 on Connected and automated mobility (see page 274 of this Official Journal), and INT/846 on Trust, privacy and consumer security in the Internet of Things (IoT) (OJ C 440, 6.12.2018, p. 8).

⁽⁷⁾ <https://euraxess.ec.europa.eu/jobs/charter>

⁽⁸⁾ <https://ec.europa.eu/programmes/horizon2020/en/h2020-section/science-and-society>

⁽⁹⁾ <https://ec.europa.eu/research/openscience/>

3.9. In this regard, it is good to see that one of the programme's aims is to allow public administrations and businesses to participate in development. The EESC is in favour of exchanges between the various stakeholders, and encourages the Commission to undertake such exchanges across all regions, sectors and business sizes. The take-up of advanced technologies by businesses, and especially SMEs, can be facilitated by partnerships and a good environment for industry. The EESC also hopes that the partnership principle will be followed and that the social partners and civil society organisations will be involved in the implementation of the Digital Europe programme. The social dialogue between the social partners supports the implementation of the Digital Europe programme for the workers.

3.10. The EESC sees a need to train and recruit highly qualified young people in order to improve the attractiveness of Europe as a place of employment for this group in the global marketplace. At the same time, the EESC emphasises that the Digital Europe programme must not focus solely on highly qualified workers with advanced digital skills. Precisely because the programme aims to enable the digital single market and to shape the digital transition in a positive way, it is important for all citizens, and all workers, in the EU to be able to benefit from this robust funding programme. If this cannot be achieved, there is a risk that the social divide in Europe may widen further. As the EESC has pointed out in other opinions, the highest priority for achieving the digital single market is to close the skills gap, including with regard to digital skills ⁽¹⁰⁾. The European Commission refers in its programme to support programmes such as ESF+ and the ERDF as ways of transmitting basic digital skills. However, the way these programmes are structured means that they cannot provide comprehensive support across Europe, and the Digital Europe programme should therefore also cover different skills levels. Should the necessary funds in this programme not suffice to guarantee that all people will benefit from digitalisation, these demands must be made of the other programmes, like ESF+. The Digital Europe programme should take the lead on this topic and maintain contact with the other programmes so that the objectives can be achieved. Otherwise, the various EU support programmes might end up being of benefit to only a minority of people.

3.11. In this connection, the EESC also highlights the objective of pursuing an inclusive society that fosters equality for all. People must not face any disadvantage in the digital transformation on account of factors like gender, social status, education, skills, digital capabilities, origin, age or disability.

4. Specific comments

4.1. The EESC supports the Commission's aim of facilitating access to digital capacities and technologies for businesses, especially SMEs. However, the programme's focus on advanced technologies overlooks the fact that, even now, many workers and businesses still need support with the basics of digitalisation. The EESC emphasises that providing businesses with comprehensive support for the introduction of both basic and advanced digital technology is of decisive importance for competitiveness and employment in Europe. The EESC encourages the social dialogue between the social partners to be held in relation to investments from the programme as well.

4.2. The EESC welcomes the specific focus on cybersecurity and trust in the programme. Cybersecurity is equally relevant for both the development and the functioning of our democracies. The trust of businesses and workers in cybersecurity is critical for the success of the programme.

4.3. The programme should be tied as closely as possible to social realities. The effects on labour market policy and the variations in the impact of digitalisation on the regions should be taken into account. The EESC therefore considers it important, when implementing the programme, to identify the opportunities that digitalisation creates for economic participation and jobs. It is also of the utmost importance to nurture these opportunities in the regions of Europe. The planned coordination with the European Regional Development Fund (ERDF) and the Cohesion Fund is a good way of achieving this. There should be regular exchanges between the Digital Europe programme, the ERDF and the Cohesion Fund. In addition, the innovation hubs set up on the ground in the regions should work towards the goal of regional development.

4.4. The fourth objective ('advanced digital skills') and the digitalisation of industry are intended to be implemented in particular via innovation hubs, which will serve as access points to the latest digital capacities. The EESC is pleased to see how well thought out the implementation of the programme is. It endorses the objective of establishing at least one digital innovation hub in each Member State and of giving additional hubs to Member States in the outermost regions of the EU.

⁽¹⁰⁾ OJ C 71, 24.2.2016, p. 65.

The EESC supports collaboration between the innovation hubs, but has concerns regarding the heavy administrative burden associated with the development of the innovation hubs. Cross-border consortia could be of assistance in this connection. In addition, the involvement of social partners and civil society should be a precondition for the digital innovation hubs: such involvement can ensure that the work done by the hubs is tailored to the needs of local businesses, workers and other users of the technologies, and made available to broad swathes of the population.

4.5. The specific objective of promoting advanced digital skills will be a key element in achieving the other four objectives, and it is therefore regrettable that it has a lower budget than the others. The EESC supports the European Parliament's proposal that the budget should be increased from EUR 700 million (7,6 % of the total budget) to EUR 830 million (9 % of the total budget) ⁽¹¹⁾. The EESC also stresses, however, that it is primarily the Member States, and their national budgets, that are responsible for education issues. However, the EESC doubts whether the Commission will be able to use all necessary means to sensitise the Member States to the urgency of digital education for all population groups from primary education upwards. Budgets for this task vary greatly between Member States. To ensure that no one is excluded from the training programmes on account of inadequate national budgets, the EU should closely monitor implementation of this objective and communicate its conclusions publicly.

4.6. The EESC agrees with the European Parliament ⁽¹²⁾ that all actions undertaken under the programme should comply with ethical principles. Particularly for work on artificial intelligence, the existing and future principles ⁽¹³⁾ need to be followed. In this context, the EESC would like to reiterate its call regarding the 'human in command' principle, which is intended to act as a key guideline for future developments. Based on such ethical principles, further statutory measures (e.g. regarding liability issues, data protection and consumer protection) are essential. In the final analysis, the further digitalisation of our society will only be successful if an appropriate cultural development to sensitise people to benefits and risks is promoted alongside legislation.

4.7. The EESC would like the specific objective on artificial intelligence to focus, in addition to strengthening capacities and making them accessible, on the issue of legal liability in the use of AI and automated systems. It is positive to see that databases will also be made freely available to SMEs. The public sector should also be granted access. In addition, businesses need to be prepared for this work, and there needs to be clear legal guidance on who is liable in the events of accidents and such like. The protection of workers and citizens should have the same weight as the generation of economic growth.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹¹⁾ Draft opinion 2018/0227 (COD).

⁽¹²⁾ Draft report 2018/0227 (COD).

⁽¹³⁾ <https://ec.europa.eu/digital-single-market/en/high-level-expert-group-artificial-intelligence>

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 391/2009 with regards to the withdrawal of the United Kingdom from the Union’

(COM(2018) 567 final — 2018/0298 (COD))

(2019/C 62/47)

Rapporteur-general: **Séamus BOLAND**

Referral	European Parliament, 10.9.2018 Council of the European Union, 10.9.2018
Legal basis	Article 100(2) of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Bureau decision	18.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	122/0/0

1. Conclusions and recommendations

1.1. The EESC agrees with the Commission proposal to amend Regulation (EC) No 391/2009 on ship inspections and certification, which is necessary as a result of the United Kingdom's withdrawal from the European Union (EU).

1.2. The EESC believes that the changes proposed will create an environment of opportunity and recommends that the Commission foster closer cooperation between all of the relevant European, national institutions, and the recognised organisations, with which Member States have signed authorisation agreements.

1.3. The EESC welcomes the fact that this proposal brings legal certainty to an industry upon which there is a huge dependency in relation to the smooth transporting of goods in conditions that are proven to be of the highest safety standards. It therefore recommends that the proposal be urgently adopted.

1.4. The EESC welcomes the Commission's intention to report on its effects after an adequate period of application and recommends that sufficient action is taken, in particular where consequences were not foreseen by the scope of the regulation change.

2. General comments

2.1. On 23 June 2016, following a referendum on the subject of EU membership, the United Kingdom of Great Britain and Northern Ireland voted to leave. This decision includes the Island of Gibraltar.

2.2. On 29 March 2017, the United Kingdom (UK) submitted notification of its intention to withdraw from the Union. This means that all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019 ('the withdrawal date'). The United Kingdom will then become a third country.

2.3. Depending on the contents of the withdrawal agreement currently under negotiation, it is clear that EU law on maritime transport will no longer apply to the United Kingdom of Britain and Northern Ireland (including Gibraltar). In Union law, the recognition at Union level of organisations providing inspection services and survey of ships, whose flag emanates from one of the Member States, can only continue subject to agreement on the proposal.

2.4. Article 8(1) of Regulation (EC) No 391/2009 ('the Regulation') requires that the 'recognised organisations' responsible for ship inspection and survey to be assessed every two years by the Commission and with the Member State who seeks recognition of the organisation. However, following the United Kingdom's withdrawal, it can no longer participate in assessments carried out as per Article 8(1) of the Regulation for those organisations for which the UK acts as a sponsor Member State.

2.5. Because there is the expected loss of EU recognition of 'organisations' who are sponsored by the UK, it is logical to assume that there will be negative consequences for the competitiveness and appeal of the EU-27 Member States' flags that have authorised these recognised organisations to act on their behalf for the purposes of carrying out statutory ship inspections, surveys and certification. Many of the organisations affected have authorisation agreements with the remaining 27 Member States, which would become void following the UK withdrawal.

2.6. Therefore, the Commission proposal seeks to increase legal certainty, secure business continuity for the affected shipowners and maintain the competitiveness of EU-27 Member States' flags.

2.7. When the UK withdraws as a member of the Union, it will cease participation in all work under Article 8(1) of Regulation (EC) No 391/2009. However, organisations subject to the agreement of the proposal will be able to continue their work.

3. Gist of Commission proposal

3.1. The Commission proposal seeks to restore legal certainty in the regulation of maritime affairs, which will be disrupted as a result of the UK's withdrawal from the Union.

3.2. In effect, by removing the need for a sponsoring state, the proposal, will allow organisations to work alongside the Commission together with Member States that have authorisation agreements with them to continue the certification and ship inspections.

3.3. It would seek to provide recognition for 'organisations' who previously acted under the United Kingdom in its role as a sponsoring Member State on behalf of the Commission. The purpose would be to ensure the continuance of existing arrangements between these organisations and the remaining EU-27 Member States. These include the completion of surveys and ship inspections, ensuring uninterrupted safety.

3.4. To achieve this, the proposal would amend Article 8(1) of the Regulation. This would change the requirement where only the sponsoring Member State participates in the process of regular assessment on behalf of the Commission. In effect, it would mean that assessments could be carried out by recognised organisations working on behalf of the Commission.

3.5. It is designed to ensure continuity of business and the competitiveness of the flags of the 27 Member States who will work with the affected organisations.

3.6. The regulation limits its remit to the resolution of 'Adverse consequences' caused as a result of the UK's withdrawal from the Union.

4. EESC observations

4.1. The EESC notes that the regulations governing maritime, particularly shipping, have evolved in a manner that ensures that all trade and business is in harmony across the EU including the UK.

4.2. The EESC agrees with the main thrust of the proposal, that it is necessary to protect the EU flags and ensure that there is no legal uncertainty in place following Brexit.

4.3. The EESC notes that the three main entities currently involved are: EMSA (European Maritime Safety Agency), ABS (American Bureau Shipping), and Lloyds.

4.4. The EESC notes that without this proposal Member States would not be able to continue working with the recognised organisations for their flagged fleet. Instead, they would have to out-flag their ships to a non-EU flag. Such actions would have serious consequences, in terms of current contracts with the organisations and for the ongoing continuity of the industry.

4.5. The EESC believes that the shipping industry is central to world trade and movement of goods. Equally, it is important that the regulation systems ensure the utmost safety for all concerned.

4.6. The EESC points out that any failure to adopt the proposal could interrupt the worldwide transport of goods and seriously endanger the economy of the EU. Therefore, it is essential that it is adopted immediately.

4.7. The EESC notes the Commission's observation that consequences, currently not identified, will be reported on following a certain period of application.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1316/2013 with regard to the withdrawal of the United Kingdom from the Union’

(COM(2018) 568 *final* — 2018/0299 (COD))

(2019/C 62/48)

Rapporteur-general: **Stefan BACK**

Referrals	European Parliament, 10.9.2018 Council, 11.9.2018
Legal basis	Articles 172 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Bureau decision	18.9.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	118/1/0

1. Conclusions and recommendations

1.1. The EESC welcomes the Proposal as a preparedness measure that meets the need to ensure a cohesive TEN-T network and adapt the North Sea-Mediterranean Core Network Corridor to a scenario where the UK is not part of the TEN-T.

1.2. The EESC recommends that the Commission take note of Ireland’s situation following the withdrawal of the UK and seriously consider the potential negative effects on the EU/Irish economy as a consequence. In this context, it is recommended that extra precautions be taken when designing realignments.

1.3. The EESC takes the view that one or more direct links between the continental EU and the Republic of Ireland are needed to preserve the cohesion of the North Sea-Mediterranean Core Network Corridor and ensure transport operations between Ireland and the continental EU without border controls.

1.4. The EESC is of the opinion that when the UK is not part of the TEN-T and when, due to border controls, transport through the UK is likely to become slower, the itineraries of traffic flows to and from Ireland will probably change.

1.5. The EESC notes that the corridor configuration now proposed by the Commission was questioned during the consultation procedure preceding the proposal, and this for various reasons, including the suitability of the choice of ports and the need to also reconsider the alignment of the Atlantic Core Network Corridor.

1.6. The EESC recalls that the objective of the TEN-T is to ensure cohesion, efficiency and sustainability in transport; the core network is the strategically most important element for that purpose.

1.7. The EESC therefore questions the configuration of the proposed new corridor leg as it may not correspond to future traffic flows and thus may fall short of the objective of TEN-T Core Network Corridors to facilitate the most important long-distance traffic flows.

1.8. The EESC also notes that some of the ports that could come to the fore under the new circumstances are not core ports and therefore do not fulfil a basic criterion for becoming part of a core network corridor, and that a review of the TEN-T Guidelines Regulation is not scheduled until 2023.

1.9. The EESC maintains that it is probably not yet possible to predict with certainty how transport flows would change in a situation where the Proposal would apply.

1.10. The EESC therefore agrees that the configuration of the Proposal is an adequate way to temporarily deal with the situation until changes in traffic flows have appeared.

1.11. Nevertheless, the EESC regrets that no impact analysis was carried out to check the suitability of the proposed configuration, e.g. for perishable goods, and to consider the most efficient and sustainable configuration of an itinerary intended to replace the UK land bridge as a TEN-T link to and from Ireland.

1.12. The EESC therefore recommends that a dedicated review clause be added to the Proposal, stipulating that the Commission should review the adopted Regulation within two years of it becoming applicable. That review should be based on an assessment of the changes in actual transport flows between the Republic of Ireland and the continental EU and serve as a basis for appropriate proposals on the alignment of relevant TEN-T core network corridors.

1.13. Pending such a review, the EESC sees no reason to modify the substantive content of the Proposal, bearing in mind that the situation of none of the existing core ports in the English Channel that are currently part of the North Sea-Mediterranean or the Atlantic Core Network Corridor will change as a consequence of the modification.

1.14. The EESC questions why the Proposal does not propose cancelling existing links with and through the UK. If EU legislation on TEN-T does not apply to the UK, there would be no legal basis for implementing those links. It would therefore seem wise to remove them.

2. The Proposal

2.1. As part of the measures planned to prepare for the withdrawal of the United Kingdom (UK) from the European Union (Brexit), the European Commission has presented a proposal for a Regulation amending Regulation (EU) No 1316/2013 with regard to the withdrawal of the United Kingdom from the Union (the 'Proposal').

2.2. The UK, following its 29 March 2017 notification to leave the EU, is set to do so from 30 March 2019, under Article 50 TEU. Unless otherwise agreed through a ratified withdrawal agreement, EU law will no longer apply to the UK as of 30 March 2019 and the UK will become a non-Member State, not covered by the TEN-T and not part of the TEN-T core network corridors.

2.3. In its communication 'Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019' (COM(2018) 556), the Commission underlined the importance of preparedness for any possible outcome of the ongoing withdrawal negotiations, including failure to reach an agreement.

2.4. The Proposal aims to deal with a situation where the ongoing negotiations between the UK and the EU do not lead to transition arrangements in a withdrawal agreement. In particular, it is intended to preserve a direct link within the North Sea-Mediterranean Core Network Corridor with the Republic of Ireland following the disappearance of the link through the UK as part of this corridor.

2.5. The proposal modifies the alignment of the corridor by adding the following link: 'Baile Átha Cliath/Dublin/Cork — Zeebrugge/Antwerpen/Rotterdam'. The amendment shall apply from the day following that on which Regulation (EU) No 1316/2013 ceases to apply to the UK.

3. General comments

3.1. The EESC welcomes the Proposal as a measure that meets the need to ensure a cohesive TEN-T network and preserve the North Sea-Mediterranean Core Network Corridor, including if the ongoing withdrawal and transition agreement negotiations between the EU and the UK fail to result in an agreement. The Proposal is thus part of the Commission's preparations for a worst-case scenario, where the UK leaves the EU without an agreement.

3.2. The Proposal, when adopted, will apply from the day when the UK leaves the EU and EU law no longer applies to the UK, meaning that the UK is therefore not covered by the TEN-T.

3.3. The EESC notes that one or more direct links between the continental EU and the Irish Republic are needed to preserve the cohesion of the North Sea-Mediterranean Core Network Corridor and ensure transport operations between Ireland and the continental EU without border controls.

3.4. The EESC strongly emphasises the gravity of the situation facing the economy and well-being of Ireland, particularly where changes have foreseen and unforeseen consequences.

3.5. It is therefore of the utmost importance that any new alignment enhances Ireland's connectivity with the continental EU. While a large share of the Irish road freight reaching continental Europe passes through the UK today, maritime links should indeed be added between the Irish core ports of Dublin and Cork and the North Sea-Mediterranean corridor's ports on the continent.

3.6. The EESC notes that the corridor configuration of the Proposal pictures a scenario where the UK is not part of the TEN-T and where, due to border controls, transport through the UK will become slower, and that in this new situation the itineraries of traffic flows to and from Ireland are likely to change.

3.7. The EESC also notes that the corridor alignment now proposed by the Commission has been questioned, both in detail and in broad terms. During the consultation procedure preceding the Proposal, the roadmap, which is largely followed by the Proposal, was questioned by a number of ports on the southern coast of the English Channel and by the association of French ports and regional authorities, which raised the issue of making the ports of Dunkirk, Calais, Le Havre, Roscoff and Brest part of the proposed link of the North Sea-Mediterranean Corridor and of modifying the alignment of the Atlantic Core Network Corridor. Likewise, various Irish interests have questioned the efficiency of a long sea link as a replacement for the 'land bridge' via the UK, as shorter sea routes are available, for instance from Ireland to ports in Brittany. It has been maintained that shorter sea routes will be more suitable, e.g. for perishable goods.

3.8. The objective of the TEN-T is to ensure cohesion, efficiency and sustainability in transport. The core network is the strategically most important element for reaching these objectives, while the core network corridors are intended to facilitate the most important long-distance transport flows in the core network ⁽¹⁾.

3.9. The EESC therefore questions the alignment of the new corridor leg and is of the opinion that changing the alignment of the corridor may not correspond to future traffic flows and may therefore fall short of the objective of the TEN-T to facilitate the most important long-distance traffic flows ⁽²⁾.

3.10. The EESC notes that some of the ports that could come to the fore under the new circumstances, such as Brest or Roscoff, are not core ports and therefore do not fulfil a basic criterion for becoming part of a core network corridor, and that a review of the TEN-T Guidelines Regulation is not scheduled until 2023.

3.11. The EESC also takes the view that it is probably not yet possible to predict with certainty how transport flows would change in a situation where the Proposal would apply.

3.12. The EESC therefore agrees that the configuration of the Proposal is an adequate way to temporarily deal with the situation until changes in traffic flows have appeared.

3.13. Nevertheless, the EESC regrets that no impact analysis was carried out to check the suitability of the proposed configuration, e.g. for perishable goods, and to consider the most efficient and sustainable configuration of an itinerary intended to replace the UK land bridge as the main TEN-T link between the Republic of Ireland and the continental EU, bearing in mind the difficulty in predicting changes in transport flows following the withdrawal of the UK from the EU without a withdrawal agreement.

⁽¹⁾ Regulation (EU) No 1315/2013 of the European Parliament and of the Council (OJ L 348, 20.12.2013, p. 1).

⁽²⁾ Regulation (EU) No 1315/2013, Article 43(1).

3.14. It appears to the EESC that the potential economic, social and environmental consequences of the proposed measure are sufficiently significant to warrant an impact assessment as set out in the Interinstitutional Agreement on Better Law-Making ⁽³⁾.

3.15. The EESC therefore recommends that a dedicated review clause be added to the Proposal, stipulating that the Commission should review the adopted Regulation within two years of it becoming applicable. That review should be based on an assessment of the changes in actual transport flows between the Republic of Ireland and the continental EU and serve as a basis for appropriate proposals on the alignment of relevant TEN-T core network corridors.

3.16. Pending such a review, the EESC sees no reason to modify the Proposal, also bearing in mind that the situation of none of the core ports in the English Channel that are currently part of the corridor will change as a consequence of the modification.

4. Specific comments

4.1. The EESC questions why the Proposal does not propose cancelling links with and through the UK. If EU law on TEN-T does not apply to the UK, those links could not be legally implemented under EU law. It would therefore seem wise to remove them.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

⁽³⁾ OJ L 123, 12.5.2016, p. 1. See also Commission Communication (COM(2016) 615 final) on Better Regulation, and Commission Communication (COM(2017) 651 final) on Completing the Better Regulation Agenda, section 2.3.

Opinion of the European Economic and Social Committee on 'Proposal for a Directive of the European Parliament and of the Council discontinuing seasonal changes of time and repealing Directive 2000/84/EC'

(COM(2018) 639 final — 2018/0332 (COD))

(2019/C 62/49)

Rapporteur-general: **Maria NIKOLOPOULOU**

Referral	European Parliament referral, 13.9.2018 Council referral, 19.9.2018
Legal basis	Article 114, paragraph 1, and Article 304 of the Treaty on the Functioning of the European Union
Bureau decision	18.9.2018
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	109/1/6
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) takes note of the proposal by the European Commission to repeal seasonal changes of time. The Committee indicates a number of important limitations concerning method, time-scales and content. For these reasons it considers it essential to provide more time for debate and analysis. It is crucial to reach a broad consensus among citizens and the unanimous support of all the Member States to ensure effective, harmonised and consensual implementation of the proposal.

1.2. The EESC recognises the interest of some European citizens in repealing the current mechanism which established a harmonised bi-annual change of time, as shown in the recent online-public consultation. The Committee sees well-conducted online public consultation as a tool that can provide indications about public preferences and supplement established democratic processes. It regrets that national governments and organised civil society were not sufficiently consulted prior to the urgent publication of the proposal.

1.3. The Committee considers that the Commission's public consultation raised an important issue for some EU citizens, mainly because this topic has been discussed for several years in some Member States, but not in some other ones. Nevertheless, the Commission did not take into adequate account that a large majority of participants were from a single country, the proposal was rejected in certain Member States, and there is no clear unanimity about the real benefits of abolishing the current harmonised arrangement or whether it would be better to adopt winter or summer time.

1.4. The Committee points out that the urgent procedure adopted by the Commission was criticised in several Member States, with citizens considering that the EU's priorities lie elsewhere (the economic crisis, unemployment, immigration, etc.), which may lead to problems with the initiative's social acceptance.

1.5. According to the proposal for a directive, the principle of subsidiarity would mean that each country is free to keep summer or winter time throughout the year, replacing the current harmonised system which has extensively demonstrated its efficiency. The EESC, as well as the Commission, considers that unanimity between all the Member States on which time to select is essential if the current level of harmonisation is to be ensured. Otherwise, the time difference between countries who are currently in the same hour zone could cause fragmentation and distortion of the internal market.

1.6. The Committee notes that implementing the initiative would entail reprogramming all digital systems and devices on a global level, with an obvious economic cost to businesses and governments and a possible impact on people. The transition towards a new hour system will require a long period of ICT testing in advance to ensure its effective implementation. In the event of a negative result from the impact assessment scheduled for 2024, a rapid reversal would be inconceivable, due to the additional costs and the impact on the credibility of the European institutions. Once again, this shows the need of more time to broaden the studies, data collection, political will and social acceptance by citizens before making such a sensitive change for states, citizens and businesses.

2. Gist of the Commission proposal

2.1. EU legislation on summer-time arrangements was first introduced in 1980 with the objective of unifying existing national summer-time practices and schedules that were diverging, thereby ensuring a harmonised approach to the time switch within the single market.

2.2. Since 2001, EU summer-time arrangements have been governed by Directive 2000/84/EC, setting out the obligation on all Member States to switch to summer-time on the last Sunday of March and to switch back to their standard time ('winter-time') on the last Sunday of October.

2.3. However, based on the principle of subsidiarity, decisions on standard time are taken individually by the Member States for their entire territory or for different parts of it.

2.4. The system of bi-annual clock changes has recently been questioned in several European countries, as shown in the public consultation carried out by the Commission between 4 July and 16 August 2018. There were approximately 4.6 million replies to the public consultation, 84 % of which were in favour of stopping the bi-annual clock changes, against 16 % in favour of keeping it. Those in favour of stopping the clock changes voiced a preference for summer time (60 %). It is important to note that a large majority of participants were from a single country (Germany, with 3.1 million) and that the proposal was rejected in some countries (Greece and Cyprus) or no clear majority emerged (Malta).

2.5. In its resolution of 8 February 2018, the European Parliament backed the idea of a change to the current arrangement, and called on the Commission to present a legislative proposal. The transport ministers recently addressed this question at the June 2018 and December 2017 Council meetings, without achieving clear unanimity. The question has not been debated by other relevant ministers, no previously discussed during meetings between the prime ministers. Neither has the EESC been consulted previously.

2.6. The proposal is to repeal the current mechanism establishing a harmonised bi-annual time change, keeping the same time throughout the year. The time will be set, in keeping with the subsidiarity principle, by each Member State. The Commission hopes that all the countries will, without exception, adopt the same summer and winter time in order to retain the current harmonisation and avoid fragmentation of the internal market. The proposal would enter into force on 1 April 2019.

2.7. The Commission recognises that available research on the energy, health, road safety and agricultural benefits linked to time changes are not always conclusive. What has been demonstrated is that an absence of time harmonisation can have an impact on the single market, air, maritime and road transport, and on people travelling for leisure or work ⁽¹⁾.

3. General comments

3.1. The EESC finds interesting the European Commission's proposal to remove seasonal changes of time, as laid down in Directive 2000/84/EC, but points to a series of important limitations concerning methods, timescales and content. The Committee considers it vital to give more time for debate and analysis, in order to reach a genuinely broad consensus between citizens and the unanimous support of all the Member States. These factors are crucial if effective and harmonised implementation of the proposal is to be ensured.

3.2. The Committee considers that the method used by the Commission — an online public consultation conducted between July and August 2018 — offers interesting data about the expectations of part of the European population, but it is not the only available tool to evaluate public opinion. In view of the numerous political, economic and social impacts, organised civil society and a larger number of Member States should have been properly involved and consulted before presenting the proposal.

⁽¹⁾ Study conducted on behalf of DG MOVE by ICF International: The application of summer time in Europe, 19 September 2014.

3.3. The Committee notes that the public consultation did not identify real unanimity among all Member States (the proposal was rejected in Greece and Cyprus) and, most importantly, a large majority of participants came from one country only (Germany). This shows that there is real interest in this question in some countries, but not everywhere in the EU. More specifically, the Committee considers that an online public consultation cannot substitute democratic consultation processes at all levels and at every legislative stage (before, during and after).

3.4. The Committee points out that the urgent procedure adopted by the Commission was criticised in some Member States, where citizens consider that the EU should have other urgent priorities (the economic crisis, unemployment, immigration, etc.), highlighting a possible problem in terms of the initiative's social acceptance. Moreover, some national governments do not yet have a clear position neither on repealing the current rules nor on which time to select (summer or winter), and do not view the issue as a priority.

3.5. Regarding the content, the Committee considers the idea of launching a debate on the subject to be interesting, but notes certain limitations in the Commission's current proposal that would justify extending the time for discussion in order to reach a broad consensus among all citizens and unanimity among the Member States:

3.5.1. The right to set the time is a national competence. According to the new proposal for a directive, the principle of subsidiarity means that each country is free to keep summer or winter time throughout the year. The risk is that if there is not unanimous time alignment by all countries, ensuring the same level of harmonised implementation as at present, the costs arising from different times between countries would have a serious impact on the internal market (fragmentation), generating more problems than benefits. The Commission recognises this problem in its impact assessment and the Committee considers necessary to achieve a wider consensus in advance, before the official presentation of the Commission proposal.

3.5.2. The Commission itself points out that the initiative is based on a series of studies carried out by various associations and Member States that are not conclusive or contradict each other. The Committee recommends starting a deeper impact assessment, involving all economic and social sectors, in every EU country in order to be able to understand which system is more adequate.

3.6. The technological adaptation of the systems on a global level has an obvious economic cost for businesses and governments and with a possible impact on people. In addition to this, a long period of ICT testing in advance is necessary in order to ensure its effective implementation.

3.7. Although the Commission introduces a mechanism to evaluate the directive's impact (in 2024), the Committee points out that the cost of changing time is quite high. For this reason, in the event of a negative impact assessment, it is not realistic to imagine a rapid reversal, due to the economic costs and the impact on the credibility of the European institutions.

Brussels, 17 October 2018.

*The President
of the European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards the resources for economic, social and territorial cohesion and correcting that Regulation as regards the resources for the investment for growth and jobs goal’

(COM(2018) 498 *final* — 2018/0265 (COD))

(2019/C 62/50)

Consultation	European Parliament, 5.7.2018 Council of the European Union, 19.7.2018
Legal basis	Articles 177 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	214/0/2
(for/against/abstentions)	

Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 538th plenary session of 17 and 18 October 2018 (meeting of 17 October 2018), by 214 votes with two abstentions, to issue an opinion endorsing the proposed text.

Brussels, 17 October 2018.

*The President
of European Economic and Social Committee*
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Amended proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226, Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of border checks] and Regulation (EU) 2018/XX [the eu-LISA Regulation]’

(COM(2018) 478 *final* — 2017/0351 (COD))

and on ‘Amended proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) and amending Regulation (EU) 2018/XX [the Eurodac Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of law enforcement], Regulation (EU) 2018/XX [the ECRIS-TCN Regulation] and Regulation (EU) 2018/XX [the eu-LISA Regulation]’

(COM(2018) 480 *final* — 2017/0352 (COD))

(2019/C 62/51)

Referral	European Parliament, 10.9.2018
Legal basis	Articles 16(2), 74, 77(2)(a) (b) (d) and (e) of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	196/2/5
(for/against/abstentions)	

Since the Committee endorses the contents of the proposal and has already set out its views on the subject in its earlier opinion SOC/573 — Interoperability package ⁽¹⁾, adopted on 23 May 2018, it decided, at its 538th plenary session of 17 and 18 October 2018 (meeting of 17 October 2018), by 196 votes to two with five abstentions, to issue an opinion endorsing the proposed text and to refer to the position it had taken in the above-mentioned document(s).

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁾ OJ C 283, 10.8.2018, p. 48

Opinion of the European Economic and Social Committee on ‘Proposal for a regulation of the European Parliament and of the Council on the European Fisheries Control Agency (codification)’*(COM(2018) 499 final — 2018/0263 (COD))**(2019/C 62/52)*

Consultation	European Parliament, 5.7.2018 Council of the European Union, 17.7.2018
Legal basis	Article 43(2) of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted at plenary session	17.10.2018
Plenary session No	538
Outcome of vote (for/against/abstentions)	208/0/5

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 538th plenary session held on 17 and 18 October 2018 (meeting of 17 October 2018), by 208 votes to none with five abstentions, to issue an opinion endorsing the proposed text.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Council Decision on the Association of the Overseas Countries and Territories with the European Union including relations between the European on the one hand, and Greenland and the Kingdom of Denmark on the other (“Overseas Association Decision”)

(COM(2018) 461 *final*)

(2019/C 62/53)

Referral	Commission, 12.7.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for External Relations
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	207/0/6
(for/against/abstentions)	

Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 538th plenary session of 17 and 18 October 2018 (meeting of 17 October 2018), by 207 votes to 0 with 6 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

**Opinion of the European Economic and Social Committee on 'Euro area economic policy 2018
(additional opinion)'**

(COM(2017) 770 final)

(2019/C 62/54)

Rapporteur: **Javier DOZ ORRIT**

Committee Bureau decision	22.5.2018
Legal basis	Rule 29(a) of the Implementing Provisions of the Rules of Procedure
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	3.10.2018
Adopted at plenary	17.10.2018
Plenary session No	538
Outcome of vote	132/1/6
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC agrees with the aims of the Council Recommendation and with some of its proposals. However, it expresses its disagreement with the proposal for the aggregate fiscal stance of the euro area to be neutral, as well as with the way that the recommendation on salaries is formulated. It thus reiterates the points it made in its earlier opinion on the Commission's proposal for a Recommendation ⁽¹⁾.

1.2. The economic policy of the euro area should be designed as part of a project to reform the EMU that will overcome the shortcomings in terms of structure and functioning that have plagued it since its inception, and which should aim for greater integration and more democratic governance. The EESC expresses its concern about the paralysis that the reform process is currently experiencing, the lack of commitment on the part of many governments and some governments' hostility, as well as the lack of strong political leadership to overcome these issues.

1.3. The EESC believes that the Council's recommendations should be set out as part of a general economic policy strategy that uses the 2030 Agenda, the SDGs and the implementation of the Paris Agreement on climate change as points of reference. This strategy should prepare European society to embark on fair transitions towards a green and digital economic model.

1.4. The internal reasons for establishing a moderately positive fiscal stance are, in the EESC's view: the end of the ECB's expansionary monetary policy; the fact that the EU suffers from a worrying investment deficit, in particular with regard to public investment, which jeopardises its economic and social future; the fact that this investment deficit contributes, in turn, to very low growth figures for productivity; and the fact that major states in the euro area still have excessive current account surpluses.

1.5. Some of the euro area Member States with higher surpluses do not invest: they are accumulating negative annual rates of net public capital formation. The EESC believes that greater investment spending in these countries is an economic policy necessity, not only for them, but for the euro area and the EU as a whole.

1.6. For the EESC, the appropriate combination of monetary and fiscal policies to strengthen the growth of the euro area, which has been demanded in recent years by the ECB, the IMF and the OECD, is also justified by the foreseeable effects of the trade protectionism and the instability generated by global geopolitical risks.

⁽¹⁾ EESC opinion on the *Recommendation for a Council Recommendation on the economic policy of the euro area* (OJ C 197, 8.6.2018, p. 33).

1.7. Social and political motives must also be included in this call for a greater fiscal effort: the EU and the Member States must make a greater commitment to the fight against poverty and inequality and to increased social cohesion, in particular by providing adequate funding for the implementation of the European Pillar of Social Rights. If the EU and the Member States do not do this, it is the EESC's view that the political crises we are experiencing will intensify and nationalist and anti-European tendencies will grow, endangering the very existence of the EU.

1.8. The recommendation to raise wages, if strictly applied, would only affect a small number of countries. The EESC considers that the effort to limit unit labour costs should not come from reducing or freezing wages, but from an increase in productivity brought about by greater investment, more innovation and better training of workers. In any case, wage levels need to be determined by the social partners through collective bargaining. The European Semester should propose legislative changes that would reinforce this collective bargaining in those states in which it has been weakened as a result of the crisis, and re-introduce it in places where it does not exist in spite of the provisions of Article 28 of the EU Charter of Fundamental Rights. Likewise, additional measures must be taken to raise the lowest wages.

1.9. Creating quality jobs should be an economic policy priority. The EESC believes that reducing the precariousness (low wages and prevalence of temporary contracts) suffered by young people in particular should also be among the European Semester's priority recommendations.

1.10. The creation of favourable environments for business investment and innovation should be promoted, in particular when dealing with the digitalisation of economic activities.

1.11. Facilitating the financing of businesses should be another of the priorities of economic policy. The EESC reiterates that the Banking Union and the Capital Markets Union are very important when it comes to financing economic activity, and expresses its concern about the delays and obstacles that the development of the Banking Union is encountering, including the volume of bad debts in some Member States.

1.12. The EESC believes that the European authorities should commit themselves effectively to the fight against misappropriation of public funds, tax fraud and aggressive tax planning, money laundering, tax havens and unfair tax competition between Member States. This is not only a requirement in terms of political ethics and compliance with laws; it is also a stabilising factor for public finances.

2. Council and Commission positions

2.1. Unlike in 2017, the Council recommendation on the economic policy of the euro area ⁽²⁾ (23 January 2018) does not differ substantially from the Commission proposal (22 November 2017) ⁽³⁾. After agreeing that the overall fiscal stance for 2018 should be broadly neutral, the Council adds that the improving economic conditions should be used to build fiscal buffers.

2.2. In the other recommendations, the Council and the Commission agree that Member States should prioritise reforms that increase productivity and growth potential, improve the business environment, innovation and investment, and help to create quality jobs, reducing inequality. Member States with large current account surpluses should promote wage growth, while those with deficits or high external debt should contain growth in unit labour costs. Finally, there is a call for work to continue to complete the Banking Union. The 2018 country-specific recommendations underline the EU's favourable economic situation, which, according to the Commission, should serve to reinforce the structural improvements achieved over recent years and complete the correction of macroeconomic imbalances in the majority of Member States.

2.3. The specific recommendations concern the European Pillar of Social Rights, higher quality employment and collective bargaining, and social dialogue and salary increases. Also the reform of public administrations, including measures against corruption, and of business environments, as well as improving relations between both spheres and the financing of businesses. While defending the neutral fiscal stance, it recommends reforming the pension and health systems in order to cope with the ageing population.

⁽²⁾ Council recommendation on the economic policy of the euro area.

⁽³⁾ See COM(2017) 770 final.

3. General and specific comments

Economic policy strategy and reform of the EMU

3.1. The EESC reiterates the need for a general economic policy strategy that takes into account international agreements, environmental sustainability objectives, the reduction of energy dependency, the digital revolution, and other global challenges. The EESC appreciates the Commission's initiatives in these areas but, as it stated in its opinion on the *Economic and monetary union package* ⁽⁴⁾, it feels that there is no economic strategy at European level that covers them, nor sufficient resources to finance them.

3.2. The EESC expresses its concern that the reform of the EMU is being diluted by the lack of political leadership, by the delay in adopting resolutions and by the lack of commitment on the part of many governments in the euro area; this increases the risk that the EU may not be ready for the next recession.

3.3. An economic policy that favours sustainable growth must be based as much on promoting a business environment that is favourable to investment and improving productivity as it is on fostering social cohesion, particularly through measures that contribute to the eradication of poverty and the reduction of social inequalities.

3.4. The EESC calls on the Commission to ensure the implementation of the European Pillar of Social Rights and to follow the recommendations of the EESC opinion on Funding the European Pillar of Social Rights ⁽⁵⁾, and regrets that the Council's recommendations and the Commission's 2021-2027 MFF proposal make no reference to this. Likewise, the recommendations of the high level group on investing in social care and support ⁽⁶⁾ should be taken into account.

3.5. The EESC believes that the annual recommendations on the economic policy orientation for the euro area should be set out as part of a general economic policy strategy that uses the 2030 Agenda, the SDGs and compliance with the Paris Agreement on climate change as points of reference. Economic policy must foster the construction of a sustainable European economic model, which reduces energy dependence through the use of clean and renewable energy, and which incorporates the effects of the digital revolution, ensuring fair transitions for workers.

The Council's recommendation: reasons for a moderately positive fiscal stance

3.6. The EESC reiterates the conclusions of its opinion on the *Recommendation for a Council Recommendation on the economic policy of the euro area* ⁽⁷⁾, in which the EESC expressed its agreement with the objectives of the proposed Commission recommendation and with many of its proposals, and also mentioned its disagreement with the broadly neutral fiscal stance recommended for the euro area. The EESC repeats its call for a positive aggregate fiscal stance in the euro area, mainly based on a fiscal expansion of countries with balance of payments surpluses and debt levels that are sustainable in the long term.

3.7. The EESC believes that this approach would help to overcome the negative legacy resulting from the prolonged and excessive consolidation measures that were applied in some Member States. Member States with current account surpluses should implement measures that encourage investment and sustainable social spending, and that support domestic demand and growth potential, thus facilitating rebalancing.

3.8. The EESC recognises there are limitations to a meaningful fiscal policy at the level of the EU because of the limited nature of the economic union that relies mainly on the coordination of economic policies of its constituent states compared with the full monetary union. In particular, the EESC draws attention to the fact that, to date, the Commission and the Council have paid little attention to the asymmetric nature of the European Semester process, which focuses solely on ensuring that remedial action is taken in Member States with deficit balances. The Commission and the Council should propose measures that would prevent both excessive deficits and surpluses.

⁽⁴⁾ OJ C 262, 25.7.2018, p. 28.

⁽⁵⁾ OJ C 262, 25.7.2018, p. 1.

⁽⁶⁾ *Investing in Social Care & Support. A European Imperative*, November 2017.

⁽⁷⁾ OJ C 197, 8.6.2018, p. 33.

The investment gap in the euro area

3.9. Another reason to question the neutral fiscal stance is the investment gap in the euro area. A return to pre-crisis levels has not been achieved. Public investment has decreased from an essentially stable level of 3,2 % of GDP (in 1997-2007, and between 2009 and 2013), to a level of 2,6 % of GDP in 2017 and 2018 ⁽⁸⁾. This gap is one of the most negative factors in the economic situation and represents a serious handicap for the future of Europe's economy and societies. As a result, the EESC reiterates its request ⁽⁹⁾ that the financial 'golden rule' be applied, in other words that investment expenditure should not be counted for the purposes of compliance with the SGP deficit targets, bearing in mind the sustainability of public finances in the long term. The EESC draws attention to the fact that spending money on productive investment may also contribute to this sustainability.

3.10. It is important to underline that this investment gap is also found in Member States that ought to contribute to a more active European fiscal policy. A significant example might be public investment in Germany. The German public investment was 2,1 % ⁽¹⁰⁾ of its GDP between 2013 and 2017, one of the lowest rates in the euro area. Its net rate of public capital formation (taking into account the depreciation of the capital stock) was negative (- 0,08 %) in the same period, as it was in 2003-2007 (- 0,11 %), and was only + 0,06 % in 2008-2012. Meanwhile, the net rate of private capital formation, which was between 6 % and 8 % of GDP in the 1990s, fell from 3,2 % to 2,2 % of GDP between 2008 and 2017. At the same time, Germany financed investments in other countries. Its balance of payments surplus — 8,0 % of GDP in 2017 — is forecast to reach 7,9 % in 2018 and 7,6 % in 2019. The recommendations of the Council and the Commission should send an important signal and help to remedy the low domestic investment level in Germany. Improved credibility in the sustainability of economic policies should promote public and private investments also in other countries experiencing current account surpluses ⁽¹¹⁾.

3.11. The EESC calls on the Commission and the Council, taking into account Article 3 of the Treaty on European Union, to treat the growth of investment rates as a priority aim of the euro area's economic policy guidelines, until they return to pre-crisis levels. This growth should be geared towards a model of sustainable development in its three dimensions: economic, social and environmental.

Economic growth and risk factors

3.12. According to the Commission's summer economic forecast ⁽¹²⁾, growth prospects point to continued growth, with some slowing down: 2,4 % (2017), 2,1 % (2018) and 2,0 % (2019) in the euro area and 2,6 % (2017), 2,3 % (2018) and 2,1 % (2019) in the EU27. In the rest of the world, minus the EU, growth is expected to be 3,9 % in 2017, 4,2 % in 2018 and 4,1 % in 2019. The flexibility in the implementation of the SGP introduced by the Commission in January 2015 ⁽¹³⁾ by means of the 'investment clause' and the 'structural reform clause' has doubtless helped to bring about these positive effects. The recent assessment of the results in the Commission Communication on 'The review of the flexibility under the Stability and Growth Pact' indicates this ⁽¹⁴⁾.

3.13. The expansionary monetary policy is coming to an end. Quantitative easing will end in December when the ECB stops buying assets. As of summer 2019, following the assessment of the medium-term inflation outlook, the reference interest rates may begin to rise. The ECB president, Mario Draghi, has been insisting for several years that fiscal policy, together with appropriate structural reforms, should aid monetary policy in order to strengthen recovery and achieve the inflation targets. As have the IMF, the OECD, and many academic circles. With regard to fiscal policy, this request has not been taken on board by European policy-makers. Now that monetary policy is retreating, a more active fiscal policy in the euro area is all the more necessary.

⁽⁸⁾ European Economic Forecast, spring 2018. Statistical annex, p. 165.

⁽⁹⁾ Made in its opinion on the *Recommendation for a Council Recommendation on the economic policy of the euro area* (OJ C 197, 8.6.2018, p. 33) and previous opinions.

⁽¹⁰⁾ This and all following investment data is taken from: A. Roth and G. Wolff, *Understanding (the lack of) German public investment*, Bruegel Foundation, blog post, 6 June 2018.

⁽¹¹⁾ Such is the case of the Netherlands, Ireland, Malta and Slovenia in the euro area, as well as Denmark outside the euro area.

⁽¹²⁾ European Economic Forecast, summer 2018.

⁽¹³⁾ See the Commission Communication on *Making the best use of the flexibility within the existing rules of the Stability and Growth Pact*, COM(2015) 12 final.

⁽¹⁴⁾ See COM(2018) 335 final.

3.14. There are other economic and social factors, and internal political imbalances, as well as economic risk factors and global geopolitical uncertainties, which should also encourage the use of fiscal policy to strengthen growth and to overcome the consequences of the crisis, which are still being felt in many European countries. What the EESC is proposing helps to better ensure medium-term financial sustainability and to reduce the imbalance of excessive surpluses.

3.15. In order to overcome and counteract the political instability and the centrifugal forces that have been growing within the EU since the crisis and questioning its very existence, there is a need for robust projects to reform the EMU and the EU involving more integration with more democracy and a stronger social dimension; there is also a need to strengthen growth by means of budgetary and fiscal policies, with a model that promotes the reduction of inequality in income distribution. This is possible without calling into question the future sustainability of public finances. A strategy to complete the EMU should also be launched, incorporating all EU Member States that are not constitutionally exempt.

3.16. Outbreaks of global geopolitical instability (some of them in the EU's neighbourhood), and the deterioration in transatlantic relations in relation to trade, the environment and foreign, security and defence policy brought about by the decisions of the current American administration, prompt the EESC to underline the importance of ensuring that the EU has a strong economy that supports its political leadership in the world. A trade war on several fronts, coinciding with a rise in economic and political nationalism, would create a high-risk economic and geopolitical scenario. The EU should try to avoid this and, if necessary, be prepared to deal with it.

3.17. Despite the rise in the price of oil and raw materials, inflation in the euro area is forecast to remain stable at around 1,7 % between 2017 and 2019 (summer forecast), with core inflation (1,1 %) far from the inflation target. In the EESC's view, these are new reasons to argue against withdrawing from expansionary monetary policy while taking a neutral fiscal stance, not to mention a negative one, as the European Fiscal Board is advocating for 2019⁽¹⁵⁾.

Wages, employment and collective bargaining

3.18. In 2017, the average real rise in wages was only 0,2 % over the previous year in the 19 euro area countries. In seven of them, wages fell. The forecast is for 0,9 % in 2018 and 0,3 % in 2019⁽¹⁶⁾. Real unit labour costs in the euro area are forecast to fall in the three years studied: 0,3 %, 0,1 % and 0,6 %. On the other hand, real productivity per occupied person, which rose 0,8 % in 2017, will return to 1 % in both 2018 and 2019⁽¹⁷⁾.

3.19. The unemployment rate in the euro area was 9,1 % in 2017, which was still higher than before the crisis — 8,4 % (2004-2008). The gap between Member States is very large: in 2017, the unemployment rate ranged from 3,8 % in Germany to 21,5 % in Greece. The youth unemployment rate remains very high — above 15 % — with major disparities, and extremely high rates in Greece (43,2 %), Spain (35 %) and Italy (32,5 %). The rate of temporary employment continues to grow: an average of 12,2 %, in 2017, compared to 11,5 % in 2012. Part-time work is also increasing: 19,4 % in 2017, compared to 17,5 % in 2007⁽¹⁸⁾.

3.20. Despite the economic recovery, in many countries there is a discrepancy between previously existing jobs and newer ones, which are more precarious and offer lower wages. This gap is also generational: it particularly affects young people, as well as many workers in the digital economy whose work depends on online platforms. The recommendations made by the Council and the European Semester have revealed their concern about improving the quality of employment. The EESC calls for concrete plans and measures to ensure that this is a priority. The participation of the social partners in the adoption of the necessary measures, by means of social dialogue and collective bargaining, is essential. Likewise, it is essential that measures are taken enabling the lowest wages to be significantly increased. The participation of civil society organisations in improving workers' social and living conditions should also be encouraged.

3.21. The Council's recommendation on the rise in wages, if rigidly applied, would only affect a small number of countries and could lead to additional divergences between them as well as to an increase in inequalities. The EESC considers that the increase in productivity brought about by greater investment, more innovation and better training of

⁽¹⁵⁾ European Fiscal Board, *Assessment of the fiscal stance appropriate for the euro area in 2019*, 18 June 2018.

⁽¹⁶⁾ European Economic Forecast, spring 2018. Statistical annex, p. 172.

⁽¹⁷⁾ Ibid., pp. 172-174, and Eurostat.

⁽¹⁸⁾ Ibid., p. 171, and Eurostat.

workers should improve the competitiveness of the weaker European economies, as opposed to internal devaluations which, moreover, have undesirable social consequences. The increase in wages also contributes to the growth of domestic demand and promotes fiscal balance through increased tax revenues.

3.22. In any case, wage levels need to be determined by the social partners through collective bargaining. Legislation may also contribute to this in certain Member States, at least as far as minimum wages are concerned. The European Semester should encourage Member States to adopt measures that strengthen collective bargaining, based on the autonomy of the social partners as well as on social dialogue, particularly in those Member States where these have been weakened by crisis management policies, or where this right does not currently exist, in spite of the provisions of Article 28 of the EU Charter of Fundamental Rights.

Productivity, business environment and financing of private investment

3.23. The EESC is concerned by the decrease in the EU productivity growth rate over the last few decades. A recent OECD study⁽¹⁹⁾ shows that the average growth rate in output per hour worked in the EU was 0,6 % in 2007-2016 — a steady fall from the 2,2 % it reached in 1990-2000. This was below the average rate for the OECD (0,8 %), and far below non-OECD countries (5,0 %) during the same period. Presenting the study⁽²⁰⁾, the Secretary-General of the OECD, Ángel Gurría, said that productivity growth required more capital investment in RDI and in education and vocational training, in addition to good regulation and governance. The EESC fully agrees with this opinion.

3.24. In the same study, the OECD emphasises that the EU budget is small and has been decreasing in relation to European GNI since 1993⁽²¹⁾. The EESC is very concerned to find that this trend would continue if the post-2020 MFF is adopted as proposed by the Commission, making it more difficult to act to achieve upwards economic and social convergence among European countries. As noted in its opinion on the *Reflection Paper on the Deepening of the Economic and Monetary Union*⁽²²⁾, the fact that an agreement has yet to be reached with regard to completing the EMU along the lines explored in the Future of Europe reflection papers is having a negative impact on this situation.

3.25. The EESC agrees with the Council's recommendation on productivity growth and the role that investment in RDI plays in this regard, as well as the country-specific recommendations that refer to improving public administrations and business environments.

3.26. Business investment needs to be encouraged in order to promote growth. The EESC reiterates the importance of quickly completing the Capital Markets Union and finalising the process to establish the Banking Union. The EESC is concerned about the delays that the Banking Union is experiencing — as a common protection mechanism, using the ESM, has still not been provided for the Single Resolution Fund — and about the obstacles being encountered in the effort to set up a European deposit insurance scheme (EDIS), which go beyond the justified fears that the large number of non-performing loans in some countries can cause⁽²³⁾.

The fight against tax crime and in favour of fair taxation

3.27. It is very difficult to guarantee the sustainability of public finances and to implement strong social and investment policies while the current levels of tax fraud and avoidance, money laundering by tax havens and unfair tax competition between EU states persist. In the IMF's publication *Finance & Development*, an important article⁽²⁴⁾ showed that around 40 % of global FDI — some USD 12 trillion — is 'phantom investment': i.e. it consists of financial investment passing through empty corporate shells with no real activity. The use of intermediaries, or pass-through entities, does not in itself imply tax avoidance, but it certainly implies more opportunities for tax avoidance and even tax evasion. The article also states that 9,8 % of global wealth is in tax havens.

⁽¹⁹⁾ 2018 OECD Economic Surveys of the Euro Area and the EU. Presentation/summary, 19 June 2018, p. 21.

⁽²⁰⁾ Brussels, 19 June 2018, Bruegel Foundation.

⁽²¹⁾ Ibid., OECD, pp. 25-30.

⁽²²⁾ OJ C 81, 2.3.2018, p. 124.

⁽²³⁾ The EESC's position on this can be found in its opinion on the *Non-performing loans package* (OJ C 367, 10.10.2018, p. 43).

⁽²⁴⁾ J. Damgaard, T. Elkjaer and N. Johannesen, *Piercing The Veil: Some \$12 trillion worldwide is just phantom corporate investment*, Finance & Development, 10 June 2018.

3.28. The EESC reiterates the need to urgently implement additional effective measures against misappropriation of public funds, tax evasion, money laundering, tax havens and unfair tax competition, starting with the implementation of the fifth Directive against money laundering and terrorist financing ⁽²⁵⁾ and drawing up a single consistent and reliable list of real tax havens worldwide to which appropriate sanctions are applied.

3.29. Effective measures should also be taken to combat aggressive tax planning practised by multinational companies, particularly in the digital economy. This crucial fight must be able to blend the broad thrust of global measures with other measures that can be applied in the EU. At the same time, appropriate tax harmonisation in the euro area and in the EU needs to be progressively developed.

Brussels, 17 October 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽²⁵⁾ Directive (EU) 2018/843 of the European Parliament and of the Council (OJ L 156, 19.6.2018, p. 43).

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