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## I

(Resolutions, recommendations and opinions)

## RESOLUTIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

## 457TH PLENARY SESSION HELD ON 4 AND 5 NOVEMBER 2009

**Resolution of the European Economic and Social Committee on Climate Change on the occasion of the United Nations Climate Change Conference — Copenhagen, 7-18 December 2009**

(2010/C 128/01)

At the plenary session held on 4-5 November 2009 (meeting of 5 November 2009), the European Economic and Social Committee adopted the following resolution by 156 votes to two, with five abstentions.

The European Economic and Social Committee, as the institutional representative of organised civil society at European Union level, approves the following message to Governments, leaders, negotiators and other parties involved with the climate change negotiations in Copenhagen and with the development and implementation of climate change policies:

'Climate change is already having adverse and possibly irreversible impacts in many parts of the world. These problems can only get worse in the years ahead if greenhouse gases continue to accumulate in the atmosphere at the present rate. The scientific analysis by the IPCC and other authoritative sources shows very clearly that developed countries will have to reduce their greenhouse gas emissions by over 80 % by 2050 if temperature rises are to be kept to safe levels. To put the world on a realistic pathway to achieve such reductions will require a 25-40 % reduction by 2020, and significant efforts by emerging and developing countries.

The forthcoming conference in Copenhagen is critical. A successful outcome could set the world on a path towards reducing

emissions in the years ahead, and stabilising temperature increases at manageable levels. Failure could set the world on an ever more dangerous path towards accelerating temperature increases and the human and ecological disasters that would ensue.

1. At this critical moment the European Economic and Social Committee **calls** on governments, leaders and negotiators to redouble their efforts to reach a universal and binding agreement that will unite all countries and their peoples in a common effort to reduce the level of emissions in the years ahead and to safeguard the world's environment in which we and future generations find our home.

2. The European Union has offered to commit itself to 30 % reductions by 2020 if other countries make comparable efforts. Europe has repeatedly called for comparable levels of commitment by other developed countries, and for significant efforts also to be made by the emerging economies that are fast catching up with or overtaking the developed world as the largest emitters of greenhouse gases. We **urge** that that position be resolutely maintained.

3. We are deeply concerned about the failure of the negotiations so far to make the crucial breakthroughs needed. In whatever way the final stages of the negotiations develop we **urge** the European Union not to be tempted to use a failure to gain sufficient support from others as an excuse to reduce its own ambitions, or to lower its own commitment to whatever might emerge as a lowest common denominator in Copenhagen. That would be bad both for Europe and for the world. Even if there is not yet a universal consensus on the European level of ambition at Copenhagen we **urge** the Union to maintain its own level of commitment and to seek to build a strong coalition of other developed and developing nations who are ready to commit to comparable levels of ambition, and to undertake the necessary measures to achieve this.

4. We should continue to push forward the industrial and social transformations that are required to meet the 30 % reduction goal by 2020 as a central part of transforming the European economy to a new eco-efficient low carbon sustainable model. We need to make an unprecedented research and development effort in the energy sector in order to offer credible technical alternatives to businesses, the public authorities and the general public. The ecological crisis can no longer be dissociated from the social crisis at political level action. This should lead to the design of a new production and consumption model. We should view this transformation not as a burden but as a challenge to create a new wave of technological and social innovation that will be the best guarantee of sustainable jobs, competitive advantage and social well-being in the future. We **urge** that this objective should be placed at the centre of the new 2020 strategy for the European Union

that should integrate the principal objectives of the existing strategies for sustainable development, for sustainable growth and for climate and energy.

5. Other developing countries and particularly the least developed countries are being put in a critical position by the evolution of climate change. While having done the least to cause climate change the poorest developing countries are in many cases among the most severely affected. To achieve success in Copenhagen the developed world needs to come forward with firm pledges of substantial new and additional sources of funding to assist the developing countries with their major problems of adaptation and to help them take their own mitigation measures in due course.

The European Commission has recently tabled significant proposals about the levels of support that Europe should provide to this partnership and how it should be administered. The Committee **urges** the Union to proceed rapidly to the point at which these proposals can be tabled as a firm offer in the negotiations, and can be used as a lever to stimulate comparable offers from other developed countries.

6. The whole of civil society is affected by climate change. Business, trade unions, other civil society organisations will all need to be involved in all the efforts both to mitigate and to adapt to climate change. As representatives of organised civil society we know that there is a growing awareness throughout Europe of the scale of the challenge, and a growing willingness to face up to all the changes that will need to be made to our patterns of production and consumption and the way in which we live. We **urge** our leaders and negotiators to be resolute in guiding us forward on this path. There must be no turning back.'

Brussels, 5 November 2009.

*The president  
of the European Economic and Social Committee*  
Mario SEPI

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## OPINIONS

## 457TH PLENARY SESSION HELD ON 4 AND 5 NOVEMBER 2009

**Opinion of the European Economic and Social Committee on 'the post-2010 Lisbon Strategy'****(exploratory opinion)**

(2010/C 128/02)

Rapporteur-general: **Mr GREIF**

In a letter dated 23 July 2009, Mr Diego Lopez, State Secretary for European Affairs at the Spanish Ministry for Foreign Affairs and Cooperation, requested the European Economic and Social Committee under Article 262 of the Treaty establishing the European Community to draw up an exploratory opinion on

*The post-2010 Lisbon Strategy.*

The Section for Economic and Monetary Union and Economic and Social Cohesion (Lisbon Strategy Observatory) was instructed to prepare the Committee's work on the subject.

Because of the nature of the work, the European Economic and Social Committee, at its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November 2009), appointed Mr Greif as rapporteur-general and adopted the following opinion by 178 votes to 6 with 15 abstentions:

**1. Introduction**

1.1. This opinion will put forward some policy recommendations, which the EESC believes should be given priority when drawing up a new European Strategy for the period after 2010. The profound economic, social and political implications of the current financial market and economic crisis must be taken into consideration here. It is important to identify the key points of policy changes which seem essential in order to 'draw on the crisis' to secure momentum for sustainable growth, jobs and social cohesion and to prevent the current crisis from being repeated.

1.2. This opinion was prepared by the EESC's Lisbon Strategy Observatory with the active participation of national economic and social councils (ESCs). The various contributions made during joint meetings, some of which were of a controversial nature, underscore the political quality of the recommendations in this document, as well as their relevance to civil society.

1.3. The Europe-wide perspective presented in the opinion is supplemented by sections on each country, which were drawn up by national delegations <sup>(1)</sup> on the basis of a catalogue of questions concerning a) an analysis of the current Lisbon cycle (2008-2010), b) the future of the Lisbon Strategy after 2010. The interactive network, which the EESC has developed with national ESCs and other similar partner organisations, is therefore presenting a new <sup>(2)</sup> *Integrated Report*, which should contribute to the political decision-making of the European institutions in connection with the European Council Spring Summit in 2010.

<sup>(1)</sup> There are considerable differences as regards the institutional framework for civil society participation in national policy-shaping. There is an ESC in many Member States. In most 'new' Member States, there are tripartite committees (social partners plus government representatives). Although other countries have no ESC, some of them have alternative ways of taking account of civil society interests. The EESC is keen to gather the contributions of as many of these representative bodies as possible.

<sup>(2)</sup> Cf. CESE 1468/2005 rev 'Implementation of the Lisbon Strategy - a summary report for the European Council', 23 and 24 March 2006; CESE 40/2008 'Renewed Lisbon Strategy 2008-2010: The role of organised civil society', summary report for the European Council, 13-14 March 2008.

## 2. Evaluation of the Lisbon Strategy

### 2.1. Lisbon 2000 – an integrated approach with broad support

2.1.1. In March 2000, the European Council presented an ambitious reform programme for Europe. The aim of the Lisbon Agenda was to make the EU the world's most competitive and dynamic knowledge-based economy by 2010 – an economic zone that is capable of achieving long-term economic growth with more and better jobs and greater social cohesion.

2.1.2. With the addition of the sustainable development dimension (Gothenburg Strategy), a broad strategy was thus developed. In many policy areas quantifiable targets were drawn up, to be implemented in Member States using the open method of coordination (OMC).

2.1.3. The EESC has always regarded this integrated policy approach as the notable advantage of the Lisbon Strategy and warned against a narrow interpretation, calling instead for a balance to be struck between the three pillars.

### 2.2. 2005 Relaunch – internal focus and concentration on national implementation

2.2.1. Several EU countries were able improve their performance in certain areas. Although there had been a general rise in employment, and progress <sup>(3)</sup> had been made in extending broadband, participation in further education, youth education and in other areas, at 'half-time' many countries were still far from achieving the goals that had been set in numerous areas.

2.2.2. It was against this background that the 2005 critical assessment was conducted, which focused on the partnership approach between European and national players. Attention shifted to national implementation measures, coupled with a focus on 'growth and jobs'. This meant that part of the broader list of objectives, for example the social pillar, to some extent took a back seat in favour of increasing employability and a more rigorous economic approach. The approach of giving Member States greater responsibility for determining their country-specific plans and in doing so placing greater emphasis on national reforms, was not accompanied by steps to promote an appropriate economic and social framework at European level.

2.2.3. Despite recent progress <sup>(4)</sup>, many countries have still been failing to meet the requirements set. In many areas, the targets will be achieved by 2010 as an EU average at best, but not in all Member States. This concerns, for example, the 3 % target for research and development, where most Member States and the EU as a whole have made hardly any progress, and also the reduction of

greenhouse gas emissions. As far as the employment targets are concerned, only limited progress has been made, for example, in terms of female employment, since there has been a significant increase in the number of part-time jobs (in some cases not the employee's choice) <sup>(5)</sup>, temporary work, and, at the same time, also of low-paid jobs often without a standardised job contract.

### 2.3. More of the same or does Europe need a new agenda?

2.3.1. As regards the failure to achieve the Lisbon goals, the predominant view is that this was, first and foremost, due to the lack of a more consistent policy by Member States regarding the goals and the OMC's failure to provide adequate incentives for national and Community commitment. Another equally important cause is the lack of a relevant European framework for macroeconomic policy and social policy, which Member States need if they are to implement the correct reforms in a coordinated way, achieve the targets set, and prevent national reforms from competing with each other. Moreover, the EESC has on numerous occasions noted the lack of joint responsibility, which it attributes not least to the failure to properly involve the social partners and civil society.

2.3.2. The EESC is in favour of continuing an integrated and global strategy beyond 2010. However, it is also of the view that neither a 'back to Lisbon 2000' approach or an approach involving 'more of the same with a somewhat stronger environmental focus where appropriate' is the right answer to the current challenges. The priority now must be to adopt long-term approaches which allow competitiveness, R&D and innovation to be combined with the innovative potential of a socially responsible, sustainably developing Europe and the concept of 'good work' <sup>(6)</sup>. Furthermore, the current crisis represents in many respects a clean break and requires new options, such as effective regulation of the financial markets, a radical readjustment in the direction of resource saving and low-CO<sub>2</sub> production and consumption, and investment in innovative public services, in order to provide people with security and to win back trust in the EU.

2.3.3. Current challenges, such as the financial and economic crisis and the resulting social problems, the globalisation of the economy, the need to improve the working of the single market, energy policy and climate change, demographic trends and migration, require a new, comprehensive post-2010 global strategy at European level which a) tackles these challenges; b) corrects shortcomings in implementation; c) is backed up by a sense of shared European responsibility and d) is capable of linking up all EU strategies in a coherent way (the Recovery Strategy, the Lisbon Strategy, sustainable development, climate change). **The EESC proposes that this strategic reorganisation should be made clear, among other things, by giving a different name to the new European strategy.**

<sup>(3)</sup> For the relative successes and shortcomings in fulfilling the Lisbon goals, see the overview in M.J. Rodrigues, Europe, Globalisation and the Lisbon Agenda (2009), p. 16.

<sup>(4)</sup> See footnote and EESC opinion on 'Effective governance of the renewed Lisbon Strategy', OJ C 175, 28.7.2009, p. 13.

<sup>(5)</sup> Cf. [http://www.eurofound.europa.eu/ewco/reports/TN0403TR01/TN0403TR01\\_3.htm](http://www.eurofound.europa.eu/ewco/reports/TN0403TR01/TN0403TR01_3.htm), Part-time work in Europe, Dublin-Foundation, 2004.

<sup>(6)</sup> Cf. the set of indicators on the quality of work adopted by the European Council in Laeken in 2001: COM(2001) 313 final 'Employment and social policies: a framework for investing in quality'.

### 3. Policy recommendations: Think and act along European lines through European projects

**3.1. Establish a European framework for promising reform programmes:** Although Member States have the main responsibility for implementation, there needs to be an appropriate European framework enabling the intended structural reforms to be implemented in a coordinated and consistent way. **An evaluation of national reforms at European level and their impact on economic development, the distribution of wealth and income and social cohesion is urgently needed.** It is also important here to study in detail a number of specific rulings by the ECJ (Vaxholm, Viking, Ruffert and Luxembourg) and possibly to introduce suitable, tangible measures to protect workers, and thus make clear that economic freedoms and competition rules do not in any way call into question basic social rights.

**3.2. Strengthen the focus on growth in EU policy by creating a proper economic policy framework:** The 3 % growth target which underpins and is integral to the strategy has been achieved in two cases only. The financial crisis and the EU economy's inability to withstand the shock demonstrate the need for a new macroeconomic approach. **The EESC believes that a balanced macroeconomic policy that duly combines supply- and demand-side aspects must constitute an integral part of the post-2010 strategy.** The quality of growth to be aimed at is also important. The fundamental goal is growth of well-being. GDP is not by itself an adequate measure of well-being, and a better indicator (or set of indicators) of well-being needs to be used in order to define and calibrate a more satisfactory and coherent growth objective for the new strategy.

**3.2.1. Solution to the financial market crisis and social challenges:** The EU must take a coordinated, decisive and leading role in forthcoming efforts to solve the crisis and, above all, in re-designing the financial system. **A new global financial system (including above all effective regulation of the banking system, as well as hedge funds and private equity businesses) must facilitate the development and provision of sound financial instruments which support the real economy and are also of benefit to citizens.** However, the current crisis is not only the result of difficulties in the financial market. A series of growing macro- and micro-economic imbalances, in particular income disparities also contributed to it, especially in the USA. The way forward to get out of the crisis must be to turn away from growth based to some extent on 'speculative bubbles', and return instead to growth underpinned by investments above all in innovative sectors of the real economy, fair distribution, the creation of high-quality and productive jobs and environmental sustainability.

**3.3. Improve the functioning of the internal market by striking a better balance between the economic, social and environmental dimension.** To achieve this goal a **correct application and possibly also an improvement of the internal market social acquis, better regulation, as well as a successful micro-economic environment and adequate scope for private investment are required. However, precautions also need to be taken to make sure that competition between**

**Member States in the common market is geared towards innovation and is neither counter-productive nor detrimental to social cohesion and environmental sustainability.**

**3.4. Promote social cohesion as a factor in a stable and dynamic economy:** The EESC believes that a well developed social policy, including a comprehensive policy for creating 'quality jobs' which also should set ambitious targets for initial and further education — both of a general and vocational kind —, as well as for lifelong learning, does much to boost growth and productivity. **The path out of the crisis must be supported by the appropriate investments.**

**3.4.1. Moves to tackle growing inequality and poverty across Europe:** A goal has been set that by 2010 there should be a significant reduction in the number of people at risk of poverty and social exclusion. The Commission's 2007 social reality report showed, however, that Europe still faces serious social problems in many countries and regions. **Therefore the post-2010 strategy must be geared towards social progress, the consolidation and sustainability of social protection systems and combating poverty, not least by preventing unequal distribution of wealth.** The European year for combating poverty (2010) is the ideal occasion for creating efficient targets, including timelines, for combating poverty (e.g. minimum income and replacement income systems (7)). An initiative of this kind, which is aimed at preserving social cohesion, would represent an important step towards re-establishing public confidence in European integration.

**3.4.2. Creating an inclusive labour market:** Despite some progress, as an EU average the 2010 employment targets will not be reached. In view of the current crisis, which has reached its peak but has not yet been fully overcome, and has deepened inequalities and threatened the livelihoods of more and more people, this should give cause for concern. **Re-establishing growth as quickly as possible in order to stabilise the labour market will require, according to the European Economic Recovery Plan (8), the consolidation of domestic demand supported by measures to improve structures.** It is important to establish effective concepts for initial and further training, create jobs, not least for those who are excluded from the labour market due to, for example, shortcomings in their education, and to take effective steps to remove discrimination as far as access to and remaining in the labour market are concerned. The various forms of social economy which exist in the Member States in particular can play an exemplary role in tackling the crisis, especially in creating jobs, including in the area of social service activities. **The EESC is of the view that employment and labour productivity must rise in parallel. In this connection, the EU must aim for the introduction of appropriate rules for**

(7) See also European Parliament Resolution PT\_TA(2008)0467, 9.10.2008.

(8) Communication from the Commission to the European Council, 'A European Economic Recovery Plan', COM(2008) 800 final, 16.11.2008.

**non-standardised employment associated with a low level of social protection while involving national and European social partners and taking due account of their autonomy** <sup>(9)</sup>.

3.4.2.1. Social Economy enterprises, which are present in all sectors of activity and combine economic profitability with general interest and social considerations, are a good example of specific forms of entrepreneurship and corporate governance that will contribute to the achievement of the revised Lisbon Strategy goals. The European Economic and Social Committee asks the European Council, the Commission and Member States to consider proposals aimed at implementing the political recommendations <sup>(10)</sup> made by the European Parliament, to make sure that Social Economy enterprises can compete on a level playing field with other enterprises.

3.4.3. **Flexicurity must provide effective security in changing circumstances:** Changing economic conditions require a high degree of innovative adaptability not least in the labour markets. An intelligent response is needed to structures that are changing quickly. It must be ensured within the framework of flexicurity that workers are equipped for the new challenges in the world of work. **The concept of flexicurity must ensure effective security in changing circumstances, with equal priority in practice for labour market security, stable employment and jobs, maintaining employability, social security, and labour market mobility geared towards good, productive jobs ('make transition pay')**. It is therefore also particularly important to make sure that the Community *acquis* in the social field is fully implemented and put into practice and also extended, in order to prevent any unfair competition in the area of employment standards.

3.4.4. **Better coordination of tax policy:** In line with the EU Treaties, greater efforts should be made to achieve EU-wide coordination of Member States' tax policy (including harmonised tax bases and minimum rates), primarily in those areas in which the tax basis is internationally mobile and the risk of tax evasion and tax competition between Member States is greatest. The goal of European coordination must be to safeguard public budgets and to promote fairer tax systems (among other things, by strengthening the tax revenue basis, shutting down tax havens and taking action to combat tax evasion).

3.4.5. **The ECB must comply with its overall economic mandate:** The post-2010 strategy needs to create an appropriate, and at the same time, sustainable balance between the growth and stability goals for future generations. **The ECB must assume its full responsibility under the Treaties and along with its**

**priority task of guaranteeing price stability pay attention also to additional Community goals, including a high level of employment, social protection and sustainable growth.**

3.4.6. **Maintain fiscal policy scope for investment:** Steps must be taken to increase the scope of economic policy by restructuring budgets, making use and taking account of the flexibility mechanisms provided for under the stability and growth pact in place to handle crisis situations so that public investment relevant to Lisbon (including affordable and efficient public services, research, education and innovation) and productive investment by the private sector, not least in low-CO<sub>2</sub> production, can be boosted. In this connection, the idea of a European bond from a European state fund should be developed further <sup>(11)</sup>.

3.5. **Promote industrial policy and entrepreneurship and create appropriate conditions for SMEs:** Economic growth and a climate for investment are essential prerequisites for creating new jobs and retaining existing ones. Major companies contribute to this, but so do SMEs to a large extent. The latter in particular are rooted in the local economy and therefore draw particular benefit from stable and expanding domestic demand. **The EESC has pointed out on a number of occasions that special emphasis should be placed on further developing European industrial policy, not least in the direction of 'green technologies', nanotechnology and ICT, and on boosting socially responsible entrepreneurship, as well as on promoting business start-ups and enabling companies to stay in business.** Cutting excessive red tape and an improved framework for company finance are a matter of priority for the economy and are crucial both for European competitiveness and a favourable climate for productive investment. The legitimate protection interests of employees and consumers should not be put at risk here. As economic output, innovation and employment depend increasingly on SMEs, the development of entrepreneurship among young people should be a priority.

3.6. **Meet the challenge of demographic change and offer solutions to migration issues:** The main starting points for dealing with the challenges of an ageing society are and continue to be growth and employment. This applies equally to the younger and the older generation. **Alongside tackling unemployment and creating more and better jobs, more must also be done — considering also birth rates — to achieve a work/life balance. Successful solutions in the area of migration and integration which promote Europe's potential for growth and at the same time do not put social cohesion at risk represent some of the key challenges of the post-2010 period** <sup>(12)</sup>.

<sup>(9)</sup> Overview of the relevant European social partner agreements: <http://europa.eu/scadplus/leg/de/cha/c10132.htm>.

<sup>(10)</sup> European Parliament resolution of 19 February 2009 on the Social Economy (2008/2250(INI)).

<sup>(11)</sup> Cf. the EESC opinion on the European Economic Recovery Plan, OJ C 182, 4.8.2009, p. 71, point 5.4.

<sup>(12)</sup> In this connection, the establishment of the European integration forum, which brings together the EU institutions, stakeholders and NGOs under the auspices of the EESC, is particularly to be welcomed.



**3.7. The knowledge triangle (education, research, innovation) should be further promoted:** Europe must further strengthen its potential in terms of skilled workers, science, research and technology and thus its capacity to innovate as a key element of competition. In any case, the knowledge triangle must remain at the heart of the post-2010 strategy. In this context the notion of innovation has to be widened to include also 'social innovation' in order to increase social capital which is important both for competitiveness and social cohesion.

**3.7.1.** To lay the foundation for future innovations, science and research – and their application in economic practice – must be high on the agenda. The Bologna goal of creating a higher education area in Europe must be implemented in concrete stages and requires more political will if policy areas are to be coordinated. Insufficient investment in innovation and further education is exacerbating economic problems and affecting labour productivity. Universities and higher education institutions must take responsibility and step up their efforts to develop a European dimension since they play a key role in the education, research and innovation knowledge triangle. For example, multilateral research collaborations should be promoted as part of their cross-border activities. Europe also lacks high-tech companies that invest in research and development. **Businesses must find incentives to further increase investment in research and development and to create productive jobs.**

**3.7.2. Well-educated workers particularly in scientific/technical areas and the capacity to innovate are key elements of competition and a prerequisite for prosperity. This should be accompanied by the creation of productive, highly-skilled and well-paid jobs.** Even during the crisis, efforts must be made to help young graduates enter the jobs market with the appropriate skills and enable them to develop careers which offer good prospects.

**3.8. Managing climate change as a key aspect of the post-2010 strategy requires change in many areas:** Promoting energy efficiency and renewable energy will, in addition to drawing on the environmental sector, be a key element of the post-2010 strategy. **The renewed strategy must include an action plan for a low-carbon economy.** Having put in place a comprehensive legislative framework for energy and climate change, the EU should now concentrate on practical implementation. Effective policy measures should be integrated into the integrated guidelines, country-specific recommendations and national reform programmes.

**3.8.1. The EU must become the most energy and resource-efficient economic area:** Climate policy, which both cuts greenhouse gas emissions and permanently reduces dependency on fossil fuels and imports of energy, must be geared towards sustainability, i.e. economic, environmental and social goals must be given proper consideration. In particular, all possibilities for saving energy must be exhausted and local, renewable and regional structures must be utilised. **Improving energy and resource efficiency will become one of the key elements of a new strategy. A further strategic goal of the EU should therefore be 'as a Community to become the most energy and**

**resource-efficient economic area'. In order to achieve this transition, Europe must assume substantial responsibility for CO<sub>2</sub> reduction. The aim must be to work with the individual sectors concerned to establish specific targets and timeframes.**

**3.8.2. New Green Deal:** The potential of the environment sector as an engine for growth, employment and innovation should be exploited as part of a 'new green deal', leadership in developing innovative green technologies should be sought and costs should be saved, without foregoing prosperity, quality of life, and global competitiveness. The development of research and technology — and its conversion into marketable new products and services, and the creation of jobs that goes with that — will be of key significance in this essential innovation process.

**3.9. Improve the financial basis of the Lisbon Strategy:** In order to deal with future challenges, there also needs to be a new strategic discussion of the future EU budget.

**3.9.1. Reform the EU budget in accordance with Lisbon:** Generally speaking, the budgets of individual policies need to be re-evaluated in line with Lisbon and geared towards research and competitiveness, environment and climate, investment in sustainable energy use; constructive public spending in the business location, active labour market policy, work/family life balance, social cohesion, poverty prevention and creating new, high-quality jobs. **In connection with this, a reform-based discussion on the EU budget relating to Lisbon should also be given consideration in the forthcoming 2014-2020 financial framework** <sup>(13)</sup>. An effective implementation of European targets will also require that the consolidation of the regional dimension is included as a key topic in the discussion on the funding of structural and cohesion policy after 2013.

**3.9.2. Examine alternatives to EU funding:** There are numerous cross-border challenges for which the European dimension of political action must be strengthened. For European projects, alternative funding options and the possibilities of an expanded EU budget should be discussed along with restructuring and savings opportunities. **The EESC proposes in this connection that the possibility of introducing EU-wide finance mechanisms (including in the field of tax) should also be examined.** For example, the introduction of a tax on financial transactions could contain speculation. The possibility of introducing a carbon tax should also be examined.

**3.10. Consolidate the external dimension:** Europe's prosperity is based among other things also on its openness to the world. Given Europe's status as the world's biggest economic power, the largest exporter and importer of goods and services, the second largest source and recipient of foreign direct investment, and the world's biggest donor of development aid, the consolidation of its international agenda in the form of clear, long-term goals is of key importance. **In view of the rise of new global economic powers and the impact of the international economic crisis, it is**

<sup>(13)</sup> Cf. the EESC opinion on the EU budget reform and future financing, OJ C 204, 9.8.2008, p. 113.

more important than ever for the EU to give itself a new, more unified and assertive framework for its external activities, in order to secure an adequate, fair and sustainable opening of markets, raise the normative standards on the basis of the relevant rights involved, foster multilateralism and dialogue with key partners, and create a mutually beneficial area of progress that also includes the Mediterranean region and Africa. If this is achieved, Europe and its social market economy system will continue to act as a role model for the rest of the world. Europe will be able to hold its ground at international level, in particular as regards access to markets and raw materials, while at the same time ensuring that international conditions of competition are fair, that sustainable development is able to take root, and everyone is able to draw on the benefits of globalisation.

#### 4. Recommendations on the Lisbon Strategy goals

**4.1. Maintain targets and increase them in the medium term:** Despite new challenges and the setbacks that are associated with the current crisis, the post-2010 agenda should not overlook current targets. **The EESC proposes that the common targets of the current strategy be maintained but also that further ambitious goals be set which should be implemented by 2015.** For example, the research rate should be increased to 3.5 % (where appropriate, supplemented with a more broadly-based target for investment in innovation) and the goals for more and better jobs, and for initial and further education, should also be further increased.

**4.2. Take into account the starting point for individual EU countries in terms of their national contributions:** Economic capacities vary greatly from one EU Member State to another. **The EESC proposes, as was the case when the quantitative Lisbon targets were originally set, that the situation in individual Member States be taken into account and that the accordingly ambitious national contributions to the strategy guidelines be assessed and discussed within the framework of the EU-27.**

**4.3. Reintroduce qualitative goals:** Furthermore, the future agenda should include those qualitative goals, which in the course of the relaunch of the Lisbon Strategy over the past few years have largely fallen by the wayside (e.g. Laeken indicators to measure the creation of high-quality employment <sup>(14)</sup>).

**4.4. Set new targets wherever there are shortcomings:** In addition, new or specific targets should be set within the framework of the integrated guidelines, especially in areas where there has been limited progress or shortcomings in previous reform policy. **Therefore the EESC proposes own guidelines with measurable goals on gender equality, dealing with jobs that do not provide adequate social protection, the transition to a low-CO<sub>2</sub> economy, fighting poverty (including poverty suffered by people in employment) and moves to prevent social exclusion (for example, appropriate support in the case of unemployment or incapacity to work and in access to public services).**

<sup>(14)</sup> See COM(2001) 313 final 'Employment and social policies: a framework for investing in quality'.

#### 5. Recommendations on governance

**5.1. Boost the role of the European institutions:** The new strategy needs more punch. **An enhanced role for the European institutions is particularly important in the light of the current crisis.** Since the Lisbon Strategy was revamped in 2005 the activities of the Commission have gained far greater visibility, especially the publication and dissemination of country-specific guidelines and examples of best practice. Calls have been made for a public discussion in the Council so as to maintain the momentum of the process as a whole. In the renewed strategy, these issues should be looked at in greater depth and expanded. The Commission and the Member States should make a renewed effort to improve the implementation and promotion of cross-border exchanges of best practice through the use of electronic communication methods. The above methods, however, depend on the Member States being given an appropriate European framework in which they can achieve Community targets. If necessary, new, innovative instruments should be examined.

**5.2. Make the OMC more effective in Member States:** As the 'methodical backbone' of the Lisbon Strategy, under the EU Reform Treaty, the OMC will be prescribed for other areas. For the EESC, the Achilles heel of the OMC, aside from its low public profile, is its ineffectiveness at national level. It is therefore vital that the targets no longer be viewed, as has often been the case up to now, as 'points on a wish list', but rather as concrete political obligations. **Instruments should be found of making the targets more binding and creating better incentives for Member States to pursue the target commitments to which they have agreed more consistently.** To guarantee a better balance, not just the economic and finance ministers, but also other ministers, particularly the labour and social ministers, should be involved in the implementation of the new strategy. **The EESC also recommends boosting the role and visibility of the European social partners, for instance by routinely appending the outcome of the tripartite macroeconomic dialogue to the conclusions of the European Council.**

**5.3. Monitor the Lisbon Strategy goals via Member States' economic and social councils:** The special role of national ESCs and similar civil society organisations should be further strengthened based on the respective consultative procedures and competences of the social partners in the individual Member States <sup>(15)</sup>. **The relevant reports which are to be drawn up by the ESCs should contain analyses on the implementation of the Lisbon targets for submission to governments and the European institutions, who in turn would be encouraged to draw appropriate conclusions. The ESCs and civil society organisations could invite Commission representatives to discuss specific national circumstances. Likewise, national ESCs should be involved in the Commission's annual consultations.** Maintaining exchanges of views and experience between the EESC and national ESCs on the national reform plans and the Lisbon agenda is of particular importance here.

<sup>(15)</sup> The EESC stresses that it does not in any way interfere with existing consultation mechanisms, responsibilities and competences of the social partners in the individual Member States.

5.4. **Greater credibility through the enhanced involvement of civil society and boosting the regional dimension:** The EESC has consistently pointed out that, for the Lisbon Strategy to be implemented more effectively, not only must the European institutions assume full responsibility, but also full account must be taken of all society interests and there must be closer cooperation at local, regional, national and European level between the government and social partners as well as civil society <sup>(16)</sup>.

- **The national Lisbon coordinators should work together consistently with all stakeholders in the preparation, implementation and evaluation of the national reform programmes.**
- **Further steps should be taken to foster ongoing dialogue in the Member States based on the respective consultative procedures and competences of the social partners in the individual Member States. This dialogue should involve national ESCs and, potentially, also bring in other civil society stakeholders (NGOs, social economy organisations, etc.) and representatives of higher education institutions and think tanks.**

- **Each Lisbon cycle could be capped by a conference involving all leading stakeholders and civil society organisations in order to take stock of the successes and shortcomings.**
- **Structural barriers to the effective inclusion of national parliaments, and to a genuine dialogue with social partners and civil society organisations must be removed.** This includes, for instance, avoiding the tight deadline, which has already become the norm, for drawing up the national reform programmes in the summer months as well as the appointment of people who are responsible for Lisbon who in many EU countries have little affinity with social dialogue.
- **Member State governments should provide more information about the results of civil and social dialogue held in connection with the Lisbon Strategy goals.**
- **To guarantee a holistic approach to territorial, social and economic cohesion, the partnership principles of the Structural Funds need to be fully implemented in the Member States and the OMC instruments used more consistently in this area as well.**

Brussels, 4 November 2009.

*The president  
of the European Economic and Social Committee*  
Mario SEPI

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<sup>(16)</sup> Cf. EESC opinion on 'Effective governance of the renewed Lisbon Strategy', OJ C 175, 28.7.2009, p. 13.

## Opinion of the European Economic and Social Committee on 'Social inclusion'

(exploratory opinion)

(2010/C 128/03)

Rapporteur: Ms KING

In a letter dated 18 December 2008, Ms Cecilia Malmström, Swedish Minister for EU Affairs, asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an exploratory opinion on

*Social inclusion.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 October 2009.

At its 457th plenary session, held on 4-5 November 2009 (meeting of 4 November 2009), the European Economic and Social Committee adopted the following opinion by 130 votes in favour, with no votes against and with 4 abstentions.

### 1. Conclusions and Recommendations

1.1. The EU's strategy for growth and jobs must pay more attention to social cohesion goals in the future, says a new report presented by the European Commission on 29 September 2009. The Social Protection Committee's report concludes that social protection alone is not enough to prevent poverty and exclusion, calling for more emphasis on goals such as fighting child poverty and promoting active inclusion.

The first victims of exclusion are often the poor, the low-skilled, migrants, members of ethnic and cultural minorities, the handicapped, and those who are isolated, in poor housing or homeless.

Although employment does not offer an automatic way out of exclusion and avoiding the risk of falling into poverty, it remains nonetheless the best way of fostering social inclusion.

1.2. The Swedish Presidency has the ambition to combat the negative impact of the economic crisis on growth and employment both at the EU and Member State level. It wants to prioritise actions regarding measures on the labour market that will minimise unemployment, reduce the number of people excluded and return those recently made unemployed to work. The Presidency also at the same time, wants to lay the foundation for the creation of jobs that are long-term and sustainable.

1.3. The recently concluded G20 summit states that Member States, including the EU, have managed to create and save jobs this year, which has meant minimising the impact of the crisis for a number of its citizens. Member States' efforts have centred in particular on supporting job retention and safeguarding household income.

1.4. However, the challenge the EU faces is that many working-age citizens do not have access to a job, even during the recent period of economic growth. In addition, some citizens earn insufficient income to lift them out of poverty. It can be concluded that, even in spite of determined action to support recovery, this group has increased over the last 18 months and the social impact of the recession is not yet fully visible.

1.5. The EESC believes that increased focus should be put on those furthest from the labour market, notably by stepping up efforts to implement the common principles on active inclusion endorsed by the Council in December 2008. These are the low skilled who have less access to life long learning and training opportunities, those with caring responsibilities (largely women), those taking early retirement, people with disabilities, minorities, migrants and young people.

1.6. The EESC recommends using the open method of coordination to identify best practice in transitions from education/training to employment and transitions from household/civil activities to employment, and in tackling structural obstacles to labour market and social participation overall.

1.7. The EESC realises that social services and protection are highly dependent on public financing which a number Member States are aiming to reduce due to the current crisis. For this reason, it rejects steps that would jeopardise solidarity, which underpins social protection and serves Europe so well. Measures should be chosen that afford protection and at the same time support the transition to work and job retention.

1.8. The EESC recognises the importance of life-long learning and training (LLL) in increasing the employability of its citizens and notes the paradox that the less educated have the least access to LLL. The EESC therefore strongly recommends effective entitlement and access for all citizens.

1.9. The EESC agrees with the Commission on the importance of coordination and cooperation at national and local level, including the public authorities, social partners and civil society, and not only in the area of employment but also in the area of housing, health and territorial inclusion.

## 2. Background and context

2.1. European economies and societies are facing a number of challenges such as climate change, technological advances, globalisation and the ageing of its population. The increased participation in the labour market over the past decades, although positive, co-existed with persistent levels of overall and in-work poverty, considerable labour market segmentation and only marginal inroads in the share of jobless households. Given that a quality job, however, is the best safeguard against poverty and exclusion, this opinion focuses especially on the link between employment and inclusion.

2.2. The global financial crisis is the latest challenge that has spread into the real economy, with the labour market situation deteriorating significantly as a result of reduced demand and tighter financing conditions <sup>(1)</sup>. The seasonally adjusted unemployment rate in the EU27 in March 2009 was 8,3 % compared to 6,7 % in March 2008. This represents a reversal of the unemployment trend as the rate in the EU25 had previously declined in prior years from 8,9 % in March 2005 to 8,4 % in March 2006 to 7,3 % in March 2007. Although the picture at the individual country level differs, all Member States and most sectors are affected by the deep international economic downturn. The countries most affected are Spain, Ireland and the Baltic countries, with unemployment rates that have doubled or, in case of the Baltic countries, nearly tripled. This upward trend is predicted to continue.

2.3. The present monetary easing and fiscal stimulus packages introduced in almost all Member States to combat this latest crisis are set to first stabilise the financial systems, to cushion adverse social impacts and then contribute to a recovery of growth. Member States' scope for action differs widely but there tends to be considerable attention to policies to maintain workers in employment, promote re-integration in the labour market, support people's income, protect mortgage holders against repossession, promote access to credit as well as invest in social and health infrastructures both with a view to boost employment and to

improve access to services <sup>(2)</sup>. However, the Swedish Presidency believes that the measures needed to combat this crisis must go hand-in-hand with the necessary structural reforms to address the EU's other challenges (e.g. demographic shift, globalisation), as, prior to this crisis, too many EU citizens who could join the labour market did not have access to a job, despite a relatively favourable economic performance.

2.4. *The Swedish Presidency wants a focus on:*

2.4.1. how EU Member States are to jointly handle the effects of a rapid rise in unemployment as a result of the economic crisis;

2.4.2. what effective reforms can increase mobility in the labour market, including measures that can be taken to facilitate people's return to work.

The aim is to counteract the short-term effects of the crisis and to act to ensure that the Member States achieve the long-term goal of high levels of employment within the framework of a new EU strategy for growth and jobs.

## 3. Employment and Social Inclusion

3.1. *Promoting secure transitions*

3.1.1. Transition and social mobility have always been a part of life in Europe. The changes set in train by globalisation underline the need for economic and social governance systems that are actively oriented to both transitions and social mobility. Connecting activation, rehabilitation and labour reintegration strategies with social protection should be treated as a goal of policy. The literature speaks of at least five transitions <sup>(3)</sup>: from education/training to employment; transition among different forms of employment, including self-employment; transitions between employment and household/civil activities; between employment and disability; between employment and retirement. The purpose has to be to convince people that transitions pay and encourage them to actively search for employment, while at the same time providing them with the necessary support and protecting them from material need.

<sup>(2)</sup> <http://ec.europa.eu/social/keyDocuments.jsp?type=3&policyArea=750&subCategory=758&country=0&year=0&advSearchKey=&mode=advancedSubmit&langId=en>: The next full update is due in November 2009.

<sup>(3)</sup> Schmid, G. (2002) 'Wege in eine neue Vollbeschäftigung, Übergangsarbeitsmärkte und aktivierende Arbeitsmarktpolitik', Frankfurt: Campus Verlag.

<sup>(1)</sup> See point 2.1 of EESC opinion of 11.6.2009 on the 'Results of the Employment Summit', rapporteur: Mr Greif (OJ C 306, 16.12.2009).

3.1.2. The transition from education/training to employment is of particular concern, as many young people have been disproportionately excluded from the labour market during the period of growth and now are disproportionately affected by the financial/economic crisis <sup>(4)</sup>. Although their qualification levels are higher today when compared to previous generations, they enter the labour market later, experience less stability of employment, and are more exposed to labour market segmentation and unemployment. The EESC notes and welcomes the Commission's focus on *Helping Young people now* <sup>(5)</sup>, but questions how quality training and apprenticeship will be assessed and reviewed for continued relevance. EESC recommendations on combating youth unemployment were made in its opinion on Employment of priority categories <sup>(6)</sup>. The EESC recalls that migrants, people of ethnic minorities, single parents and the low-skilled are at particular risk of labour market and social exclusion.

3.1.3. Transitions between employment and household/civil activities largely impact on women and on their available options regarding type of work contracts or length of time outside the labour market. Therefore the EESC recommends that measures to ensure gender equality need to be reinforced.

### 3.2. *Integrated policy design and delivery, tailored actions and improved governance*

3.2.1. As experience with transition policies builds up, certain characteristics of 'good transition policy' are becoming clear. Incentives and support are emerging as critical. Labour market transition policies need to be considered jointly with inclusion strategies, particularly when referring to those furthest from the labour market, for whom systematic further efforts are needed. The Committee supports the view <sup>(7)</sup> that the crisis makes all the more urgent and compelling the implementation of comprehensive active inclusion strategies that combine and balance measures aimed at inclusive labour markets, access to quality services and adequate minimum income.

3.2.2. For the sizeable proportion of the working-age population that needs to make the transition to employment, the EESC

therefore welcomes the Commission's recommendation <sup>(8)</sup> of stronger involvement and better coordination at the national level. However, the EESC further recommends the personalisation of interventions. This is important as having advisory services that are 'close' or local to people and that provide tailored pathways if not to individuals then to groups is vital to reform. Social economy projects and organisations are often at the forefront of approaches promoting supportive pathways into work and creating new jobs for people furthest from the labour market.

3.2.3. The EESC also recommends that, in this context, social dialogue should be complimented by civic dialogue. Some Member States have some form of such dialogue already in place. This will create the opportunity for civil society organisations with the experience and knowledge as well as their often strong connections to vulnerable groups - including those living in poverty, children, young people, families in precarious life situations, migrants and ethnic minorities, people with disabilities, elderly people - to be included as important resources in shaping policies to increase social inclusion in Europe. Research shows that this quality and proficiency, including knowledge and capacity to deal with disadvantaged groups on the part of the professionals providing the services and their institutions, is an important element of good practice.

3.2.4. The EESC agrees with the Commission's Communication recommendation <sup>(9)</sup> that to improve the chances of the disadvantaged to succeed in the labour market, better cooperation between public authorities, public and private employment services, social services, adult education services, social partners and civil society is needed. The EESC further recommends the need for coordination between different types of service interventions such as health, education, and housing, as this has been shown to be a key element of good practice.

### 3.3. *Lisbon Strategy*

3.3.1. The EU's Lisbon Strategy puts increased emphasis on social inclusion within the EU. It sets as a general objective the need to move towards a more comprehensive economy, capable of combining efficiency and the creation of more and better jobs with high levels of social protection and a greater social and economic cohesion. This is the founding basis for the European economic and social models. The EU post-2010 strategy will need to have a clear vision of the key challenges facing society with revised

<sup>(4)</sup> [http://ec.europa.eu/youth/news/news1389\\_en.htm](http://ec.europa.eu/youth/news/news1389_en.htm).

<sup>(5)</sup> In: 'A Shared Commitment for Employment' (COM(2009) 257 final), p. 8.

<sup>(6)</sup> See point 5 of EESC opinion of 12.7.2007 on Employment of priority categories (Lisbon Strategy), rapporteur: Mr Greif (OJ C 256, 27.10.2007).

<sup>(7)</sup> See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:307:0011:0014:EN:PDF>.

<sup>(8)</sup> See 'A Shared Commitment for Employment' (COM(2009) 257 final), p. 13.

<sup>(9)</sup> See 'A Shared Commitment for Employment' (COM(2009) 257 final), p. 9.

instruments for the fields of employment and social inclusion. The EESC is in the process of producing its opinion on a successor to the Lisbon Strategy.

3.3.2. The Lisbon Strategy has underlined how job creation relies heavily on active employment policies, a sound macro-economic framework, investment in skills, research and infrastructure, better regulation and the promotion of entrepreneurship and innovation. As labour markets continue to deteriorate in reaction to the economic downturn, additional action is needed as the main impact of the recession is on people. European labour markets will be changed profoundly by the crisis. Workers and companies must be given the necessary means to successfully adjust to those changing realities: to retain jobs, enhance skills at all levels, especially the low-skilled, get people back to work and set the conditions for new job creation.

#### 3.4. *Concept of dealing with flexicurity in times of crisis* <sup>(10)</sup>

As an integrated strategy to enhance both the flexibility and the security of the labour market and to support those who are temporarily outside it, the EESC believes that:

3.4.1. Flexicurity is even more important and appropriate in the current difficult economic context, characterised by rising unemployment, poverty, segmentation and the urgent challenge, of stimulating growth, creating new and better jobs and strengthening social cohesion;

3.4.2. The implementation of flexicurity requires not only supportive social protection components but also clear work incentives with an open and skills-oriented labour market underpinning the other components; combined with policies to address structural obstacles to participation and to promote job preservation and creation, including quality jobs. This will contribute to reducing social exclusion and the risk of poverty by opening the labour market to all citizens and to vulnerable groups in particular;

3.4.3. The common principles of flexicurity, as a means of implementing the European Employment Strategy, coupled with comprehensive active inclusion strategies for those furthest from the labour market, provide a comprehensive policy strategy to coordinate efforts to manage the employment effects and social impacts of the crisis, and to prepare for the economic upturn.

3.4.4. The EESC welcomes the EU social partners' agreement to monitor the implementation of the EU common principles of flexicurity and to capture lessons learnt. The EESC is in the process of producing an opinion on flexicurity to contribute to this exercise <sup>(11)</sup>. The EESC also invites Member States to step up efforts to implement the common principles on active inclusion, and the Commission to regularly monitor progress.

## 4. **Social Protection and Social Inclusion Policy**

4.1. Social protection systems are potentially a major asset for social inclusion because they acknowledge a status outside the market, involve positive actions on the part of the State, and within a framework of collective social responsibility, combat conditions that limit individuals' and disadvantaged groups' capacity to live in dignity. The success of the European welfare state, especially in combating inequalities, is well documented and reflects the core European value of solidarity recognised in the Charter of Fundamental Rights. In the view of the Committee, the over-riding set of challenges for social protection now is to ensure that people's basic needs, even if they vary in their application across countries, are secured and within reach of all, and also to facilitate good transitions, as discussed earlier. Action is needed to make transitions pay and improve access to employment for specific groups with problems on the labour market, while safeguarding the level of Member States' budget revenue, by reducing employers' non-wage cost of hiring by reducing administrative burdens; exploring the potential of job creation especially for the low-skilled; reducing disincentives to work; improving the structure of tax and benefits to make work pay, including the tax burden on second earners; providing incentives for the unemployed to set up their own businesses (e.g. through entrepreneurship training and micro-credits), by ensuring access to services necessary to enable participation. For those who cannot work, adequate income support must be provided.

4.2. The Committee wishes to emphasise that the strong competition arising from globalisation and the impact of the economic crisis make it all the more essential to have sufficient social protection against social risks, including unemployment, and to strengthen social protection's function as a social investment for the benefit of both economic competitiveness and social inclusion. Reform should not be allowed to jeopardise the principles of solidarity which underlie social protection and which have

<sup>(10)</sup> See Draft Council Conclusions 'Flexicurity in times of crisis', SOC 374 ECOFIN 407, 10388/09.

<sup>(11)</sup> See EESC opinion of 1.10.2009 on 'How flexicurity could be used for restructuring against the backdrop of global development', rapporteur: Mr Salvatore, co-rapporteur: Mr Calvet Chambon (OJ C 318 of 23.12.2009, p. 1).

served Europe well. On the other hand, while change is essential, social protection systems should not be change averse, but must be guided by a coherent, long-term and coordinated policy of social reform, capable of providing protection and supporting transitions in the short and long term.

4.3. It is therefore important to consider ways of making the various components of social protection contribute more effectively to social and economic inclusion. The EESC draws attention to the following in this context:

#### 4.3.1. Taking account of demographic imbalance and family change

4.3.1.1. The prospect of population ageing in most European countries raises various issues in terms of social inclusion. Action has already started in many countries. The issue that is most clearly perceived, although not always effectively dealt with, is the increase in the proportion of the population with pension entitlement as well as a need for health and social care services. The EESC welcomes the Commission's recommendation<sup>(12)</sup> of promoting the employment of older workers as well as stimulate demand and jobs in the care sector by introducing tax breaks or other incentives. The EESC believes that the Commission's proposal to discourage early retirement schemes requires in-depth discussion on conditions, scope, political flanking measures, etc., so as not to create social problems for elderly people in particular. The EESC has already made a key contribution here.

4.3.1.2. A further aspect contributing to the demographic situation is that many policies, in particular family policies, do not do enough to enable people to satisfy their desire for children<sup>(13)</sup>. The EESC wishes especially to draw policy makers' attention to its opinion on family and demographic change<sup>(14)</sup>. Each country needs a family policy, one that respects the will of each citizen (including children), valorises family life, addresses the major impact, especially on children, of family breakdown, violence and poverty and social exclusion, and is close to citizens' lives and desires. A comprehensive family policy should therefore be a core

priority for each European country, linking income, childcare facilities, parents' access to full-time quality jobs, gender equality, education, social and cultural services, employment and infra-structural provision and planning.

#### 4.3.2. Optimising unemployment insurance and promoting integration

4.3.2.1. Unemployment insurance is an important social benefit, which provides security for workers made redundant or jobless, especially against a backdrop in which the economic crisis as well as competition entails continuous restructuring. If it is substantial, unemployment insurance can be even a factor for economic fluidity and facilitate labour mobility. In some countries, however, unemployment insurance simply means passively distributing benefits, without an adequate system for reintegration into the labour market (i.e. transition from unemployment to employment) or for training geared to gaining a sustainable job.. As a general principle, unemployment insurance expenditure needs to be made more active. For this purpose it could be based, as is already the case in several countries, on individual back-to-work agreements, which are a prerequisite for entitlement to benefits. The responsibility of the authorities in this kind of scenario is to provide appropriate support, integration and training systems, and access to other enabling services. The preventive element is also important. For this, early intervention is necessary highlighting, the need to tackle child poverty, together with an effective policy of lifelong further training, which must be pursued and may involve some re-shifting of education over the life course.

4.3.2.2. Transition and integration are important for other groups also, for example accident victims, persons disabled by illness, (transition from employment to unemployment due to a disability). This raises, firstly, the question of a replacement income and, secondly, a return or access to employment. Having an income is a necessary condition of independent living, but it is not necessarily a sufficient one. In many cases, too little priority is still assigned to integrating the people involved into working life, despite legal provisions to that effect. Practical arrangements for guidance and support in finding or resuming work are often cumbersome and inadequate. Neither the requirements for entitlement nor the amount of compensation must dissuade the persons concerned from undergoing functional or occupational rehabilitation or from resuming work. Indeed they must encourage them to do so. However reforms which shift the emphasis from passive to active measures should not lose sight of, the objectives set out in the *European Code of Social Security* and its Protocols. The concept of suitable employment should be one that aims to ensure that unemployed persons are directed towards employment that uses their skills and qualifications in the most productive and effective ways for the benefit of society as a whole. However, people for whom work is not an option must be assured an income support sufficient to live a life in dignity.

<sup>(12)</sup> See 'A Shared Commitment for Employment' (COM(2009) 257 final), p. 9.

<sup>(13)</sup> See EESC opinion of 30.9.2009 on 'Work and poverty: Towards the necessary holistic approach', rapporteur: Ms Prud'homme (OJ C 318 of 23.12.2009, p. 52).

<sup>(14)</sup> See EESC opinion of 14.3.2007 on 'The family and demographic change', rapporteur: Mr Buffetaut (OJ C 161, 13.7.2007, p. 66).



## 5. Promoting life-long learning and training

5.1. Member States operate very different systems and levels of vocational training and education for people in the labour force. The fact that further education and training among EU citizens is very unequally distributed – the better educated receive much more training and further education during their labour market career than the less educated – poses a major policy challenge in an era of globalisation and in the current economic downturn. Given that it is the less educated who have the greatest risk of job relocation and unemployment, one of the most important policy imperatives is to ensure better access to – and more extensive participation in – training and education by the less educated groups. Consequently the EESC calls for an effective entitlement for training for all citizens, especially the most excluded groups, who want to enhance their options on the labour market.

5.2. The fact that changes in the social, economic, political and technological context will result in successive adjustments in skills also implies that detailed thought must be given to the content of general training, especially if education and training are to be more aligned to labour market needs. It is therefore essential 1) to provide all young people with a sound education and 2) to identify current and future skill needs which should be analysed at a local and/or national level to reflect the diversity between and within Member States. The EESC notes the Commission's New Skills for New Jobs initiative <sup>(15)</sup>, and will be responding in detail.

5.3. The EESC agrees with the Commission's recommendation that working careers must not be allowed to start with the experience of unemployment. It is therefore essential that every school leaver, who is willing and able, is offered further education or a place on an occupational training scheme, and be firmly encouraged to take it. For further details on the EESC's response, see the EESC opinion on Employment of priority categories <sup>(16)</sup>.

## 6. Housing as a factor for social inclusion

6.1. Homelessness is one of the most severe forms of exclusion. Many countries of the European Union have ratified international treaties and conventions that recognise and protect the right to housing: the Universal Declaration of Human Rights (Article 25), the International Covenant on Economic, Social and

Cultural Rights (Article 11), the Convention on the Rights of the Child (Article 27), the Convention on the Elimination of All Forms of Discrimination against Women (Articles 14 and 15), the Convention for the Protection of Human Rights and Fundamental Freedoms (Article 8), the European Social Charter (Articles 15, 16, 19, 23, 30, 31) and the Charter of Fundamental Rights of the European Union (Article 34, paragraph 3).

6.2. In Europe the housing crisis affects 70 million people living in inadequate housing conditions, of which approximately 18 million are under threat of eviction and 3 million are homeless. This figure is increasing further as a result of the global financial crisis, which is causing approximately 2 million families in Europe to lose their homes as they are forced to default on their mortgage payments <sup>(17)</sup>. Member States need to make this issue a priority to minimise the impact on their citizens, especially the most vulnerable.

6.3. This loss of homes leads to the opposite of social inclusion, with a predicted increase in demand for affordable decent housing, less security of tenure in housing contracts, greater risk of foreclosure in mortgage agreements and increased threat of evictions. Those affected will be the young, the elderly, the unemployed, the poor and migrants, as well as families on an average income. The EESC strongly recommends equal treatment with respect to housing must be guaranteed and mechanisms designed to prevent evictions established, in particular, for different groups of vulnerable persons.

6.4. The EESC welcomes the use of the Open Method of Coordination as a framework for the exchange of good practices and the choice of homelessness and housing exclusion as the thematic focus of the Social OMC in 2009. It recommends that this is further enhanced by reinforcing existing EU financial instruments with regards to:

6.4.1. programmes for providing affordable and decent housing;

6.4.2. programmes supporting the development of alternative housing solutions and experimental projects for new types of social housing, which are sensitive to intergenerational solidarity, multiculturalism and the issue of social exclusion, in partnership with local authorities, civil society and social investors.

<sup>(15)</sup> 'New Skills for New Jobs – Anticipating and matching labour market and skills needs' (COM(2008) 868 final).

<sup>(16)</sup> See footnote 6.

<sup>(17)</sup> Ref: [http://www.habitants.org/noticias/inhabitants\\_of\\_europe/european\\_platform\\_on\\_the\\_right\\_to\\_housing\\_2009](http://www.habitants.org/noticias/inhabitants_of_europe/european_platform_on_the_right_to_housing_2009).

6.5. The EESC agrees with the Council and Commission statement <sup>(18)</sup> that financial inclusion is a pre-condition for sustainable access to the housing market, and that appropriate support and advice must be made available to those facing eviction and repossession.

## 7. Territorial Policy as a Factor for Social Inclusion

7.1. Policies focusing on housing provision must be informed and complemented by those giving attention to territorial or geographical areas. All the work pertaining to social inclusion draws attention to the existence of regions and localities that are disadvantaged. In many cases the factors causing such disadvantage are infrastructural - involving poor provision of services, utilities and other facilities as well as a lack of jobs – and may lead to environmental and social degradation. Emerging knowledge places great focus on the local level, demonstrating how problems and inadequacies can layer one upon another to form localities that are not just composed of vulnerable people but for this and other reasons are themselves vulnerable. The absence of capital investment, whether local, national or foreign, in these areas compounds the disadvantage.

7.2. An objective of policy, therefore, should be to avoid imbalances across areas or regions and to ensure that particularly disadvantaged areas are adequately catered for. In this regard, local initiatives have a major role to play, as do those aimed at the social regeneration of run-down and impoverished localities or housing areas. It is not only an issue of investing in physical infrastructure but also of emphasising the rebuilding of the social and community infrastructure and social capital of these areas.

7.3. Employment is especially important in overcoming area-based disadvantage. Locally available employment serves to reduce poverty, promote social inclusion and increase the self-esteem, self-confidence and resources of those who suffer exclusion from society. It also serves to augment the financial and other resources available locally. Conversely, access to services is a prerequisite for job creation at local level. The participation of local communities in these and other types of initiatives - such as the development of locally run microenterprises - is very important.

7.4. The EESC is convinced that, in addition to the classic domains of social inclusion policy, a new policy domain or concern needs to be put in place. The focus of this is creating an active and integrated society. To some extent there is significant overlap with policy structures (e.g. addressing housing, low skills) but it is also a concern that needs to be specifically addressed by policy in its own right.

7.5. The EESC welcomes the Commission's proposal <sup>(19)</sup> to mobilise and accelerate funding using a new EU microfinance facility for employment to develop micro-enterprises and the social economy. The EESC believes territorial policy should be a priority with participation of the Member States, social partners, relevant local authorities and local communities, including the social economy.

## 8. Managing diversity and the integration of migrants

8.1. Cultural diversity is widely recognised as a descriptive characteristic of Europe but governance in European societies is not always multicultural. In the view of the EESC, social inclusion needs to address how European societies treat minorities (e.g. Roma people <sup>(20)</sup>) and migrants. There are different ways in which this can be both explored and rectified.

8.2. The Committee believes that combining 'pluralism' and 'equality' as conditions of social inclusion needs to be explored. It can be challenging for the host society, minorities and migrants to appreciate each other's culture and values. The EESC recommends a number of fundamental actions: On the part of the host country, these include measures to identify the contributions of migrants as well as factors that contribute to discrimination, disadvantage and exclusion. For minorities and migrants it is necessary to show a willingness to accommodate to the norms and traditions of the host country, without giving up their identity and cultural roots. For further details please see the EESC opinion on Employment of priority categories <sup>(21)</sup>.

<sup>(18)</sup> See Joint Commission/Council Report on Social Protection and Social Inclusion 2009, 7309/09, Section 2 paragraph 8.

<sup>(19)</sup> See 'A Shared Commitment for Employment' (COM(2009) 257 final), p. 11.

<sup>(20)</sup> EESC Opinion 'Integration of minorities – Roma' rapporteur: Ms Sigmund, co-rapporteur: Ms M. Sharma (OJ C 27, 3.2.2009, p. 88).

<sup>(21)</sup> See footnote 6.

8.3. The role of intercultural dialogue is to be emphasised also, either as part of civic dialogue or in its own right. Among the possible policy goals of this kind of activity are the following:

— instituting procedures to build confidence in a common future and in civic values such as fairness, tolerance, respect for freedom and democracy, gender equality, solidarity and

social responsibility, and engendering a sense of belonging and mutual recognition;

- strengthening social inclusion through the economic, social and cultural integration of migrants;
- reconsidering all policies for their 'fairness from a cultural dimension', including stigmatisation and discrimination.

Brussels, 4 November 2009.

*The President  
of the European Economic and Social Committee*  
Mario SEPI

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## Opinion of the European Economic and Social Committee on the 'Outlook for the sustainable development strategy'

(exploratory opinion)

(2010/C 128/04)

Rapporteur: **Mr EHNMARK**

On 18 March 2009, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Outlook for the sustainable development strategy*  
(exploratory opinion).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 October 2009.

At its 457th plenary session held on 4 and 5 November 2009 (meeting of 5 November 2009) the European Economic and Social Committee adopted the following opinion by 178 votes to 21 with 18 abstentions.

### 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the Commission's biennial progress report on the EU strategy for sustainable development <sup>(1)</sup>. The report provides a basis for the continuing debate on how the EU should implement its sustainable development strategy.

1.2. The EESC endorses the Commission's suggestion that in the next period the strategy should prioritise action on four main themes – the low carbon economy, protecting biodiversity, water and other natural resources, promoting social inclusion and strengthening the international dimension of sustainable development. The Committee regrets however that the Commission has not developed further its analysis and made specific proposals for targets, timetables and actions in these areas.

1.3. It is clear that, despite one or two moves in the right direction, the EU sustainable development strategy (EU SDS) is, in its current form, failing to meet its targets.

1.4. To be effective, the EU SDS needs an entirely new structure of governance, including an adequate level of staffing and finance, and appropriate mechanisms for verifying implementation of the strategy.

1.5. The EESC would also like to see better coordination within the Commission, possibly supported by a commissioner with responsibility for coordination. The Committee also recommends the establishment of a high level independent Committee charged with monitoring the progress of sustainable development on a regular basis and making public recommendations to the institutions.

1.6. The Committee urges the Council and the Commission to make the EU SDS a meta-strategy for all EU policies. All other EU strategies with shorter timeframes must feed into the targets of any future EU SDS. Many policies adopted today will have repercussions for decades to come. Measures effective in the short term must not compromise the development opportunities of future generations.

1.7. In this opinion, the EESC identifies a need for better coordination between the Lisbon strategy and the strategy for sustainable development. In drawing up the new Lisbon or 2020 Strategy the Commission should be requested to demonstrate explicitly how the actions to be proposed in that strategy will support the long term transition to a more sustainable pattern of development. The future financial perspectives, the structural funds, the CAP, the R and D framework programmes and all other major strategies and programmes at European level should similarly be required to demonstrate how they are advancing SD Strategy objectives and targets.

1.8. In its current form, GDP can no longer be used as a key policymaking yardstick. Progress and human wellbeing should be measured differently than has been the case up to now. The Committee wholeheartedly backs the ongoing development and practical application of progress indicators that go beyond GDP. In that connection, a discussion is also needed about the values the EU wishes to promote.

1.9. Sustainable development calls for commitment and work at grassroots level. Building such commitment calls for active cooperation from all the social partners, and from all civil society organisations.

<sup>(1)</sup> COM(2009) 400 final.

1.10. Explicit responsibility must be assumed by policymakers to ensure that the strategy for sustainable development is implemented. This applies at European, national and local level, with the European Parliament also playing a definite role. The Committee recommends the establishment of machinery for stocktaking by the Commission of national progress against agreed indicators, followed by country specific guidance on key issues requiring attention. This could be modelled on the mechanism successfully established for monitoring progress on the Lisbon agenda.

1.11. The EESC regrets the Commission's failure to consult the EESC and other organisations on the report before formulating its proposals, whereas the text adopted by the Council calls for just such consultation. It would have been particularly important to ascertain the views of civil society organisations. The Committee has strengthened its own integrating capacity on sustainable development issues by the establishment of its Sustainable Development Observatory three years ago, and this body has in turn established regular consultation with national Sustainable Development Councils. The Committee recommends that this machinery should be used more systematically to ensure a creative civil society input to updating and monitoring progress on sustainable development in Europe.

1.12. It is particularly important to have a well-functioning EU SDS in time for the next World Summit on sustainable development in Rio in 2012.

## 2. The Commission Communication

2.1. Unfortunately, the European Commission communication (COM(2009) 400 final, 24 July 2009). on the further evolution of the sustainable development strategy only represents a modest step forward. While it does highlight the shortcomings in moves to implement the EU SDS targets, it fails to suggest any effective measures to overcome these shortcomings in future.

2.1.1. The EESC would recall, in this context, that it was precisely the question of clear political signals which was one of the leitmotifs of the consultations with the Commission, the Council and the Parliament.

2.1.2. Decisions on political signals require good preparation. The EESC regrets the fact that the Commission was unable to allocate more than marginal resources to developing the basis for this year's preparation of policy on sustainable development.

2.2. The Commission document provides a series of snapshots of the progress made with regard to the seven priority areas and the cross-cutting themes. This is a valuable exercise which shows both where greater priority must be given and where there is a need for in-depth analysis.

2.3. The text shows that the reported developments are almost entirely unsatisfactory. Much attention has been paid to climate and energy issues over the past few years, but the results on the whole continue to be poor. Transport is another sphere where

policy has not succeeded in reversing the trend towards increased emissions. Overall, examples of success can be found only in isolated measures - a promising legislative proposal or innovative initiative - but there is no consistent trend that would turn the situation around.

2.4. The EESC does not intend to comment on the Commission's schematic evaluation of each policy area, but would just note that the Commission's exposition makes for discouraging reading. The result underscores the need for more serious policy efforts in relation to sustainable development.

2.5. Sustainable production and consumption have had high priority for a number of years now. Another example is the use of raw materials in production. Statistics show that the EU and the US use double the amount of raw materials per unit of product than, for example, Japan. This is an area where there is considerable potential for efficiency gains through rationalisation.

2.6. The Commission gives specific priority to efforts to incorporate the social dimension and social issues in both the sustainable development strategy and other current EU development strategies (Lisbon strategy, etc.). The importance of these efforts is illustrated by the fact that more than 70 million Europeans live in poverty (according to the definition used by, *inter alia*, the EU's statistical office). The connection between migration issues and developments in the numbers living in poverty is a key question.

## 3. A strategy in crisis?

3.1. Sustainable development policy was launched at the Rio de Janeiro conference almost 20 years ago. The message of that summit was clear and convincing: live in a way that does not encroach on the living conditions of the generations that follow. The conclusions of the Johannesburg summit (UN World Summit on Sustainable Development, held in Johannesburg in 2002). ten years later met with a strong response: here at last was a comprehensive package of proposals for equitable worldwide social development.

3.2. As part of the preparations for the Johannesburg summit, the EU adopted its first European Sustainable Development Strategy (COM(2001) 264 final, A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development).

3.3. The EU's strategy for sustainable development was adopted in spring 2001 in an atmosphere of euphoria. It was not until some years later that the picture began to look more complicated.

3.4. It is not that there was anything wrong with the strategy per se, and there was no shortage of enthusiastic supporters among civil society players and among politicians and opinion-formers.

3.5. The problem was more a lack of real will (or ability) to start implementing the visions in a concrete action programme.

3.6. The sustainable development strategy was revised in 2006 through the *Review of the EU Sustainable Development Strategy – Renewed Strategy*. The review shed no more light on the issues relating to priorities and implementing processes. The EU was at the same time developing new programmes on, for instance, economic growth and job creation.

3.7. In the past few years tension has become manifest between the vision for sustainable development and the programmes for growth and competitiveness. What divides them is, for instance, the timeframe: whereas the Lisbon strategy has a medium-term perspective, sustainable development looks to the longer term. This may result in priority being given to measures under the Lisbon strategy that are effective in the short term but that run counter to the long-term sustainability targets.

3.8. There is an increasing body of opinion in favour of reviewing the way tasks are allocated between the two strategies. Merging the strategies could be a way of securing the more effective application of the earmarked resources.

3.9. The purpose of this report is however to demonstrate the need to revive the sustainable development strategy, so as to provide a potential roadmap for efforts both in Europe and globally.

#### 4. What lessons have we learnt?

4.1. Over the past few years, the Committee has adopted at least ten opinions on various aspects of the strategy, as well as outlines of how the strategy could be developed. The gist of these was that sustainable development and the Lisbon strategy should be developed in a coordinated way, even if they fall under separate headings <sup>(2)</sup>.

4.2. The EESC has identified three factors that together can be said to explain why the effects of the strategies have diverged:

- One reason is their different political weight: the Lisbon strategy responds to immediate policy issues, whereas sustainable development addresses the question of long-term priorities. The difference can also be seen as a question of sponsors: whereas Lisbon is backed by the heads of state or government, sustainable development is often managed by the ministers for the environment. This difference in emphasis is also reflected in the allocation of resources: in both the Commission and in the Member States, substantially fewer staff are working on the SDS than on the Lisbon strategy.
- Public opinion has responded very differently to each strategy: the Lisbon strategy may not be familiar, but it is at least

close to becoming familiar in fairly wide circles, whereas sustainable development is seen as theoretical and difficult to relate to practical political action.

- Policy instruments and evaluation: the Lisbon strategy has a rigorous system for planning and monitoring, with common standards and calendars, while sustainable development has a looser arrangement which involves adopting common priorities and joint evaluation. As a result, the Lisbon strategy can exert stronger pressure on the Member States, whereas the sustainable development strategy is more about producing general intentions.

4.3. The most recent comprehensive assessment of the sustainable development strategy was carried out before its revision in 2006. In the revised guidelines for the strategy, the Council emphasised the fundamental importance of strengthening cooperation and coordination between national and European efforts in relation to sustainable development. It was considered particularly important to develop clear priorities for work on sustainable development. An evaluation in the run-up to the Commission's 2008 biennial report also noted that progress had been made within 'areas of product lifecycle thinking and minimising waste', and in a large number of initiatives relating to environmental protection (Progress on EU Sustainable Development Strategy, Final Report, ECORYS).

4.4. It is important to note that coordination between the Structural Funds and the sustainable development strategy has not been developed very far. The sustainability of investments must be given top priority, not least in areas where the EU has major financial input.

#### 5. Revitalising the sustainable development strategy: some perspectives

5.1. The EU has played a crucial role in developing global approaches to sustainable development. Many countries and regional blocs see the EU as a pioneer in the sphere of sustainable development. If the EU can also take the initiative in revitalising the sustainable development strategy, much ground will have been gained.

5.2. One of the many problems with the strategy in its current form is the large number of priorities: seven key challenges and four cross-cutting themes. Probably if the strategy had clearer priorities it would have more impact. The EU's sustainable development strategy also needs clear and quantifiable targets if it is to have greater impact.

5.3. Moreover, we can no longer shy away from the fact that, despite the three pillars underpinning sustainable development, not all measures can always be equally beneficial from environmental, social and economic perspectives. Not all situations can be 'win-win-win'. Rather, we need to set priorities, and this often means making painful choices. In the past, priorities too often emphasised short-term economic interests. Unfortunately, this tendency is once again reflected in the restructuring programmes in the current economic crisis.

<sup>(2)</sup> See for example OJ C 195, 18.8.2006, p. 29 and OJ C 256, 27.10.2007, p. 76.

5.4. The public sector must play an important and leading role in promoting sustainability. Decision makers can give a major boost to sustainability through legislation, tax incentives and subsidies (including the elimination of harmful subsidies), and through public procurement procedures.

5.5. The new financial perspective starting in 2014 must be geared towards the targets of the future sustainability strategy.

5.6. The EU's sustainable development strategy must tackle the problem of harmful subsidies. The EESC urges the Commission to finally submit its roadmap for the reform of harmful subsidies, which has been overdue since 2008.

5.7. Revitalising the sustainable development strategy should not lead to more centralised control. Sustainable development must be accompanied by new approaches to delegating and decentralising decision-making.

5.8. Sustainable development is based on committed grassroots action. Throughout the 1990s, voluntary organisations – and the social partners – were the driving force in galvanising the EU's activities in relation to sustainable development. Voluntary organisations should play a key role in a revitalised sustainable development strategy.

5.9. Another important player in future efforts is local and regional government, above all local authorities.

5.10. It is said that there is a need for more commitment from industry. Businesses have a self-evident and clear role to play in a revitalised strategy for sustainable development. There is definitely a growing interest among businesses in issues relating to climate change and sustainable development.

## 6. Arguments in favour of revitalising the sustainable development strategy

6.1. Is it important that the sustainable development strategy be revitalised? This may seem like a strange question. With information circulating daily on climate and energy questions, agriculture and biodiversity etc, there is ample support for concrete efforts on sustainability issues.

6.2. Climate warming is a specific issue that has had considerable publicity and generated a large number of cautionary reports, for example the Stern report. Moreover, with regard to ecosystems, the TEEB (The Economics of Ecosystems and Biodiversity) project has also emphasised the risks of continuing to reduce biodiversity and overburden ecosystems.

6.3. Agriculture in the broad sense will face new problems as a consequence of rising temperatures. How agriculture should adjust to production under new conditions is a key question for future agricultural policy.

6.4. This list could easily be much longer. The vast majority of questions are familiar from the general debate. Less attention is paid to the fact that the effects on our daily life seem likely to arrive sooner than was previously supposed.

6.5. The Committee urges the Commission to make the EU SDS a meta-strategy for all other EU policies. All other EU strategies must feed into the targets of any future EU sustainable development strategy and boost sustainability.

6.6. The Committee wholeheartedly backs the ongoing development and practical application of progress indicators that go beyond GDP. The recently published report of the Stiglitz Commission has once again reminded us that GDP is not up to the task of guiding us in the far-reaching decisions that we now need to take. Indeed, it misleads us by failing to identify the real problems and leaving them to be tackled in future. The EESC recently adopted an opinion showing the consequences of a new way of conceptualising GDP <sup>(3)</sup>. However, the debate must go beyond discussions about indicators. The main concern must be how, in a sustainable way, to achieve prosperity and wellbeing in our society and develop a low-input/high-output economy.

6.7. The EU must become better at communicating with its citizens – including on issues relating to sustainable development.

## 7. Political responsibility and the need for leadership

7.1. In a series of papers on sustainable development, the EESC has pointed out that sustainable development calls for political leadership and the will to take development forward. This does not amount to a call for more centralisation. Rather, it reflects a desire to take the initiative, create networks and assume responsibility.

7.2. The EESC repeats its comment from previous opinions that an effective effort to promote sustainable development requires that political responsibility be actively taken, also by local and regional levels of government. The EESC also emphasises that the social partners, and civil society in the broad sense, must be given the opportunity to be actively involved in planning and implementation.

7.3. With this in mind, it is important to emphasise the need for cooperation and interaction between the two key development/growth strategies, i.e. the Lisbon strategy and the sustainable development strategy. The question of whether the strategies might be merged is less important than that there should be close coordination between them. Clearly, however, measures under the Lisbon Agenda must contribute to meeting the broader EU SDS targets.

<sup>(3)</sup> OJ C 100, 30.4.2009, p. 53.

7.4. A stronger governance structure is essential for successful implementation of the EU's sustainable development strategy. The EESC urges the Council to introduce a similar governance cycle for the EU SDS as for the Lisbon strategy, with annual reporting, benchmarking and the open method of coordination, making it possible to compare Member States more effectively and encouraging competition in moves to secure greater sustainability. In addition, implementation of the strategy needs to be backed by more resources both in the Member States and in the Commission.

## 8. Knowledge and attitudes

8.1. The Commission devotes considerable space to questions of education and training, and summarises the various EU programmes in this field. What the Commission does not do is to place questions of education and knowledge in a broader democratic perspective. Sustainable development, like climate policy, will require decisions which will not always be welcomed. Sustainable development, like climate and energy policy, needs to have a grassroots base.

8.2. What can be done to ensure that backing and support on the ground are forthcoming? A key factor here is education – but education more in line with, for example, the adult education centres (*folkhögskolorna*) in the Nordic countries, where the democratic dimension figures high on the teaching agenda. From a social perspective, education also makes a powerful contribution to building democratic structures. Adult education centres in the Nordic countries play a crucial role in the recruitment of staff for all types of civil society organisations.

8.3. This does not make the role of schools and education for young people less important. Both young people's and adult education must be enhanced, and new pedagogical methods must be found.

8.4. The EESC would recommend that the education aspect of the sustainable development strategy be given a broader definition.

## 9. Research and long-term development

9.1. From the beginning, decisions relating to the sustainable development strategy have highlighted the importance of research. Several specific decisions have been taken on the long-term development of research and training of researchers. One of

the most important decisions is that taken in Barcelona, which set the target for Member States to raise their spending on research to 3 % of national GDP in the foreseeable future, i.e. by 2010.

9.2. The EESC wishes to emphasise how important it is that all Member States ensure they meet the Barcelona target, which means significantly increasing research funding.

9.3. Research policy and the Lisbon strategy should also be more explicitly coordinated so as to achieve synergies between sustainable development and the Lisbon strategy.

9.4. Cooperation between research centres on climate issues is well developed. However, it may be difficult for really long-term research to compete for funding. The EESC therefore suggests that the Commission carry out a study in the framework of the EU research programme to ascertain current needs in relation to research on climate change, energy issues, and sustainable development.

## 10. Better preparatory structures

10.1. The EESC has, in various contexts, underlined the need for political leadership in the preparation of measures falling under the heading of sustainable development or climate and energy policy. The EESC has on a number of occasions quoted the former French prime minister, Michel Rocard, who at a major EESC conference stated that sustainable development would undoubtedly prompt decisions that would not always be easy or popular. The prime minister of Luxembourg touched on the same subject a couple of years ago when he said that 'the Council of Ministers knows exactly what measures need to be taken – the problem is that they we do not know how we will be able to get re-elected to our national parliaments after implementation'.

10.2. The answer lies in the early and systematic development of consultation and dialogue procedures. Above all, this must be done on a bottom-up basis. A key concept here is involvement but it needs to be complemented by solidarity.

10.3. The EESC has, on several occasions, underlined the need for a more effective cooperation structure within the Commission. Seen in terms of the current situation, this could mean having a separate commissioner – with the status of vice-president – to promote cooperation and coordination between the current major strategies: sustainability, climate and energy issues; and the Lisbon strategy.

Brussels, 5 November 2009.

*The President*  
of the European Economic and Social Committee  
Mario SEPI

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**Opinion of the European Economic and Social Committee on the subject 'Towards an Eco-efficient Economy — Transforming the economic crisis into an opportunity to pave the way for a new energy era'**

**(exploratory opinion)**

(2010/C 128/05)

Rapporteur: **Mr OSBORN**

On 3 June 2009, the upcoming Swedish Presidency of the Council of the European Union requested the European Economic and Social Committee to draw up an exploratory opinion on the subject

*Towards an Eco-efficient Economy – Transforming the economic crisis into an opportunity to pave the way for a new energy era.*

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 October 2009.

At its 457<sup>th</sup> plenary session, held on 4 and 5 November 2009 (meeting of 5 November), the European Economic and Social Committee adopted the following opinion by 164 votes to 2 with 8 abstentions.

**1. Conclusions and recommendations**

1.1. The major developed economies of the world have recognised the need to achieve at least an 80 % reduction of their greenhouse gas emissions by 2050 as part of the global action needed to keep the risks presented by climate change to manageable proportions. Major transformations of the energy base of advanced economies are therefore needed, starting from now.

1.2. The EU has started on this process with the substantial climate and energy programme agreed by the Council and the Parliament this year to reduce emissions by 20-30 % by 2020. This programme still has to be implemented however; and further action is needed soon towards the 2050 goal.

1.3. The present economic crisis presents both a threat and an opportunity. The threat is that coping with the continuing economic problems will absorb all available political attention and all available resources, and that measures will focus on restoring business as usual and the same pattern of growing emissions. The opportunity is that there is significant scope for breaking the mould and adopting a win-win eco-efficiency strategy that will help to revive the economy, improve its competitiveness and create new jobs at the same time as transforming the energy base and reducing emissions substantially.

1.4. The EESC fully supports and encourages all the actions already in hand or in prospect in Europe to promote eco-efficiency including further steps to:

- reinforce action on energy efficiency in a new Energy Efficiency Action Plan,

- reinforce action on renewables in a new Renewables Action Plan,

- entrench eco-efficiency requirements in all public spending programmes,

- promote and encourage green fiscal reform,

- encourage green procurement policies in all public bodies.

1.5. In order to mobilise action and support on a larger scale and to retain competitive leadership for Europe in the world the EESC proposes that the Commission and the Institutions should also focus new efforts on a limited number of specific transformation challenges. The Committee singles out three transformations in particular that could have the capacity to engage public interest and support as major European initiatives and programmes:

- towards solar power and other renewables,

- towards the all electric car,

- towards the zero carbon house.

Clearly widespread use of the electric car must be accompanied by a further move towards generating a greater proportion of electricity from sources that do not themselves produce significant net carbon emissions so as to avoid simply displacing carbon emissions from the car to the power station.

1.6. The EESC makes suggestions for building powerful public private sector partnerships to shape and guide these transformations and engage the widest possible support from business, other relevant institutions and the public. It also proposes the introduction of a new form of green euro bond to provide additional finance to support some of these changes.

1.7. The EESC urges that a new eco-efficiency initiative on the lines set out in this opinion should be at the core of the new Lisbon Strategy to guide progress towards a more sustainable future.

## 2. Background

2.1. The general reasons for seeking to move rapidly towards a more eco-efficient economy are well known. Climate change caused by greenhouse gas emissions is already causing serious problems in many parts of the world, and these problems are almost certain to get worse in the years ahead.

2.2. At the same time as climate change is becoming more severe the prospect of depletion of the world's oil and gas resources leading to scarcity of supply in the future with higher and more volatile prices is becoming a more serious risk. Regions such as Europe that rely on imports for much of their supplies need to reduce their vulnerability and increase their security by reducing their total energy demand, and sourcing more of their energy from indigenously available renewable sources.

2.3. Taken together these two long term strategic challenges mean that the world needs to achieve a massive reduction in greenhouse gas emissions, and a major shift towards eco-efficiency. G8 leaders have accepted in principle that advanced economies will need to achieve an 80 % reduction in greenhouse gas emissions by 2050. Some of the changes to the energy base of the economy to achieve this have already begun, but the pace of change needs to be increased substantially if the goal is to be achieved.

2.4. Much of what needs to be done is already understood and could be delivered by proven technologies. The IEA World Energy Outlook 2008 (WEO 2008) estimates that over 50 % of abatement measures to keep the world below 450 parts per million CO<sub>2</sub> concentration in 2030 could be reached through the introduction of existing energy efficient technologies. There exist cost-efficient measures ready for implementation both on the demand side (buildings, industry, transport) and the supply side (e.g. cogeneration of electricity and process or district heat). But more action is needed to help market actors to deploy them faster.

2.5. Going beyond existing technologies new energy efficiency and low-carbon energy technologies must be ready for wide market deployment in the next decades to achieve the further reductions that will be needed. The analyses of the IEA Energy Technology Perspective 2008 (ETP 2008) emphasise early action to mobilise private R&D and foster learning in the whole chain

from technology supplier to technology operator and user in order to bring new technologies down the learning curve, transforming them from promising but too-expensive demonstration projects into reliable and cost-efficient mainstream production. New technologies are needed both to continue improving energy efficiency (e.g. zero-emission buildings, lighting, industrial processes) and to reduce CO<sub>2</sub>-emissions from energy supply (e.g. solar electricity, carbon capture and storage, non-fossil transport fuels).

2.6. All of these changes are within reach. But the pace of change needs to be accelerated sharply. Europe and its Member States along with other major economies need to make an even larger effort than they have done so far to develop innovation strategies and deploy major transformational programmes in the key sectors involved.

2.7. Deployment programmes are crucial. Deployment programmes can provide the incentives to realise the potential of available energy efficiency measures or to increase the market uptake necessary to stimulate private R&D and put a new technology on the learning curve. They have the largest potential to provide double dividends – that is creating jobs and aiding the transformation to eco-efficient energy systems today and at the same time investing in learning to provide more efficient and cheaper technologies tomorrow. The task is to design deployment programmes that spur competition and stimulate investments in private industry R&D and foster learning in the producer-user chain.

2.8. There are already several examples of successful European efforts to improve efficiency and bring low-carbon technologies to the market. The EU energy labelling scheme moved the market for refrigeration appliances to achieve substantially higher energy efficiency. National programmes for retrofitting existing buildings have improved heating efficiency. National deployment programmes for wind power have dramatically increased deployment of this technology and reduced costs – and created multi-billion euros industries in the countries with the programmes.

2.9. However the future requirements on efficiency and new low-carbon technologies remain enormous. There is a need to collect and transfer the lessons learned from these efforts and use them for a new concerted and aligned effort to roll out and deploy the next generation of low carbon technologies on a Europe-wide basis as soon as possible.

2.10. Some of the changes needed may require fundamental step changes in approach, and these particularly need attention. Three examples seem to offer particular opportunities which could resonate well with the European public and achieve step change improvements in eco-efficiency:

- in the power generation field the move towards renewables still needs to be accelerated. Solarpower is still expensive and

marginal, but costs are steadily coming down and another big push is now needed to push this forward much more extensively both in small-scale local applications and in larger generating arrays. Wind power is now at last being deployed fairly widely, but costs still need to be driven down further. Geothermal heat pumps are already showing very good results and should be developed swiftly to the point at which they can become a standard requirement in all new dwellings and other buildings. The grid and infrastructure support and energy storage systems need to be reenvisioned and reconfigured to support much greater reliance on renewables using smart design and management principles;

- the zero-carbon car. There are fundamental physical limits to the extent to which the carbon performance of the internal combustion engine can be improved. At a certain point there will be a transformational shift to the all electric or fuel cell car with recharging or fuelling from energy sources with low or no net emissions of greenhouse gases. The Committee believes that now is the time to establish clear targets and timetables for that shift and to put in place the necessary infrastructure and support arrangements;
- in the construction field the zero net emission building is beginning to be a possibility. A major effort is now needed to transform this concept from a few interesting prototypes to large-scale deployment in new and existing housing and in other buildings. To this end model energy-saving houses should be built in all regions of the EU, the design of which should take account of climatic and geographical conditions in the region. These buildings would serve as an example.

2.11. Similar actions might also be desirable for promoting further the development and deployment of carbon capture and storage technologies and for extending the capacity of information technology and intelligent systems to contribute to greater eco-efficiency.

### 3. The role of Governments and of the EU

3.1. The EU has an especially important role because of the scale and wide range of some of the actions needed. Transformation on the scale and at the pace needed can only be brought about by a concerted effort bringing together public and private sector partners across Europe, and indeed across the globe in some cases. The EU has already undertaken a whole series of programmes and packages to promote energy efficiency, renewable energies and the transition towards a low carbon economy. But these efforts still need to be reinforced and accelerated. The following paragraphs review some of the key areas in which new European interventions are necessary.

3.2. Research and Development. R&D in Europe has stagnated at about 1,84 % of GDP for a number of years, well below the agreed target of 3 %. A major effort is needed to increase this towards the 3 % target and to devote more of the programme to supporting the transition to the low carbon economy. Some of the more radically new low-carbon technologies are among those which need more public R&D funding, e.g. carbon capture and storage, thin film solar PV, deep sea off-shore wind, and second-generation biofuels.

3.3. Deployment programmes should be designed to exploit niche markets for the new technologies and to stimulate learning investments from the market actors. Synergies with taxation and industry policies should be exploited. The EU should focus particularly on the largest transformations required such as the move to the electric car or the zero carbon house which will require technological development on a broad front, massive investment, extensive infrastructure support, and a wide ranging mobilisation of public and consumer interest and support and incentives. Experience with the Energy Technology Platforms needs to be expanded and developed into proactive deployment programmes for the key transformations required.

3.4. Standard setting. Regulatory standards for minimum energy efficiency requirements for products and services have a crucial part to play in driving progress. The EU has already established standards for minimum energy efficiency for some key products, with timetables laid down for further improvements to be mandated in the future. But these programmes still need to be made more comprehensive and to set more ambitious short and longer term targets.

3.5. Of course there are practical limitations to the pace of advance that must be respected. But it is also essential that pressure is maintained on European industry to be amongst the world leaders on efficiency standards so that they can maintain a strong competitive position as the whole world market moves towards greater eco-efficiency.

3.6. Public procurement. Public procurement programmes can be an enormously powerful tool in driving improvement of standards in key industry sectors if appropriate conditions are included in specifications and contract documents. We believe that the EU should continue to lead the way in mandating much more stringent energy efficiency standards to be standard requirements in all public sector purchasing of goods, services and buildings. Eco-efficiency criteria should be built into all project appraisal processes.

3.7. Some regional and local authorities in Europe are in the forefront of embedding the drive for eco-efficiency in all their activities. But many are not. There could be scope for a twofold European initiative on the one hand to highlight best practice and to incentivise others to follow; and on the other hand to promote systematisation and harmonisation of the requirements placed on such bodies to achieve eco-efficiency standards.

3.8. Incentives for the private sector. Setting a proper price on the emission of carbon is crucial here, and the Committee looks to the Commission to go on developing the carbon trading scheme for appropriate sectors and to encourage the further expansion of carbon-related taxation in other areas. They should also promote further action on more specific incentives such as the use of feed-in tariffs to stimulate investments in renewables. In some case also the public sector may need to work with the private sector to develop appropriate infrastructure support for crucial new technologies, e.g. support for decentralised forms of power generation and a smart grid.

3.9. Consumer behaviour. There is still a lack of sufficient consumer awareness or consumer appetite for greater efficiency either in what they purchase or in their own lifestyle decisions. Conversely there is still too little awareness amongst regulators about the springs of consumer behaviour and how best to promote demand for eco-efficient goods and services. Support for education, awareness raising, and communal action needs to be extended. Labelling of goods and products to display information about energy performance needs to be extended and improved.

3.10. Professional development and training. A much bigger effort is needed to incorporate better understanding of the need and scope for energy efficient production and sustainability in professional and technical education and re-education.

#### 4. Opportunities and threats in the current economic crisis

4.1. There is a risk that the current economic difficulties in the world might make it harder to make rapid progress towards eco-efficiency. Funds for new investment in either the public or the private sector are in short supply, and are tending to be pre-empted by short term priorities.

4.2. As the global economy begins to recover new opportunities could however emerge to move the European economy (and other major economies) in a more sustainable direction. It is crucial for Europe that it should embrace these challenges and respond to them positively if it is to thrive in the global competition for eco-efficiency and sustainability that must lie ahead.

4.3. Some particular areas that come mainly within the province of finance, economics and industry departments are especially worth examining closely in the current economic situation:

4.3.1. Greening GDP. The economic crisis has prompted renewed interest in the inadequacies of GDP as a measure of overall progress, and the need for a broader concept of welfare to be preferred that can take account of social and environmental factors as well as the performance of the monetary economy. The Commission's work in this area needs to be followed up following the recent Stiglitz report for the French Government.

4.3.2. Greening public spending. Several governments and the Commission have been undertaking substantial public spending packages to act as stimuli to their economies and to prevent the situation deteriorating into depression. The European Recovery Plan promoted by the Commission was a good example of how to marry an economic stimulus with the promotion of a shift to a greener economy, but was inevitably limited by the comparatively small sums available to it. The time for further stimulus packages may now have largely passed, but all public spending programmes still need to be reviewed from the eco-efficiency point of view so as to secure double benefits. Systematic sustainability appraisals of public spending programmes should become the norm in the budget processes of the EU and its Member States.

4.3.3. Greening reductions in public spending. All public expenditure programmes are going to be under close scrutiny over the next few years as the public authorities seek to find expenditure savings to restore their finances. In examining areas for cutbacks attention should be focused particularly on programmes of expenditure that have high energy consumption or which work against eco-efficiency. Perverse subsidies that support the production or consumption of fossil fuels (e.g. coal production subsidies or subsidised fuel prices for particular groups) and thus secure double disbenefits (crowding out other more useful public investment, and tilting the playing field against the very technologies for renewables etc. that we should be seeking to promote) should be particularly scrutinised in this context. The Commission's long-awaited communication on subsidies reform could help to get European action moving on this.

4.3.4. Greening fiscal rebalancing. Current fiscal imbalances in many countries of Europe are likely to require adjustments in the level and balance of taxation. In making such changes the green dimension should be kept in view. In particular higher taxation on (fossil fuel) energy should be preferred to taxation on labour in the present climate, though with appropriate safeguards to protect the position of the poorest and most vulnerable. The Commission might launch a new study with Member States to encourage concerted action to shift fiscal strategies in this direction.

4.3.5. Greening industrial support and restructuring. The current economic crisis has already led to some significant government interventions to support or restructure key industries. In making such interventions the promotion of resource efficiency should always be a key objective. Some of the specific transformational challenges noted in this opinion (the electric car, the zero emission house, and solar power) may particularly need intervention and support so that they can become part of the core of the new economy around which new investment, new businesses, new jobs are created.

4.3.6. A new Innovation Strategy. We foresee the possibility of a new role for the EU to help foster the emergence of world class European champions in the key sectors of low carbon technology in the context of a new innovation strategy for Europe. The EESC suggests in particular that task forces involving public and private sector actors might be established to shape progress at EU level in relation to the electric car, the zero emission house and solar power. In each case the actions would need to build on the work of existing Energy Technology R&D platforms and take action further into the field of large scale roll-out and deployment.

4.3.7. In each case the task forces should seek to identify the pathways for change, and the different parts that will need to be played by public and private sector R&D and investment. They should explore what infrastructure support may be needed (e.g. a network of charging points to support the widespread introduction of electric cars, or a programme of municipal support for householders to improve the energy efficiency of their homes). They might also explore how such transformations can be made available to the developing world (e.g. solar power for Africa) so that they can be helped to play their part in the transition to the low carbon economy.

4.3.8. New Forms of Finance – A green Eurobond? In present economic circumstances there are likely to be severe constraints on public expenditure (and possibly on private investment levels) throughout the EU for some years to come. The Committee suggests that innovative forms of financing to support the investment needed in rolling out new eco-efficient technologies are needed. We suggest consideration should be given to the creation of a green Eurobond. This could be marketed as giving a modest but safe return, and as providing development and deployment finance for some of the key new technologies such as the zero carbon car and the zero carbon home. It would thus tap into the widespread desire to combine a safe form of saving with some contribution to a better future.

## 5. A new impetus at European level

5.1. The EU has already made a good start in initiating moves towards a more eco-efficient economy through the targets it has set itself and the measures it has put in place. But it is clear that this can only be regarded as a beginning. The continuing problems of the world economy point up the continuing need for active management to avoid reverting to past inefficient and damaging patterns of growth and development. The advent of a new Parliament and a new Commission provides a good opportunity for the EU to step up the pace and to give a new impetus to eco-efficiency and sustainable development in Europe.

5.2. In the short term the EESC urges the Commission and the Swedish and subsequent Presidencies to seize early opportunities through:

- shaping the new financial perspectives,
  - recasting Directive 2002/91/EC on energy performance of buildings (EPBD),
  - pursuing the Commission's communication 'Overcoming Barriers to Renewable Energy in the EU',
  - promoting a Sustainable Energy Financing Initiative as a joint Commission/European Investment Bank project,
  - embracing a new Energy Policy for Europe in 2010, with agendas for 2030 and a vision for 2050.
- 5.3. The EESC recognises the potential of the National Energy Efficiency Action Plans (NEEAP) and the national action plans for renewable sources. There needs to be a rapid dissemination and feed-back to EU members following analysis of the first round of plans, and vigorous follow-up by the Commission and the institutions.
- 5.4. Looking ahead the EESC sees a continuing need for the promotion of eco-efficiency to feature strongly and to be expanded or extended in all the following areas of actual or potential European activity that have been reviewed in this opinion:
- support for R&D,
  - support for professional development programmes in engineering, construction and other key areas to include mandatory elements on design for eco-efficiency,
  - incorporating eco-efficiency requirements in all appropriate accounting standards, regulatory practice and finance department appraisal rules,
  - prioritising eco-efficiency in all European and Member State spending programmes and procurement,
  - promoting the greening of all public spending programmes at European and Member State level using systematic sustainability appraisals as a key tool,
  - establishing new forms of finance for major transformational programmes,
  - promoting eco-efficient fiscal reform,
  - elimination of harmful subsidies,
  - promoting a new innovation strategy with task forces for specific key transformations,
  - promotion of good practice in consumer education and in community action.
- revision and renewal of the Lisbon and Sustainable Development Strategies,

5.5. We believe that there will be substantial competitive advantage for those economies that manage to move fastest towards eco-efficiency - and serious competitive disadvantages for those that are left behind. We therefore urge that the objective of becoming one of the most eco-efficient economies in the world

should be at the core of the renewed Lisbon Strategy for the future of the European economy, and be embedded throughout European policies and programmes on the lines recommended in this opinion.

Brussels, 5 November 2009.

*The president  
of the European Economic and Social Committee*  
Mario SEPI

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## Opinion of the European Economic and Social Committee on 'Respect for fundamental rights in European immigration policies and legislation'

(own-initiative opinion)

(2010/C 128/06)

Rapporteur: **Mr PARIZA CASTAÑOS**

On 26 February 2009 the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

*Respect for fundamental rights in European immigration policies and legislation.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November), the European Economic and Social Committee adopted the following opinion unanimously.

### 1. Presentation and background

1.1. The EESC has decided to draw up an own-initiative opinion to propose that EU policies and legislation on immigration and borders should comply fully with human rights and focus principally on the freedom and security of all.

1.2. The EU is equipping itself — with great difficulty at the Council — with a common legislative framework in the field of immigration, providing supranational rights and guarantees that go beyond the changing (and sometimes restrictive) laws of the Member States. The EESC welcomes the progress made: drafting common legislation for 27 Member States is no easy task, especially in an area as sensitive as immigration.

1.3. However, the minimal nature of harmonisation of many of these items of legislation stands in the way of full, appropriate safeguards for human rights. Moreover, the transposition of European directives into national law is not proceeding properly in some Member States where the protection of fundamental rights is concerned.

1.4. Over the years, the EESC has drawn up a number of opinions calling for the common immigration policy to be based on a comprehensive approach, reflecting not only the needs of the EU Member States, but also cooperation with the countries of origin and respect for the human rights of immigrants.

1.5. On 16 October 2008 the European Council reached agreement on the European Pact on Immigration and Asylum, expressing the EU's strong political commitment to making progress on

the common immigration policy. In the course of the Swedish Presidency, the EU is to adopt the Stockholm Programme <sup>(1)</sup>.

1.6. The Lisbon Treaty is also expected to come into force, which could give new impetus to the implementation of immigration policies to be adopted by means of the ordinary legislative procedure, and will give a binding legal character to the Charter of Fundamental Rights.

1.7. Over this period, the EESC has stepped up cooperation with civil society organisations, and a lasting link for participation has been established with the European Integration Forum <sup>(2)</sup>. The Committee has committed itself strongly to ensuring that civil society is involved in implementing integration policies.

1.8. The Committee is concerned at rising intolerance, racism and xenophobia against immigrants, 'the Other', in Europe, and fears that the social effects of the financial crisis will serve to nourish this. Politicians and others with influence in society, together with the media, must act with the utmost responsibility and set a clear political and social example in order to prevent such behaviour. Education in human values, fundamental rights, equality and non-discrimination must be given a more prominent place in primary and secondary school curricula.

### 2. Fundamental human rights and immigration policies

2.1. Among the various international instruments, the Universal Declaration of Human Rights proclaims the universal nature of a common system of principles and values.

<sup>(1)</sup> COM(2009) 262 final, 10.6.2009.

<sup>(2)</sup> European Integration Forum and the EU website on integration.

2.2. The European Convention on Human Rights, signed in Rome in 1950 and to which all the Member States have adhered, and the European Court of Human Rights (ECHR), are the basis and guarantee of compliance everywhere in EU territory.

2.3. The Court of Justice of the European Communities (or 'European Court of Justice', ECJ) has recognised that the European Convention on Human Rights and the ECHR form part of the Community's legal system and constitute general principles within that system.

2.4. This was confirmed by Article 6 of the Treaty on European Union (TEU), which strengthened the guarantee of fundamental rights in the European legal system, and the ECJ's competence to enforce compliance with them in the actions of the European institutions and the Member States in areas subject to Community law.

2.5. Although states have a sovereign entitlement to control entry and grant residence permits to third-country nationals, the EESC recalls that they must comply with their obligations under international and European instruments and conventions on fundamental human rights and their interpretation (and implementation) by the competent courts.

2.6. The Charter of Fundamental Rights of the EU incorporates new rights not included in the European Convention on Human Rights<sup>(3)</sup>. A large number of these rights, moreover, apply regardless of a person's nationality. The Charter will be binding once the Lisbon Treaty has been ratified, and will increase the legal certainty of the protection of fundamental rights. The Charter will be applicable to the European institutions and the Member States especially when they apply Community law, and will strengthen respect for fundamental rights in matters relating to immigration.

2.7. The entry into force of the Lisbon Treaty will give the Union the option of adhering to the European Convention for Human Rights, strengthening the EU's commitment to human rights.

2.8. The Committee also backed<sup>(4)</sup> the creation of the EU Agency for Fundamental Rights. In 2008 the European Council adopted the multi-annual framework for the Agency covering nine thematic areas, among them racism and xenophobia; discrimination; asylum, immigration and integration; and visas and border control. The EESC wishes to be involved in the Agency, in order to strengthen the part played by organised civil society in its work.

2.9. However, in spite of these Community instruments and structures, many civil society organisations and reports from independent and university researchers have shown that some national and European policies and laws do not adequately respect fundamental rights.

2.10. With regard to Community policies, there are also abundant reports pointing to violations of immigrants' human rights in several Member States; on other occasions, European policies legitimise certain national migration practices which are incompatible with human rights and the rule of law.

2.11. In a recent opinion<sup>(5)</sup>, the EESC took the view 'that immigration policy and legislation should fully respect the human rights of all people, equal treatment and non-discrimination. To strengthen this objective, the EESC proposes that two new common principles should be included' for the future European immigration policy as laid out in the Stockholm Programme: 'Fundamental Rights, and the Rule of Law and Fundamental Freedoms'.

2.12. The Fundamental Rights should be granted to all, not only citizens of the Union. Asylum seekers and immigrants are protected by the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. In addition, European immigration and border law and ECJ case-law provide a series of guarantees and rights that go beyond the Member States' margin of discretion.

2.13. The EESC has also proposed<sup>(6)</sup> that, within the framework of external policy, the EU should promote an international legal framework for migration on the basis of the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. This framework should incorporate the main ILO conventions and the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which has not yet been ratified by the EU Member States although the EESC had adopted an own-initiative<sup>(7)</sup> opinion calling for its ratification.

2.14. In the Programme for Europe<sup>(8)</sup>, the Committee also proposes that fundamental rights and human rights be respected in the EU, and specifically in immigration and asylum policies.

2.15. The EESC considers that the values and principles of the EU, protection of human rights and freedoms, must be strengthened by means of a visible and robust political authority at European level. It therefore supports President Barroso's proposal to create a post for a European Commissioner responsible for Justice, Fundamental Rights and Civil Liberties. The Committee trusts that this department will be equipped with the political tools and organisational and financial resources needed to discharge such a major responsibility.

2.16. The Committee regrets, however, that immigration and asylum are not included in this portfolio, being classed with internal security matters under the responsibility of another Commissioner. Linking immigration with security, and separating it from the protection of fundamental rights, sends the wrong political message.

<sup>(3)</sup> OJ C 303, 14.12.2007, p. 1.

<sup>(4)</sup> EESC opinion, OJ C 88, 11.4.2006, p. 37.

<sup>(5)</sup> EESC opinion, OJ C 218, 11.9.2009, p. 78.

<sup>(6)</sup> EESC opinion, OJ C 44, 16.2.2008, p. 91.

<sup>(7)</sup> EESC opinion, OJ C 302, 7.12.2004, p. 49.

<sup>(8)</sup> *A Programme for Europe*: <http://www.eesc.europa.eu/documents/publications/pdf/booklets/EESC-2009-10-EN.pdf>.



### 3. The universality of human rights

3.1. Europe today faces a major challenge: ensuring that every person enjoys human rights within the framework of the EU and Member State legal systems, which are based on the traditional concept of citizenship, denying some of these rights to 'non-citizens', and on a legal distinction between citizens and aliens, between legal and irregular immigrants.

3.2. Bodies of law on immigration in Europe do not adequately guarantee immigrants' status as right-holders and as persons entitled to protection. The tight legal link between work and residence permits makes it perfectly clear that immigrants are not viewed as people but as a workforce, a tool at the service of the labour market that foregoes the chance to stay legally once no longer required. As such, they lose many of their rights due to a change in their administrative status: they become 'undocumented'.

3.3. Human rights are universal, irrevocable and protect all, regardless of condition or legal status.

### 4. Human rights and immigration policy: ten operational priorities for Europe to be an area of freedom, security and justice

#### 4.1. A Europe of rights

4.1.1. In recent years, the defence and promotion of human rights has slipped down the EU agenda. State security has been the political priority, and has been seen as incompatible with more freedom and the protection of fundamental rights.

4.1.2. Any security policies that are adopted must safeguard the values of freedom and justice. The EESC considers that these policies should take the protection of the fundamental rights guaranteed by the European Convention on Human Rights and the Charter of Fundamental Rights as their starting point.

4.1.3. Strengthening security must not jeopardise the fundamental values (human rights and public freedoms) or democratic principles (the rule of law) that are shared throughout the Union. Personal freedom must not be curtailed under cover of the objective of collective and state security. Some policy proposals repeat a mistake that was made in previous periods: sacrificing freedom to improve security.

4.1.4. In this regard, the EESC welcomes the Commission's June 2009 Communication on *An area of freedom, security and justice serving the citizen*, whose priority is to protect the fundamental rights of European citizens.

4.1.5. The EESC supports the Commission's initiative to 'lock in a culture of fundamental rights' from the earliest stages of the legislative procedure, including immigration policy. Respect for fundamental rights must a common goal of all the Community

institutions<sup>(9)</sup>. This should be accompanied by a common European system of periodic ex-post evaluation of the application of European policies adopted at national, regional and local level in terms of their compatibility with fundamental rights and their effectiveness<sup>(10)</sup>. The EESC and organised civil society should also play a key role in such evaluations.

#### 4.2. Admission legislation

4.2.1. The EESC has previously argued that the EU must be equipped with a common immigration policy and harmonised legislation. The EU and the Member States need to have open legislation allowing immigration for employment purposes through legal, transparent channels for workers in both highly-qualified and less-qualified jobs. Immigrants' rights will be properly protected in this way.

4.2.2. The Committee has proposed horizontal legislation, but the Member States, the Commission and the Council have decided to draw up specific directives for certain groups of immigrants, a fact which may give rise to instances of discrimination.

4.2.3. In its opinions on the Commission's legislative initiatives, the EESC seeks to ensure overall consistency and the protection of fundamental rights, together with equal treatment and non-discrimination, regardless of immigrant workers' occupational category.

#### 4.3. Rights of immigrant workers and their families

4.3.1. The principle of non-discrimination should be the foundation (Article 21 of the Charter). Immigrant workers, regardless of the period for which they are authorised to reside and work, must have the same economic, labour and social rights as other workers. This is also in keeping with Article 15(3) of the Charter, stating that 'nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union'.

4.3.2. Equal treatment at work concerns working conditions, pay, dismissal, workplace health and safety, and the right to join a trade union and to strike.

4.3.3. The EESC considers that equal treatment should also be promoted in relation to other social and fundamental rights, as it proposed in an earlier opinion: 'In specific terms, the EESC proposes a series of rights that should be granted to third-country nationals temporarily and legally working and residing within the EU'<sup>(11)</sup>, such as:

— the right to social protection, including health care

<sup>(9)</sup> Report from the European Commission – compliance with the Charter of Fundamental Rights, COM(2009) 205 final, 29.4.2009.

<sup>(10)</sup> This would be in keeping with Article 60 of the Treaty of Lisbon.

<sup>(11)</sup> EESC opinion, OJ C 286, 17.11.2005, p. 20.

- access to goods and services, including housing (Articles 34 and 35 of the Charter);
- access to education and vocational training (Article 14 of the Charter);
- the recognition of degrees, certificates and qualifications in the context of Community law;
- the recognition of the social and labour rights of migrant workers who are posted within the EU <sup>(12)</sup>;
- the right to the education of minors, including funding and study grants;
- the right to free legal aid in cases of need (Article 47 of the Charter);
- the right of access to a free placement service (public service);
- the right to be taught the language of the host society;
- respect for cultural, religious and linguistic diversity (Article 22 of the Charter);
- the right to free movement and residence within the Member State.

4.3.4. Being able to exercise fundamental rights depends on public services being endowed with the means of respecting them (resources, staff training) and their representatives being legally bound to treat individuals independently and neutrally. Furthermore, the EESC remains to be convinced, in this period of crisis, that the budgetary resources available to the Member States of the Union and the level of resources that they are prepared to disburse, both nationally and at European level, are sufficient to make the protection of human rights, particularly those of immigrants, a reality.

4.3.5. The Committee does not agree with the proposal for a framework directive, which allows the Member States to restrict the right to equal treatment in relation to certain working conditions (including pay and dismissal, health and safety in the workplace and social protection) and freedom of assembly, association and to strike <sup>(13)</sup> to persons actually in work. These restrictions may also undermine the principle of non-discrimination and Article 12 of the Charter.

4.3.6. The EESC hails the Commission's initiative to present a European Immigration Code, which should encompass the fundamental rights and guarantees of all immigrants to the EU.

<sup>(12)</sup> In connection with the proposal for a directive that the Commission is to adopt in the coming months.

<sup>(13)</sup> COM(2007) 638 final, Article 12(2)(e) and (d). According to the provisions of the proposal, the Member States can also apply restrictions concerning study and vocational training grants, and limit access to public housing to those with residence rights for a minimum of three years.

#### 4.4. Family reunification

4.4.1. The right to family life as one of the human rights that the EU and the Member States must protect and guarantee in their policies and legislation on immigration <sup>(14)</sup>.

4.4.2. The minimalist nature of Council Directive 2003/86/EC on the right to family reunification enables some national laws not to fully guarantee the right to family reunification to third-country nationals. This was confirmed in the Commission report on the application of the directive <sup>(15)</sup> which, raises doubts about the compatibility of applying integration measures as a precondition for admission to the territory under the right to family life (Charter Article 7) and the principle of proportionality.

4.4.3. The Committee believes that the Blue Card Directive takes a less restrictive view of family reunification than does Directive 2003/86. This approach should be extended to all categories of immigrant, regardless of whether they are highly-skilled or otherwise.

4.4.4. Consequently, the Committee proposes that in the course of the 2010, the Commission should draw up a proposal to amend Directive 2003/86.

#### 4.5. Borders and irregular immigration

4.5.1. The EESC wants effective border control that respects the fundamental right to asylum (Article 18 of the Charter) and the principle of 'non-refoulement', which prevents individuals from being returned to countries where their lives or freedom would be in danger (Article 19 of the Charter). Many people requiring international protection arrive at the external borders using clandestine routes. The authorities must ensure that such persons can submit their requests for protection, and that their requests are examined without exception in accordance with international and European conventions and with Community and national legislation.

4.5.2. The EESC proposes that before strengthening the FRONTEX Agency's operational powers, there should be an independent evaluation of the human rights compliance of joint border control operations, and that European and national parliamentary oversight should be stepped up. Compatibility with the guarantees set out in the Schengen Border Code, especially Articles 6 and 13, should also be assessed.

4.5.3. EU control and surveillance measures concerning irregular immigration are also being geographically extended beyond the EU's external border, by means of joint operations in Africa. The UNHCR and several NGOs have warned about the lack of guarantees for respect of human rights when border control operations take place outside EU territory?

<sup>(14)</sup> As confirmed by the ECJ in Case C-540/03 European Parliament v. Council.

<sup>(15)</sup> COM(2008) 610 final, 8.10.2008.

4.5.4. The European border control strategy makes heavy use of security technology; however, databases handling vast quantities of personal data (Schengen Information System (SIS II) and Visa Information System (VIS) have been set up and are used for ethnic and cultural/religious profiling, which presents challenges when it comes to safeguarding the right to non-discrimination under Article 21 of the Charter of Fundamental Rights.

4.5.5. Similarly, the system proposed in the Commission's 2008 border package <sup>(16)</sup> raises doubts regarding the proportionality and reasonableness that are essential for any new EU legislation, and also gives rise to the same serious concerns regarding how the protection of personal data (Article 8 of the Charter) and the principle of non-discrimination enshrined in Article 13 of the EC Treaty will be fully ensured given the use of certain technologies initiatives (e.g. the automatic border control procedures system).

4.5.6. The EESC considers that in order to ensure respect for fundamental rights, EU solidarity with those Member States that, because of their geographical location, have to deal with large numbers of victims of criminal trafficking networks who arrive by irregular means, should be enhanced. The EESC proposes that the European Asylum Support Office begin functioning.

4.5.7. The EU must also promote cooperation with the countries of origin in order to improve respect for human rights, head off irregular immigration, foster legal immigration and combat criminal people-trafficking networks.

#### 4.6. Return and readmission

4.6.1. The Directive on Return <sup>(17)</sup> will provide a European framework of legal and procedural guarantees of protection <sup>(18)</sup>, which the EESC appreciates, such as the effective remedy to appeal against decisions related to return before a competent judicial or administrative authority or a competent independent body, as well as free legal representation and assistance, certain safeguards pending return, conditions of detention, etc.

4.6.2. However, the EESC shares the opinion of many civil society organisations and independent experts of the UN Human Rights Council <sup>(19)</sup> who point to a number of discrepancies between the common system introduced by the Directive and the fundamental rights of immigrants. There will be a need for

detailed monitoring of the transposal and implementation phases at national level regarding expulsion measures, detention, appeal procedures and the treatment of vulnerable people under the Directive.

4.6.3. The Committee proposes that European return policy should be based on a voluntary approach and on the greatest possible regard for humanitarian values. The legitimacy and credibility of European immigration policy elsewhere in the world depends on this. The exceptions contained, for example, in Article 7(4) of the Directive ('risk of absconding' concept) may empty return of its voluntary nature as a result of the discretion granted to the Member States in transposing and interpreting it. Moreover, the Directive fails to ensure proper protection for persons left in a legal limbo pending their expulsion, or with regard to the conditions justifying detention <sup>(20)</sup>, which may last up to six months (and can be extended for a further 12 months) <sup>(21)</sup>.

4.6.4. Article 19 of the Charter expressly prohibits collective expulsions and ensures that no one may be removed, expelled or extradited to a state where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment – the 'non-refoulement' principle (Articles 4 and 19 of the Charter). The Charter reinforces respect for fundamental rights. However, the UNHCR and several NGOs have condemned instances of collective expulsion and expulsion of irregular immigrants and asylum seekers to countries where human rights are violated.

4.6.5. The EESC recalls that Articles 3, 5, 6, 8 and 13 of the European Convention on Human Rights and Articles 3, 4, 19, 24 and 47 of the Charter contain provisions that are applicable to any European policy on irregular immigration – with a special focus on protection in the event of return, expulsion or extradition. Many irregular immigrants find themselves in a difficult humanitarian position, which is why whatever laws and practices are implemented must be drawn up and applied in compliance with strict human rights criteria and in keeping with solidarity-based moral principles.

4.6.6. The rule of law protects the fundamental right of everyone to effective remedy as enshrined in Articles 47 and 48 of the Charter. In addition, Article 6(2) of the Schengen Border Code stipulates that border guards shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation. Similarly, in accordance with Article 13, third country nationals who are refused entry shall have the right to appeal against the decision, and they shall be given a form stating the reasons for the refusal <sup>(22)</sup>.

<sup>(16)</sup> COM(2008) 69 final, 13.2.2008.

<sup>(17)</sup> Directive 2008/115/EC.

<sup>(18)</sup> e.g. Articles 12.1 and 12.2, 13.1 and 13.2, 13.3 and 13.4, 14.1 and 14.2 of the Directive.

<sup>(19)</sup> Press release, *UN experts express concern about proposed EU Return Directive*, 18 July 2008.

<sup>(20)</sup> Article 15(1).

<sup>(21)</sup> Articles 15(5) and 15(6).

<sup>(22)</sup> Regulation 562/2006 (Schengen Borders Code), OJ L 105, 13.4.2006, p. 1.

4.6.7. The ECHR has interpreted Article 3 of the European Convention on Human Rights <sup>(23)</sup> to mean that persons with serious physical or mental illness may not be detained or expelled, as they are in need of medical care. The situation of minors also requires specific attention and protection. The EESC supports the Commission's initiative regarding the situation of unaccompanied minors.

4.6.8. The EESC considers respect for human rights to be an indispensable precondition for signing readmission agreements with third countries, and is opposed to the EU or the Member States entering into repatriation or border control agreements with countries which have not signed the main international legal instruments to protect human rights, or where there is evidence that such rights have been violated. Special attention must be paid to the fundamental right to effective judicial protection of asylum seekers <sup>(24)</sup>.

#### 4.7. Detention centres

4.7.1. The EESC restates its opposition to keeping asylum seekers and irregular immigrants in detention, which must remain an extraordinary measure <sup>(25)</sup>.

4.7.2. The circumstances under which prolonged detention currently takes place in a number of Member States are unacceptable, and should be analysed in detail from the perspective of fundamental rights, including the right to good administration as laid down in Article 41 of the Charter.

4.7.3. The Committee calls for greater transparency concerning detention centres within and outside the EU, for the UNHCR to be kept informed of the situation of persons detained in them, and for such persons to be afforded appropriate assistance by NGOs.

4.7.4. The EESC believes that pregnant women and minors should receive special protection, and should not be detained in these centres.

#### 4.8. Undocumented persons

4.8.1. The EESC does not see an undocumented person as a person without rights: consequently, the EU and the Member States should protect their fundamental rights.

4.8.2. The expression 'illegal immigration', when referring to migrants, requires some clarification. Although it is not legal to enter a country without the proper documents and authorisations, people who do so are not criminals. The link made in much

of the media and in political speeches between irregular immigration and crime does not reflect reality, and stirs up fear-driven and xenophobic attitudes among the population of the host country.

4.8.3. The Committee considers that certain Member States need to provide better protection of the fundamental rights of undocumented immigrants, and that the EU should consider them as one of the most vulnerable groups, preventing their labour exploitation and by ensuring their access to health services, other social services and education for minors.

4.8.4. The fight against trafficking in human beings (children, women and men) for sexual and labour exploitation needs to be stepped up, in accordance with Article 5(3) of the Charter. The Member States must provide effective protection for victims, making it easier for them to cooperate the judicial authorities and regularise their situation.

#### 4.9. Regularisation

4.9.1. In the Committee's view, governments are acting hypocritically. Return policy is not the only answer to irregular immigration. Many Member States have implemented procedures to put irregular immigrants on a legal footing, seeing regularisation under specific conditions as appropriate in order to guarantee fundamental rights and in the light of their economic and social needs.

4.9.2. The EESC agrees that the flow of information between Member States concerning regularisation should be improved, and that European implementing guidelines should be drawn up, on the basis of the Council's commitment under the European Pact on Immigration and Asylum <sup>(26)</sup>, in which it was agreed to carry out case-by-case regularisations under national law, for humanitarian or economic reasons.

4.9.3. Return by means of an expulsion order should, for persons whose residence permits have expired, be considered as the most extreme measure. Before taking such a step, consideration should be given to whether such persons have expressed an intention to renew their residence.

4.9.4. The EESC considers that in a democratic society, the need for expulsion must be assessed (principle of proportionality) in keeping with the interpretation under ECHR case-law <sup>(27)</sup>. The Committee proposes that the Member States make use of the option to regularise the situation of these persons, as provided by Article 6(4) of the Directive on Return.

4.9.5. The effects (and viability) of expulsion on the fundamental right to private and family life, as set out in Article 7 of the Charter must also be taken into account.

<sup>(23)</sup> Article 19 of the Charter of Fundamental Rights incorporates the case-law of the Strasbourg court, and more specifically the judgment of 17 December 1996, *Ahmed v. Austria*, Reports 1996, VI-2006, and the *Soring* judgment of 7 July 1989.

<sup>(24)</sup> As indicated by the ECJ in Case C-133/06, *European Parliament v Council*.

<sup>(25)</sup> See EESC opinion of 16 July 2009 on *Minimum standards for the reception of asylum seekers*, rapporteur: Ms Le Nouail-Marlière, adopted at the plenary session of 15 and 16 July 2009 (OJ C 317, 23.12.2009, p. 110).

<sup>(26)</sup> EU Council, 1344/08, 24 September 2008.

<sup>(27)</sup> For example, *Boultif v. Switzerland*, no. 54273/00, §§ 39, 41 and 46, 2 November 2001, ECHR 2001-IX. *Üner v. the Netherlands* [GC], no. 46419/99, 18 October 2006, § 58.

#### 4.10. *Integration policies*

4.10.1. The EESC has drawn up several own-initiative opinions calling for proactive integration policies in the EU with a two-way focus, directed towards the host societies and immigrants. Integration is a social process that takes place within a single society, between immigrants and the host society, and between the host society and immigrants.

4.10.2. The EESC is promoting a European approach to integration, reflecting the fact that each Member State has its own legal systems, social institutions and different cultural systems and models.

4.10.3. A common European approach entails very considerable added value for integration policies and processes: the cross-cutting link with other EU policies, (amongst others) the Lisbon strategy, employment policy, the social agenda and cohesion policy. The same can strengthen links between integration and the EU's values and principles, set out in the Charter and the European Convention on Human Rights.

4.10.4. During 2008, the Committee participated actively in the European Year of Intercultural Dialogue, the purpose being to facilitate integration and promote more inclusive European citizenship through dialogue in an environment of diversity in European societies. The EESC has proposed <sup>(28)</sup> that handbooks be prepared.

4.10.5. The EESC proposes a positive approach to integration. However, some governments understand integration from a negative point of view, as a new means of discrimination, and as a further obstacle to equality and access to fundamental rights. The EESC is convinced that such an approach runs counter to the provisions of Articles 21 (right to non-discrimination) and 22 (right to cultural, religious and linguistic diversity) of the Charter.

4.10.6. Examples of best practice include the creation of consultative forums and platforms involving civil society at national,

regional and local level, and the EESC therefore urges all the Member States to set up such structures. The European Integration Forum, recently set up with the cooperation of the Commission and the EESC, is a major tool for strengthening integration from a European perspective.

#### 5. **More inclusive European citizenship**

5.1. Some governments, taking an exclusionist, nationalist stance, define national and European identity in a way that sidelines the present-day diversity of European societies and the diverse aspects of many people on account of their ethnic, national, religious or cultural origins.

5.2. Our democratic societies are plural and enjoy a wealth of diversity. Each European citizen is a melting-pot of different identities. The European democracies are free and open societies, and must be based on the inclusion of all citizens, whatever their reference points for their identities.

5.3. The quality of democracy could be eroded if citizenship rights are restricted by a narrow and exclusive view of identity. Integration policies and immigration legislation must never be used as a political fig leaf for excluding immigrants and minorities from citizenship rights.

5.4. The EESC considers that the foundations of our democracies should be extended to include new citizens, equal in rights and obligations. National and European citizenship rights must embrace all forms of diversity, without discrimination <sup>(29)</sup>.

5.5. The EESC drew up an own-initiative opinion <sup>(30)</sup> addressed to the Convention that drafted the ill-fated Constitutional Treaty, calling for European citizenship to be granted to third-country nationals having long-term resident status. The Committee urges the Commission and the European Parliament to include this proposal as a priority for the new term of office.

Brussels, 4 November 2009.

*The president  
of the European Economic and Social Committee*  
Mario SEPI

<sup>(28)</sup> EESC opinion, OJ C 185, 8.8.2006, p. 42.

<sup>(29)</sup> Article 13 of the Treaty establishing the European Community.

<sup>(30)</sup> Own-initiative opinion, OJ C 208, 3.9.2003, p. 76.

**Opinion of the European Economic and Social Committee on 'Energy and climate change as an integral part of the renewed Lisbon Strategy'**

**(own-initiative opinion)**

(2010/C 128/07)

Rapporteur-General: **Ms SIRKEINEN**

On 17 June 2008 the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an own-initiative opinion on

*Energy and climate change as an integral part of the renewed Lisbon strategy.*

The Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion (Lisbon Strategy Observatory) to prepare the Committee's work on the subject.

Given the nature of the work, the European Economic and Social Committee appointed Ms Sirkeinen as rapporteur-general at its 457th plenary session, held on 4 and 5 November (meeting of 4 November), the European Economic and Social Committee adopted the following opinion by 164 votes to 6 with 12 abstentions.

**1. Conclusions and recommendations**

1.1. Climate change and security of energy supply are two of the biggest challenges of this century. Consumption and production structures need to change towards decreased greenhouse gas emission and energy use. Some production will fall out and others develop and grow. Existing jobs will be lost and new ones created; support measures will be needed. Skill and knowledge needs will change. Research and massive investments have to take place.

1.2. Moving finally from political statements to practical measures is necessary and urgent, but it will not be easy. Our political leaders have to make these challenges and their implications clear to citizens and plan carefully the measures needed. Without the support of citizens and the civil society change will not happen. Many questions concerning consequences of EU policy decisions remain open and need further study and information from the Commission.

1.3. Concrete moves towards a low carbon society must not be postponed because of the present economic downturn, however serious. The crisis could and should also be seen as an opportunity for a fresh start with a different approach to achieving growth. The EESC in particular stresses the importance of an international agreement in Copenhagen.

1.4. The renewed Lisbon Strategy has to include an action plan for a low carbon economy. This must be achieved while respecting the three pillars of sustainable development – economic, environmental and social – and without losing sight of the overall goal of competitiveness, growth and jobs. A competitive economic framework is a prerequisite for achieving climate and energy

goals, and climate and energy policies can, with the right approach, support the creation of growth and jobs.

1.5. Key areas of action are technology development and investments, awareness and behaviour, societal and educational aspects and the international dimension. Achieving real, sustainable results will require both time and resources.

1.6. The EESC recommends that

— The EU should now, after putting in place a comprehensive legislative framework for energy and climate change, concentrate on practical implementation.

— Policies to enhance energy efficiency and saving, investments in sufficient energy production and transport, including smart grids, an open internal energy market as well as a strong positioning of the EU on the international scene are necessary to secure energy supply, while also supporting climate goals.

— Effective policy measures should be integrated into the integrated guidelines, country specific recommendations and national reform programmes of the future Lisbon Strategy.

— The EU and Member States have to focus on technology development and must, in hard international competition, invest more in R&D&I for clean technologies including possible reallocation from the Community budget.

— Framework conditions favourable to deployment and investments in new technologies must be ensured.

- Correct information, a list of best practices, concrete advice and relevant support measures have to be put in place by the Commission and other relevant actors in order for consumers to adapt their behaviour.
- Education and training, especially life-long learning, has to be available to everyone in order to adapt to the changes in production and consumption patterns.
- Careful attention must be paid to the effects of policies on energy prices in order to avoid risks of energy poverty and weakened competitiveness as well as to avoiding detrimental effects of support schemes for renewables.
- The EU must do all possible efforts to reach an international agreement on climate change that creates a level playing field globally, including an international trading system or compatible systems.
- Civil society and the social partners must be actively involved in the enormous effort of restructuring our economies. The EESC is ready and willing to play its part.

## Reasons

### 2. Introduction: State of the art

#### Energy policy

2.1. EU energy policy has three parallel objectives: security of supply, competitiveness and environmental protection, including mitigation of climate change. If necessary, the first priority is to be given to security of supply. Lack of energy, incl. electricity generation, is an increasingly real risk, in particular when the economy starts to recover.

2.2. The environmental and climate effects of energy production and large-scale use are targeted by EU regulation. New caps in the emissions trading system, covering energy production, energy-intensive industries and air transport, have been approved by the EU. The practical effects of these proposals are still unknown in spite of impact assessments on aggregate level.

2.3. Efficiency and saving in all sectors of energy use as well as in energy production is the key and highly potential building bloc for energy security and lower emissions. The EU has several policies in place for this and further policy measures are being prepared. Practical measures in Member States are, however, still scarce.

2.4. The sources and routes of European energy supply have to be diversified and the energy mix directed towards low carbon and low emission alternatives, such as renewable energy and nuclear power. Optimisation and decisions on the energy mix are in the hands of Member States, but EU policies on renewables as well as environmental and climate legislation direct choices.

2.5. Europe needs to be a stronger player in international energy relations and markets. The problems of gas supply encountered again in 2009 may finally lead to a long overdue determination to act together.

#### Climate change policies

2.6. The Energy and climate package of 2008 comprises measures in all sectors to reach the well known targets of 20-20-20 by 2020. The main target of greenhouse gas emissions would be increased to 30 % in the context of a sufficiently ambitious and comprehensive international agreement.

2.7. A big part of the measures to cut emissions are to be put in place by Member States. Many details of the legislation, in particular as regards the emissions trading system and the problem of 'carbon leakage' still need to be decided at EU level.

2.8. How the whole system will work in practice is still unknown. Questions of great importance are, for instance, the price of carbon dioxide, energy price increase as a result of policies for renewables and the cost to households of action in the non-ETS-sectors. More studies and information is needed from the Commission.

2.9. Negotiations on an international climate agreement will culminate in Copenhagen in December 2009. The EESC has presented its views on this in a separate Opinion. The European Council has agreed on main lines for preparing for the Copenhagen meeting, including preparation of a burden sharing between Member States to support the poorest countries.

### 3. Issues to be taken up in the renewed Lisbon Strategy on energy and climate policies

3.1. A low carbon economy implies big industrial changes. Emissions have to decrease and the use of energy and natural resources have to be decoupled from economic growth. Consumption and production structures need to change. Some production will fall out and others develop and grow, jobs will be lost and new ones created. Skill and knowledge needs will change. Massive investments are needed, as well as necessary social support measures.

3.2. Our political leaders have to make this and its implications on our everyday life clear. Governments have to make clear what is needed, like how much fossil energy has to be substituted and by what, or how much energy each of us has to save. Without the support of and acts by citizens the change will not happen. The role of civil society is central.

3.3. Measures to combat climate change and secure Europe's energy supply must not be postponed because of the present economic downturn. Policies for easing the economic crises should support the goals of a low carbon economy, and vice versa. The crisis could and should also be seen as an opportunity for a fresh start with a different approach to achieving growth.

3.4. The bulk of policies and legislation on energy and climate issues for some years ahead are in place, with the very important exception of an international agreement. Much has now to be done on the national level, and we do not know yet how this all will work. Changes in targets or legislation must now be avoided in order to make it possible for all actors to prepare and execute their measures with as much foresight and certainty as possible. Efforts must now be targeted towards practical implementation.

3.5. An action plan for a low carbon economy has to be incorporated into the renewed Lisbon Strategy. This must be achieved while respecting the three pillars of sustainable development – economic, environmental and social – and without losing sight of the overall goal of competitiveness, growth and jobs.

3.6. Appropriate measures, carefully planned and assessed for most cost effective, real results, should be integrated into structural policies to be covered by the integrated guidelines, the country specific recommendations and national reform plans. The Commission should enforce its monitoring of implementation. In addition to GDP other indicators need to be used to track the development towards sustainability.

3.7. The change is driven by technology development on the one hand and change in attitudes and behaviour on the other. Both take time in order to give real, lasting results. Other important issues are investments, social and educational aspects and the international dimension.

## Technology

3.8. Technological competition is strong globally. The US have allocated significant resources to R&D of technologies to mitigate climate change. The same trend is to be seen in other developed economies and increasingly in big, fast developing economies.

3.9. Europe must be able to realise the potential of first mover in the 'clean' technologies of renewable energy and climate change. This is a very urgent and demanding task, as, for instance, Japan is ahead on hybrid and electric cars and China may soon bypass the EU on wind technologies and the US on photovoltaic. A price on carbon dioxide cannot alone be expected to provide enough incentive for technological change.

3.10. The Commission has presented several initiatives to enhance clean/renewable and climate technologies. More resources from the EU budget should be allocated to these purposes.

3.11. The most efficient technologies emerge only from diversity and healthy competition between the various approaches, innovations and methods. This means that no useful technology, like 4th generation fission energy and fusion, should be abandoned prematurely but be persistently further developed.

3.12. The vast potential of the development and deployment of ICT technologies should be tapped.

3.13. Renewable energy technologies that are still a long way from being economically viable should not be prematurely forced upon the market through expensive subsidies (or artificial purchase prices). Instead, this money should go into R&D in sustainable and CO<sub>2</sub>-avoiding technologies until these approach viability.

3.14. The EU's share of R&D and innovation financing is small in comparison with the resources of the Member States. Presently the level of efforts of Member States varies widely. It is crucial that they increase resources, including from ETS auctioning revenues, to R&D in clean technologies in particular, and that critical mass and world-level excellence be sought through efficient cooperation. These measures must be tangibly incorporated into the guidelines and national action plans of the reformed Lisbon Strategy.

## Investments

3.15. New technologies and innovations come into use only through investments, which take place in households, companies and the public sector. Investments are necessary for economic development and employment as well as for reaching climate and energy goals.

3.16. Investment needs in energy production and transport infrastructure are massive and urgent. For instance, to replace outgoing electricity capacity some EUR 1 000 billion are needed within a decade even if demand would not increase. Transport networks, in particular cross-border and connecting renewable electricity to the grid, need substantial upgrading. The standstill of investments in the recession and its potential longer term effects raise serious concerns.



3.17. Investments require certain framework conditions. These include a healthy economic framework, market demand and access to markets. The regulatory framework has to be stable and predictable and avoid heavy administrative and financial burdens on companies. Only profitable companies can invest in technology development and uptake of new technologies.

3.18. Consequently, a competitive economic framework is a prerequisite for achieving climate and energy goals. And, with the right policy approach, climate and energy policies can create growth and jobs.

3.19. Financial resources will come under strain, when R&D and investment needs within the EU will compete with the need to finance climate change mitigation and adaptation in developing countries. Member States will have at their disposal revenues from the auctioning of emission allowances, but these cannot cover all relevant needs. Decision makers have to be careful about increasing the burdens on enterprises and thereby putting their investments in new technologies at risk.

#### **Awareness and behaviour**

3.20. In order to act and change their behaviour, people need to know what's at stake and what needs to be changed. Awareness of what people can do themselves must be reinforced and relevant education be provided. This is a task for both governments and civil society organisations. One useful tool would be a list of good practices, to be provided by the Commission.

3.21. While it is very positive that energy consumption and greenhouse gas emissions now are in the forefront of marketing and advice to consumers, it is to be deplored that also misleading information is provided. This has to be counteracted by relevant actors.

3.22. The EU is, rightly, relying to a large extent on market instruments in its climate policies. Price signals should change the behaviour of both citizens and businesses. However, this alone will not deliver the full potential of changes. In some cases, such as the building sector, regulation is needed, and for some other purposes positive support is required.

3.23. Better energy efficiency usually leads to financial savings. Incentives are needed in particular in cases where payback periods are relatively long, or when the person who bears the cost does not reap the benefit. The Committee has earlier proposed to the Commission to study the feasibility of sectoral targets for energy efficiency, especially in sectors with internal market implications.

3.24. To avoid distorting competition in the internal market, the EU applies mandatory common rules on public support.

#### **Social and educational aspects**

3.25. Consumption patterns will change over time, and consequently so will production. According to a study by ETUC and SDA <sup>(1)</sup>, the net effect on employment of measures to decrease greenhouse gas emissions by some 40 % by 2030 is slightly positive; this result and approach is, however, seen by others as too optimistic <sup>(2)</sup>. The study concludes that there will, however, be considerable changes in job structures and skill requirements. The changes will be bigger within sectors than between them. For example, a transfer of jobs is expected from power generation to activities related to energy efficiency or from jobs related to road transport to rail and waterways.

3.26. Education and training is in big demand to make companies, public sector services and the workforce able to cope with changes. Education and training, including lifelong learning, was the main subject of an earlier EESC opinion on climate change and the Lisbon Strategy.

3.27. The Commission has recently made proposals for enhancing foresight of skill needs, which is essential to enable timely reactions by education and training. Better foresight, improved matching of supply and demand of skills and enhanced lifelong learning measures are natural parts of the renewed Lisbon Strategy.

3.28. As almost everyone in the labour market will be affected by the changes, education has to be available to all so that they can adapt to changed requirements. For those who still may face problems, comprehensive social security networks must be maintained in the Member States.

3.29. People are also affected by changing cost structures following energy and climate policies. Particularly close monitoring is needed of the effects of changing energy prices. Energy prices fluctuate strongly for different reasons and one of the objectives of EU energy policies is to curb these fluctuations as far as possible.

<sup>(1)</sup> The study on climate change and employment, commissioned by the European Commission, DG Environment, has been carried out by a consortium led by the European Trade Union Confederation (ETUC) and the Social Development Agency (SDA), which includes Syndex, the Wuppertal Institute and ISTAS. Study is available at <http://www.etuc.org/a/3676>.

<sup>(2)</sup> Hans Werner Sinn, 'Das Grüne Paradoxon', Econ-Verlag, ISBN 978-3-430-20062-2.

3.30. Environmental and in particular climate policies drive energy prices upwards with the aim of reducing energy use. The downside of this policy approach is, that it drags down the competitiveness of European industry and constitutes a risk of energy poverty among citizens. Reacting to higher prices by decreasing energy use usually requires investments in new equipment which may take time. A very balanced approach to energy prices, taking into account these time spans, is needed in order to achieve good, sustainable results instead of creating economic and social problems.

### **The international dimension**

3.31. Measures to mitigate climate change in Europe alone have little impact as Europe's greenhouse gas emissions represent 14 % of global emissions, and the share is decreasing. Without actions by all big economies, emissions will not be curbed in line with the warming limit of 2 °C, and Europe will lose competitiveness and thereby risk the well-being of its citizens. Therefore an agreement in Copenhagen is of crucial importance, and the EU has to continue taking the lead.

Brussels, 4 November 2009.

*The President  
of the European Economic and Social Committee*  
Mario SEPI

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3.32. The goal in Copenhagen must be, as the Commission itself puts it, 'a sufficiently ambitious and comprehensive international agreement that provides for comparable reductions by other developed countries, and appropriate actions by developing countries'. An important element is an international trading system, or at least compatible systems, in order to ensure both effective emissions reductions as well as a competitive level playing field.

3.33. It is evident that poor developing countries will need economic assistance to cope with both mitigating and adapting to climate change. Development of and clear rules for technology transfer, including protection of intellectual property rights, and the Clean Development Mechanism are important elements.

3.34. The international agreement is also necessary for Europe to be a real frontrunner in better climate and energy technologies. Demand for these technologies would otherwise be much weaker.

3.35. The EU must strengthen its position and activity at international level in order to secure Europe's energy supply. A wider foreign policy context, as envisaged by the Union, would be highly supportive. As the EESC has stated in earlier opinions, the EU must also take the lead on a responsible and sustainable global approach to energy.

## Opinion of the European Economic and Social Committee on the 'external dimension of the renewed Lisbon Strategy'

(own-initiative opinion)

(2010/C 128/08)

Rapporteur-General: **Luca JAHIER**

On 26 February 2009, the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an own-initiative opinion on

*The external dimension of the renewed Lisbon strategy.*

The Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion (Lisbon Strategy Observatory) to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Jahier as rapporteur-general at its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November), and adopted the following opinion by 177 votes to one with seven abstentions.

### 1. Conclusions and recommendations

1.1. The Lisbon agenda for growth and jobs is subject to a major revision for the next decade, which includes a discussion of its external dimension.

1.2. Europe's prosperity is in large part thanks to its openness to the rest of the world. This has advantages of an economic nature, but also in terms of exchange of culture and knowledge, and of worldwide recognition of European values. The EU is the world's largest exporter of goods and services, the second largest source and the second largest destination of foreign direct investment, and the world's largest aid donor. It has the second international reserve currency. It is therefore in its geostrategic interest to develop its external agenda, which serves and protects the interests of its 500 million inhabitants, but also reflects its responsibility to address global problems and to help set high standards in the governance of globalisation.

1.3. The quest for an ambitious, balanced and fair multilateral agreement for greater trade liberalisation and the progressive opening of markets within a regulated framework have been a major priority over the last decade. In particular, the 2007 *Global Europe* initiative has been explicitly linked with the renewed Lisbon strategy.

1.4. The challenges raised by the emergence of new global powers and the international financial and economic crisis highlight all the more clearly the new geopolitical nature of globalisation and, by extension, the need for Europe to have a new, more coherent and effective overarching external strategy. Europe needs a new vision of its global role, reflecting, on the one hand, the geostrategic reality as regards its own historical and geographical role, the security of supply of raw materials and energy and the development of new markets that are still poor; and, on the other, its ability to tackle global issues: security, climate change, poverty and international migration, by developing the winning values of its social market economy, which are looked upon with great interest all over the world.

1.5. A suitable EU Action Plan should be aimed at strengthening the presence and role of Europe in the new landscape of globalisation by:

- developing the EU's external policies and the external aspects of its other policies in accordance with a structural logic, strengthening their overall coherence and increasing the unity with which Member States act;
- ensuring a balanced opening of markets through the conclusion of the Doha round and structured dialogue with its key partners;
- enhancing its role as an international regulatory power and pursuing an international policy based on the promotion of rights;
- strengthening the international dimension of the euro;
- adopting the goal of building a wide area of special development and economic growth, which we could call 'EurAfrica: an alliance for mutual progress', involving the rapid completion of the enlargement of the Union, the Neighbourhood Policy, the Mediterranean Union, and a stronger partnership with Africa.

1.6. The profile and coherence of this Action Plan would improve were it to be developed gradually within the broader context of foreign policy, as planned by the EU.

1.7. To enable the better development of and ensure a widespread political consensus on such an ambitious and assertive project for its external agenda, the EU needs the role of the social partners and organised civil society to be strengthened significantly, both within Europe and in third countries.

1.8. The EESC is well equipped to play an increasingly significant role in consolidating and developing participatory systems for monitoring and for active involvement of civil society almost everywhere in the world. Moreover, this aspect is a hallmark of the European model of society, which is held in high regard all over the world.

## 2. Introduction

2.1. Europe is now the world's biggest economic power, an integrated market of 500 million inhabitants, an unequalled trading power and, with the euro, the world's number two currency. For the EU, creating a win-win situation in the system of international relations does not just mean taking on the responsibilities that arise from its weight, but also developing its external economic and geopolitical interests, as these are vital for the success of its model, which is the most open in the world and the one with the highest social and environmental standards.

2.2. Thus, if the EU is to continue to enjoy **sustainable growth, high-quality employment and sustainable development**, which are the objectives of the Lisbon strategy, it is increasingly necessary that it should strengthen its external agenda.

2.3. Following the Lisbon Agenda of 2000 and its review in 2005, it was only in 2007 that the issue of the external dimension was introduced. The Conclusions from the Spring 2008 European Council state that *'The EU should therefore continue its endeavours to shape globalisation by reinforcing the external dimension of the renewed Lisbon Strategy'* <sup>(1)</sup>.

2.4. Those conclusions highlighted the following priority areas:

- *promoting free trade and openness and continuing to take the lead in this domain;*
- *improving the multilateral trading system, by continuing to strive for an ambitious, balanced and comprehensive agreement in the Doha Development Round;*
- *concluding ambitious bilateral agreements with important trading partners and further stepping up the efforts for integration with neighbouring countries and candidate countries through developing a common economic area;*
- *securing reliable access to energy and to strategic raw materials;*
- *strengthening existing economic relations and developing mutually beneficial strategic partnerships with emerging economic powers in a context of fair competition;*
- *fostering regulatory cooperation, convergence of standards and equivalence of rules, and improving the effectiveness of the Intellectual Property Rights enforcement system against counterfeiting.*

<sup>(1)</sup> Point 12 of the Presidency Conclusions (13-14 March 2008).

2.5. The following have emerged from the recent debate on the instruments for the European Union's external action <sup>(2)</sup>:

- a **broader approach to the Union's external action**, bringing together the CFSP, trade and cooperation policies while raising the external profile of the Union's internal policies <sup>(3)</sup>;
- a new generation of **European cooperation and development programmes**, based on the 'European Consensus' <sup>(4)</sup> and on the EU-Africa partnership launched in November 2007 <sup>(5)</sup>;
- a new approach to **trade policy**, emphasising, among other things, the value of bilateral and regional negotiations.

## 3. An external dimension that already exists ...

3.1. **The quest for an ambitious, balanced and fair multilateral agreement for greater trade liberalisation** and the progressive opening of markets to broaden the areas where European businesses can compete, thus creating new opportunities for growth and development, have been the priority over the last decade.

3.2. The World Trade Organisation (WTO) has been identified as being key to an expansion of trade within a regulated system and a multilateral framework. The **Doha development agenda** has been a major priority for the Commission.

3.3. The difficulties of the Doha negotiations, and in particular their stalemate in July 2006, pushed the EU towards a major review. In April 2007 the Council approved the Commission Communication *Global Europe: Competing in the World - A Contribution to the EU's Growth and Jobs Strategy* <sup>(6)</sup>.

3.4. The proposed strategy, which is linked to the renewed Lisbon Strategy of 2005, reaffirms and strengthens the general objective of an ever more global and integrated external trade policy, aimed both at attracting new investment and partnerships, and at ensuring ever more open markets throughout the world. Alongside the traditional main instrument of multilateral negotiations, it proposes a new generation of bilateral and regional agreements <sup>(7)</sup>, continuing to aim for the elimination of non-tariff and regulatory barriers, and progressive, significant regulatory convergence.

<sup>(2)</sup> Maria João Rodrigues: Europe, Globalisation and the Lisbon Agenda. Institute for Strategic and International Studies, 2009.

<sup>(3)</sup> COM(2006) 278 final and COM(2007) 581 final.

<sup>(4)</sup> COM(2005) 311 final.

<sup>(5)</sup> OJ C 77, 31.3.2009, p. 148.

<sup>(6)</sup> COM(2006) 567 final.

<sup>(7)</sup> Provision was already made for these in the Cotonou Agreement with the ACP countries, which proposed concluding six Economic Partnership Agreements (EPA) at regional level.

3.5. In a December 2008 communication on the external dimension of the Lisbon strategy <sup>(8)</sup>, the Commission relaunched the aim of concluding multilateral trade negotiations, promoting regulatory cooperation and partnership for access to markets.

3.6. The EESC issued two opinions on the matter <sup>(9)</sup>, in which it emphasised:

- the conclusion of the Doha Round remained the strategic priority, within the context of which bilateral agreements could provide added value;
- the need to pay greater attention to the impacts of market opening for some regions and workers, and therefore to place more emphasis on social justice and the promotion of decent work;
- inclusion, also in bilateral agreements, of other increasingly important aspects of international relations, such as those relating to the environment, energy, culture, migration and global governance.

#### 4. ... but which remains far from adequate

##### 4.1. *New challenges*

##### 4.1.1. **The EU is faced with new challenges:**

- increasing competition from emerging countries and, among these, the growth of the Asian world powers;
- climate change and energy;
- the impact on the EU and its neighbours of the enlargement to 27 members;
- the return of the food crisis;
- the understanding of the increasingly geopolitical nature of globalisation, which has now clearly extended beyond the economic dimension alone;
- and finally, the explosion of the international financial and economic crisis.

4.1.2. These challenges highlight **the need for a more coherent and effective external economic strategy** so as to close the growing gap between the economic weight of the European Union and its influence, which remains too weak, on the complex and pervasive processes of globalisation. At the same time, the EU needs to defend its own interests and the space to affirm its values.

<sup>(8)</sup> COM(2008) 874 final.

<sup>(9)</sup> OJ C 175, 27.7.2007, p. 57 and OJ C 211, 19.8.2008, p. 82.

4.1.3. The consequences of the worldwide economic and financial crisis will doubtless be felt well beyond 2010. The importance of the international issue and the means of helping to steer it will be essential to any future growth and jobs strategy for any region of the world. **The way in which each region positions itself in this process will be important for the future of each region and of the world.** This applies especially to Europe, as it is the most open economic area in the world and thus more dependent than others on imports and exports.

4.1.4. The current crisis has irretrievably discredited the **hypothesis of an international division of labour**, which presumed that basic production and manufacture and cost-based competition would be left to the main emerging countries, thus leaving high added value activities based mainly on research, innovation and skilled labour to European countries and other major developed countries.

4.1.5. Recent economic phenomena in the BRIC (Brazil, Russia, India and China), such as an increase in the number of patents, the significance of foreign direct investment (FDI) from Europe and the increase in FDI from emerging countries into the EU, and the establishment of sovereign funds, all of which came from non-OECD countries, are signs of rapid changes in the structure of the global economy. Europe needs to respond appropriately to these.

4.1.6. The recent development in other parts of the world of platforms that are also focused on strategies for innovation and knowledge, also tells us that the way out of the economic crisis could lead to a more complex future scenario based on highly integrated, more competitive, regional blocs, within each of which new forms of division of labour and economic and social imbalance could arise.

##### 4.2. *An innovative and ambitious challenge*

4.2.1. **The EU has on several occasions demonstrated**, by peaceful means and negotiated consensus, its ability to wield influence on an international stage that brings together increasingly diverse players, at times succeeding in making a decisive contribution to the welfare of significant parts of the world (consider three decades of cooperation with the ACP countries or the EU's enlargement policy).

4.2.2. The EU has also helped build up an extremely comprehensive framework of regional, sectoral and general cooperation agreements. This has happened in the past in the context of WTO negotiations and is happening today with the new G8/14 and G20 process aimed at establishing a more stringent framework of rules and instruments for international finance, including the role of the IMF and the World Bank.

4.2.3. **The context of the debate on the external dimension**, which initially related only to trade policy and then to the energy and climate challenges, is now broadening out to increasingly wider areas, such as migration policy and the globalisation dimension of the social (adjustment fund and core labour standards), environmental (Kyoto, as well as the sustainable economy), industrial (intellectual property and sovereign funds) political (EU enlargement and neighbourhood policy) and diplomatic fields. The role of the euro and the impact of the CFSP and the ESDP on the growth of the EU's international role also come to mind, as does the possible inclusion within the European security strategy of the issue of goods and interests that are strategic for Europe, as is already the case with other global economic powers.

4.2.4. It is very clear from the foregoing that **to include all of these dimensions in the Lisbon strategy** would distort it.

4.2.5. **However, these aspects are appearing ever more crucial** to ensuring that the objective for which the strategy was conceived, i.e. building Europe's response to globalisation, is fully achieved.

4.2.6. On the other hand, most of these external policies of the EU are essentially underpinned **by well-established practices based on a high level of EU integration** – be they EU policies or policies jointly agreed by the EU and the Member States. Those policies are perhaps not yet sufficiently coordinated or lack an overarching strategic vision, but are still capable of evolving and having a significant impact, at least much greater than that of individual Member States and of many other domestic policies within the EU.

#### 4.3. *Towards a renewed external strategy for the European Union*

4.3.1. In this case, it would be possible to speak of an **external dimension of Europe's post-2010 globalisation strategy**, closely coordinated and integrated with the more internal dimension represented by the evolution of the current Lisbon strategy for growth and jobs, but **revamped in terms of its autonomy and equipped with a new, more urgent strategic purpose** <sup>(10)</sup>.

4.3.2. **Europe needs a new vision of its global role and an appropriate Action Plan**, geared to the challenges of the twenty-first century, underpinned by the EU's own values, and such that they can be communicated to and understood by the European public and stakeholders, discussed with the EU's main global counterparts and represented in international forums.

4.3.3. This vision should be geared towards progress and decent jobs, and underpinned by sustainable development capable of

promoting an inclusive society, open economies and peaceful relations. It should also adopt a global, long-term outlook. The EU must better reflect **the geostrategic reality as regards its own historical and geographical role, the security of supply of raw materials and energy** <sup>(11)</sup>, and **the development of new markets that are still poor**.

4.3.4. An important contribution to developing such a vision also emerged from the brief but effective document drawn up by the Commission for the Hampton Court summit of October 2007, entitled *The European interest: succeeding in the age of globalisation* <sup>(12)</sup>. The EESC expressed a similar view in the same year <sup>(13)</sup>.

4.3.5. The revamped post-2010 Lisbon strategy should be flanked by **a new, more strategic political structure for the EU's external action, aimed at strengthening the presence and role of Europe in the new landscape of globalisation**.

4.3.6. To this end, strengthening and complementing the ideas set out in the Council conclusions of March 2008, a detailed Action Plan needs to be developed, comprising four coherent and synergistic levels, to:

- ensure that **markets open in a balanced way** and that international trade in goods and services continues to develop, whilst **safeguarding Europe's long-term access to the resources** that are strategic to its needs;
- **step up economic dialogue with all the major partners**, in the context of a multilateral approach, and continue to **strengthen the international role of the euro**;
- project the EU as an **international regulatory power**, promoting higher standards in the industrial, environmental and social fields and in respect of decent work conditions, public procurement and intellectual property, and helping to frame rules for the financial markets and governance of the international economy, both at regional and at multilateral level;
- **relaunch the three main EU external development policies**, i.e. completion of enlargement, neighbourhood policy and the Union for the Mediterranean, and the new partnership with Africa within the ACP framework, thus **building a wide area of special development aimed at mutual economic growth, which has already been called Eur-Africa** <sup>(14)</sup>, in which the EU should seek to play a leading **geostrategic role**.

<sup>(10)</sup> See conclusions of the group, coordinated by Laurent Cohen Tanugi, that drew up the detailed preparatory report for the French presidency in the second half of 2008 ([www.euromonde2015.eu](http://www.euromonde2015.eu)).

<sup>(11)</sup> OJ C 27, 3.2.2009, p. 82; OJ C 277 of 17.11.2009, p. 92; and EESC Opinion on *Energy and climate change as an integral part of the renewed Lisbon strategy* (see page 36 of the current Official Journal).

<sup>(12)</sup> COM(2007) 581 final.

<sup>(13)</sup> OJ C 175, 27.7.2007, p. 57.

<sup>(14)</sup> Recently, A. Riccardi, Charlemagne Prize winner, Aachen, 21 May 2009.

4.3.7. The weight given to the external dimension will show that **the EU proposes to enter into a new political phase of its unification process**, focused on developing its system of relations with the rest of the world, drawing from this the renewed energy and resources to ensure the best possible completion of the European model of the social market economy, thus ensuring the future peace and progress of its population. This would be a **sort of consolidation of the founding principles of the European Union**, as stated in the Schuman Declaration and the preamble of the Treaty of Rome, where the two aspects (internal and external) of the European project were intrinsically linked and fed into one another.

## 5. A few more specific proposals

### 5.1. *More consistent and proactive general policies*

- The European Union's action aimed at reforming the multi-lateral system and at improving the basic rules for globalisation calls for a **twin-track process for ensuring consistency between the EU's internal and external policies and much stronger coordination with Member States**.
- The **promotion of social regulation**, negotiations between the social partners and universal social protection systems should be a central plank of the European Union's development policies and negotiating mandates.
- All the European Union's external actions should include among their priorities the development of education and training, core labour standards, the development of social protection, gender equality and the integration of disadvantaged groups (people with disabilities, ethnic minorities, etc.).
- The European Union has a **duty to keep its promises**. This is especially true of the objective of 0,7 % of GDP for development aid and for the often-repeated commitment to use the results and means of its progress to benefit other countries and regions. A specific commitment to revitalise the Africa-EU partnership will be key.
- A **significant increase in resources** for and investment in developing countries, as part of the future **Copenhagen agreement of December 2009**, could provide a great opportunity for mutual development and progress. The new Lisbon strategy could thus provide the framework for decisions in research, innovation, investment and knowledge conducive to **new 'green growth' on a global scale**.
- A **greater level of monitoring and transparency in trade negotiations** is needed, as is greater civil society involvement in this system of external relations and negotiations.
- The European Union should **promote regional integration** and continue to be a leading example for other parties. The macro-regions are a concept that should be extended and deepened. Europe can and must also play a significant role in developing intra-regional cooperation, which, alongside trade liberalisation, should include development cooperation, political dialogue and cultural cooperation.
- In the light of the **challenge of food security**, and with a view to fully achieving the fundamental human right of healthy, safe, sufficient and sustainable food <sup>(15)</sup>, the current negotiating mandates should be reviewed so as to recognise the special nature of agricultural produce and provide appropriate measures for safeguarding the differences in production conditions and in the different markets. The main trade agreements on other goods could then be given new impetus, starting with the EPAs.
- In view of the **criterion of 'commercial potential'**, which links the growth rate of each area with the size of its market, it would be useful, alongside regional agreements with ACP countries, to develop and relaunch bilateral and regional agreements with the Association of South East Asian Nations (ASEAN), Korea, India, Russia, Mercosur and the countries of the Gulf Cooperation Council (GCC).
- **China should be a specific priority**, firstly because of the significant offensive and defensive interests the EU has there, which provide considerable room for negotiation, secondly for the sake of the steady growth in reciprocal interaction, and thirdly for overarching geopolitical reasons.
- **More emphasis** should also be placed on **bilateral relations with the United States, Japan and Canada**, which are in first, third and eighth place respectively in terms of commercial potential. The framework for transatlantic relations should be relaunched with the aim of reducing areas of friction and maximising synergies through a progressive convergence of institutions and policies <sup>(16)</sup>.
- In view of the possible **expansion of the EMU area in the coming years**, the euro could be destined to play a more important role as a strong global reference currency, which would inevitably require enhancing the arrangements for unified representation at international economic and financial forums.

### 5.2. *More instruments for governance and for sectoral policies*

- In the context of a broader approach to the European Union's external actions, the **external dimension of policies such as research, the environment, education and employment** should also be included.

<sup>(15)</sup> See the report by the UN special rapporteur on the right to food, Olivier De Schutter: *The Doha round will not prevent another food crisis*, 9 March 2009.

<sup>(16)</sup> OJ C 228 of 22.9.2009, p. 32.

- In the current context, it should be possible to identify more clearly a **small group of European Commissioners with clear responsibility for steering all the EU's external policies** (trade, development, migration, external aspects of competition and internal market policy, energy diplomacy, etc.) that is able to show a more visibly united and collective face of the EU to the outside world and in the main international forums. A rapid entry into force of the Lisbon Treaty and the new role of the High Representative for foreign and security policy will be conducive to positive developments in the future.
  - Whilst waiting for the prospect of unified EU representation at the main international institutions (Bretton Woods, G8/14 and G20) to become a reality, **the Member States of the EU** should form more influential groups at each institution or high-level summit, with the aim of **systematically coordinating their positions and speaking wherever possible with a single voice**.
  - The EU urgently needs to be represented outside its borders by **shared trade missions** that are able to strengthen Europe's strategic presence, in particular when it comes to relations with the EU's main trading partners.
  - The EU should step up support for the process of internationalising its businesses, in particular as regards their ability to establish themselves in and adapt to the contexts and dynamics of different markets.
  - The EU should push the WTO to include **labour rights, industrial development, the creation of decent work and the environmental dimension** among its aims. Similarly, international financial institutions should prioritise the promotion of decent work and sustainable development.
  - Multinational companies based in Europe should be encouraged to promote, in accordance with the **European idea of corporate social responsibility**, social dialogue in the businesses and sectors of the various third countries in which they operate. Recognition should be given to the good practices already put in place by many European businesses on the basis of the guidelines adopted by the OECD, which are in turn based on the ILO's social standards, and to all the other initiatives taken by a wider range of non-state and social economy actors in the field of training, health and the promotion of better living and working conditions.
  - The EU should draw up **proactive, holistic migration policies that facilitate co-development** between migrants' countries of origin and host countries, with particular reference to combating human trafficking and the brain drain and to migrants' remittances, which now represent significant financial flows <sup>(17)</sup>.
  - **The growing role of sovereign funds** in the world economy and the significant weight of governments in the emerging economies from which these funds come doubtless represents a major opportunity for the main developed economies and indeed for the recovery of the international economy, but also a geopolitical risk in terms of loss of sovereignty over sectors and technologies that are strategic for the EU. The EU needs to **arrive at a coordinated position on this issue**, based on the requirements and provisions of the existing Treaties, but also a more precise, common position on the issue of defending the national interest, which increasingly needs to be understood as the 'European interest'.
  - Recognition should be given to the specific competences of the **European Institute of Technology in the context of the various partnerships**, in particular as regards the possible extension to non-European countries of cooperation under the *Knowledge and Innovation Communities* scheme (networks of excellence amongst higher education institutions, research institutes, businesses and other interested parties).
- 5.3. *Greater involvement of the social partners and civil society organisations*
- **Everything should be done to help European civil society seek and produce common strategies** to meet the challenges and opportunities of globalisation, in discussions with the EU's main economic and social partners. **Greater recognition of national ESCs and similar institutions**, and of the main European organisations and networks of social partners, organised civil society and the social economy, may be conducive to a broader process of ownership and the promotion of best practice.
  - The EU should foster **greater involvement of and dialogue with the social partners and civil society in third countries**, so as to strengthen the visibility and consistency of the EU's policies on trade, development and external relations in general. In particular, systems should be established for structured, ongoing dialogue with the organisations that work for regional and worldwide integration, and promoting the recognition of consultative bodies representing civil society in the context of trade and association agreements.
  - The Civil Society Contact Group that was profitably set up a number of years ago by DG Trade is an example of good practice that should be encouraged.

<sup>(17)</sup> OJ C 120, 16.5.2008, p. 82 and OJ C 44, 16.2.2008, p. 91.



- **The EESC has progressively built a structured system of relations <sup>(18)</sup> that forms an important basis, in the context of institutional dialogue**, for the ongoing development of an active role for civil society almost everywhere in the world. **In the monitoring field**, the Committee believes it can play an active role, as it has already been doing in some specific cases, such as the institutional role provided for in the Cotonou Agreement with the ACP countries, the Joint Consultative Committees involving the various countries that are in the process of joining the EU, and the work being done with Euromed and Mercosur. The documents, opinions and final declarations that result each year from the numerous meetings organised by the EESC under this system represent **an important source of analyses and proposals for participatory democracy covering the entire gamut of the European Union's external relations.**
- The EESC could also provide for specific **workshops or other regular meetings for consulting economic and social interest groups, in the countries and regions concerned**, by means of existing round tables and various other meetings, where appropriate. The aim would be to compare the different strategies adopted in each area and region of the world and to share best practice. This would be helpful both for better defining the European Union's external action and for the future development of the Lisbon strategy after 2010, as well as for developing the strategies of each partner.

Brussels, 4 November 2009.

*The president  
of the European Economic and Social Committee*  
Mario SEPI

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<sup>(18)</sup> See the work programme of the EESC's Section for External Relations, [http://eesc.europa.eu/sections/rex/index\\_en.asp](http://eesc.europa.eu/sections/rex/index_en.asp).

## Opinion of the European Economic and Social Committee on 'Universities for Europe'

(own-initiative opinion)

(2010/C 128/09)

Rapporteur-general: **Mr VAN IERSEL**

On 5 March 2009 the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an own-initiative opinion on

*Universities for Europe.*

The Section for Economic and Monetary Union and Economic and Social Cohesion (Lisbon Strategy Observatory) was instructed to prepare the Committee's work on the subject.

Given the nature of the work, the European Economic and Social Committee appointed Mr Van Iersel as rapporteur-general at its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November), the European Economic and Social Committee adopted the following opinion by 158 votes to 8 with 12 abstentions.

### 1. Conclusions and recommendations

1.1. In the view of the EESC universities have an essential role in the knowledge triangle: education, research, innovation. They should be perceived as key for sustainable socio-economic developments in Europe. In the current sub-optimal university system the great potential of universities is insufficiently developed. Improvement should get a place in the post-2010 Lisbon strategy.

1.2. Since the Bologna Conference in 1999, and later the Lisbon Strategy, universities became increasingly a priority at EU-level. In spite of setting new targets by Member States and Universities, there is a growing feeling of uneasiness among academics and in society about the fragmentation of European higher education and about the speed of needed reforms.

1.3. The EESC underlines the need of reforming European universities, as worldwide economic, technological and educational developments, and the current crisis ask for better value for money, an improved environment and increased opportunities for students, lecturers and researchers.

1.4. The necessary adjustments include greater autonomy and accountability of universities to society on the delivery of their public mission, the extension of the ways of (sufficient) funding, increased transparency and openness, partnerships with the business community, the promotion of (world-class) excellence in teaching and research, and adequate human resources management practices.

1.5. The EESC emphasises the need of a European methodology to assess performance and to collect comparable data. A European assessment should be the result of an in-depth study by independent experts and should go well beyond 'citations' and the

one-dimensional 'Shanghai-list', embracing a broad range of multidimensional indicators <sup>(1)</sup>.

1.6. Up-to-date and comparable standards for education and research should, in addition to a broad basis that facilitates multidisciplinary developments and new combinations, foster diversity and specialisation among universities, thereby replacing homogeneity and similarity.

1.7. The EESC advocates a coherent integration of universities in a revamped Lisbon Strategy in the framework of the European Higher Education Area (EHEA) and the European Research Area (ERA) <sup>(2)</sup>.

1.8. Students and scholars should be offered increased opportunities to pursue cross-disciplinary careers in Europe. This implies, among others, a practice of open recruitment and a charter of researchers which is connected to the introduction of the 'fifth freedom', i.e. free circulation of knowledge, while maintaining diversity of approaches and competition to reach the best results.

1.9. A Europe-wide open approach towards third-country academic teachers, researchers and students, and scientifically leading universities should be addressed.

<sup>(1)</sup> See an extensive list of desirable indicators in 5.2.4 below.

<sup>(2)</sup> See also EESC opinion on 'The road to the European knowledge-based society', OJ C 65 of 17.3.2006, p. 94, a plea for 'a Common European Area of Knowledge, based on intensified cooperation in Learning, Innovation and Research'.

1.10. The EESC advocates advisory Educational Platforms at EU- and national level, including civil society representatives. Both world class and regional centres of excellence should be engaged in their surrounding society and regions. This may also foster an entrepreneurial spirit in universities and be supportive to economic and knowledge clusters.

1.11. An independent role and position of universities, as was the case long ago, will encourage and strengthen them as intellectual drivers for Europe. European approaches to education and lecturing, science and top research should not be limited to the broadening and deepening of European R&D, innovation and teaching. They should be extended to other competences and disciplines as well, e.g. medical research and practice, socio-economic sciences, and humanities.

1.12. The Commission should remain supportive and have a visible and active role in this process.

1.13. The EESC does not consider an intensified connection between universities and the EU as a technical affair. It should not be limited to the economic sector either, however crucial. At stake is a horizon beyond, the overall significance of universities for lifelong learning education and intellectual life, for society, for civilisation.

1.14. The founding fathers and their successors had their reasons to keep Education out of the treaty of Rome, but we are living in different times now. National sovereignty and diversity have to go parallel with the acknowledgement that the EU as such has to be an equal partner and competitor at world scale. Universities are vital partners to that end.

1.15. In other words, universities as institutions should be encouraged to develop from outsiders to insiders in European integration. The Council should express a clear and future-oriented view in this respect.

## 2. Introduction

2.1. Throughout history universities have played a prominent role in the development of European society. They used to be at the very centre of intellectual life and they have been in many respects drivers of progress.

2.2. Scholars and academics moving freely across the continent among self-governing universities, greatly influenced views on all sorts of societal phenomena and science. They could mould generations of circles and personalities that were decisive for shaping European society politically, socially and economically.

2.3. When from the 18<sup>th</sup> century onward the nation-state progressively came into existence, universities became to a large extent institutions, providing national education and serving national interests in science and research. This development got deeply rooted. Notwithstanding increasing internationalisation, also in science, higher education and even science and technology in universities are to a certain extent still nationally driven.

2.4. Political interference became progressively the order of the day. Education systems at all levels are now based on and organised by national political decision-making. Higher education got everywhere a clear national mark. It is characterised by manifold and complicated national institutional diversities, and often educational similarity.

2.5. Important elements in this diversified European picture are institutional frameworks, financial arrangements, governance, the degree of autonomy, and the nomination and career development of professors and researchers.

2.6. As science is borderless, academics and researchers themselves became increasingly part of European and world-wide networks. Consequently, research programmes are tending to internationalise as well, although on a limited scale. With a notable exception, however, we find that private higher education, especially business schools, is by definition more international both in scope and in approach.

2.7. The Treaty of Rome and subsequent Treaties have no chapter 'Education'. At the time no correlation was seen between economic integration and education. Education remained nationally based and fully subjected to 'subsidiarity'. Any decision concerning education at European level takes place in an intergovernmental framework.

2.8. Nonetheless, parts of the education sector could gradually no longer be seen independent from the integration process. Strongly endorsed by the social partners, this started with those educational aspects that were most directly linked with the economy and the labour market, i.e. improvement of skills and vocational training.

2.9. From 1986 the Erasmus students exchange programme contributed to the internationalisation of curricula of students. In 2009 it was extended with Erasmus Mundus. Special programmes to be mentioned are Comett, an exchange programme between universities and companies in the field of technology, Marie Curie, an exchange programme for researchers, and Socrates, focused on Life long learning.

2.10. A big leap forward for universities took place in 1999, when the ministers of Education of 29 countries adopted the Bologna Declaration.

2.11. The Bologna Process now encompasses 46 Members across the European continent. The over-arching objective is the creation of a European Higher Education Area. During the last decade the subjects in discussion increased substantially <sup>(3)</sup>. The priorities of the Bologna Process are: the introduction of the three cycle degree system — bachelor/master/doctorate — with increased emphasis on doctoral studies and research, quality assurance, recognition of qualifications and degrees, periods of studies, the European Credit Transfer System (ECTS), lifelong learning, the social dimension of higher education, mobility of students and staff, and on exploring the external dimension of the EHEA.

2.12. The Lisbon Strategy puts a strong emphasis on the connection between knowledge and competitiveness. It worked as a catalyst. It helped to drive universities from the margin to the centre of Community thinking. An increasing number of research and innovation projects, initiated by the Commission, resulted in broader international cooperation within Europe.

2.13. For the same reasons in several Communications the Commission set the agenda for discussions on the reform and modernisation of universities <sup>(4)</sup>.

2.14. Reforms of Universities are going on across Europe at varying pace.

2.15. The renewed Lisbon Strategy in 2005 gave also rise to new initiatives to mobilise universities. The Council's decisions to establish the European Research Council (ERC, 2007), and the European Institute of Technology and Innovation (EIT, 2008) are most important. In the same vein is the Green Paper 'The European Research Area: New Perspectives' <sup>(5)</sup>.

2.16. A special case in point is the European Charter and Code of Conduct on the mobility and free market of Researchers in 2005 <sup>(6)</sup>. The Charter and the Code were signed by 800 higher education institutions. The implementation, however, shows that many institutions do not apply the agreement. Sometimes specific and successful traditions prevail.

<sup>(3)</sup> Diverging academic structures and traditions give rise to a wide debate on the Bologna process and its implementation. See for instance for Germany the Publications of the 'Deutscher Hochschulverband'.

<sup>(4)</sup> Mobilising the brainpower of Europe: enabling universities to make their full contribution to the Lisbon Strategy, COM(2005) 152 final. Delivering on the Modernisation Agenda for Universities: Education, Research and Innovation, COM(2006) 208 final. A new partnership for the modernisation of universities: the EU Forum for University Business Dialogue, COM(2009) 158 final.

<sup>(5)</sup> This Green Paper of April 2007 focuses on six fields to develop the ERA: researchers, international cooperation, joint research programmes, research infrastructures, knowledge transfer and intellectual property. See also the EESC comments in OJ C 44 of 16.2.2008, p. 1.

<sup>(6)</sup> Commission Recommendation of 11 March 2005, adopted by the Council.

2.17. The Commission is working on a European label to encourage the implementation of the Charter and the Code which should respect a certain diversity of approaches.

2.18. An effective engagement of European universities in European integration is a long lasting process. Academics, scientists, and students are increasingly taking part in international dynamics, but universities as institutions remain often hampered by traditions and national arrangements. Developments are also slowed down by the fact that 'Education' as such is still not a theme in the European Treaty.

2.19. World-wide networking between academics and researchers is extending due to the interaction of universities, research institutes and multinational companies. This trend is also reflected in the Community programmes.

2.20. This Opinion focuses on new trends and framework conditions to engage universities more effectively and visibly in European integration. Universities, in line with their longstanding historical vocation, should not only be pushed by the Lisbon Agenda, but should themselves become major catalysts of the process.

### 3. General observations

3.1. During the last decades initiatives and programmes to promote internationalisation of higher education in Europe have been intensified.

3.2. In view of new impulses universities should, in the EESC's view, visibly be associated in the new cycle of the Lisbon Strategy.

3.3. International analyses are unanimous that given the speed of technology and innovation as well as enhanced competition the European academic world at large is insufficiently prepared to play its full part and tends, in relative terms, even to lose ground <sup>(7)</sup>.

<sup>(7)</sup> See among others 'The future of European Universities, Renaissance or Decay' by Richard Lambert and Nick Butler, Centre for European Reform, June 2006, and 'High Aspirations, Agenda for reforming Universities', Breugel, August 2008. It says on page VII that the authors 'address higher education and set forth an ambitious agenda for it in their conviction that the upgrading of universities is one of the key levers of Europe's growth performance'. Against this backdrop the EESC welcomes the recent Prague Declaration 2009 of the European University Association that, besides a firm message to Political Leaders, identifies 10 very relevant success factors for European universities in the next decade.

3.4. The goal must be optimal talent development and equal access — including the transition between different levels of (higher) education, and life-long learning — across Europe, avoiding any discrimination. A special problem is the number of student drop-outs. More effective methods of coaching should be developed. The public missions of universities in Europe are to be maintained and are no impediment to guarantee quality and excellence <sup>(8)</sup>.

3.5. Despite all variations which may also imply substantial differences in quality of academic results, common characteristics across Europe should be scrutinised. In the framework of this Opinion it is worth to highlight the following:

3.5.1. The degree of autonomy. The picture is tremendously complex. Although there is a trend to give increased autonomy to universities, on average the interference of public authorities remains dominant <sup>(9)</sup>. A lack of sufficient autonomy and accountability tends to confirm traditional perspectives and over-regulation. Public structure, sustained by involvement of public authorities, should not delay autonomy <sup>(10)</sup>. Goals should be a better preparation of students to the labour market and a more effective attitude to research and to innovation.

3.5.2. The way of funding. Here again, the picture is very diverse, but on the whole public funding is decisive <sup>(11)</sup>. This makes higher education and research as a rule very much dependent on political priorities among many other ones, which often results in under-funding. Moreover, there is too little incentive for diversification of funding sources, such as funding by foundations and companies, and introducing tuition fees, with the addition of grants and loans <sup>(12)</sup>.

3.5.3. The lack of transparency. By lack of reliable comparable data on universities, students and researchers alike are not able to identify relevant competences and courses in Europe. A European methodology to classifications as a transparency tool is a crucial aspect. This would encourage shared knowledge and collaboration in available educational and research programmes across Europe as well as adequate information and quality. This may stimulate overall mobility of both students and researchers.

<sup>(8)</sup> In this respect it is noteworthy that Berkeley University, the 3rd ranked university in the US, is a public institution.

<sup>(9)</sup> Sometimes there is even a fall back. An illustrative case in point is the University Law, 2003, in Denmark which, by increasing political influence, reduced the autonomy of researchers and universities considerably.

<sup>(10)</sup> Besides 'autonomy' attention must be given to 'self-government' of universities.

<sup>(11)</sup> An unwanted by-effect is that only a limited number of universities has an accurate calculation of their overall costs.

<sup>(12)</sup> The EESC refers to the Commission: tuition fees can be incorporated, provided that they are accompanied with grants and loans to guarantee equal access.

3.6. As education and higher education are an exclusive national responsibility, it does not automatically encourage in universities an attitude to look beyond own horizons and national borders. The outcome is a fragmented pattern of higher education institutions that in a number of cases is more or less closed to the dynamics of the outside world.

3.7. Moreover, fragmentation is maintained by diverging quality requirements — also in applying the 'bachelor/master' model —, not too attractive labour conditions, and often weak financial arrangements, which are blocking openness, shared academic values, and cross-border mobility except for the top.

3.8. Low autonomy tends to breed similarity and homogeneity among universities. It rather promotes in a number of countries 'general' university courses and research facilities instead of heterogeneity and qualified specialisation.

3.9. Research and innovation programmes, frequently defined by national innovation platforms, are mainly national-based, and, as a rule, not embedded in broader perspectives. Overlaps and varying calendars and agendas confirm fragmentation and, consequently, prevent specialisation.

3.10. It is not a fertile ground for attracting researchers and top lecturers from abroad, neither from other Member States nor from the rest of the world. Furthermore, the brain drain to the US is a constant worry. Meanwhile the Chinese are promoting their own highly specialised top-universities. India will follow.

3.11. Several European groupings of universities coordinate increasingly views on the need for better conditions for R&D and potential capacities of knowledge and innovation <sup>(13)</sup>. Joint research programmes is a promising tool for cooperation and to fight fragmentation <sup>(14)</sup>.

3.12. The Bologna declaration of 1999, aiming at creating a European Higher Education area by 2010 making it more competitive through reforms, was followed in 2006 by a new wake-up call of the Commission <sup>(15)</sup>. The Commission rightly concludes that 'this crucial sector of the economy and of society needs in-depth restructuring and modernisation if Europe is not to lose out in the global competition in education, research and innovation' <sup>(16)</sup>.

<sup>(13)</sup> League of European Research Universities, Coimbra Group, IDEA League, RISE.

<sup>(14)</sup> Such cross-border cooperation will also bear fruit for basic research, carried out in the framework of (large) EU projects.

<sup>(15)</sup> Communication 'Delivering on the Modernisation Agenda for Universities: Education, Research and Innovation', May 2006, COM(2006) 208 final. See also Communication 'Mobilising the brainpower of Europe: enabling universities to make their full contribution to the Lisbon Strategy', April 2005, COM(2005) 152 final.

<sup>(16)</sup> COM(2006) 208 final, page 11.

3.13. Adjustments take place, but at a too low speed. Moreover, national policies towards regulating universities are differing considerably between Member States.

3.14. Today's discussions in academic circles prove disappointingly that also the pace of progress towards the European area is too hesitant.

3.15. The cost of non-Europe may be huge. In conclusion of these observations the EESC advocates that the new cycle of the Lisbon Strategy 2010 should include a targeted modernisation of and cooperation between universities, better European coordination and real transparency through classifications.

#### 4. The need of new perspectives

4.1. The Lisbon Strategy aims at striking the balance between convergence and coordination at EU-level and the preservation of national competences by defining common objectives and promoting comparable programmes and policies across Europe. In the EESC's view universities as key actors regarding education, research and innovation should get a well defined place in the Lisbon Agenda.

4.2. Just now, in the current crisis, an increasing emphasis on education and innovation in the broadest sense, which should open new avenues and opportunities, is needed. Ongoing R&D and applied technology programmes, and enhanced mobility<sup>(17)</sup> of students and lecturers should be guaranteed across Europe.

4.3. Against this backdrop the EESC emphasises that to increase the transparency there is an urgent need of developing comparable data<sup>(18)</sup> and a reliable European methodology to assess and compare the performance of universities in various dimensions, e.g. education, research and innovation. It must be realised that in view of the desired heterogeneity, specialisation and diversity, such data cannot be compiled in a simple manner. Application of various methods can improve the methodology and the development of criteria. Cooperation with the OECD is desirable.

4.4. The programmes, mentioned in chapter 2, are a substantial support for trans-border exchanges. The establishment of the European Research Council (ERC) is a leap forward. The ERC as a driver of research projects must be supportive to the internationalisation of universities. Research funding and the execution of research must remain strictly divided activities.

<sup>(17)</sup> See for the significance of mobility of students the Council Communiqué of April 2009 on the Bologna process: by 2020 at least 20 % of the students should have had a study or training period abroad.

<sup>(18)</sup> In these data must be included the various funding/sponsoring schemes and agencies for R&D as well as the role of the cooperation and engagement with research organisations and industrial companies outside the universities need to be accounted for.

4.5. The ERC implies larger cross-border mobility of researchers by the introduction of the so-called 'fifth freedom', closely linked to the Charter for Researchers and Code for their Recruitment<sup>(19)</sup>. In view of the desired result adjusted facilities in universities and better administrative and fiscal framework conditions are badly needed.

4.6. The establishment of the European Technology Institute (ETI) is yet another important step. ETI should support links and alliances. In parallel, better European coordination among university programmes should be established. The new proposal of the Commission for the establishment of a Business – University Forum is a next important step.

4.7. So far, universities and research institutes are not as such addressed in the Five Partnerships Initiatives, stated by the Council, to develop the European Research Area (ERA). In fact, among the six axes, proposed in the Green Paper to develop the ERA<sup>(20)</sup> all but universities (and, in general, research institutions) were taken to deepen cooperation. This does not correspond with the EESC's view on universities in the Lisbon Strategy<sup>(21)</sup>.

4.8. In the same vein, the conditions for large scale research facilities (CERN) across Europe and other joint research centers which link university groups, should be improved. Large infrastructures imply a critical mass and many committed researchers which may attract extra financial resources.

4.9. In the EESC's view the current crisis should be a new starting-point with coherent and sustainable perspectives to maintain Europe as a valuable competitor and partner in science and technology.

#### 5. In response to a dynamic context

##### 5.1. Commitment of Member States and Universities

5.1.1. The three pillars education, science and innovation require a clear-cut commitment of Member States. Secondly, they require also full participation of universities in their own right. Finally, they should entail the participation of the private sector. The best results will be obtained in a flexible top-down and bottom-up process among many stakeholders.

<sup>(19)</sup> See note 4.

<sup>(20)</sup> See note 2.

<sup>(21)</sup> For viewpoints of Member States and the approach of the EESC, see the Public Consultation Results on the Green Paper, April 2008, page 20 and following.

5.1.2. It must be taken into account that global networking, the dynamics of technology and research, targeted specialisation, and footloose talent create a new field of play for (national) universities which enables them to look for new horizons <sup>(22)</sup>.

5.1.3. This is not to undermine cultural diversity, on the contrary. National and regional diversities are Europe's precious asset. But it is clear that the diversity of the landscape and its off-shoots will be better served by an over-arching strategy of common analyses and agreed objectives to open still existing barriers, and to foster quality, and specialisation.

5.1.4. Before all, a common orientation and a common mindset are needed among higher education institutions, including common academic values, cultural and academic openness, less administrative bureaucracy, cross-border channels, transparency on professional qualifications and results, trans-border technological projects, trans-border mobility. All this can be realised in maintaining cultural diversity.

5.1.5. Increasing autonomy and self-government, more flexibility and reliability in funding, and transparency will enhance initiatives to modernisation by universities themselves. They will provoke a bottom-up process for higher standards, better quality and specialisation.

5.1.6. European demography should be a strong incentive to adjust the system of higher education both for European students and for talented people from third countries. Without adjustment there will be substantial deficits in the future. Europe needs a higher percentage of highly qualified people to foster productivity by research, knowledge dissemination and innovative capacity.

5.1.7. It has to be kept in mind that even the US is only able to maintain their leading position in a number of fields because of the attractiveness of their universities to people from abroad.

## 5.2. *Transparent field of play and quality assessment*

5.2.1. The knowledge-based society, outlined in the Lisbon Strategy, demands a higher degree of interdisciplinary and cross-sectoral education and research in order to replace mono-disciplinarity.

5.2.2. Fostering a transparent field of play for universities, will instead of creating uniformity respond to the need of differentiation and specialisation. The latter will also provoke co-funding by the private sector where it is desirable <sup>(23)</sup>.

<sup>(22)</sup> See, amongst others, Prof. H. Wissema 'The Third Generation Universities', a description of modern challenges and opportunities for universities. It is illustrated by concrete examples, such as Cambridge University and Louvain University.

<sup>(23)</sup> The US example shows that transparency, differentiation and specialisation make that every researcher and scientist in the world knows which university in the US is best equipped in each particular field. These basic conditions promote also co-funding by the private sector and foundations.

5.2.3. Against this backdrop, the EESC highly welcomes the recent initiative of the Commission to set up a European methodology to assess performance of universities.

5.2.4. European ranking should be the result of an in-depth evaluation procedure by selected experts and should, besides 'citations', embrace education and teaching quality, research, innovation, connections, 'mapping' of specialisations, interdisciplinary competences, institutional links between universities and independent research institutes <sup>(24)</sup>, and also logistic student services. There is a need for multidimensional European assessment methods to assess university delivery.

5.2.5. 'Mapping' will probably foster focused transborder mobility among students, lecturers, professors and researchers. It will respond to the trend among students to look for the best courses in their particular field, and consequently encourage potential talents.

5.2.6. 'Mapping' will also help to upgrade mediocre research by creating new networks, and a collaborative and competitive attitude across Europe. These networks and new alliances between poles of excellence will give rise to a number of high-standing interconnections, including transborder cross-disciplinary research, and pave the way for new solutions.

## 5.3. *Influences from outside and interconnections*

5.3.1. Under current circumstances public expenditure is everywhere under pressure. The EESC insists on the need to maintain the level of education- and university-related budgets to sustain the knowledge infrastructure and the reform programmes that are carried out.

5.3.2. Actual dynamics in research and technology underline the need of modernisation and new solutions. In addition to the necessary adjustments of universities themselves public-public and public-private partnerships must be encouraged. Private funding may accelerate the trend of problem-oriented research, which as a method has become increasingly successful in the US.

5.3.3. A European coordination of national innovation programmes in which universities take part, can be beneficial and productive. As yet these programmes, often defined by national specialities and focusing on national priorities. Consequently, they usually take too little into account the broader European agenda or calendar nor do they consider overlaps or desirable spill-over effects in a European context.

<sup>(24)</sup> In some European countries, notably in France and Germany, most of the research is realised in research institutions with close links to universities, that should be further encouraged.

Moreover, in specific cases cross-border and Europe-wide approaches and projects are most desirable.

5.3.4. Certainly, the Joint Technological Initiatives, public-private projects defined and co-financed at European level, can also be supportive in this respect.

5.3.5. A successful national programme in this respect that can be a useful example for European applications and improvement of Europe-wide scientific achievements, is the German Excellence Initiative of 2005 <sup>(25)</sup>.

5.3.6. A Lisbon agenda for universities will, in addition to already existing European programmes with their own incentives, increase competitiveness in higher education at a broader scale, and provoke excellence.

5.3.7. According to the EESC the introduction of advisory Educational platforms at European level <sup>(26)</sup> — by analogy with the Technology platforms — can be helpful to discuss education programming and the education agenda for Europe, like the needs of the European labour market, desirable competences, accreditation, practicalities around life long learning, qualifications and professional profiles, modern education methods etc.

5.3.8. These advisory platforms should, beyond academic circles, be extended to non state actors - social partners and civil society.

#### 5.4. *Facilitating mobility*

5.4.1. For younger generations Europe as an entity is a reality. Reliable and transparent information at European scale on the best courses in each field and also on the specialisation of universities and faculties will fulfil expectations of many youngsters and will foster cross-border exchange. Students and scholars should be offered increased opportunities to pursue a cross-disciplinary career in Europe. An enhanced circulation of researchers — also between public institutions and the private sector — will be beneficial.

5.4.2. Obstacles to specialisation, a fertile ground for exchanges of young talented researchers, should be scrutinised at European level. By raising awareness and creating European hubs of research and educational excellence, a constructive field of play among European universities is being encouraged.

<sup>(25)</sup> The Excellence Initiative, 2005, intends to promote Germany as a more attractive research location, making it more competitive and focusing attention in the outstanding achievements of German universities and the German scientific community. It supports top-level research. The programme is funded with € 1,9 billion for 2006-2011.

<sup>(26)</sup> 'Educational platforms' were proposed during the University Business Forum on February 6th 2009 by Mr F.A. van Vught, former chairman of the board of Twente University. It is interesting to note that in Finland legislation on universities is limited, whereas tripartite surveillance has a substantial impact.

5.4.3. A future-oriented Europe-wide approach towards third-country researchers and students would be highly desirable. Some countries are already on their way <sup>(27)</sup>.

5.4.4. In itself, diverging labour contracts do not pose special problems. Diverging secondary labour conditions, however, may be an impediment, e.g. special national provisions regarding social security arrangements. The actual examination of possibilities for a pan-European pension fund for researchers is highly welcome. The principles underlined in the Commission Communication on European Partnership for Researchers should be encouraged <sup>(28)</sup>.

5.4.5. A special case in point are budgeting programmes and projects. As terms of reference and administrative procedures are diverging from country to country, these should be scrutinised to facilitate internationalisation.

5.4.6. Facilitating mobility, in its turn, will foster the attractiveness of existing, but also of new centres and clusters of knowledge in Europe. These will promote interdisciplinary activities and they will reinforce badly needed interconnections between science and the private sector as emphasised by the Commission.

#### 5.5. *The regional dimension*

5.5.1. Economic clusters, connecting universities, research centres and the private sector, are as a rule strong region-based spearheads. Clusters can also be very helpful to foster further regional development. Regions and universities should be encouraged to cooperate more effectively.

5.5.2. Practical experience shows that an extension of poles of excellence with top research and lecturing deepens cooperation with companies in regions and metropolitan areas <sup>(29)</sup>. The process of embedding universities and their specialities more visibly in their natural environment will be beneficial for growth and jobs in large urbanised areas.

5.5.3. Specialisation and diversity create different paths to excellence. Some universities compete and cooperate at world level, others are regional centres of excellence.

<sup>(27)</sup> An example is The Netherlands. There are around 10 000 Ph.D. students of which 30 % are non-Dutch.

<sup>(28)</sup> *Better Careers and More Mobility: A European Partnership for Researchers*, COM(2008)317 final.

<sup>(29)</sup> Among many examples can be mentioned Cambridge, Eindhoven, Stuttgart, and the Öresund region. See also ongoing OECD projects and publications on Higher education in regional and city development ([http://www.oecd.org/document/16/0,3343,en\\_2649\\_35961291\\_34406608\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/16/0,3343,en_2649_35961291_34406608_1_1_1_1,00.html)).



5.5.4. All universities must be encouraged to be engaged with the surrounding society. In addition to their core missions of education and teaching, there is a need to further develop third stream

activities such as knowledge and innovation sharing with society, community engagement, life long learning, and relevance to regional and local development.

Brussels, 4 November 2009.

*The president*  
*of the European Economic and Social Committee*  
Mario SEPI

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## Opinion of the European Economic and Social Committee on 'The impact of private equity, hedge and sovereign funds on industrial change in Europe'

(own-initiative opinion)

(2010/C 128/10)

Rapporteur: **Mr MORGAN**

Co-rapporteur: **Mr POP**

On 26 February 2009, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

*The impact of private equity, hedge and sovereign funds on industrial change in Europe.*

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 September 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November), the European Economic and Social Committee adopted the following opinion by 167 votes to one with three abstentions.

### 1. Conclusions and recommendations

1.1. The purpose of this opinion is to consider the impact on industrial change of Sovereign Wealth funds (SWF), and Alternative Investment Funds (AIF). AIF are Private Equity (PE) and Hedge Funds (HF). The EESC commissioned consultants 'Wilke Maack und Partner' (WMP) and they have produced an 87 page report. Readers of this opinion are referred to the report itself for a detailed analysis of the issues. A very different perspective on AIF and SWF will be found in 'The New Power Brokers' published on the McKinsey Global Institute web site.

1.2. The funds examined in this opinion influence industrial change in different ways. SWF are conventional investors, buying and selling in the market. HF buy and sell shares, mostly as traders, although some HF are activist. The PE strategy is hands on. It is not possible to generalise about these three modes of investment. They are quite distinct. A WMP SWOT analysis for each fund is given at the end of sections 3, 4 and 5 respectively.

1.3. Experience and research reveal one very clear common aspect: all the social consequences, including industrial change, will be greatly facilitated by increasing provision and dissemination of information and, above all, transparency. The EESC firmly advocates improving these three elements in all cases.

1.4. PE has three important aspects. It has a positive impact with venture capital and in the financing of turnarounds and reorganisations and the growth of family companies. On the other hand, the recent aggressive financial engineering associated with larger leveraged buy-outs (LBO) may lead to the failure or near failure of many firms with potentially dire consequences for all stakeholders, including employees. There is also an important social dimension, involving both the improvement and deterioration of employment rates, earnings levels and social rights. Because of difficulties with the data, WMP advise that we need to be extremely cautious about concluding that companies backed by PE are treated worse or squeezed harder in the context of the general acceleration of industrial change and restructuring in the last two decades. There are many examples of a worsening of work conditions and labour relations throughout Europe where these funds play no part.

1.5. In general, HF activities do not impact industrial change, but there are important exceptions. HF are large buyers of distressed debt. As such they are buyers of last resort and can play an important role in the rescue and reorganisation of distressed companies. They also get involved on both sides of M&A situations. This creates value, but the impact on industrial change is not always positive. The short term orientation is seen as a potential negative. Other concerns include lack of transparency and the potential for systemic risk, aggravated by leverage.

1.6. There are two important aspects to SWF activities. SWF positives include their pattern of longer term shareholding and their readiness to be the buyer of last resort. Negatives include a lack of transparency and the potential to use their stakes for strategic political purposes.

1.7. The internationalisation of capital markets has been very significant. Investing institutions have assembled world wide equity portfolios and promoted international mergers and acquisitions. Pressure has been put on companies and regulators to transfer voting rights from management to shareholders. The shadow of M&A and the threat of shareholder activism have caused managements in the EU to initiate widespread industrial change. This has to some extent undermined relationships between management and stakeholders and shortened the time horizons of management general. This is the context in which AIF and SWF operate.

1.8. Conventional Institutional Fund Managers (CIFM), those in charge of pension, insurance and mutual funds, are involved with AIFM at every turn. They are major investors in AIF, they sell their investments to PE for LBOs, they buy portfolio companies when PE exits, their investments in companies are in play when activist HF intervene in M&A and they are the shareholders who lend shares to HF so that HF can sell short. They ultimately stand behind whatever environmental, social and governance policies the AIF implement. CIFM are the reciprocal of AIFM.

1.9. Following consideration of the WMP report and the other perspectives included in this opinion, the EESC recommendations fall into three categories: regulation and transparency, amendments to existing social legislation and the responsibilities of CIFM.

1.10. Regulation of AIFM is the subject of a proposed EU Directive on which the EESC will write a separate opinion. From the EESC perspective, it is important to note that the AIF did not cause the crisis but that they have been heavily impacted by it. There remains a good deal of uncertainty about the role played by these funds and there is clearly a case for more transparency through appropriate regulation.

1.11. The EESC endorses the six high level principles for the regulation of HF proposed by the International Organisation of Security Commissions (IOSCO) in June 2009 and which are outlined in Section 4. The EESC recommends to the Commission that it base itself on these principles and strengthen them for AIFM regulation in the proposed Directive. While IOSCO has completed an analysis of the risks to the financial system posed by PE, no

regulatory proposals have yet been made. The EESC recommends that the Commission adapt the IOSCO HF principles to fit the profile of PE.

1.12. As discussed in Section 5, the Santiago principles agreed by the SWF provide a basis for improved SWF transparency and governance. However, much more remains to be done. The EESC urges the Commission to continue to press the SWF International Working Group (IWG) to proceed with the necessary developments.

1.13. Under some legal systems, HF and PE that own and control companies are not regarded as employers and are therefore exempt from employers' legal obligations. The European Acquired Rights Directive, which protects workers' terms and conditions in the case of takeovers, does not generally apply in the case of AIF acquisitions due to the fact that they merely take over the shares so that the identity of the employer does not change. The EESC recommends that the Acquired Rights Directive 2001/23/EC <sup>(1)</sup> be strengthened in the case of HP and PE takeovers in order to

- safeguard the rights of the employees concerned, including the right to be informed and consulted;
- ensure that transfers of undertakings by way of share sale are not excluded from the Directive;
- ensure that these actions respect National and European legislation.

1.14. In order to reflect the situation created by HF and PE, the EESC proposes that Council Directive 94/45/EC <sup>(2)</sup> on the establishment of European Works Councils and Directive 2002/14/EC <sup>(3)</sup> establishing a general framework for informing and consulting employees be amended to ensure more effective consultation rights, respecting the position of all parties, before PE deals are finalised, during any restructuring process, and before exit.

1.15. An increasing number of pension funds and insurance companies have holdings in HF and PE and their failure could negatively affect the entitlements of pension scheme members. The EESC asks the Commission to review the Directive 2003/41/EC <sup>(4)</sup> on the activities and supervision of institutions for occupational retirement provision to ensure that:

- employees and union representatives are consulted about pension investments and the associated risks and that their views are respected;

<sup>(1)</sup> OJ L 82, 22.3.2001, p. 16.

<sup>(2)</sup> OJ L 10, 16.1.1998, p. 22.

<sup>(3)</sup> OJ L 80, 23.3.2002, p. 29.

<sup>(4)</sup> OJ L 235, 23.9.2003, p. 10.

- Member States use best practice to ensure that company pensions acquired by employees are shielded from bankruptcy.

1.16. The EESC calls on the Commission to set out in the next directive clear, unambiguous rules which will ensure transparent use of funds, not least through direct participation by employees' and businesses' representatives.

1.17. The EESC calls for CIFM to apply the Principles for Responsible Investment (PRI) in all their dealings with AIFM. The PRI, which address environmental, social and governance (ESG) issues, were drawn up by an institutional investor initiative in partnership with UNEP Finance Initiative and the UN Global Partnership. The EESC recommends that SWF follow the lead of the Norway Pension Fund and also sign up to the PRI.

1.18. In addition, the EESC endorses the principles for 'Responsible Investment in Private Equity' published by the PRI Board. The principles are designed to help CIFM investing in PE to discharge their ESG stewardship responsibilities towards the portfolio companies in which they invest. The EESC would welcome the development of a similar set of Principles for HF.

## 2. Owners, managers and investors

2.1. Most companies in the EU Member States are privately owned by families. When families do ultimately give up control, the company may be acquired by another company (trade sale), sold to a private equity firm (buy out) or converted into a public company via an initial public offering (IPO) on a stock market. The ethos of the family owned business is generally long term, coupled with a proprietorial responsibility for stakeholders, especially the work force.

2.2. Some entrepreneurs seek *private equity* to support the earliest stages of company development. *Seed Capital* is financing provided to study, assess and develop an initial concept for a product or service. *Start-Up Capital* is for product development and initial marketing. The entrepreneur usually has to rely on family and friends for this speculative capital but business angels and venture capital firms may also choose to invest. *Expansion Capital* supports the growth of a firm. Involvement at this stage is not unusual for venture capital.

2.3. PE invests in private companies via the *Buy Out*. This may provide an exit for a founding family or it may involve removing a company from the stock market and taking it private. In a *Management Buy-Out*, the current managers are the buyers, using financial support provided by PE. In this context, private equity funds also finance workers buy outs. *Replacement Capital* involves the purchase of shares in an existing private company from another PE fund. This type of transaction allows the first fund to extract value in a timely fashion, most PE funds being time limited.

2.4. Mergers and acquisitions (M&A) are a major factor in corporate life. Growing companies make acquisitions which they usually fund with debt or equity. Companies are often acquired because they have valuable assets which the incumbent management is not putting to optimum use.

2.5. When companies begin to show signs of failure and distress they can be saved, but extreme action may be required, accelerating overdue industrial change and impacting the social and economic interests of shareholders, employees and other stakeholders. The outcome may involve a turnaround by new management, a rescue via acquisition, a PE buy-out or even a reorganisation following insolvency.

2.6. Most equity investment is in *Public Equity* – the shares of companies listed on stock markets. The internationalisation of equity markets has been hugely significant. *Public equity* investors influence industrial change through the stock market where they buy shares that meet expectations and sell shares that disappoint. CIFM shareholders are not hands on. They make their views known to management and can ask the board to change the management but, ultimately, they influence industrial change by their exits and entrances and by their support or otherwise for mergers and acquisitions and AIF transactions.

2.7. Investment in the equity of companies is a somewhat risky option in the spectrum of investment opportunities. Investors buy shares in the expectation that they will rise in value. While the average value of portfolios does increase over time, both the markets and individual shares tend to move up and down. CIFM trade in and out of cycles in an attempt to optimise the value of their holdings but their funds remain exposed to the vagaries of the stock market.

2.8. CIFM manage pension, insurance and mutual funds. In addition, high net worth individuals (HNWI) have substantial assets, about one third of which are incorporated in the other funds listed below. All conventional investors seek to mitigate the downside of stock market exposure. To do this they turn, inter alia, to AIFM. HNWI support has funded the tremendous expansion of HF.

2.9. Data published by International Financial Services, London, help to put the scale of these funds into perspective. Global assets under management in 2007, in US\$ trillions, were estimated as follows:

Pension Funds	28.2	Sovereign Wealth Funds	3.3
Insurance funds	19.9		
Mutual Funds	26.2	Hedge Funds	2.3
HNWI	40.0	Private Equity Funds	2.0

The relative importance of HF and PE is increased by both concentration and leverage. SWF have broadly the same goals as CIFM so they also invest in PE and HF. An absolute majority of all assets under management by HF globally now come from CIFM and a third of those assets come from pension funds.

2.10. AIFM returns have consistently outperformed conventional stock market investment. They are generally successful in executing high risk/high return strategies. For example, HF managers engage in *Short Selling*. The HF borrows shares in the target company. These will be obtained for a fee by a broker from an owner of the shares. The HF then sells the shares in the expectation that the price will fall. In due course the HF must repurchase the shares to return them to the owner. If the share price has fallen, the fund will profit, but this is limited to 100 % of the sums involved. If the price goes up, there is no limit to the potential loss. *Short selling* is high risk.

2.11. HF also take positions in M&A transactions, usually buying shares in the target company and selling those of the buyer. Since there is a risk that the transaction may be blocked, HF may become activist to mitigate that risk. As well as intervening in M&A transactions, HF may also take positions in companies with a view to provoking a transaction. This is high risk.

2.12. When companies get into difficulty, CIFM sell their holdings. AIF are particularly interested in *Distressed Debt*, which tends to be heavily discounted. This then gives AIF the leverage to call the shots during the ensuing negotiations. A fund can often get its money back and more from a liquidation. In a reorganisation, the fund may forgive the company its debt in return for equity

which can be profitable if the shares then recover. A reorganisation is good for the company's stakeholders because it allows the business to carry on. Investment in *distressed debt* is clearly risky. The funds can profit because they are prepared to get involved when everyone else is leaving.

2.13. A *Leveraged Buy-Out (LBO)* is a high risk PE transaction. The investment fund makes an acquisition without itself providing much of the capital required for the deal. The transaction is usually funded by bank debt and junk bonds with the assets of the target company used as collateral, all based on the assumption that the cash flows of the target company will cover interest payments and loan repayments. In the present crisis, many such transactions are proving to be flawed.

2.14. This section has put the rationale for AIF into perspective. While the activities typically undertaken by AIFM and SWF are described in the following sections, the funds themselves do not necessarily stick to these categories. PE funds can operate in the HF space, and vice versa. SWF invest in both.

### 3. Private Equity

3.1. Private equity funds are pools of privately managed capital formed for the purpose of making investments in private companies. They are typically structured as limited partnerships. The investment focus of PE funds is on venture capital, replacement capital, distressed securities and buy-outs. A PE fund will have a seven to ten year life. It seeks to exit profitably by the time the fund closes. The life of a typical investment is three to five years, but may extend to ten. Replacement capital allows a fund to close before all its investments are mature.

3.2. Since PE has a strong bias towards the provision of seed and venture capital as well as acquiring distressed securities and financing buyouts, PE is an important agent of industrial change. The EESC has endorsed the role of *venture capital* in a recent opinion<sup>(5)</sup>. The sharp increase in private equity fundraising between 2004 and 2007 also had a significant impact on industrial change in Europe, in particular by providing capital for leveraged buyouts, financing mergers and acquisitions and the purchase of distressed securities.

(5) OJ C 100, 30.4.2009, p. 15 Opinion of the EESC on the Communication from the Commission 'Removing obstacles to cross-border investments by venture capital funds' COM(2007) 853 final.

3.3. Buy-outs are the main sphere of PE activity. There are many methodological problems in assessing the impact of PE buy outs on industrial change. As WMP have pointed out, there is 'the question of the counterfactual'. What would have happened to the company concerned in the absence of PE involvement? Where we have data on company performance, against what benchmark should it be measured? How do we account for the fact that companies taken over by PE are far from a random sample?

3.4. It is conventional to compare the impact of a PE buy-out against a peer group of companies which were not bought out. However, the valid comparison would be with a peer group of companies subject to corporate acquisition. It would be surprising if the corporate acquisition resulted in industrial change much less radical than a PE buyout, since the purpose of a corporate acquisition is always to enhance the earnings of the acquirer. Similarly, radical industrial change would also be expected in a conventional turn around, following the introduction of new management.

3.5. 2005 to 2007 was the era of the mega LBO. Banks were lending with the lightest of covenants. Historically, the debt portion of an LBO ranges between 60 % and 90 %. This leverage was applied to the balance sheets of PE portfolio companies rather than to the PE funds themselves. Thus the leverage is widely distributed and does not represent any systemic risk per se. However, IOSCO has identified the likelihood that many highly leveraged PE portfolio companies may fail, affecting lenders, purchasers of the debt and the PE partners such as pension funds. From the industrial change perspective, the biggest threat is to the stakeholders in the companies affected. As far as possible the reorganization and reconstruction of these companies should be carried out with the consent of the stakeholders.

3.6. WMP has examined the evidence relating to five aspects of the impact of PE on industrial change at the company level. They have been unable to arrive at definitive conclusions due to methodological problems and other limitations to the analysis.

3.7. In respect of firm performance, profits and value creation, the outcome is clearly positive. However, a major conclusion with regard to survey results on PE effects on average value added to target firms is that the results do not explain to what extent the value creation monitored is arising from 'genuine' creation processes rather than from 'value appropriation'.

3.8. In respect of employment, the impact on staffing levels in the target firms is the most controversial issue of the current

debate about PE. There are a multitude of contradictory studies from both the PE industry and the trade union perspective. A study by Harvard for the World Economic Forum, quoted by WMP, found that PE investments experienced larger job losses than the control group. However, since PE funds often take over weaker companies whose previous employment situation was probably not sustainable, restructuring and redundancies might any way have been necessary.

3.9. The Harvard study also found that PE controlled companies were prone to 'creative destruction' where the rate of acquisitions, sales, new plants and closures were twice as high as in other companies. In the two years following a PE takeover, 24 % of employees will have been impacted by this activity. This is not surprising where restructuring and reorganisation are involved.

3.10. In respect to the evolution of wages and working conditions, the impact of PE is again highly controversial. There is evidence on both sides of the argument, but WMP have not arrived at a definitive conclusion due to the lack of systematic data collection.

3.11. In respect of social dialogue, information and consultation at the firm level, there has been hardly any significant research. Empirical evidence shows that in some cases existing arrangements and trade union relationships are respected while in others they are not. A major issue is that relevant EU social Directives do not always apply in PE takeovers.

3.12. In respect of management practice, corporate culture and governance there is again a Harvard input. WMP conclude from it that the major impact of PE is to heighten monitoring of performance and to remove employees and plants that do not reach performance benchmarks. WMP also quote the European Trade Union Institute that PE, with its narrow focus on obtaining operating goals is neither ideological nor sentimental in its approach to such issues as collective bargaining and worker participation.

3.13. The following is a SWOT analysis of PE, *annotated* by the rapporteur

	<b>Strengths</b>	<b>Weaknesses</b>
<b>Micro Dimension</b>	<ul style="list-style-type: none"> <li>— Seed money, <i>risk capital generally</i></li> <li>— Expertise/network knowledge</li> <li>— Governance structure</li> <li>— Financial resources for mergers and acquisitions and growth strategies</li> </ul>	<ul style="list-style-type: none"> <li>— Often exaggerated profit expectations, <i>but commensurate with risk</i></li> <li>— Financial costs / externalities <i>For LBOs</i></li> <li>— Middle-term orientation only</li> <li>— Strong financial/shareholder orientation</li> <li>— Often high risk strategy <i>It is a risk/reward business</i></li> </ul>
<b>Wider Dimension</b>	<p style="text-align: center;"><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>— Value creation</li> <li>— Increase in competitiveness</li> <li>— Growth and job creation</li> <li>— Increase in adaptability</li> </ul>	<p style="text-align: center;"><b>Threats</b></p> <ul style="list-style-type: none"> <li>— Leverage strategy – <i>for mega LBOs</i></li> <li>— Financial re-engineering - <i>ditto</i></li> <li>— Risk for stable development - <i>ditto</i></li> <li>— Employment and labour conditions <i>remember the counterfactual</i></li> <li>— Lack in long-term orientation</li> <li>— Bankruptcy – <i>for mega LBOs</i></li> </ul>

#### 4. Hedge Funds

4.1. HF are limited partnerships. The portfolio is managed by an investment manager; other activities are delegated to the Prime Broker (PB) and the Administrator. Many funds are established in offshore financial centres such as the Cayman Islands so that the growth in the value of the funds is untaxed. Investors are taxed on their profits in their home countries. Investment managers, mostly based in the USA or London, pay taxes on their considerable fees in the countries where they are based.

4.2. An article in the Economic Review of the Sveriges Riksbank, Volume 1, 2009 (ERSV) describes the growth of the HF market from 1996 when there were 2 000 funds world wide managing assets of approximately US\$ 135 billion to the end of 2007 when there were 10 000 funds managing US\$ 2 000 billion.

4.3. Prime brokerage is the generic name for services offered by investment banks and securities firms without which HF could not operate. It includes global custody of the fund's assets, securities lending for short selling, financing to provide leverage and technology services. Given the central role of PB in the HF market, many observers believe that data needed for the supervision of systemic risk would be better obtained from the limited number of PB than from each individual HF.

4.4. About twenty PB cover 90 % of the global HF industry. 30-40 % of global PB is based in London. HF are located 60 % in the USA, 20 % in London and 20 % in the rest of the world. London is home to between 80 and 90 % of the EU HF industry. AIF Managers in London are regulated by the UK Financial Services Authority (FSA).

4.5. HF offer absolute investment returns with relatively low volatility which are largely unrelated to whether a particular investment market is going up or down. They achieve this by hedging. They implement their strategies by the use of derivative contracts and they usually leverage their returns by borrowing additional funds to invest.

4.6. They embrace a wide variety of skills and strategies from the most prosaic to the most risky. They use a variety of strategies to take global positions on the direction of markets, currencies, commodities, interest rates, etc. These create a great deal of volume on exchanges without impacting industrial change directly. Some deploy superior research and stock picking skills to buy the best ideas and then short those they believe will perform less well. Others use computer systems to calculate the 'fair' value of one asset relative to another and then short the one and buy the other.

4.7. Short selling is thus integral to the operation of HF. The UK FSA said in September 2008 that short selling is a 'legitimate investment technique in normal market conditions'. Short sellers are economic agents. They often point out an uncomfortable truth about the financial position of the companies whose shares they are selling – that they are not as valuable as people think they are. In this respect they are the financial equivalent of the boy who pointed out that the emperor had no clothes. In certain circumstances it is possible that short selling might intensify what would otherwise be just short term difficulties faced by sound companies and so, as a result, cause the company to undertake industrial restructuring. It might also aggravate stock exchange crises with systemic consequences because of the effect of the mark to market rule. The authorities imposed a ban on short selling of banking shares as the financial crisis unfolded. The imposition of a ban remains a policy option for regulators when they consider that market conditions are abnormal.

4.8. It is with *Event-driven* strategies that HF can and do have a major impact on industrial change. HF seek out investment opportunities surrounding corporate events. The holding period in such situations is typically one to three years. One example is to arbitrage the shares of merging companies. Sometimes the HF will become proactive and take a small speculative stake to provoke an event, as happened with ABN AMRO. Where the investment is sizeable and the fund is activist, it will inevitably lead to accelerated industrial change. While there is considerable evidence that HF investment increases the value of the target company, there is little or no research on the employment and social impacts. HF are the largest buyers of distressed securities, another event driven opportunity.

4.9. The rescue of LTCM in 1998 for the reason that it was 'too big to fail' has caused HF to be viewed as a potential systemic risk even though, in retrospect, the rescue by the Fed is considered to have been ill advised. Since then, PB have been mindful of the risks involved in their HF relationships and, in the event, it was the failure of Lehman Bros., a regulated bank, which caused the meltdown. HF were not nearly as highly leveraged as the regulated banks.

4.10. The ERSV article (op cit) examines the role that HF play in financial crises and, in particular, the idea that they act in concert to create waves. No evidence of this behaviour was found in the European Currencies crisis (1992), the Asian crisis (1997) or the IT Bubble (2002). With respect to the current crisis, it has affected the funds more than the funds have affected the crisis.

4.11. The analysis also examined whether HF constitute a greater threat to financial stability than other investors. It found that the influence of individual funds on the entire market is limited, not least because HF assets are distributed amongst

10 000 funds. It is, however, likely that they played a role in the development of the crisis, along with all of the other institutional investors.

4.12. While the impact of HF on industrial change is less marked than that of PE, there remains concern about their potential impact, not least because of the lack of transparency in their strategies, their investments and their domicile. Accordingly the EESC endorses the six high level principles detailed in the recent IOSCO report on hedge funds oversight (June 2009), which was prepared in support of the G20 initiative. The principles are:

- mandatory registration of HF managers/advisors;
- regulatory requirements covering organisational standards, conflicts of interest, disclosure and prudential regulation;
- mandatory registration, regulation and supervision of PB;
- provision by HF/PB of relevant information for systemic risk purposes;
- best practice guidance by regulators;
- international cooperation between regulators.

The advantage of an international agreement is that it discourages regulatory arbitrage.

4.13. The following is the WMP SWOT analysis for HF, annotated by the rapporteur

	<b>Strengths</b>	<b>Weaknesses</b>
<b>Micro Dimension</b>	<ul style="list-style-type: none"> <li>— Value increase of listed companies</li> <li>— Orientation towards efficient markets</li> <li>— Buyer of 'last resort'</li> <li>— Purchase of risky assets / distressed securities</li> </ul>	<ul style="list-style-type: none"> <li>— Short-term orientation <i>they have no long term role</i></li> <li>— 'Herd mentality'/'herding' behaviour <i>not proven, not found</i></li> <li>— Transparency of risks</li> <li>— Externalities</li> </ul>
	<b>Opportunities</b>	<b>Threats</b>
<b>Wider Dimension</b>	<ul style="list-style-type: none"> <li>— Liquidity in financial markets</li> <li>— Overcoming market failures (in the case of active investors)</li> <li>— Financial innovations</li> </ul>	<ul style="list-style-type: none"> <li>— Leverage/system risks <i>not proven</i></li> <li>— Manipulation of markets <i>Absolutely not</i></li> <li>— Exhaustion of financial reserves <i>More a PE concern</i></li> <li>— Focus on financial engineering</li> <li>— High risk strategy – <i>with high reward</i></li> </ul>



## 5. Sovereign Wealth Funds

5.1. An SWF is not an AIF. It is a state-owned pool of money that is invested in a portfolio of financial assets. Its primary function is to stabilise the country's economy through diversification and to generate wealth for future generations. There are now 20 major funds with an estimated total holding of over \$3 trillion in assets. SWF are generally financed by either profits from commodity sales such as oil and gas in the Middle East or by current account surpluses as in the case of China. Taking a macro view of the global economy, SWF clearly fulfil two important roles. They transfer funds back to OECD economies, thus correcting global imbalances and by keeping their surpluses out of the domestic economy, they reduce the danger of domestic inflation.

5.2. According to WMP, the major SWF are:

Country	Fund	Assets US \$ billions
Abu Dhabi	Abu Dhabi Investment Authority	627
Saudi Arabia	SAMA Foreign Holdings	431
China	SAFE Investment Company	347
Norway	Gov't Pension Fund Global	326
Singapore	Gov't Investment Corporation	248
Russia	National Welfare Fund	220
Kuwait	Kuwait Investment Authority	203

5.3. Their investment horizons are long and, in most cases, unleveraged. They tend to have a higher risk tolerance and to expect higher returns than traditional official reserves managed by monetary authorities. They are generally passive investors but they can be influential. For example, investments by the Norway Pension Fund are subject to an ethical screening in line with the PRI.

5.4. The rise of SWF is a manifestation of a larger shift in the structure of global finance. IMF projections indicate that the total wealth of SWF will reach \$6-10 trillion within 5 years. SWF made a series of major investments in troubled financial institutions during the crisis. The emergence of these funds is a central factor in international investing and, as and when the regulatory questions are resolved, they will play a major role in shaping the global economy.

5.5. Many OECD governments have stressed the importance of monitoring and possibly regulating SWF. There is a concern that SWF investments are a threat to national security and their lack of transparency has fuelled this controversy. In turn, this provokes protectionism and economic nationalism amongst recipient countries. A further concern is the lack of accountability which could cause SWF to distort or destabilise financial markets. This concern would be alleviated by governance disclosures.

Creating a method of disclosures that is transparent, credible and reliable would decrease most of the concerns.

5.6. There is no substantive evidence that SWF make investments for political or strategic motives.

Strategic action by some developing countries appears to be taken by their state owned enterprises rather than by SWF. Gazprom's acquisitions are a case in point, as was the abortive bid by Chinalco to take an interest in Rio Tinto. China is making a push to lock up energy reserves across the globe by offering credit to governments via its two policy banks – China Development Bank and Export-Import Bank of China.

5.7. Since 2008 there has been a twin track international initiative to regularise the relationships between the funds and OECD countries. The OECD has developed guidelines for recipient countries while the IMF has worked with the IWG to develop the Santiago principles which relate to

- the legal framework and fund objectives;
- the institutional framework and governance structure;
- the investment and risk management framework.

5.8. For SWF investment to play a full part in OECD economies, they must enhance transparency and disclosure, especially in respect of governance, strategy and investment objectives. They will need to reaffirm their commitment to the market economy which allows them the freedom to invest. Their governments need to be prepared to accept reciprocal investments from OECD economies.

5.9. At the Kuwait meeting of the IWG in April 2009 SWF set up a permanent representative forum to carry forward the work of the group. While the principles are an important step forward, more will need to be done in respect of

- recipient country relationships;
- disclosure requirements and standards;
- compliance standards, measurements and sanctions.

Without this further transparency, SWF could be a destabilising factor in the macro economy.

5.10. At the level of the company, SWF are not direct agents of industrial change although indirectly they are important investors in AIF. However, with their increasing economic power, they are becoming significant shareholders in leading companies. Accordingly, the EESC would like SWF to follow the Norway fund and sign up to the PRI.

5.11. The following is the WMP SWOT analysis for SWF, *annotated* by the rapporteur

<b>Micro Dimension</b>	<b>Strengths</b>	<b>Weaknesses</b>
	<ul style="list-style-type: none"> <li>— Long-term orientation</li> <li>— Buyer of 'last resort'</li> <li>— Increase in financial resources</li> <li>— Strengthening the link to industrial markets</li> </ul>	<ul style="list-style-type: none"> <li>— Lack of autonomy of national stakeholders</li> <li>— Lack of transparency</li> <li>— <i>Both issues to be addressed by Santiago principles</i></li> </ul>
<b>Wider Dimension</b>	<b>Opportunities</b>	<b>Threats</b>
	<ul style="list-style-type: none"> <li>— Stakeholder orientation</li> <li>— Sound financial engineering</li> <li>— Entrance to new markets</li> <li>— <i>Potential influence on AIF</i></li> </ul>	<ul style="list-style-type: none"> <li>— Focus on political objectives - uncertain long-term intentions</li> <li>— Wealth concentration outside democratic control</li> <li>— <i>Addressed in part by Santiago principles</i></li> </ul>

Brussels, 5 November 2009.

*The President  
of the European Economic and Social Committee  
Mario SEPI*

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**Opinion of the European Economic and Social Committee on ‘Services of general economic interest: how should responsibilities be divided up between the EU and the Member States?’**

**(own-initiative opinion)**

(2010/C 128/11)

Rapporteur: **Mr HENCKS**

On 26 February 2009, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

*Services of general economic interest: how should responsibilities be divided up between the EU and the Member States?*

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 8 September 2009.

At its 457<sup>th</sup> plenary session, held on 4-5 November 2009 (meeting of 4 November), the European Economic and Social Committee adopted the following opinion by 155 votes to one, with nine abstentions.

## 1. Subject of the own-initiative opinion

1.1. In its action plan A Programme for Europe: the proposals of civil society (CESE 593/2009), the EESC stressed the importance of services of general interest (SGIs), enshrined in the Charter of Fundamental Rights of the European Union and as defined in the protocol appended to the Lisbon Treaty.

1.2. The protocol on SGIs is a major innovation of the Lisbon Treaty, as it covers all SGIs and for the first time in a treaty introduces the concept of ‘non-economic services of general interest’ in contrast to ‘services of general economic interest’.

1.3. The protocol is not just an interpretative declaration on the Union’s treaties and common values regarding SGIs; rather, it is a set of operating instructions aimed at the Union and its Member States. It consistently places the user, the satisfaction of his needs, his preferences and rights at the heart of the proposals and enshrines the common principles of a high level of quality, safety and accessibility, equal treatment and promotion of universal access.

1.4. In the EESC’s Programme for Europe, the Committee proposes that a Community initiative be prepared to launch a real debate on establishing guidelines on services of general interest in view of their importance for the Union’s social and territorial cohesion in the context of globalisation and in line with the aim of promoting universal access and user rights provided for by the Lisbon Treaty.

1.5. With Article 14 of the Treaty on the functioning of the European Union (TFEU) the Lisbon Treaty for the first time

introduces a generally applicable legal basis for SGIs for the Community legislative authorities; this is legally distinct from that relating to the internal market, which is the basis for the sectoral directives liberalising network SGIs (electronic communications, electricity, gas, public transport, postal services).

1.6. Article 14 focuses on the economic and financial conditions necessary to enable SGIs to carry out successfully the function assigned to them, calling on the Council and the European Parliament to legislate by means of regulations.

1.7. Following on from its Programme for Europe, in this own-initiative opinion the EESC concentrates on the implementation of Article 14 of the Lisbon Treaty and proposes that the added value and possible content of legislative initiatives by the European institutions should be studied in order to clarify the following questions:

- who defines services of general interest, their objectives, tasks and responsibilities?
- what forms can this definition take?
- in what areas could Community SGIs be needed to implement the Union’s objectives?

## 2. Definition, objectives, tasks and responsibilities of SGIs

2.1. The protocol appended to the Lisbon Treaty for the first time introduces the concept of ‘non-economic services of general interest’, whereas the Treaties have previously referred only to ‘services of general economic interest’.

2.2. The protocol on SGIs appended to the Lisbon Treaty confirms, on the one hand, the exclusive competence of the Member States for non-economic services of general interest (subject to compliance with the general principles of Community law), and on the other hand 'the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users'. The protocol does not, however, clarify the distinction between an economic and a non-economic service.

2.3. Since the Treaty of Amsterdam (1997) the EC Treaty (Article 16) has made it clear that the Union and the Member States share powers and responsibility for SGEIs to the extent that, according to the EC Treaty, *'the Community and the Member States, each within their respective powers and within the scope of application of this Treaty, shall take care that such services operate on the basis of principles and conditions, which enable them to fulfil their missions'*.

2.4. This sharing of responsibilities is, however, still far from being clarified, and this is a source of uncertainties for all stakeholders concerned (public authorities, service providers, regulatory agencies, users, civil society), leading to a large increase in references for preliminary rulings and disputes before the Court of Justice of the European Communities. Given that the Court rules on individual cases, on the basis of existing law, which is not well developed in relation to SGIs/SGEIs, and previous case law, government and the local authorities are increasingly subject to Community competition law, for example if public service activities are carried out with other partners.

2.5. The reference to the needs of the users, both private individuals and professionals, can be interpreted as a key element which has to be complied with as the establishment of SGEIs can only be justified if it enables the performance of missions of general interest, in the service of the principal beneficiaries of these services.

2.6. The determination of the nature and scope of an SGEI mission in specific spheres of action which either do not fall within the powers of the Community or are based on only limited or shared Community competence remains, in principle, within the competence of the Member States.

2.7. The Community institutions and in particular the European Commission are invited by the protocol to take account of the 'diversity' of SGEIs and the 'differences in the needs and preferences of users that may result from different geographical, social or cultural situations'.

2.8. When monitoring compliance with Treaty rules regarding the definition of SGEIs by the Member States, the Commission will therefore have to take greater account of the public logic and democratic choices of each Member State. The scope, content and method of the Commission's assessment of 'manifest error' should be correspondingly adapted in order, as far as possible, to prevent conflicts and disputes.

2.9. All SGIs and SGEIs are faced with a twofold uncertainty detrimental to the achievement of their objectives, as regards:

— the respective powers and responsibilities of the Union and the Member States and the local authorities;

— the economic or non-economic character of services, which determines the body of law by which they are governed.

2.10. It is therefore important that, as required by Article 14 of the Lisbon Treaty, one or more legislative initiatives should be adopted providing the necessary clarity and guarantees, while taking account of the nature and specific features of various kinds of SGEIs (social services, employment measures, aid for the disadvantaged and people with disabilities, social housing etc.). The aim is not to standardise SGEIs throughout the EU, but to combine unity and diversity – unity in the form of a set of common rules in essential areas, and sectoral and national diversity.

### 3. Types of definition

3.1. The fact that a Member State has a wide discretion when determining what it regards as an SGEI does not mean that it is not required, when it relies on the existence of and the need to protect an SGEI mission, to ensure that that mission satisfies certain minimum criteria common to every SGEI mission within the meaning of the EC Treaty, as explained in the case law, and to demonstrate that those criteria are indeed respected in the particular case.

3.2. These are, notably, the presence of an official national act entrusting the operators in question with an SGEI mission and scope and nature of that mission. This official act by the public authority must have binding force as a law, regulation, contract or agreement in the Member State.

3.3. The Member State must indicate, on the basis of Community rules, the specific general interest tasks, on the basis of which it considers that the service in question, because of its specific nature, deserves to be characterised as an SGEI and to be distinguished from other economic activities in the free market.

3.4. Conversely, the lack of proof by the Member State that those criteria are satisfied, or failure on its part to observe them, may constitute a manifest error of assessment, in which case the Commission is required to make a finding to that effect.

3.5. A Member State may choose to have a SGEI mission carried out by several operators in a given sector without any requirement that each of the operators be separately entrusted with that mission by an individual act or mandate.

3.6. All these provisions derive from the case law of the ECJ but they are not clearly established and consolidated by derived law, giving rise to legal uncertainties for the various parties involved – or at least to the perception of uncertainty by some of them.

3.7. In the Directive on services in the internal market a distinction is made, with regard to social services, between 'providers mandated by the State' and 'charities recognised as such by the State' on the one hand, and providers without a mandate or official recognition on the other.

3.8. In its working document SEC(2007) 1516 the Commission states that the act of entrustment<sup>(1)</sup> is the official act which entrusts the company to carry out the SGEI and spells out the mission of general interest of the undertaking concerned, as well as the scope and the general conditions of the functioning of the SGEI.

3.9. According to a Commission interpretation, the act of entrustment entails the *overriding* obligation to provide or make available the service without distinction and without taking account of the specific nature of the service. The Commission says that this obligation does not apply to state-recognised charities, but the terms and the system for gaining this charitable status are not stipulated.

3.10. The Commission also states that an 'approval' given by a public authority to a service provider, authorising him to provide some services does not correspond to the notion of act of entrustment and does not create an obligation for the operator to provide the services concerned. But the concept of an approval is not defined either in primary or derived law.

3.11. The only solution therefore is case-by-case clarification as disputes and settlements arise; a legislative initiative, in consultation with the parties concerned, could create legal clarity and security.

3.12. Clarification of this kind, requested by the parties concerned, should take into account existing situations in the Member States, including history, traditions and modes of social organisation, and guarantee their continuity where they are justified by the general interest and service quality considerations.

#### 4. Community services of general interest

4.1. In two recent opinions (opinions of the European Economic and Social Committee on The social implications of transport and energy developments, CESE 1293/2008 and the Green Paper - Towards a secure, sustainable and competitive European energy network, CESE 1029/2009 (rapporteur for both opinions: Ms Batut), the EESC expressed the view that studies should be carried on the feasibility of a European energy SGI which could be harnessed for the common energy policy.

4.2. In its Green Paper entitled *Towards a secure, sustainable and competitive European energy network*, the Commission argues for the establishment of a European Transmission System Operator by building progressively an independent company to manage a unified gas transport network throughout the EU.

4.3. Caught between national disparities and the common need to build a European single market, the European institutions and the national governments or the Member States are, however, struggling to get to grips with the idea of Community services of

general interest (whether economic or otherwise). The idea of establishing European energy services has, for example, not found favour with political decision-makers.

4.4. Nonetheless, Community SGIs are necessary for the continued process of European integration. Services of this kind will be an expression of European solidarity and a response to the challenges which will face the Union in essential, multinational or transnational areas such as security of energy supply, security of water resources, preservation of biodiversity, maintenance of air quality, internal and external security etc. These are services which cannot be reduced to organisations at national or local level, as they are not local services, such as social services for example, or exclusively local, regional or national services of general interest.

4.5. The EESC therefore declares its support for public (Union and Member States) — private partnerships to increase the security of energy supply, and ensure that interconnected energy networks (gas, electricity, oil) are managed in an integrated way. The Committee also supports the development of wind energy networks at sea and the connection of these wind parks to the terrestrial network — which could significantly reduce operating and investment costs and provide greater incentives to invest in new network projects.

4.6. In terms of the powers of each Member State as regards energy-mix for example, the social and societal questions posed by the management and use of natural resources, nuclear energy, climate change, sustainable management and security cut across traditional national borders and can be satisfactorily addressed only through a European concept of the general interest and appropriate services.

4.7. The fact that the States in principle have the power to define SGEIs does not in any way detract from the EU's power to define SG(E)Is at its level, when necessary to achieve the objectives of the Union and when the act is proportionate to the objectives. Primary, derived and case law leave it open to the Union, as a public authority in areas where it has explicit competence or even limited or shared competence, to provide, commission, organise and finance these services under the same conditions and subject to the same rules as the Member States.

4.8. Article 16 of the EC Treaty clearly establishes powers and responsibilities shared between the EU and the Member States, stating that the Community and the Member States, each within their respective powers, shall take care that SGEIs operate on the basis of principles and conditions which enable them to fulfil their missions.

(1) Translator's note: this is the term used in the working document.

4.9. SGEIs in effect fall within the scope of a number of EU objectives (respect of fundamental rights, promotion of the well-being of citizens, social justice, social cohesion etc.) which are essential to society. The Union, which is responsible for promoting living standards and quality of life in Europe, also has responsibility for the instruments used for putting fundamental rights and social cohesion into effect.

4.10. The Treaties clearly define the competences of the EU, some of which, in accordance with the subsidiarity principle, may involve the establishment of services, bodies, agencies, etc. at Community level (transport policy, trans-European networks, protection of the environment, consumer protection, the economic, social and territorial cohesion of the Union, internal and

external security, the fight against climate change, security of energy supply etc.).

4.11. Even though no legal reference to SGIs and SGEIs has been made for some EU agencies — e.g. the agencies for maritime, food and rail safety, the agency for managing operational cooperation at the EU's external borders, and the 'single sky' and 'Galileo' agencies — these services are operating in the general European interest.

4.12. Rather than adopting a defensive approach, the Community institutions, without prejudging the status of operators, should recognise the existence of, and the need for, Community services of general interest in those areas where objectives can be more effectively achieved by EU action than by each of the Member States acting separately.

Brussels, 4 November 2009.

*The president  
of the European Economic and Social Committee*  
Mario SEPI

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**Opinion of the European Economic and Social Committee on the 'impact of social networking sites on citizens/consumers'**

**(own-initiative opinion)**

(2010/C 128/12)

Rapporteur: **Mr PEGADO LIZ**

At the plenary session held on 26 February 2009, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on

*The impact of social networking sites on citizens/consumers.*

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November 2009), the European Economic and Social Committee adopted the opinion by 108 votes to two with 10 abstentions:

**1. Conclusions and recommendations**

1.1. The EESC recognises the cultural, political and social importance of Internet-based social networking sites (SNS), as a means of communication and interaction between people exercising their fundamental right to freedom of expression.

1.2. The Committee also notes the economic benefits linked to the growth of SNS, specifically their potential for different types of commercial and marketing communications.

1.3. The EESC wishes to highlight the positive aspects of the growth in SNS, especially their contribution to guaranteeing and facilitating freedom of expression in certain political situations, creating and developing online communities, enabling people to meet or rediscover friends and family members, preventing situations that place minors at risk and providing minors with an opportunity to request help through SNS and to share information on health issues.

1.4. At the same time, however, the Committee wishes to add its voice to those civil society organisations and associations, families and individual members of the public who have expressed well-founded concerns as to the risks of the illegal and abusive use of SNS, which rides roughshod over a number of basic human rights.

1.5. The EESC wishes to draw attention in particular to the risks linked to the use of SNS by minors and other vulnerable members of the public, specifically people with poor digital literacy, who frequently fall victim to others who take advantage of them to engage in illegal activities that affront their personal dignity and endanger their physical and mental wellbeing and even their lives.

1.6. The Committee welcomes the European Commission's recent initiatives, in particular those undertaken by DG Information Society & Media and DG Justice, to facilitate agreements between providers of SNS in the form of Codes of Conduct and Good Practice.

1.7. The EESC considers, however, that the EU and the Member States must step up their action to ensure that the public is better informed about the risks associated with using SNS and about the good practices that should be adopted.

1.8. The Committee also considers that further efforts should be made to provide young people with a more comprehensive education on such matters from the earliest school years onwards, give better support for families, given the importance of parental monitoring and supervision of young people's Internet use, develop access-blocking or filtering tools, ensure better risk prevention and crack down more effectively on illegal or harmful practices in this area.

1.9. The EESC considers, in this regard, that young people should be directly involved in defining operating models and in moderating and settling SNS-related issues, because it is they who will probably be able to understand issues arising in this area most effectively and rapidly and propose appropriate solutions.

1.10. The Committee urges the Commission to continue work on its in-depth study of the SNS phenomenon, in order to obtain a thorough understanding of the situation, and specifically its cultural, social and economic implications and its potential use in promoting the broader debate on issues as important as climate change, or the 'Communicating Europe' initiative.

1.11. The EESC recommends that the Commission consider, in addition to good self-regulation practices, the possibility of establishing co-regulation mechanisms that would enable any good practice agreements signed to be properly monitored, in order to prevent breaches, stamp out abuses and effectively punish offenders. In the case of criminal activities committed simultaneously in all Member States using information technologies, the EU could now move towards a system of harmonised charges and penalties managed by the responsible national bodies acting in coordination with each other.

1.12. The Committee suggests, therefore, that the Commission, as a follow-up to the public consultation it carried out in July 2008, draft a Green Paper on SNS, setting out the main options for future work, in which the implications of these sites are analysed. The drafting process should also involve hearing the views of the different civil society organisations and associations concerned.

1.13. The EESC recommends that consideration be given to the possibility of extending and combining the powers of the existing Community bodies to appoint a Community-level Ombudsman responsible for all issues relating to the protection of human dignity, privacy and data protection in the electronic communications and audiovisual sectors, with specific responsibility for SNS.

1.14. The EESC recommends that the Member States improve coordination of their policies at national level, in order to establish a consistent legal framework to address these situations, granting powers to be exercised by existing national regulators acting in coordination or creating appropriate regulatory mechanisms.

1.15. In particular, the Committee calls on the Members of the European Parliament to place these new issues at the top of their political agendas so as to reflect the growing concerns of civil society.

## 2. Introduction

2.1. The subject of this own-initiative opinion is the impact on the public/consumer of SNS, which are essentially online services for setting up and linking communities of people who share common activities and interests or who simply wish to find out about other people's interests and activities, and which also provide a range of functions enabling users to interact with one another ([http://www.saferinternet.org/ww/en/pub/insafe/safety\\_issues/faqs/social\\_networking.htm](http://www.saferinternet.org/ww/en/pub/insafe/safety_issues/faqs/social_networking.htm)).

2.2. Social networking has grown rapidly: 211 million people, accounting for approximately three-quarters of all Internet-users — estimated to total 282,7 million — supposedly use these online services regularly. They are primarily used by young people aged 16 and above; despite the growth in the sector, some services have a relatively low loyalty rate. The European Commission <sup>(1)</sup> estimates that SNS attract around 40 million regular users

in Europe, although it should be noted that last year usage rose by some 35 %, and it is predicted that by 2012 user numbers will more than double, rising to 107,4 million.

2.3. In tandem, multinational brands have bought in to the new phenomenon, advertising their products and services, sometimes in unfair ways. Judging by Barack Obama's campaign, political parties have also decided to use these new services, as demonstrated in the recent European Parliament elections. Even the Vatican itself has joined Facebook (Pope2you.net).

2.4. In short, the main features of SNS are generally free service, rapid and exponential growth of user numbers, astonishing financial value, ease of use and the availability of functions enabling interaction between service users.

2.5. This opinion examines the most recent Community initiatives, takes stock of the current legal framework, assesses the opportunities offered by SNS and the risks involved in using them and makes recommendations and proposals for measures to improve the safety of users and their confidence in such means of communication.

## 3. The impact of SNS and the associated risks

3.1. Internet-based SNS constitute a relatively new social phenomenon whose technology is constantly evolving, and they are widely recognised to be changing the way in which people relate and interact with one another across the Internet.

3.2. According to the ComScore study, and in order to fully comprehend the phenomenon's scale, Facebook alone — which is a social networking service and the sixth most-visited website in the world — receives around 275 million hits a month. In Europe, Facebook was accessed by some 100 million people in February 2009, accounting for around four minutes of every 100 minutes spent online and representing more than 30 % of all time spent on SNS, in contrast with only 12 % last year.

3.3. The positive aspects of social networks are undeniable, specifically their contribution to:

- i) guaranteeing freedom of expression in certain social and political situations;
- ii) developing and linking online communities;
- iii) finding and meeting friends and family members and providing them with the opportunity to communicate with one another;

<sup>(1)</sup> IP/09/232 Brussels, 10 February 2009.



- iv) preventing situations that entail risks for minors and enabling minors to ask for help through SNS, and
- v) promoting goods and services and boosting e-commerce.

3.4. Nevertheless, and notwithstanding the positive aspects referred to above, it is important to bear in mind the risks associated with the use of SNS for illegal or malicious purposes, specifically in relation to the development of minors <sup>(2)</sup>, including:

- i) psychological trauma caused by insults communicated by means of such services;
- ii) the sexual harassment of children and young people;
- iii) the posting of photographs or videos of naked or semi-naked adolescents, either by themselves or by others;
- iv) explicit advertisements for prostitution and 'escort' services;
- v) frequent breaches of privacy, reputation and personal dignity;
- vi) attacks on the physical and mental wellbeing of site users;
- vii) incitement to violence, racism and xenophobia;
- viii) dissemination of totalitarian ideologies which are fascist in nature or advocate Nazism; and
- ix) suicides by young people, allegedly as a result of certain intimate details being made public through these networks.

3.5. Account should also be taken of the new generation of technologies used on SNS, specifically applications enabling users of such networks to be 'geotagged', applications that use facial recognition technologies enabling them to be linked to SNS accounts and the new opportunities for interaction provided by the latest generation of mobile phones.

3.6. There is also the fact that this type of network is easily used for spreading viruses, such as the virus that affected Twitter on the weekend of 11/12 April 2009, which automatically posted more than 100 000 messages, damaging an unknown number of user accounts.

<sup>(2)</sup> On this point, see in particular the report published by ENISA (the European Network and Information Security Agency), entitled 'Security Issues and Recommendations for Online Social Networks' at [www.enisa.europa.eu/doc/pdf/deliverables/enisa\\_pp\\_social\\_networks.pdf](http://www.enisa.europa.eu/doc/pdf/deliverables/enisa_pp_social_networks.pdf).

3.7. As part of the 2008 Safer Internet Forum <sup>(3)</sup>, the European Commission submitted a questionnaire addressing the issue of SNS for public consultation <sup>(4)</sup>, and the answers received <sup>(5)</sup> reveal that 'cyberbullying', invasion of privacy and 'grooming' are perceived to be the main and most common dangers faced by minors when using SNS.

3.8. Where cyberbullying is concerned <sup>(6)</sup>, 54 % of European parents are concerned that their children might fall victim to this practice. More than 80 % of parents in France, Greece and Portugal are worried that their children might be bullied when using the Internet or mobile telephones. In certain countries that have a strong tradition of protecting children's rights and valuing education, such as Denmark, Sweden and Finland, parents demonstrate greater confidence in their children using the Internet safely, with 69 % not being concerned about potential cyberbullying.

3.9. In the United Kingdom, according to the conclusions reached in a recent survey targeting 2 000 young people aged between 11 and 18, one in three young people has been the victim of cyberbullying through SNS and text messaging, with girls being four times more likely than boys to suffer this type of abuse.

3.10. Protecting privacy is one of the other major problems associated with the use of SNS. At the 30th international conference of data protection and privacy authorities held in Strasbourg between 15 and 17 October 2008, a resolution was adopted on the protection of privacy in social networking services <sup>(7)</sup>, whose recommendations warrant special consideration.

3.11. The agreement between the operators of Europe's main SNS on self-regulation, entitled 'Safer Social Networking principles for the EU' and signed on 10 February 2009 <sup>(8)</sup>, now has 20 signatories; it also clearly identified the potential risks to which under-18s using these sites are exposed: harassment (the harassment of children on Internet sites or via text messaging), psychological manipulation (an adult gaining a child's friendship with the intention of abusing that child sexually) and risky behaviour, such as divulging personal information for illicit purposes.

<sup>(3)</sup> [http://ec.europa.eu/information\\_society/activities/sip/events/forum/forum\\_sepet\\_2008/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/events/forum/forum_sepet_2008/index_en.htm).

<sup>(4)</sup> [http://ec.europa.eu/information\\_society/activities/sip/policy/consultations/ageverif\\_sns/index\\_en.htm](http://ec.europa.eu/information_society/activities/sip/policy/consultations/ageverif_sns/index_en.htm).

<sup>(5)</sup> [http://ec.europa.eu/information\\_society/activities/sip/docs/pub\\_consult\\_age\\_rating\\_sns/summaryreport.pdf](http://ec.europa.eu/information_society/activities/sip/docs/pub_consult_age_rating_sns/summaryreport.pdf).

<sup>(6)</sup> Flash Eurobarometer survey 2008: Towards a Safer Use of the Internet for children in the EU - a parents' perspective, [http://ec.europa.eu/public\\_opinion/flash/fl\\_248\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_248_en.pdf).

<sup>(7)</sup> Resolution on Privacy Protection in Social Network Services, [http://www.privacyconference2008.org/adopted\\_resolutions/STRASBOURG2008/resolution\\_social\\_networks\\_en.pdf](http://www.privacyconference2008.org/adopted_resolutions/STRASBOURG2008/resolution_social_networks_en.pdf).

<sup>(8)</sup> 'Safer Social Networking principles for the EU', available at [http://ec.europa.eu/information\\_society/activities/social\\_networking/docs/sn\\_principles.pdf](http://ec.europa.eu/information_society/activities/social_networking/docs/sn_principles.pdf).

#### 4. The hearing promoted by the EESC

4.1. The very nature of the social phenomenon in question and its rapid development suggested that a hearing should be held, as part of the process of drawing up this opinion. This hearing took place at the EESC and was attended by some of the most representative stakeholders in the operation and use of SNS – NGOs and consumers, as well as representatives of the Council, the Commission, ENISA, the European Data Protection Supervisor and the relevant national authorities.

4.2. The written responses to the questionnaire that had been sent out beforehand, the different opinions expressed and the lively meeting of ideas and proposals (a summary of which can be found on the EESC Website at: [http://www.eesc.europa.eu/sections/ten/index\\_en.asp?id=7000tenen](http://www.eesc.europa.eu/sections/ten/index_en.asp?id=7000tenen)) all made a decisive and extremely useful contribution to the drafting of this opinion and clearly demonstrated the importance of this type of event, based on the direct consultation of the relevant civil society stakeholders when making suggestions and recommendations to political decision-makers and also to operators and users themselves, where SNS are concerned.

4.3. It is worth highlighting the agreement expressed by the representatives of the Commission and the European Data Protection Supervisor with most of the suggestions made in this opinion, in addition to the considerable progress already made by the Commission on defining some of the objectives more clearly and putting others into practice, with regard to initiatives currently under way and others still at the planning stage, which bodes well for highly productive cooperation between the institutions in future.

#### 5. The measures needed and results that can be expected

5.1. The EESC acknowledges and welcomes the European Commission's work in the field of protecting children using the Internet, and reiterates the thrust of its 2008 opinion on the proposal then under consideration for a Multiannual Community programme to protect children using the Internet and other communication technologies <sup>(9)</sup>.

5.2. The Committee also notes the timeliness and value of the initiative for self-regulation referred to above, especially the set of measures it contains to minimise the main risks.

5.3. With regard to the process of implementing the Safer Internet Programme (2009-2013), the EESC would highlight the need to step up dialogue with the main protagonists involved in SNS, namely, young people, encouraging them to be involved in discussing, designing and producing solutions to ensure safer Internet use.

5.4. The EESC considers that young people should be directly involved in setting operational models and in moderating and settling SNS-related issues, because they are probably better placed than anyone to understand quickly and effectively the difficult situations that arise in this area.

5.5. The Committee also proposes studying the possibility of setting up an international or European course to train specialist counsellors and therapists in providing online victims with assistance, especially in situations of bullying or grooming. The EESC suggests that the Safer Internet Programme include initiatives for counselling in general, especially online counselling, and programmes aimed at children and adolescents to help prevent such situations from occurring in the first place.

5.6. Also as part of implementing the Safer Internet Programme (2009-2013), the Committee would emphasise the importance of launching initiatives to improve digital literacy, specifically as regards the safe use of SNS, targeting not only children and adolescents but also the wider population, especially parents, who are responsible for their children's education, and also elderly users.

5.7. Furthermore, the EESC considers that social network operators should practise self-regulation, in particular to protect minors, with the requirement however that their compliance be independently monitored, alongside the possibility of minimum protection standards being imposed by law.

5.8. The Committee is in favour of self-regulation schemes being developed with a view to ensuring co-regulation at both Community and national levels, involving the regulatory authorities so as to ensure full compliance with any agreements concluded, prevent abuses, sanction infringements and have rule-breakers punished by their peers.

5.9. The EESC notes and accepts most of the recommendations made in the Resolution on Privacy Protection in Social Network Services, adopted at the 30th International Conference of Data Protection and Privacy Authorities <sup>(10)</sup> on 17 October 2008, in the recent Article 29 Working Party opinion on online social networks <sup>(11)</sup> and urges the Commission to take these recommendations on board and ensure that operators adopt them.

5.10. The Committee also considers that further efforts are needed to enhance information and education, from the earliest school years onwards, to improve not only risk prevention but also the way in which these SNS are used. To this end, awareness-raising campaigns should be mounted at the Community level and in the different Member States. In this regard, and to complement the initiatives to be carried out under the 'Safer Internet Programme', it would be useful to produce an 'eYouGuide' specifically aimed at social SNS users: a type of portal for the rights of social network users, providing a possibility to report abuses and settle disputes at the pan-European level – in other words, a single site where it is possible to 'manage' users' rights, assess Community coordination, discuss forms of action and policies and evaluate cooperation between national authorities.

<sup>(10)</sup> The text of the recommendations is available at [http://www.privacyconference2008.org/adopted\\_resolutions/STRASBOURG2008/resolution\\_social\\_networks\\_en.pdf](http://www.privacyconference2008.org/adopted_resolutions/STRASBOURG2008/resolution_social_networks_en.pdf).

<sup>(11)</sup> Opinion (2009 on online SNS; adopted on 12 June 2009).

<sup>(9)</sup> OJ C 224, 30.8.2008, p. 61.

5.11. The EESC also takes the view that national and Community research and development programmes and the operators themselves, should invest further in developing and fine-tuning technical tools to filter and block access, enabling families to apply the precautionary principle prudently but consistently.

5.12. Aware of the ever-changing, dynamic nature of this phenomenon, the EESC would welcome a Commission Green Paper which, taking on board the results of the public consultation carried out in July 2008, set out the main options for future developments, analysing their impact and holding extensive consultation of the different businesses, professionals, academics and civil society organisations and associations concerned.

5.13. In this regard, it would be worth considering the option of establishing a legal framework that is consistent throughout the EU, on the basis of closer cooperation and coordination of national policies. One aspect warranting special attention concerns the contractual terms for joining such networks, in which abusive clauses are the rule, specifically as regards the applicable law and the competent authority.

5.14. Because this is essentially an international phenomenon, where the main SNS are subject to jurisdictions beyond the EU's borders, the Committee considers it crucial for the following measures to be properly promoted:

5.14.1. Setting principles and rules of conduct for SNS at international level, especially for services targeting minors;

5.14.2. Institutionalising mechanisms for monitoring compliance with such rules; given the nature of these services, this must inevitably be done on a cross-border basis;

5.14.3. Boosting and streamlining EU cooperation with third countries, both European and non-European, at political and operational levels, to identify the risks and problems associated with the use of SNS, to find the best solutions to address such situations and, as long as the international legal framework allows, to effectively eliminate situations where people's/consumers' rights could be infringed.

5.15. The Committee also wishes to highlight the need for proper international cooperation and coordination between the different parties concerned, in order to maximise the effect of the measures needed to ensure safer Internet use <sup>(12)</sup>. This will require a more pro-active international approach to ensure that knowledge is disseminated and exchanged, drafting and implementation of legislation is coordinated and that the necessary funding is obtained to implement the required measures, both within the EU and beyond its borders.

5.16. The EESC also points out the need for Member States to ratify the Conventions of the Council of Europe on Cybercrime and on the Protection of Children against Sexual Exploitation and Sexual Abuse <sup>(13)</sup>, which would represent a major step towards the European Union being able to present a united front on the international stage.

5.17. Lastly, the EESC wonders whether, in tandem with the initiatives described above, it might be worth considering the option of extending and combining the powers that are today dispersed across different bodies, to appoint a Community-level ombudsman to address all issues in the audiovisual field, such as privacy, data protection, human dignity, the right of reply, freedom of expression, etc., also covering social networks, along the same lines, in terms of comparative law, as the Canadian model of the 'Privacy Commissioner', whose action — demonstrating her extensive powers — against Facebook for allegedly improperly retaining personal data recently made the news <sup>(14)</sup>.

Brussels, 4 November 2009.

*The president  
of the European Economic and Social Committee*  
Mario SEPI

<sup>(12)</sup> The stance advocated by Janos Tóth, president of the EESC's TEN section, in an EESC initiative entitled 'Public Presentation on Protecting children using the internet', presented on 5 May 2009 (information available at [http://www.eesc.europa.eu/sections/ten/index\\_en.asp?id=4300003tenen](http://www.eesc.europa.eu/sections/ten/index_en.asp?id=4300003tenen)).

<sup>(13)</sup> <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=201&CL=ENG>.

<sup>(14)</sup> See [http://www.priv.gc.ca/aboutUs/mm\\_e.cfm#contenttop](http://www.priv.gc.ca/aboutUs/mm_e.cfm#contenttop), on the Office of the Privacy Commissioner of Canada (OPC). For her recent action on Facebook see [http://www.priv.gc.ca/media/nr/-c/2009/nr-c\\_090716\\_e.cfm](http://www.priv.gc.ca/media/nr/-c/2009/nr-c_090716_e.cfm).

## III

(Preparatory acts)

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

457TH PLENARY SESSION HELD ON 4 AND 5 NOVEMBER 2009

**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: New Skills for New Jobs Anticipating and matching labour market and skills needs’**

COM(2008) 868 final

(2010/C 128/13)

Rapporteur: **Vladimíra DRBALOVÁ**

On 16 December 2008 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: New Skills for New Jobs - Anticipating and matching labour market and skills needs*

COM(2008) 868 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November 2009), the European Economic and Social Committee adopted the following opinion by 141 votes to two with two abstentions.

## 1. Conclusions and recommendations

1.1. In the EESC's view, the New Skills for New Jobs communication is a well-timed initiative. The Committee concurs with the need to build up capacity and a mechanism for forecasting skills vis-à-vis the needs of the labour market at national and EU level. Increasing skills at all levels is the *sine qua non* not only for reenergising the economy in the short term and for long-term development, but also for increasing productivity, for competitiveness and employment, and for ensuring equal opportunities and social cohesion. The forecasting of future labour market needs has its limits and so constant improvement of mechanisms and instruments is essential.

1.2. The EESC agrees with the further improvements proposed by Cedefop on the matter of regular European skills forecasting. These include improving methods and databases and the concurrent updating of supply and demand forecasts so that imbalances can be analysed. At the same time, the Committee recommends that the definition of 'skills' be more fully worked out, given the differing practice in the Member States.

1.3. However, it must be acknowledged that no tools exist to identify future needs accurately, and that in the context of globalisation, the actual global division of work is not stable over the medium term, whereas education takes place over a timeframe which most likely equates to this 'medium term'.

1.4. The EESC agrees with improving skills and tailoring them to current and future labour market needs. However, the utmost should be done to capitalise on the present potential of the labour market, to increase the adaptability of workers, improve current jobs, create new productive jobs and develop the potential of the new 'green' market.

1.5. The Committee unreservedly supports the idea of partnership and collaboration between all interested parties. It particularly recognises the contribution of the social partners — as prime players in the labour market — and civil society. The Committee also stresses the need for closer collaboration and the coordination of activities at international level, especially where the ILO and OECD are concerned.

1.6. The Committee lays particular stress on close and effective cooperation between educational establishments and businesses with a view to introducing constructive changes in education systems, cutting down the number of early school leavers, making technical subjects more attractive, improving apprenticeships, at the same time as forecasting trends in qualifications in demand on national labour markets and in the relevant skills, in order to boost the general EU employment rate, and adapting such systems better to industry practice. The Committee also stresses the importance of basic education, teacher training and improving systems of career development advice. Particular attention should be given to the specific needs of SMEs.

1.7. In this context, the EESC points to recommendations adopted at the extraordinary EU employment summit held in Prague in May 2009. These were geared to improving skills, investing in education, supporting mobility within the EU, forecasting the demand for labour skills and meshing these better with the requirements of the labour market, and broadening the opportunities for good-quality apprenticeships and work experience.

1.8. The Committee also welcomes the commitment undertaken by Member States at the May Council of education ministers to create a stronger European framework for tighter cooperation in education and training and to define four strategic goals to boost the employability and enterprise potential of all those receiving education and training. The European Qualifications Framework (EQF) <sup>(1)</sup> is particularly important in this context.

1.9. The Committee has also welcomed the decision of the Swedish EU presidency to include a conference on *New skills for new jobs* in its programme of activities. This is taking place on 22-23 October 2009 and will focus on future labour market needs and the role of public employment services.

<sup>(1)</sup> Recommendation 2008/C 111/01 of the European Parliament and of the Council on the establishment of the European Qualifications Framework for lifelong learning.

## 2. Introduction

2.1. The global financial crisis has thrown the EU economy into recession, dealing a harsh blow to Europe's labour markets and jobs. Unemployment is currently estimated at 9,4 % for 2009 and as high as 10,9 % in 2010.

2.2. The European Commission has responded with a European Economic Recovery Plan <sup>(2)</sup> in which it put the emphasis on a concerted approach, laid down strategic goals and proposed a raft of measures in the four Lisbon Strategy priority areas.

2.3. One area to have attracted EU recovery action has been the protection of jobs – and human resources – and support for enterprise. The European Commission has called for the launch of a wide-ranging European initiative to stimulate employment and has recommended, among other things, monitoring current and projected vacancies and better reacting to them by broadening and improving skills.

2.4. The most important factor for growth and developing prosperity is the ability of countries to create good-quality job opportunities. The policy of creating job opportunities and growth rests on a number of cornerstones. A modern, inclusive, flexible and competitive labour market embraces a broad spectrum of activities and roles. In addition, the free movement of labour is one of the main pillars of the EU. The aim is to make it easier for people to work in other Member States and improve the job opportunities available, as well as to provide companies with a broader and more versatile pool of workers that are better adapted to the needs of the labour market.

2.5. The conclusions of the 2009 EU Spring Council make abundantly clear the need to focus on improving the EU's capacity to increase skills at all levels and to forecast and accommodate the needs of the labour market. The participants also urged the Member States in no uncertain terms to implement Integrated Guideline no 24 and adapt their education and vocational training systems to the need for new skills.

2.6. The extraordinary EU summit on employment held in Prague on 7 May 2009 adopted ten specific measures to address long-term and short-term challenges, intended to be introduced at national and European level in alliance with the social partners. Four of these measures bear on education, training, lifelong learning, apprenticeships, facilitating mobility, and better forecasting of skills and matching them to labour market needs.

<sup>(2)</sup> A European Economic Recovery Plan, COM(2008) 800 final of 26.11.2008.

### 3. General comments

3.1. In 2008, the Commission published its communication *New Skills for New Jobs - Anticipating and matching labour market and skills needs* <sup>(3)</sup>, in which, against the backdrop of the current crisis, it underscored the need to bolster human capital and employability by raising skills. The European Commission proposal seeks to improve the Union's capacity in evaluating and forecasting skills and better fitting them to the nature of newly created jobs.

3.2. The Commission sets forth the first evaluation of skills in relation to labour market needs up to 2020, but also presents a systematic process for the monitoring, evaluation and early identification of future labour market needs. It will also address new ways of measuring skills through the PROGRESS and lifelong learning programmes.

3.3. The Commission is mobilising current instruments to implement these processes effectively and at the same time engineering new ones to buttress or streamline the process. It emphasises the policy of flexicurity and implementing measures to raise skills. Among the newly proposed instruments are a 'European Labour Market Monitor', a standardised multilingual catalogue of trades and skills, and 'Match and Map', an instrument to make life easier for EURES users. The crucial role of the European Social Fund (ESF) and the European Regional Development Fund (ERDF) is also mentioned. The process of forecasting future labour market needs has its limits and so it is essential to constantly develop and improve mechanisms and instruments and at the same time monitor the take-up capacity of individual Member States.

3.4. The Commission also quite rightly highlights the growing importance of transversal competences and soft skills such as team work and language and communication skills. Particular attention must be given to raising standards and levels attained in literacy and basic numeracy from an early age.

3.5. One example of good practice appears to be the creation of Sector Skills Councils (SCC) on the basis of agreements between employers, educational institutions and other interested parties within individual sectors. The work of these councils can be linked into the sectoral social dialogue set-up, since the role of the social partners on this front is particularly important <sup>(4)</sup>.

3.6. At the Council of education ministers on 12 May 2009, the Member States undertook to work more closely on education and training. The priorities adopted underscore the salient role that education and vocational training must play in the broader debate on economic and social policies. The shared challenges are these: 1) ensuring a workforce that will have the right skills for tomorrow's jobs, 2) tackling the needs of an ageing society, and 3) greater global competition.

3.7. The Council also adopted conclusions aimed at bolstering partnership between educational institutions and the social partners. An important facet of the role of education and training in social cohesion is the ability to equip people with knowledge, skills and competences that make it easier for them to get onto the job market and stay there. This is why the social partners, who are the main players in the labour market, have an important role.

### 4. Facts and figures

4.1. In the conclusions of its June 2008 meeting – *Anticipating and matching labour market needs, with special emphasis on youth (a jobs and skills initiative)* – the EU Council confirmed its call for a comprehensive assessment of the skills needed in Europe up to 2020 <sup>(5)</sup>.

4.2. Cedefop therefore conducted an analysis of skills needs for the period 2006 to 2020 <sup>(6)</sup> covering twenty-five EU countries plus Norway and Switzerland. The analysis forecasts the creation of 20,3 million additional jobs by 2020. A further eighty-five million jobs will come from 'replacements' (jobs freed up by those retiring or leaving the job market, which cannot actually be considered as newly created jobs). Services are expected to account for three quarters of all jobs in 2020.

4.3. At present, almost 40 % of people are employed in jobs such as management, professional work or technical jobs that require higher-level skills. In the coming decade, continued growth is expected in jobs requiring high- or medium-level skills. An increase is also foreseen in some jobs where no or only lower levels of education are needed.

<sup>(3)</sup> Communication from the Commission: *New Skills for New Jobs - Anticipating and matching labour market and skills needs*, COM(2008) 868 final, of 16.12.2008.

<sup>(4)</sup> OJ C 277 of 17.11.2009, p. 15.

<sup>(5)</sup> Cedefop, *Panorama Series 160, Skill needs in Europe (2008)*.

<sup>(6)</sup> It should be noted that the study was drafted before the financial and economic crisis and so takes no account of its impact.

4.4. If this trend continues, these changes will bring about a polarisation in the growth of jobs. This polarisation will result in dwindling demand for jobs involving simple routine tasks and requiring medium skill levels, although appropriately trained new workers will be in demand as a result of sizeable numbers of workers retiring.

4.5. At the same time, higher qualifications are being demanded in all types of profession — including those at the bottom of the qualifications ladder. This tendency towards upskilling is driven in part by the very availability of skills. On the whole, the level of education has risen over the past ten years — the result, for instance, of people in many Member States opting to enter higher education and the older generation, generally with lower qualifications, retiring from the labour market.

4.6. The Cedefop conclusions, however, unequivocally highlight the general and long-term rise in qualification levels for many or the majority of jobs. According to its forecasts, almost 91 % of vacancies in the period 2006 to 2020 will require higher or secondary education. The skills structure of the labour force as it presently stands will have to change in the decade to come, since ever more vacancies — up to fifty-five million — will require medium-level qualifications (including vocational training). Fewer than ten million jobs will be available for those with no or little education.

4.7. The Eurostat statistics reveal that since 2000 the EU has been successful in creating good-quality jobs. There is also a positive correlation between employment figures for those with a university education and the growth in jobs. In most EU Member States, the employment rate for these people has increased more than the overall rise in employment. In Malta, for example, the employment rate for those with a university education has more than doubled since 2000, while total employment has grown by only 12 %. At the same time, the opposite trend of creating precarious jobs needs monitoring.

4.8. There are a number of implications in the Cedefop findings:

- Overall demand for skills will continue to increase.
- Policies will have to make sure the workforce is adaptable to these demands. It will be helpful to know if bottlenecks in the labour market are merely temporary and transitory or are a long-term phenomenon requiring targeted measures.
- Continuous training and lifelong learning must help to make sure that people's skills constantly keep abreast of structural changes in the labour market.

- The number of young people entering the labour market in the coming decade is insufficient to meet all its requirements. This will have implications for education and training systems. Lifelong learning is fundamental.
- However important education and training are to reacting better to labour market demands, they cannot solve the problem of over- or under-qualification.
- It is important to have good skills assessment, to limit skills losses and to make the most of those that we have.

## 5. Specific comments

5.1. The Commission's aim is to ensure a match between the skills on offer and the requirements of the labour market. The removal of obstacles, including administrative barriers, to the free movement of workers in the EU, together with more transparent information on labour market trends, would help to promote occupational, sectoral and geographical mobility <sup>(7)</sup> and ensure a better match between people's skills and job opportunities. It is also important to strengthen transition mobility – i.e., easing the transition to a new and good-quality job when people are made redundant, by enabling them to benefit from the security (flexicurity).

5.2. In its staff working document accompanying the communication <sup>(8)</sup>, the Commission gives a definition of terms such as qualifications, skills, knowledge and competences. However, in practice there are great differences in the approach to these terms in the Member States. The Commission should spell out more clearly what it understands in its communication by skills.

5.3. Europe had problems with skills even before the present crisis. Its institutions and company managers pointed out more than ten years ago that Europe did not produce, attract or retain as many scientists, engineers and IT specialists as its industry needed. Matters are coming to a head and the figures reveal a continuing inadequate interest in science disciplines on the part of the young. The lack of skills needed by the market in Europe is growing and is a time bomb on Europe's path to competitiveness. SMEs, in particular, will benefit from the right level of skills, better access to information and structural improvements.

<sup>(7)</sup> OJ C 228 of 22.9.2009, p. 14.

<sup>(8)</sup> SEC(2008) 3058: Commission staff working document accompanying communication COM(2008) 868 final.

5.4. Immigrants from third countries may also benefit the Union's development, especially given the growing scarcity of jobs in many countries. The EU's new approach to economic migration from third countries and the influx of talent from other corners of the world can only be a stopgap solution. Only when the Blue Card is in use shall we know whether it will help Europe to prevail in the fight for talent. At the present time Europe only employs 2 % of highly qualified workers from third countries.

5.5. With Europe now buffeted by turbulence, the lack of required skills calls for more attention and visibility. Moreover, Europe does actually have further potential in the medium and long term to create both new and 'replacement' jobs. Nevertheless, the net job creation forecast indicates a polarisation, with a big growth in jobs requiring higher skill levels.

5.6. Cutting the number of workers at a time of shrinking demand is a very myopic solution. Building skills is a long-term and costly process, whether it involves formal education (primary, secondary and tertiary) or companies (company culture, specifics of the organisation, customer relations, and so on). Economic recovery would be impossible if companies had to contend with a shortage of adequately skilled workers.

5.7. A foresighted and forward-looking scenario requires joint action by governments and the private sector:

- Rechanneling ESF funding to training and re-skilling in the years 2007 to 2013
- Initiating joint action and partnerships between the private and the public sectors
- Introducing a joint policy to reduce the number of people leaving school early and to interest young people in maths and science and a career in engineering, information and communication technologies and environmental protection
- Strengthening and developing the partnership between schools and universities at a high level via organised work placements that bring students, especially in their final months of study, into direct contact with the world of work for which their studies have equipped them
- Supporting skills mobility within Europe

- Reinforcing an innovative approach in education, including e-learning and distance learning
- Tapping into the potential of excluded groups (due to poverty, unemployment, disabilities, discrimination), which would benefit from training, and for which significant funding is available to facilitate their re-integration

- Managing immigration education.

5.8. Europe must improve its Skills Pyramid <sup>(9)</sup> – literacy and basic skills, professional knowledge and GKE (Global Knowledge Economy) talents. The current skills pyramid in many countries is woefully inadequate to meet the EU's ambitions.

5.9. If Europe is to produce, safeguard and maintain the skills it needs, it will have to implement a series of relevant measures acting on both the supply and the demand sides. The demand side will clearly be affected by the needs of growth sectors, long-term and rapidly evolving global and local priorities, as well as by other tendencies dictated by global resources or demographic development. On the supply side, the European work pool will be mostly shaped by demographic trends, low mobility and Europe's ability to come up with the skills it needs.

5.10. The Committee stresses the importance of good-quality teacher training <sup>(10)</sup>. The education and training of teachers must be linked into key policies in innovation, research and business. Part of the training teachers receive must enable them to better grasp changes in the labour market and the development of corresponding skills at all levels of education.

5.11. The role of the social partners is crucial here. Collaboration between businesses and education establishments must spawn tangible results, especially in terms of setting school curricula and establishing a system of trades and qualifications at national level. These must reflect the demands employers have regarding the performance of specific tasks in the workplace. It is important that apprentices are properly trained, that young workers have placements and that needed trades are made more attractive. The Commission should first focus on tasks that have to be carried out in the workplace, and then on skills. The needs of small and large companies must be clearly distinguished.

<sup>(9)</sup> Background paper prepared for the European Business Summit 2009, INSEAD (The business school for the world) in collaboration with Microsoft and FEB (Federation of Enterprises in Belgium).

<sup>(10)</sup> OJ C 151 of 17.6.2008, p. 41.



5.12. Europe will also have to take into account the impact that adapting to climate change will have on jobs. Global warming will have an effect on various aspects and processes of manufacturing. The European Commission is already working with a raft of analyses of the new concept of the low-carbon economy and the related creation of green jobs and eco industries. The first results reveal a meagre supply of data, inaccuracy and a great divergence in forecasts of how climate change will affect labour markets. The shift to a low-carbon economy must be seen as a long-term process during which labour markets will adapt gradually.

5.13. The European Commission's communication focuses primarily on the creation of new jobs and improving skills for these new jobs. The EU must also make effective use of the current potential of the labour market and improve the skills and adaptability of workers who have lost their jobs or are in danger of doing so. Attention also needs to be given, therefore, to re-skilling, further training and lifelong learning. On the other hand, the EU must be capable of establishing a framework for creating productive, good-quality and well paid jobs.

5.14. Initiatives to improve skills must also reflect the ambitions and needs of the individual. Education is fundamentally important to people's ability to make their own choices and to their possibilities for personal development. Where the labour market is concerned, the role of education also lies in communicating knowledge and skills to individuals, since these are vital to meeting constantly changing requirements and hence ensuring a high level of employability.

5.15. Policies to improve skills and the adaptability of the workforce must be grounded in the principles of equality for all and non-discrimination. This means eradicating all existing obstacles in education and training systems, whether administrative or in the workplace. Those most adversely affected by these obstacles are particularly vulnerable groups such as older workers and people with disabilities.

5.16. The conclusions of the Council of education ministers on 12 May 2009 also highlight the important role of the social partners. Within the European social dialogue, the European social partners focus in particular on education and training as they relate to labour market needs. In 2002, they together drafted a Framework of Actions for the Lifelong Development of Competencies and Qualifications and in 2006 an analysis of key elements in the labour market which will be the source of joint

activities in their third work programme 2009-2010: Autonomous agreement on inclusive labour markets and report on employment.

5.17. The Council conclusions also included an appeal to bolster the partnership with civil society and for all the relevant interested parties — companies, education establishments, public employment services and so on — to work together. Collaboration with the relevant NGOs and social initiatives could complement the traditional social dialogue.

5.18. One of the biggest benefits of the Open Method of Coordination (OCM) in education and training at European level is the European Qualifications Framework (EQF), which should contribute to making qualifications more transparent and intelligible and hence to greater mobility in Europe.

5.19. The European Social Fund (ESF) has proved to be an effective instrument where Europe's training needs are concerned. Improvement in the future can come from removing red tape and overlap with structural fund initiatives, as well as greater involvement of the social partners.

5.20. The Reference Levels of European Average Performance (European reference levels) will be the instrument for measuring progress. The Member States have agreed that in 2020:

- **at least 15 % of adults should take part in lifelong learning programmes**
- **the percentage of fifteen-year-old pupils that have difficulties with reading, maths and sciences should be below 15 %**
- **at least 40 % of those aged between 30 and 34 should have completed tertiary education**
- **fewer than 10 % of people should drop out of education and training**
- **at least 95 % of children between four and the age for compulsory schooling should take part in preschool learning.**

Brussels, 4 November 2009.

*The president  
of the European Economic and Social Committee  
Mario SEPI*

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council — An area of freedom, security and justice serving the citizen’**

COM(2009) 262 final

(2010/C 128/14)

Rapporteur: **Mr PARIZA CASTAÑOS**

Co-rapporteur: **Mr PÎRVULESCU**

On 10 June 2009, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen*

COM(2009) 262 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November), the European Economic and Social Committee adopted the following opinion by 152 votes for with one abstention.

## 1. Background

1.1. In recent years, defending and promoting human rights has slipped down the EU agenda. State security has been the political priority, and has been seen as being incompatible with more freedom and the protection of fundamental rights.

1.2. Security and justice policies must safeguard the values of freedom. The EESC considers that these policies should take the protection of the fundamental rights guaranteed by the European Convention on Human Rights and the Charter of Fundamental Rights as their starting point.

1.3. Security policies must not jeopardise the fundamental values (human rights and public freedoms) or democratic principles (the rule of law) that are shared throughout the Union. Personal freedom must not be curtailed under cover of the objective of collective and state security. Some policy proposals repeat the mistake of earlier times: sacrificing freedom to improve security.

1.4. The protection of fundamental rights and freedoms must be strengthened by means of a visible and robust political authority at European level. The EESC therefore supports President Barroso's proposal to create a post for a European Commissioner responsible for Justice, Fundamental Rights and Civil Liberties. The Committee trusts that this department will be equipped with the political tools and organisational and financial resources needed to discharge such a major responsibility.

1.5. The Committee regrets, however, that immigration and asylum are included with internal security matters under the responsibility of another Commissioner. Linking immigration

with security, and separating it from the protection of rights, sends the wrong political message. The EESC proposes that in the new European Commission, immigration and asylum policies be closely associated with the protection of fundamental rights as part of the same political approach.

1.6. When the Treaty of Lisbon comes into force, policies for the area of freedom, security and justice will rest on a broader legal foundation: the EESC therefore believes that the European Union can achieve aims more ambitious than those proposed by the Commission.

1.7. The EESC recommends reassessing legislation pertaining to freedom of travel, for which reason Regulation EC/2252/2004 must be amended.

## 2. Area of freedom, security and justice

2.1. The EU's area of freedom, security and justice (AFSJ) is moving into a critical phase. Since 1999, the Council has adopted two five-year programmes: the Tampere programme (1999-2004) and the Hague programme (2004-2009).

2.2. Ten years on from Tampere, the original objectives have yet to be achieved. The EU is still not an area of freedom, security and justice. Progress over the years has been insufficient<sup>(1)</sup> and uneven. The Stockholm European Council offers a new opportunity to revive the spirit of Tampere.

(1) Mr Frattini, former Vice-President, claimed that only 53 % of objectives had been attained.

2.3. Considerable progress has been made on common policy in the realm of immigration, asylum and borders; the exceptions are legal and labour immigration, which remain subject to the unanimity rule in the Council.

2.4. Policies linked to police and judicial cooperation on criminal matters have been governed by an intergovernmental approach, in a climate of marked distrust and in accordance with the unanimity rule, which has made the adoption of common legislation at European level extremely complicated.

2.5. The Stockholm programme will probably be implemented once the Treaty of Lisbon enters into force. Many of its policies will then be adopted in the Council under the ordinary procedure or under the Parliament's legislative co-decision procedure, enabling the EU to set more ambitious goals, although the present treaty also allows for the development of the area of freedom, security and justice that Europe needs.

2.6. The process leading to the adoption of the Stockholm programme has already been enriched by a number of contributions, including the European Pact on Immigration and Asylum (2), the reports of the advisory group on the future of European policy in the realm of home affairs and justice (3) and contributions received by the European Commission as part of the public consultation on *Freedom, Security and Justice: What will be the future? Consultation on priorities for the next five years*, in September and November 2008 (4).

2.7. In June 2009, the Commission published a communication entitled *An area of freedom, security and justice serving the citizen: Wider freedom in a safer environment* (5); this forms the basis for the present opinion which sets out the EESC's point of view and recommendations on the Stockholm process.

2.8. The Committee is also in the process of preparing an own-initiative opinion (6) proposing that EU policy and legislation on immigration and borders give due respect to human rights and place the freedom and security of all centre stage. This opinion also forms part of the EESC's contribution to the preparations for the Stockholm programme.

(2) European Pact on Immigration and Asylum, Council of the European Union, Brussels, 13440/08, 24 September 2008.

(3) Report of the Informal High-Level Advisory Group on the Future of European Home Affairs Policy ('The Future Group') *Liberty, Security, Privacy - European Home Affairs in an open world*, June 2008.

(4) [http://ec.europa.eu/justice\\_home/news/consulting\\_public/news\\_consulting\\_0001\\_en.htm](http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_0001_en.htm).

(5) COM(2009) 262.

(6) EESC opinion of 4.9.2009 on *Respect for fundamental rights in European immigration policies and legislation*, rapporteur: Mr Pariza Castaños (see page 29 of the current Official Journal).

### 3. General comments

3.1. The Committee endorses and supports the principle whereby the Stockholm agenda's political priority is based on the establishment of a European area for freedom, security and justice, serving the public. One of the most important challenges of the coming five years, especially following approval of the Lisbon Treaty, will be that of **building a citizen's Europe**, which is why the EU's political priorities need to focus on this goal. Three years ago, the Committee adopted an own-initiative opinion with a view to making European citizenship more visible and effective (7). There is a need to improve the quality of European citizenship in order to make it more open, fair and conducive to integration, and to avoid all forms of discrimination.

3.2. The EESC also welcomes the priority given in the communication to building a **Europe of rights**, as the protection of rights and fundamental freedoms enshrined in the Charter of Fundamental rights is an essential EU value (8).

3.3. Although the European system for protecting fundamental rights is well advanced, these rights are not fully upheld throughout the EU, particularly when it comes to implementing and applying Community law at national, regional and local level. The Stockholm programme should include a **clear, ambitious and comprehensive strategy on the protection and safeguarding of fundamental rights in the AFSJ**, and secure a 'Europe of rights' that is firmly-rooted and universal at all levels of governance.

3.4. In recent years, the EU has given security priority over human rights, justice and freedom. The Committee believes that to establish a genuine area of freedom, security and justice there must be a fair balance between these three aspects. Any policies adopted in the area of security must protect the values of freedom and the rule of law. These policies must be rooted in the protection of the fundamental rights as guaranteed by the European Convention on Human Rights and the EU's Charter of Fundamental Rights.

3.5. Human rights, being universal and indivisible, must be protected and secured for all people, not just for EU citizens. A 'Europe of rights and justice' cannot be restricted to people who have the nationality of a Member State, but must cover everyone living on Union territory. Otherwise the personal scope of the AFSJ would be incompatible with the values and principles, non-discrimination, equal treatment and solidarity on which the European Union was founded. The Stockholm programme will need to give consideration to the fact that many of the rights and freedoms laid down in the international and European conventions and treaties apply to everyone irrespective of nationality, citizenship or migratory status.

(7) OJ C 318, 23.12.2006, p. 163.

(8) OJ C 218, 11.9.2009, p. 60.

3.6. The programme should draw on the 1999 Tampere programme, under which the Council adopted fair treatment and non-discrimination between EU citizens and third country nationals as a guiding principle. This principle could be strengthened by the new treaty, which makes the Charter of Fundamental Rights of the EU legally binding and will open the door for the EU to subscribe to the European Convention on Human Rights.

3.7. The EESC believes that after 2011, the role of the EU's Fundamental Rights Agency should be bolstered by increasing its budget, granting it new powers in the area of evaluation and improving cooperation with other European agencies and bodies, such as the European Data Protection Supervisor (EDPS) and the European Ombudsman. Meanwhile, the agency's independence from governments should be enhanced and the EESC should be brought in as the representative of civil society.

3.8. The EESC supports the five-pronged **method** proposed by the Commission to secure the success of the Stockholm programme: (1) fitting justice internal affairs policies and smoothly together with other EU policies; (2) narrowing the gap between the rules approved at European level and their implementation at national level, and developing practical measures; (3) improving the quality of European legislation and its impact; (4) improving the use made of the evaluation of the mechanisms created and the agencies set up (5) ensuring that the priorities are accompanied by adequate financial resources.

3.9. As an institution, the EESC is set to continue cooperating very actively in evaluating the quality and added value of European policies, their impact on fundamental rights and the principle of proportionality, together with their ethical, social and economic effects.

3.10. The Committee could thus remain part of a **European strategy for better legislation and for evaluating** the quality and sound administration of the European legal system and the application and effects of laws adopted in relation to it.

3.11. Through the Stockholm Programme, the EU must step up and clarify its commitments as regards the objectives and targets to be met. The EESC recommends identifying a set of key indicators and an initial list of targets which, throughout the programme and at its completion, should make it possible to carry out an objective evaluation of the progress made.

3.12. The EESC hails the action lines adopted but believes that the programme's priorities should be identified more clearly, backed up by financial commitments.

3.13. The EESC acknowledges the valuable contribution made by the Council of Europe in its many resolutions and recommendations on the efficiency and sound application of justice and calls

on the Commission to include these in future developments in the field of civil and criminal justice in the European Union <sup>(9)</sup>.

#### 4. Specific comments

##### 4.1. *Promoting human rights: a Europe based on rights and the rule of law*

4.1.1. The Universal Declaration of Human Rights, adopted in 1948 by the UN General Assembly, proclaims the universal nature of a common system of principles and values; the European Convention on Human Rights, signed in Rome in 1950 and to which all the Member States have adhered, and the European Court of Human Rights, are the basis and guarantee of compliance with these principles and rights everywhere on EU territory.

4.1.2. The Charter of Fundamental Rights of the EU incorporates new rights not included in the European Convention on Human Rights. The Charter will increase legal certainty in the protection of fundamental rights, and will be applicable to the European institutions and the Member States, especially when they apply Community law.

4.1.3. The **right to the free movement of people** is one of the basic rights of European citizenship. The removal of internal border controls and freedom of movement and residence in the Schengen area are among the major achievements of the last 10 years of European integration.

4.1.4. The EESC wishes to express its concern, however, regarding the fact that exercise of this right is hindered in practice by the various obstacles and barriers that exist in much of the EU. The Committee considers that Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States has not been properly transposed. Its transposition has been found unsatisfactory by the Commission <sup>(10)</sup>, the European Parliament and numerous expert reports, not to mention the fact that it was not implemented within the deadlines set <sup>(11)</sup>.

4.1.5. The EESC welcomes the Commission communication on guidelines for improving the transposition and application of this directive. Any derogations or exceptions applicable by national authorities to the fundamental right of the free movement of people must be interpreted in a restrictive way and in full compliance with the case-law of the Court of Justice of the European Communities <sup>(12)</sup>. The protection of cross-border workers' labour and social rights must be enhanced, as proposed by the Committee in a number of opinions <sup>(13)</sup>.

<sup>(9)</sup> See the *Relevant Council of Europe Resolutions and Recommendations in the field of efficiency and fairness of justice* (CEPEJ(2003)7 rev., of 13 November 2003).

<sup>(10)</sup> COM(2008) 840 final.

<sup>(11)</sup> 30 April 2006.

<sup>(12)</sup> COM(2009) 313 final.

<sup>(13)</sup> OJ C 228, 22.9.2009, p. 14, and OJ C 325, 30.12.2006, p. 43.

4.1.6. When it comes to better protection of **the rights of the child**, the EESC has adopted various opinions <sup>(14)</sup> in which it has recommended that the EU uphold international treaties and implement a strategy to ensure that Member States move quickly to honour the commitments they have made regarding these rights at European and international level, particularly regarding the United Nations Convention on the Rights of the Child.

4.1.7. The EESC wishes to stress the importance of respecting **diversity and protecting the vulnerable**. Various minorities (the Roma people, for instance) and many people of immigrant origin are affected by the challenges that arise from diversity.

4.1.8. The Committee has recently adopted various opinions aimed at strengthening anti-discrimination legislation <sup>(15)</sup>, proposing ways to improve the tools used in the fight against discrimination, racism, violence, homophobia and xenophobia. Civil society can play an essential role in ensuring that Community legislation is applied properly in practice.

4.1.9. When the Charter of Fundamental Rights comes into force, it will provide the European Union with new legal foundations for **protecting labour and social rights**. In the future, the Committee will take further initiatives so that European policies are implemented that strengthen the protection of these rights, and proposes that the European Commission include social and labour rights among its priorities.

4.1.10. The EU is currently finalising **security and border control policies** based on the use of new technologies and information systems. Consideration must be given to the ethical and legal consequences of these policies in terms of **personal data protection and privacy**.

4.1.11. The EESC believes that organised civil society could take part in evaluations to ensure that the **principles of purpose, proportionality, legitimacy, security and confidentiality** are respected, in close collaboration with the national- and European-level authorities responsible for data protection and mediation.

4.1.12. Many consultations of European civil society have found that freedom of movement is tempered by disproportionate security measures, such as the use of biometrics and RFID technology in travel documents. In an opinion <sup>(16)</sup>, the Committee stated that RFID technology is not yet 'mature', and could infringe people's fundamental liberties.

4.1.13. Provision must be made in the Stockholm programme for the fact that the rapid development of these technologies may make it necessary to adopt new political and legislative initiatives to protect fundamental rights, particularly when it comes to personal data protection. The Commission must launch **information and awareness campaigns** on the rights and risks inherent in using information technologies.

4.1.14. The poor turnout at the recent European Parliament elections highlighted the dissatisfaction felt by many Europeans with the quality of their citizenship or with certain EU policies. The Committee endorses the Commission's aim to improve the democratic life and **active participation of the European public**. In response to the growing lack of interest of the citizens of Member States in European policy, the EESC recommends launching a set of measures to stimulate active European citizenship. The Committee is in favour of holding the European Parliament elections during the week of 9 May and giving election candidatures, campaigns and manifestos a less national and **more European** flavour.

4.1.15. The EESC believes that there is a need to expand the foundation of our democracies, not least by including new citizens and giving them equality in terms of both rights and obligations. National and European citizenship rights should cover the full range of national, ethnic, religious and cultural origins that arise in part from immigration.

4.1.16. The EESC drafted an own-initiative opinion <sup>(17)</sup> for the Convention, in favour of **third-country nationals with long-term residence status being given European citizenship**. The Committee proposes that the EU institutions give consideration to this proposal in the Stockholm programme.

4.2. *Making life easier: a Europe of law and justice - Ensuring rule of law and justice in a Europe that is open to the world*

4.2.1. Mutual recognition of court decisions

4.2.1.1. The EESC welcomes efforts towards mutual recognition, which is the cornerstone of integration in the European judicial area. The latter must co-exist with the judicial traditions of each Member State and guarantee the strengthened development of an area of freedom and responsibility. The Union must establish a core of common standards. On the other hand, the entire system of coercion, with respect to common core standards as well as national legislation, must be subject to legal restrictions in order to avoid all risk of abuse: rules must not in any way compromise freedoms and human rights and should guarantee protection for civil and social rights.

<sup>(14)</sup> OJ C 325, 30.12.2006, p. 65.

<sup>(15)</sup> OJ C 182, 4.8.2009, p. 19, and OJ C 77, 31.3.2009, p. 102.

<sup>(16)</sup> OJ C 256, 27.10.2007, p. 66.

<sup>(17)</sup> OJ C 208, 3.9.2003, p. 76.

4.2.1.2. Mutual recognition could be extended to areas that are not yet covered, e.g. succession and wills, matrimonial/civil partnership property regimes and the property consequences of the separation of couples, as well as all areas that affect the everyday life of EU citizens. Mutual recognition should cover all forms of civil partnership legally recognised by Member States.

4.2.1.3. In *civil matters*, the exequatur procedure under which Member States enforce judgments in civil and commercial matters issued in other Member States should be abolished and mutual recognition extended to areas not yet covered. In *criminal matters*, the principle of mutual recognition must always apply at all stages of the procedure. Mutual recognition should also be extended to victim and witness protection schemes and to disqualification decisions.

#### 4.2.2. Strengthening mutual trust

4.2.2.1. In order to strengthen mutual trust between judicial systems, training for the legal professions must be stepped up and supported through common instruments. Exchange between officials working in the justice system should be encouraged and supported, not only through the Justice Forum and the activities of professional networks but also by setting up an 'Erasmus' style system. With a view to improving communication and the exchange of good practices, the EESC recommends strengthening the European Justice Forum.

4.2.2.2. We should continue to strengthen mutual trust by providing stronger support, especially financial, for training legal professionals and developing professional networks. These actions should be accompanied by exchanges of good practices and the development of innovative projects to modernise justice.

#### 4.2.3. Providing easier access to justice: a priority

4.2.3.1. EU action in criminal matters to improve mutual recognition of judgments should not focus exclusively on terrorism, organised crime and attacks on the Union's financial interests. It should also cover breaches of human rights and fundamental freedoms. The growing mobility of Member State citizens within the EU makes them more vulnerable to discrimination and abuse in their private and working lives.

4.2.3.2. The EU should strive to strengthen existing legal aid measures, utilise electronic tools (e-Justice) <sup>(18)</sup> in cases where this is necessary, and make a special effort to give citizens access to legal translation and interpretation. It should also take steps to simplify the formalities for the legalisation of documents. It will be necessary to improve support for victims, especially in the case of cross-border transactions.

<sup>(18)</sup> Opinion on the *Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: Towards a European e-Justice Strategy*, rapporteur: Mr Pegado Liz (O) C 318, 23.12.2009, p. 69).

#### 4.2.4. The role of the legal professions in supporting economic activity

4.2.4.1. The enforcement of judgments must be improved, mainly by setting up a European procedure for the attachment of bank accounts. The work done on creating a common reference framework for contract law could be used in future legislative proposals, standard contracts could be drawn up and optional European systems could be introduced in clearly defined areas of the internal market (the '28th regime'). Further efforts are needed to harmonise rules on the law applicable to insurance contracts and company law.

4.2.4.2. The European judicial area, particularly in a period of crisis, should not only serve to support economic activity in the single market, but also encourage economic agents to shoulder their responsibilities towards society and their own employees. In a financial and economic crisis, it is important to strengthen solidarity between States, economic agents and citizens, and to respect the dignity and rights of citizens.

#### 4.2.5. Increasing the EU's international presence in the legal field

Priority must be given to promoting the rule of law throughout the world, especially in neighbouring countries and countries that share a common economic, social and security programme with the EU, and to significantly strengthening the instruments for judicial assistance and cooperation that the EU uses in its relations with third countries.

#### 4.3. A Europe that protects: a regulatory framework and principles for an open Union that that protects its citizens.

The EESC welcomes the development of an internal security strategy for the Union. A broad range of public and private stakeholders must be involved in this process <sup>(19)</sup>. Civil society participation will guarantee the prevalence of an approach based on tolerance, dialogue and cooperation, and not on exclusion, fear and distrust of citizens of other Member States or third country nationals. It will also ensure the protection of the fundamental freedoms and rights, which are the most vulnerable to control and enforcement measures; in the absence of democratic civil society, such measures can be used in a discriminatory or abusive way. The internal security strategy must be supported by a European strategy to assess the functioning of European legal systems.

<sup>(19)</sup> OJ C 318, 23.12.2006, p. 147, and OJ C 211, 19.8.2008, p. 61.

#### 4.3.1. Upgrading the tools for the job

4.3.1.1. Police cooperation must incorporate a substantial internal training and instruction component. The FRA has said that the harsh and aggressive behaviour of police forces is a major source of discrimination. In order to limit such practices, steps must be taken to combat this behaviour and win back public confidence in the integrity of the police <sup>(20)</sup>.

4.3.1.2. The technological tools required to guarantee internal security cannot be mobilised without ensuring their transparent and responsible use in cooperation with citizens and civil society.

#### 4.3.2. Effective policies

4.3.2.1. Priorities in cross-border crime must also strengthen the rights of the defence by extending common minimum guarantees to the protection of the presumption of innocence and to pre-trial detention (duration and revision of the grounds for detention). Measures to combat crime must comply with the principle of proportionality. These initiatives must be developed and supported through the appropriate means, namely under an action plan, and followed up, especially in situations that have so far emerged as being problematic (treatment of people suspected of terrorist activities).

4.3.2.1.1. With regard to maritime control and surveillance and specifically the protection of people and vulnerable groups, the Member States' fundamental obligation of rescue at sea has to take priority over the imperatives of maritime control and surveillance.

4.3.2.1.2. The common European Schengen visa, possibly issued by a common consular authority, could ensure a level playing field for all asylum applicants. There should, however, also be a gradual move from the presumption of risk arising from the applicant's nationality to an assessment of individual risk. This would be a positive step forward, which will prevent abusive and discriminatory practices vis-à-vis applicants.

#### 4.3.3. Common objectives

4.3.3.1. The internal security strategy should focus on threats that have not received sufficient attention. Measures to tackle hate crime, racism, xenophobia and anti-Semitism must be given clear priority. The instruments used should not be devised solely for the purposes of security but should also cover the economic, social, cultural, and educational spheres, and used preventively.

The internal security strategy should prioritise transparency and the fight against corruption, which undermines the citizens'

confidence in public institutions and the democratic process at national and EU levels.

4.3.3.2. In order to reduce the terrorist threat, the EU must step up its efforts to promote European models of intercultural and interfaith dialogue that can counter the isolation and radicalisation of communities, groups and organisations in the EU and beyond its borders. However effective they may be, internal security measures only treat the effects and not the causes of terrorism. It is therefore vital to launch a pan-European dialogue to identify these models so that the Union can then actively promote them in cooperation with the Member States.

#### 4.4. A dynamic immigration policy

4.4.1. Implementing an immigration policy will be a key priority over the coming years, on the basis of the objectives set out in the European Pact on Immigration and Asylum. The priorities defined by the Commission include consolidating a global approach to immigration.

4.4.2. The EU must improve dialogue and cooperation with countries of origin. The EESC has proposed <sup>(21)</sup> that, within the field of external policy, the EU promote an international legal framework for migration on the basis of the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. This international legal framework should include the main ILO conventions and the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which has not yet been ratified by the EU Member States, despite the fact that the EESC adopted an own-initiative opinion <sup>(22)</sup> proposing that this be done.

4.4.3. In order for European immigration policy to contribute to development in countries of origin, EU agreements with these countries should be concluded under conditions of mutual interest and in compliance with migrants' rights. The EESC believes that mobility agreements should prevent the brain drain and compensate for it. In order for circular migration to interact positively with development, entry and long-term residency laws should be made more flexible in order to facilitate voluntary return without loss of the right of immigrants to remain in the country.

4.4.4. Cooperation with third countries should not be based exclusively on managing illegal migration, return and border controls, despite their importance. Agreements with third countries should take account of the interests of all parties: the immigrants, so their fundamental rights and fair treatment are guaranteed; the countries of origin, so that migration benefits their labour and social development; and the European host communities.

<sup>(20)</sup> European Union Agency for Fundamental Rights, 2009, *The Stockholm Programme: A chance to put fundamental rights protection right in the centre of the European Agenda*, pp.6 and 7.

<sup>(21)</sup> OJ C 44, 16.2.2008, p. 91.

<sup>(22)</sup> OJ C 302, 7.12.2004, p. 49

4.4.5. The EESC believes that one of the weaknesses in the comprehensive approach to immigration stems directly from the EU's difficulties in progressing from general policy discussions to the adoption of concrete legislative initiatives that are based on the Community method and that comply with the division of competences as set out in the treaties.

4.4.6. The Committee does not share the view that European immigration policy should be based on circular migration. Needless to say, some migration decisions are temporary and sometimes circular but experience has shown that a large part of them are permanent or long term. European policies and legislation should consequently always promote human rights, a secure legal status for immigrants, integration and family unification.

4.4.7. In a recent opinion <sup>(23)</sup>, the EESC took the view that 'immigration policy and legislation should fully respect the human rights of all people, equal treatment and non-discrimination'.

4.4.8. The EESC is against the use of the term 'illegal migration' and shares the views of other European bodies, including the Parliamentary Assembly of the Council of Europe and the European Parliament, which prefer the terms '**irregular migration**' and 'undocumented migrants' in order to avoid any false associations between immigration and crime.

4.4.9. Although it is not lawful to enter a State without documentation and the necessary authorisations, a person who does so is not a criminal. The link between illegal migration and crime so often made by the media and in political debates does not reflect reality and foments fear and xenophobia in the host country.

4.4.10. The EESC endorses the Commission's priority to monitor the national application of the rights and guarantees set out in the **Return Directive (Directive 2008/115/EC)**, which will come into force in December 2010.

4.4.11. The Committee also endorses the Commission's proposal to establish '*common standards for taking charge of illegal immigrants who cannot be deported*' as well as the proposal concerning regularisations that '*guidelines for their implementation could be formulated*'. Regularising the situation of those concerned involves taking into account their social and labour market integration, in line with the European Pact on Immigration and Asylum.

4.4.12. There should be a specific European policy to protect **unaccompanied minors** who find themselves in irregular situations.

4.4.13. The EESC agrees with the Commission that the EU should put in place a common framework in the form of a flexible admission system for immigrants, geared to the needs of national labour markets. However, it feels that European legislation must avoid policies based solely on the needs of labour markets in a particular situation or period which treat the immigrant as a unit of labour rather than a person who has rights and needs protection and security.

4.4.14. The EESC supports the Commission's proposal to set up a European **platform for dialogue** to manage immigration of labour better, involving employers, unions, Member State public employment services, recruitment agencies and other stakeholders. The EESC could be the European institution which hosts the platform's activities, similar to arrangements for the **European Integration Forum**.

4.4.15. The EESC has stressed repeatedly that joint European legislation on admission should have comprised an overall, horizontal legislative framework rather than sectoral legislation <sup>(24)</sup>.

4.4.16. However, the Commission is currently drawing up various proposals for sectoral directives. The European Council recently adopted the **Blue Card Directive** <sup>(25)</sup>, which provides for a fast-track, flexible admission system which only applies to migrant workers considered to be 'highly-skilled' and members of their families, which could lead to discrimination between those deemed to be 'highly-skilled' and others (who will be covered by specific directives). Moreover, the directive gives Member States too much leeway to define and specify the conditions for being granted the blue card and the rights it confers.

4.4.17. The EESC believes that the sectoral approach taken by European immigration legislation must go hand in hand with a horizontal **common framework of rights (European status)** which ensures respect and protection for immigrants' rights and freedoms in Europe, irrespective of the kind of job they do or their legal status or administrative situation.

4.4.18. The Commission has drafted a proposal for a framework directive on immigrants' rights which is still to be adopted by the Council. The EESC has adopted an opinion <sup>(26)</sup> on the proposal which it hopes will be taken into consideration during the Council's work.

4.4.19. The EESC will discuss the Commission's proposal of adopting an **immigration code** to ensure a uniform, comparable set of rights for immigrants in Europe, but regrets that the proposal will entail the withdrawal of the framework directive; it therefore urges future Council presidencies to keep working until this directive is adopted.

<sup>(24)</sup> OJ C 286, 17.11.2005, p. 20.

<sup>(25)</sup> Directive EC/50/2009.

<sup>(26)</sup> OJ C 27, 3.2.2009, p. 114.

<sup>(23)</sup> OJ C 218, 11.9.2009, p. 69.



As regards **family reunification**, the EESC agrees with the Commission that 'a revision of the Directive might be proposed after wide consultations'.

4.4.20. The EESC hopes that the Commission will soon issue a Green Paper with the aim of launching a debate on the changes to be made to the directive, as the minimalist nature of Directive 2003/86 makes it possible for certain national laws not to fully guarantee this right to third-country nationals, as was confirmed by the Commission's report on its transposal into national law (27).

4.4.21. The EESC is working hard to promote **integration** and has adopted various own-initiative opinions calling for proactive integration policies to be implemented in the EU with a two-way focus, targeting both the host societies and immigrants. This is a positive approach to integration, unlike the negative approach of some governments, who see integration as another barrier to equality and another means of discrimination.

4.4.22. As the Commission says, greater efforts are needed from the EU, the Member States and regional and local authorities, but also a greater commitment by the host community and immigrants themselves. A **European Integration Forum** was recently set up, the result of cooperation between the Commission and the EESC. This is a platform involving civil society and immigrants' organisations in European policy promoting integration.

4.4.23. The EESC supported the proposal to establish an open method of coordination for integration and is committed to drafting more opinions to contribute to its implementation. The Commission envisages a '*joint coordination mechanism that would support the efforts of Member States using a common reference framework*', including definition of best practices, development of indicators, links with other policies and involvement of civil society through the European Integration Forum portal.

4.4.24. The Forum can also contribute to evaluating practices, developing indicators and linking integration with other EU policies.

#### 4.5. Asylum: a common area of protection and solidarity

4.5.1. Europe must be ready to give asylum seekers a decent reception, with legislation to protect them and a policy displaying more solidarity. Many people requiring international protection arrive at the external borders by clandestine means. The

authorities must ensure that such persons can submit their requests for protection, and that their requests are examined in accordance with international and European conventions and with Community and national legislation.

4.5.2. In recent years, the EESC has adopted various opinions advocating the development of a common asylum system (28). The Common European Asylum System (CEAS) should be implemented in a manner that ensures a high degree of quality without lowering international levels of protection. Harmonisation should on no account be used to push down the levels of protection currently provided in Member States but should serve to improve legislation in those Member States where protection is inadequate.

4.5.3. In order to establish the CEAS, legislative harmonisation needs to be accompanied by substantial cooperation between the Member States. This cooperation and solidarity will improve with the setting-up of the **European Asylum Support Office** (EASO) proposed by the Commission, which the EESC supports.

4.5.4. The new legislation should allow asylum seekers access to the labour market and training, recognise the work of specialised NGOs and give these NGOs full access to the procedures and places that are relevant to their work.

4.5.5. The procedures laid down by the Dublin Regulation should be amended to leave asylum-seekers free to choose in which country to submit their asylum applications, taking into account humanitarian considerations and family, cultural and social ties.

4.5.6. It will be possible to appeal against decisions regarding these applications, and these appeals must have suspensive effect in line with the case-law of the European Court of Human Rights.

(27) COM(2008) 610 final.

(28) OJ C 204, 9.8.2008, p. 77, OJ C 218, 11.9.2009, p. 78, and the EESC opinions of 16.7.2009 on the *Proposal for a Directive of the European Parliament and of the Council laying down minimum standards for the reception of asylum seekers (recast)*, rapporteur: Ms Le Nouail-Marlière (OJ C 317, 23.12.2009, p. 110), and of 16.7.2009 on the *Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*, rapporteur: Ms Le Nouail-Marlière (OJ C 317, 23.12.2009, p. 115).

4.5.7. Detention of asylum seekers and irregular immigrants in detention centres is still common practice in a number of EU Member States. The EESC is opposed to these practices and believes that internment in detention centres should be an exceptional measure.

4.5.8. The EESC believes that respect for human rights is an essential condition for conclusion of readmission agreements

with third countries, and is against the EU or Member States concluding repatriation or border control agreements with countries that have not signed the main international legal instruments for defending human rights.

4.5.9. The EESC believes that **intra-European financial solidarity regarding asylum should be increased**; to this end, the European Refugee Fund should be increased and modified.

Brussels, 4 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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**Opinion of the European Economic and Social Committee on the 'Proposal for a Council Recommendation on smoke-free environments'**

COM(2009) 328 final — 2009/0088 (CNS)

(2010/C 128/15)

Rapporteur: **Mr LUCAN**

On 8 July 2009, the European Commission decided to consult the European Economic and Social Committee, on a voluntary basis, under Article 262 of the Treaty establishing the European Community, on the

*Proposal for a Council Recommendation on smoke-free environments*

COM(2009) 328 final – 2009/0088 (CNS).

The Section for Employment, Social Affairs and Citizenship, which was responsible for the Committee's work on the subject, adopted its opinion on 15 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November 2009), the European Economic and Social Committee adopted the following opinion by 81 votes, to 68 against and with nine abstentions.

**1. Specific recommendations**

**1.1. With regard to Article 1** of the section on recommendations to the Member States

1.1.1. Effective protection from exposure to tobacco smoke should apply simply to 'workplaces' especially indoor workplaces with no separate areas for smokers.

1.1.2. With regard to Article 8(2) of the WHO Framework Convention on Tobacco Control (FCTC), the Committee recommends that the wording 'as appropriate, other public places' be amended to cover all public places frequented by children and young people up to eighteen years of age.

1.1.3. The Committee calls on the Council to consider shortening the three-year adoption timeframe proposed by the Commission. Otherwise, the current generation of secondary school pupils (14-18 years), who are at risk of going from passive smoking to active smoking, will slip through the net.

**1.2. With regard to Article 2** of the section on recommendations to the Member States

1.2.1. 'Educational and counselling strategies at EU level shall play a key role in all educational establishments.' The Committee recommends that this paragraph be extended to stress the importance at EU level of school-based educational and counselling strategies, to ensure that every child or young person is correctly, fully and regularly informed of the realities of smoking and its harmful effects, and of the carcinogenic effects of exposure to environmental tobacco smoke (ETS).

**1.3. With regard to Article 3** of the section on recommendations to the Member States

1.3.1. Complement smoke-free policies with supporting measures, including:

- (c) extending the scope of Directive 2004/37 on exposure to carcinogens or mutagens at work (to include ETS);
- (d) bolstering the requirements regarding the protection of workers from tobacco smoke in Directive 89/654/EEC, so as to require all employers to ensure that smoking is prohibited in their workplace;
- (e) amending the Directive on dangerous substances (67/548/EEC) (1991) so as to classify ETS as a carcinogen. This would automatically place ETS within the scope of the Directive on exposure to carcinogens or mutagens at work as regards the minimum workplace health and safety requirements;
- (f) calling on the Member States and the Commission to officially adopt the new term 'ECTS': Environmental Carcinogenic Tobacco Smoke, in place of 'ETS'; and
- (g) framing education policies (DG EAC and DG SANCO), applicable to all education systems across the EU, to ensure that children and young people are correctly, fully and regularly informed of the effects of smoking and ETS.

1.4. **With regard to Article 4** of the section on recommendations to the Member States

1.4.1. Reference should be made at the end of the paragraph to 'protection from tobacco smoke in public settings frequented by children and young people' (open air playgrounds for children, leisure venues, open-air or indoor discos, clubs, bars frequented by children or young people under 18, and other such places).

1.5. **With regard to Article 6** of the section on recommendations to the Member States

1.5.1. The definition of national focal points for tobacco control should include the phrase 'and for controlling/eliminating public ETS exposure'.

## 2. Conclusions

2.1. The Committee supports the Commission's initiative to ensure effective EU implementation of Article 8 of the FCTC – aimed at creating a 100 % smoke-free environment – in accordance with Principle 1 of the Guidelines for implementation of Article 8, set out in point 6 of the annex to COM(2009) 328 <sup>(1)</sup>. While the Committee thinks that the EU recommendation is a useful instrument for this purpose, it does not provide many guarantees. Should its implementation and effectiveness prove inadequate, the Commission should propose a binding instrument as quickly as possible.

2.2. The Committee believes that research needs to be carried out at EU level into combating the harmful effects of smoking on children and young people and into their degree of exposure to ETS. With a view to devising effective future strategies and programmes, smokers should be surveyed in order to find out the age at which they had their first cigarette and their reasons for starting smoking as children or young people.

2.3. Given that the European Parliament has called on the Member States to commit to reducing smoking among young people by at least 50 % by 2025, the Committee would advocate quantifying the tangible harmful effects of smoking on young people, in order to draw up further EU objectives for the Member States towards this end. It should be pointed out that the Committee does not wish to imply that the anti-tobacco measures be prolonged until 2025. On the contrary, it would advocate speeding up these measures, given the serious implications for human health and the huge costs involved.

<sup>(1)</sup> 'Effective measures to provide protection from exposure to tobacco smoke, as envisioned by Article 8 of the WHO Framework Convention, require the total elimination of smoking and tobacco smoke in a particular space or environment in order to create a 100 % smoke free environment. There is no safe level of exposure to tobacco smoke, and notions such as a threshold value for toxicity from second-hand smoke should be rejected, as they are contradicted by scientific evidence' (COM(2009) 328 final/Annex/Principle 1, p. 11).

2.4. The Committee stresses the vital need to ban smoking and thus ETS exposure in places frequented by children and young people (0-18 age group) including leisure venues, such as clubs, indoor discos, bars, sports grounds, children's leisure facilities, etc. This measure could save some of the current generation of 15-18 year-olds who are the most exposed to the risk of smoking and ETS. It is generally between the ages of 15 and 18 that some will choose to smoke their first cigarette and go from passive to active smokers.

2.5. The Committee considers educational programmes essential at primary and secondary school levels, aimed at promoting healthy, harmonious lifestyles. At EU level, children and young people should have access to regular, accurate and complete information on tobacco consumption and ETS exposure, so as to be aware of all the related risks and to be able to make an informed, responsible choice. This information could also be provided in partnership with NGOs; what is important is that the information is accessible, regular, tailored to the motivations of children and young people, interactive and innovative, so as to enable children to take responsibility for themselves, freely and in full knowledge of the facts.

2.6. The Committee advocates information and education campaigns on healthy lifestyles, designed for all age groups and sections of society, to enable people to take responsibility for their own choices in full knowledge of the consequences for both themselves and, where relevant, their children.

2.7. The Committee encourages the policies promoted by NGOs and civil society and their involvement in actions to protect against exposure to smoking and ETS, particularly aimed at disadvantaged members of society who risk losing not only their social independence but also their personal independence by damaging their health and gradually losing vital functions. There should be special protection against ETS exposure for disadvantaged children living in environments with high exposure to second-hand smoke, as well as for street-dwelling children, young people and other groups.

## 3. Background and general comments

3.1. *Medical and social arguments on smoking and ETS exposure levels*

3.1.1. Research has shown that every cigarette you smoke takes eight minutes off your life <sup>(2)</sup>. Tobacco is the single largest cause of avoidable death, disease and disability in the EU, claiming around 650 000 lives each year <sup>(3)</sup>.

<sup>(2)</sup> Smoking, Soros Foundation, 888 Seventh Avenue, NY 10106, 1992.

<sup>(3)</sup> *Tobacco or health in the European Union: Past, present and future*, ASPECT Consortium, October 2004.

3.1.2. Tobacco smoke is a complex toxic mixture of more than 4 000 substances, including poisons such as hydrogen cyanide, ammonia and carbon monoxide, as well as over 50 substances (69 in total <sup>(4)</sup>) proven to be carcinogenic; smoking is thus a widespread source of mortality and morbidity in the EU. There is a valid scientific basis for adopting the new term 'Environmental Carcinogenic Tobacco Smoke' – ECTS – in place of 'ETS'.

3.1.3. Chronic exposure to second-hand smoke has been established as a cause of many of the same diseases also caused by active smoking, including lung cancer, cardiovascular disease, and childhood disease.

3.1.4. Exposure to ETS may cause coronary heart disease and lung cancer in adults. It may cause stroke, asthma and chronic obstructive pulmonary disease (COPD) in adults <sup>(5)</sup> and worsen pre-existing conditions such as asthma and COPD <sup>(6)</sup>.

3.1.5. Research and definitions regarding the risks of exposure to ETS have evolved over time. Terms such as *passive smoking* and *involuntary exposure to tobacco smoke* should be avoided, as experience in France and elsewhere suggests instances in which these terms may be used to support a position whereby exposure to tobacco smoke is *voluntary* and thus acceptable. In line with the new scientific context, the term 'ETS' should be replaced by the term 'ECTS' (Environmental Carcinogenic Tobacco Smoke).

3.1.6. ETS is particularly harmful to children, causing asthma, pneumonia and bronchitis, respiratory symptoms, middle ear infections, and sudden infant death syndrome <sup>(5)</sup>.

3.1.7. According to conservative estimates, 7 300 adults, including 2 800 non-smokers, died as a result of ETS exposure at their workplace in the EU-25 in 2002. The deaths of a further 72 000 people, including 16 400 non-smokers, were caused by ETS exposure at home <sup>(7)</sup>.

3.1.8. Exposure to tobacco smoke generally or in the workplace is proven to substantially increase the risk of lung cancer, and employees of catering establishments in which smoking is permitted are, for instance, 50 % <sup>(8)</sup> more likely to develop lung cancer than employees not exposed to tobacco smoke.

3.1.9. Exposure to tobacco smoke during pregnancy can result in a higher risk of deformities, miscarriages, still and premature births.

<sup>(4)</sup> Rand Impact Assessment, RAND Corporation.

<sup>(5)</sup> Surgeon General (2006). *op. cit.*

<sup>(6)</sup> Foreman, M. G., D. L. DeMeo, et al. 'Clinical determinants of exacerbations in severe, early-onset COPD', *European Respiratory Journal* 30(6): 1124-1130.

<sup>(7)</sup> The Smoke free Partnership (2006). *Lifting the smokescreen: 10 reasons for a smoke free Europe*, European Respiratory Society, Brussels, Belgium.

<sup>(8)</sup> Siegel M. 'Involuntary smoking in the restaurant workplace. A review of employee exposure and health effects'. *JAMA*, 28 July 1993, 270(4):490-3.

### 3.2. Eurobarometer-based sociological arguments regarding anti-smoking and ETS-exposure policies

3.2.1. According to the recent Eurobarometer survey on the *Attitudes of Europeans towards tobacco*, smoke-free policies are popular among the European public, with 84 % in favour of a ban on smoking in offices and other enclosed workplaces, 77 % in favour of banning smoking in restaurants and 61 % in favour of smoke-free bars and venues.

3.2.2. Nearly 70 % of EU citizens do not smoke <sup>(9)</sup>, and studies show that the majority of smokers want to give up <sup>(10)</sup>.

3.2.3. The Eurobarometer survey found that three quarters of Europeans were aware that tobacco smoke represents a health risk for non-smokers, while 95 % acknowledged that smoking in the company of a pregnant woman can be very dangerous for the baby.

3.2.4. At the end of 2006, it was estimated that 28 % of EU office workers were exposed to ETS on a daily basis at their workplace, while some 39 % of bar and restaurant staff were exposed at the end of 2008. Another recent study (2006) found that approximately 7,5 million European workers were exposed to ETS in the workplace <sup>(11)</sup>.

3.2.5. Tobacco consumption costs European economies hundreds of billions in health costs annually. These costs are borne by the whole population and not merely by those responsible for generating them. Across the EU-27, the cost of workplace ETS exposure alone has been estimated at EUR 2.46 billion per year <sup>(12)</sup>; EUR 1.3 billion in medical expenditure on tobacco-related diseases (including EUR 560 million for non-smoking staff) and over EUR 1.1 billion in non-medical costs linked to productivity losses (including EUR 480 million for non-smokers).

### 3.3. The duty to protect the public from ETS exposure derives from the need to uphold fundamental human rights and freedoms (right to life and health standards)

3.3.1. The duty to protect people from tobacco smoke, embodied in the text of Article 8 of the WHO Framework Convention on Tobacco Control (FCTC), is grounded in fundamental human rights and freedoms. Given the dangers of breathing second-hand tobacco smoke, the duty to protect from tobacco smoke is implicit in, inter alia, the right to life and the right to the highest attainable standard of health, as recognised in many international

<sup>(9)</sup> The European Community Health Indicator no 23, 'Regular Smokers': [http://europa.eu.int/comm/health/ph\\_information/dissemination/echi/echi\\_en.htm](http://europa.eu.int/comm/health/ph_information/dissemination/echi/echi_en.htm).

<sup>(10)</sup> Fong GT, Hammond D, Laux FL, Zanna MP, Cummings KM, Borland R, Ross H. 'The near-universal experience of regret among smokers in four countries: findings from the International Tobacco Control Policy Evaluation Survey'. *Nicotine Tob Res.* 2004 Dec; 6 Suppl 3:S341-51.

<sup>(11)</sup> Jaakkola M., Jaakkola J. (2006) 'Impact of smoke-free workplace legislation on exposure and health: possibilities for prevention'. *Eur Respir J*; 28: 397-408.

<sup>(12)</sup> SEC(2009) 895 p. 3, paragraph 2.1.2.

legal instruments (including the Constitution of the World Health Organisation, the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination against Women and the Covenant on Economic, Social and Cultural Rights), as formally incorporated into the preamble of the WHO Framework Convention and as recognised in the constitutions of many nations.

3.3.2. The duty to protect individuals from tobacco smoke corresponds to an obligation on governments to enact legislation to protect individuals against threats to their fundamental rights and freedoms. This obligation extends to all persons, and not merely to certain populations.

#### 3.4. *International and European context*

3.4.1. Environmental tobacco smoke was classified as a human carcinogen by the US Environmental Protection Agency in 1993, by the US Department of Health and Human Services in 2000 and by the WHO International Agency for Research on Cancer in 2002.

3.4.2. At international level, the WHO FCTC, signed by 168 and ratified by 141 parties, including the Community, 'recognises that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability'. The Convention obliges the Community and its Member States to tackle exposure to tobacco smoke in indoor workplaces, public transport and indoor public places. Under Article 8, the parties are obliged to provide protection from exposure to tobacco smoke.

3.4.3. According to the 2004 WHO European strategy for smoking cessation policy, intensive counselling of more than 10 minutes by a physician has the highest success rate of achieving long-term abstinence.

#### 3.5. *Impact analysis on the most favourable of the five EU policy options*

3.5.1. On 30 January 2007 the Commission opened a public debate on the issue by publishing a Green Paper entitled *Towards a Europe free from tobacco smoke: policy options at EU level* (COM(2007) 27 final). The five EU policy options are: 1) no change from the status quo; 2) voluntary measures; 3) open method of coordination; 4) Commission or Council recommendation; and 5) binding legislation.

3.5.2. In the impact analysis, the Commission points out that given its mandatory nature, policy option 5 (binding legislation) would be the most effective in reducing the harm caused by environmental tobacco smoke, given that ETS exposure would in fact

be eliminated in all enclosed workplaces. However, implementation would take longer than in the case of option 4 (Council recommendation). Policy option 1 (no change from the status quo) would have the least impact on reducing ETS levels and the associated damage to health. The current anti-smoking trend is expected to continue, but at a slower pace. Options 2 and 3 would have similar effects and bring about only a modest reduction in ETS in comparison with option 1 (status quo). Option 3 (implementing the open method of coordination) could be slow and unsuited to dealing with a problem such as ETS. The impact of option 4 (a Commission recommendation) would be limited in that it might fail to create a sense of obligation among the Member States. It is expected that option 4 would have greater health benefits given the ownership effect, and that its impact would be felt relatively quickly.

#### 4. **The most vulnerable target groups exposed to environmental tobacco smoke and strategies to resolve this problem**

4.1. The most vulnerable groups exposed to tobacco smoke are: children, young people, the unemployed, the disadvantaged and workers in the hospitality industry.

4.2. In causal terms, the problem of ETS exposure should be dealt with in conjunction with tobacco consumption and with the specific nature of the target group. 80 % of EU smokers have admitted to smoking at home. Strategies aimed at reducing smoking and ETS exposure should particularly target children, young people and parents.

4.3. Some 31 % of EU citizens aged 15 and over say they smoke (26 % smoke daily and 5 % occasionally<sup>(13)</sup>). The rate of smoking among children accelerates very rapidly from 11 years of age. The very high levels of smoking reported prior to reaching 18 years would support the idea that smoking behaviour is induced while smokers are still under age<sup>(14)</sup>. Eurobarometer makes no reference to the first cigarette smoked. However, certain countries' national statistics<sup>(15)</sup> have shown that most people started smoking in their childhood: 53 % (5,5 % smoked their first cigarette before the age of 15, 47,5 % between the ages of 15-19). More than half of the male smokers (51,4 %) took up smoking between the ages of 15-19. One section of the most vulnerable social group – street children – smoked their first cigarette before the age of 5<sup>(16)</sup>. Street life, especially for disadvantaged children, young people and adults, is associated with a high degree of tobacco consumption and ETS exposure.

<sup>(13)</sup> Eurobarometer 253, March 2009, *Survey on tobacco*, conducted by The Gallup Organisation, Hungary, p. 7, paragraph 1.

<sup>(14)</sup> Tobacco Free Policy Review Group, (2000), *Towards a tobacco free society: report of the Tobacco Free Policy Review Group*. Government Publication. Stationery Office, Dublin, <http://www.drugsandalcohol.ie/5337/>, p. 29, paragraph 1.

<sup>(15)</sup> Romania, National statistics institute

<sup>(16)</sup> *Terapii Asociate pentru Integrarea Copiilor Strazii* [Associated therapies for integrating street children], Eugen Lucan, degree research, 1996.

4.4. ETS concentrations are particularly high and dangerous in leisure venues (clubs, bars, open-air and indoor discos, etc.) both for the customers (certain categories of young people, etc.) and the staff (hospitality workers). A four-hour exposure in a discotheque is similar to that from living with a smoker for a month <sup>(17)</sup>.

4.5. In addition to media awareness strategies, there is a need, first and foremost, for preventative educational strategies. NGOs have promoted innovative information, education and prevention services aimed at children and young people in respect of the risks of smoking and smoke exposure. At EU level, one possible solution would be to standardise these good practices by introducing educational programmes into the learning system, as well as providing counselling services through the European network of citizens' advice bureaux or school advice centres for parents and children. Community clubs for children and parents, and educational programmes along the lines of a 'school' or 'university' for parents constitute examples of good practice that could help in the drive to prevent smoking and smoke-exposure both at school and, particularly, in the home, where EU legislation respects people's private lives.

#### 5. Positive, fully informative media campaigns to promote health will naturally reduce smoking and ETS exposure

5.1. At EU level, two anti-tobacco media campaigns – *Feel free to say no* (2001-2004) and *HELP: For a life without tobacco* (2005-2008) – have aimed at highlighting the hazards of passive smoking and at promoting tobacco-free lifestyles, particularly among young people.

5.2. With regard to amending Commission Decision 2003/641/EC of 5 September 2003, the Committee considers that all warnings should also clearly detail the contents of the cigarette and the nature of the carcinogens and toxins therein,

particularly the preservatives and other ingredients, and should include contact details to help smokers quit, such as a relevant free phone number or website.

5.3. Although 80 % of the EU smokers or ex-smokers remembered an anti-tobacco campaign, 68 % of them declared that such campaigns had not made them want to give up smoking <sup>(18)</sup>. The Committee advocates media information and awareness campaigns based on the following principles:

- highlighting breathing as a vital human function and the intrinsic link between the quality of the air that we breathe and our quality of life (we are what we breathe!);
- promoting accurate and complete information;
- deploying the principle of positive suggestion – by focusing on creating healthy lifestyles, smoking and smoky environments will be forgotten;
- tailoring the message to the individual target groups, focusing on the specific motivations of the various age groups (e.g. in the case of young people, performance and self-image);
- encouraging and promoting certain sporting, educational and cultural approaches which by definition exclude tobacco consumption: performance sport (swimming, football, cycling, handball, etc.), training methods, self-defence and/or self-awareness (karate, tai-chi, yoga <sup>(19)</sup>, qigong, etc.) as well as philosophies that exclude smoking. ETS exposure levels in public places used for such activities must continue to move towards 0 %; and
- through the media, promoting as role models certain sporting, cultural or political personalities who lead a balanced life and are non-smokers.

Brussels, 5 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

<sup>(17)</sup> SK. Environmental tobacco smoke exposure in public places of European cities. *Tob Control*. 2005 Feb; 14(1):60-3.

<sup>(18)</sup> Eurobarometer 239/2005, January 2006, p. 58-59.

<sup>(19)</sup> A survey published on the Internet found that of the 37 % of respondents who were smokers before taking up yoga, all of them had since given up. Moreover, none of the respondents took drugs – <http://yogaesoteric.net/content.aspx?item=3869&lang=EN>.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of housing interventions in favour of marginalised communities’**

COM(2009) 382 — 2009/0105 (COD)

(2010/C 128/16)

Rapporteur-general: **Mr GRASSO**

On 11 September 2009, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of housing interventions in favour of marginalised communities*

COM(2009) 382 – 2009/0105 (COD).

On 29 September 2009 the Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion to prepare the Committee’s work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Grasso as rapporteur-general at its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November 2009), and adopted the following opinion by 70 votes to 2 with 1 abstention.

## 1. Conclusions

1.1. The EESC notes the Commission’s proposal to amend Article 7(2) of the ERDF Regulation <sup>(1)</sup> because practical experience has shown that the conditions of eligibility it contains do not fully fit needs on the ground.

1.2. The EESC approves the proposal.

## 2. Reasons and recommendations

2.1. The EESC hopes that the provisions in this proposal will apply to all marginalised communities, not only to the community specifically mentioned in its recitals. As a matter of principle, these provisions should also apply in all EU Member States.

2.2. The EESC believes it would be worthwhile to extend the provisions of this proposal, which should apply both to the replacement of existing dwellings with new buildings and to the renovation of existing dwellings, securing energy savings and ensuring sustainability in the process.

2.3. The EESC welcomes the simplifications, but would in general caution against making too many changes to the legislation over a single programming period, as this could lead to greater administrative uncertainty for the parties involved when the rules change during this period.

Brussels, 5 November 2009

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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<sup>(1)</sup> Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006, as amended by Regulation (EC) No 397/2009, OJ L 210, 31.7.2006, p. 1.



**Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Regulation amending Regulation (EC) No 1083/2006 concerning general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management’**

COM(2009) 384 final — 2009/0107 (AVC)  
(2010/C 128/17)

Rapporteur-General: **Mr CEDRONE**

On 11 September 2009 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Proposal for a Council Regulation amending Regulation (EC) No 1083/2006 concerning general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management*

COM (2009) 384 final – 2009/0107 (AVC).

On 29 September 2009 the Committee Bureau instructed the Section for Economic and Monetary Union and Economic and Social Cohesion to prepare the Committee’s work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Cedrone as rapporteur-general at its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November), and adopted the following opinion with 82 votes in favour and one abstention.

## 1. Conclusions and recommendations

1.1. The EESC takes note of the Commission proposal referred to above.

1.2. The EESC broadly welcomes the proposal, subject to the comments set out below.

## 2. Reasons

### 2.1. *The simplification of certain provisions*

2.1.1. Like the European Parliament and the Committee of the Regions, the EESC has for a number of years called for Community texts to be simplified and adapted to reflect the reality on the ground <sup>(1)</sup>. The EESC fully accepts the amendments aimed at simplifying provisions, as proposed by the Commission in Article 39, Article 41(1) and (2), Article 44, Article 48(3), Article 55(3) and (4), Article 65(3), Article 57(1) and (5), Article 67(2) of Regulation (EC) No. 1083/2006.

<sup>(1)</sup> See the EESC Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the results of the negotiations concerning cohesion policy strategies and programmes for the programming period 2007-2013, OJ C 228/141, 22.9.2009, and the Opinion on the Proposal for a Council Regulation amending Regulation (EC) No 1083/2006 on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management, OJ C 218/107, 11.9.2009.

2.1.2. The EESC wishes to point out, however, that these changes must not be allowed to create administrative uncertainty for the bodies and individuals concerned, who too often see the rules in force changed during the same programming period.

2.1.3. The EESC considers that these proposals represent the absolute minimum needed to help solve the economic and employment crisis that Europe is experiencing in the wake of the financial crisis.

2.1.4. The EESC therefore calls on the Commission to be more ambitious in developing the process of simplification that is already under way. The next stage should see a radically modified regulation, to ensure that procedures are more straightforward, clear and more effective.

### 2.2. *Provisions on financial management*

2.2.1. The EESC welcomes the changes proposed by the Commission with regard to Article 77, Article 78, Article 88(3) and Article 94(1) of Regulation (EC) No 1083/2006.

2.2.2. The EESC strongly advocates that Member States do not oppose the Commission’s proposal on co-financing.

2.2.3. The EESC considers, nevertheless, that the proposed changes to Article 77 should not apply across the board, but should be confined to special projects (e.g. for innovation or sustainable development) and projects that are particularly relevant to solving the crisis.

Brussels, 5 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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## Opinion of the European Economic and Social Committee on the 'Green Paper on Consumer Collective Redress'

COM(2008) 794 final

(2010/C 128/18)

Rapporteur: **Mr CALLEJA**

On 27 November 2008 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Green Paper on Consumer Collective Redress*

COM(2008) 794 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 9 September 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November), the European Economic and Social Committee adopted the following opinion by 123 votes to four with 13 abstentions:

### 1. Summary of recommendations

1.1. As a matter of principle access to effective judicial protection is a fundamental right that consumers should have regarding collective redress. However, due care needs to be exercised to respect the limitations imposed by the Treaty and the national juridical differences of procedural and constitutional law.

1.2. EU legislative measures on collective redress would enhance the protection of consumers particularly in cross-border transactions.

1.3. Sufficient safeguards need to be built into the system against frivolous claims and abuse mainly driven by financial incentives and profit motivation from parties other than the consumers.

1.4. As a general principle any EU measure adopted must provide appropriate safeguards against the introduction of features that in other jurisdictions have demonstrated to be susceptible to abuse. In particular, any collective redress system introduced ought to include powers vested in the judge considering preliminary submissions on a collective redress case to halt any abuses and to ensure that the claims being made are meritorious.

1.5. The adoption of a collective judicial redress mechanism does not preclude recourse to systems of out-of-court settlement for consumer disputes.

1.6. The EESC recommends to the Commission to take further action to encourage businesses to develop internal complaint handling systems, to develop further existing alternative dispute resolution systems and public oversight. These alternatives means could be used by consumers before they resort to the judicial system.

1.7. The EESC reminds the EU Commission that the question of collective judicial redress has been under discussion since 1985 and that it is time that decisions are taken and schemes implemented to the satisfaction of consumers without further delays.

### 2. Introduction

2.1. The Commission Consumer Policy Strategy <sup>(1)</sup> has the objective of promoting the retail internal market by making consumers and retailers as confident shopping across borders as in their home countries by 2013. In its Strategy, the Commission underlined the importance of effective redress mechanisms for consumers and announced its intention to consider action on consumer collective redress.

2.2. The European Parliament, the Council and the European Economic and Social Committee welcomed the Commission's intention to improve consumer redress and in particular to

<sup>(1)</sup> COM(2007) 99 final.

consider action on collective redress <sup>(2)</sup>. There was even an OECD recommendation on consumer dispute resolution and redress <sup>(3)</sup> that encouraged its member countries to provide consumers with access to different means of redress, including collective redress mechanisms.

2.3. The Commission Green Paper on Consumer Collective Redress issued in November 2008 <sup>(4)</sup> has now sought ways in which it can go about facilitating redress in situations where large numbers of consumers have been harmed by a single trader's practice which is in breach of consumer law. Four options are presented in the Green Paper.

2.4. The EU Commission also organised a public hearing on 29 May, 2009 to discuss the Green Paper and subsequently formulated a document that was submitted for public comments where it included a further fifth option to the other four options for action on collective redress that were listed in the Green Paper. This recent Commission suggestion cannot be considered by the EESC at this late stage of its deliberations. Especially so, that there are still impact assessments to be conducted. This especially so, when even at this early stage the EESC is already anticipating that this 5th option will present substantial difficulties in its implementation.

2.5. One cannot negate that access to redress by consumers, when consumer rights are violated by traders, promotes consumer confidence in the markets and improves their performance. This objective, however, can only be achieved if consumers know that if they have a problem, their rights will be enforced and they will receive adequate redress.

2.6. To ensure equity for all stakeholders, a fair balance must be struck between all the interests involved.

<sup>(2)</sup> In their resolutions on the Consumer Policy Strategy, the EP asked the Commission, after careful assessment of the issue of consumer redress in the Member States '... to present, as appropriate, a coherent solution at European level, providing all consumers with access to collective redress mechanisms for the settlement of cross-border complaints' (A6-0155/2008); the Council invited the Commission '... to carefully consider collective redress mechanisms and come forward with the results of on going relevant studies, in view of any possible proposal or action', OJ C 166 of 20.7.2007, p. 1-3.

The EP request was re-iterated in the resolution on the Green Paper on retail financial services (A6-0187/2008). The EP committee of inquiry on Equitable Life also had requested the Commission '... to investigate further the possibility of setting up a legal framework with uniform civil procedural requirements for European cross border collective actions ...' (A6-0203/2007). The EESC in its own initiative opinion (OJ C 162 of 25.6.2008, p. 1) put forward proposals in respect of the legal arrangements for CR mechanisms.

<sup>(3)</sup> <http://www.oecd.org/dataoecd/43/50/38960101.pdf>.

<sup>(4)</sup> COM(2008) 794 final.

### 3. Summary of the Green Paper

3.1. The objective of the Green Paper has been identified as being that 'to assess the current state of redress mechanisms, in particular in cases where many consumers are likely to be affected by the same legal infringement, and to provide options to close any gaps to effective redress identified in such cases' <sup>(5)</sup>. The Commission felt it necessary not to distinguish between cross-border mechanisms for mass claims and purely national mechanisms. Another issue which the Green Paper seeks to identify is whether certain instruments could apply only to cross-border or also to national cases.

3.2. The Green Paper focuses on the resolution of mass claim cases and aims at providing effective means of collective redress for citizens across the EU affected by a single trader's practice independently of the location of the transaction. It also identifies the current main obstacles for consumers to obtain effective redress and the elements that contribute to the effectiveness and efficiency of a collective redress mechanism.

3.3. The Commission states that existing European instruments <sup>(6)</sup> are not sufficient and outlines four options which seek to address the issues at hand and to provide consumers with adequate and efficacious means of redress particularly via the tool of collective redress:

- Option 1 – Reliance on existing national and EC measures to achieve adequate redress for consumers.
- Option 2 – Developing cooperation between Member States in order to ensure that consumers throughout the EU are able to use the collective redress mechanisms that are available in different Member States.
- Option 3 – A mix of policy instruments that could be non-binding or binding, that can together enhance consumer redress by addressing the main barriers.

<sup>(5)</sup> COM(2008) 794 final, p. 3.

<sup>(6)</sup> Commission Recommendation 98/257/EC on the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes (OJ L 115 of 17.4.1998, p. 31) and Commission Recommendation 2001/310/EC on the principles for out-of-court bodies involved in the consensual resolution of consumer ADR (OJ L 109 of 19.4.2001, p. 56); Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests (OJ L 166 of 11.6.1998, p. 51); Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ L 364 of 9.12.2004, p. 1).

- Option 4 – Judicial collective redress procedures consisting of a binding or non-binding EU measure.

#### 4. General comments

4.1. Over the years the EESC has advocated the need for a definition at Community level of a collective action designed to ensure effective compensation in the event of the infringement of collective rights.

4.2. As far back as 1992, by way of two own-initiative opinions, the EESC drew the Commission's attention to the need to identify opportunities for action in relation to the regulation of cross-border disputes and to recognise the powers of representation of consumer organisations in both national and trans-frontier disputes (7). Similarly, in an opinion adopted unanimously at the plenary session of 1 June 1994, the EESC expressly called on the Commission to establish a uniform procedure for collective actions and joint representation, not only to put a stop to illegal practices but also for facilitating actions relating to claims of damages (8). This subject was subsequently taken up by the EESC in several of its opinions (9). In its opinion of 26 October

(7) OJ C 339 of 31.12.1991, p. 16 (see point 5.4.2. and OJ C 19 of 25.1.1993, p. 22 (see point 4.12, and section 4 of the interesting study appended to it, carried out jointly by Eric Balate, Pierre Dejemeppe and Monique Goyens and published by the ESC, pp. 103 et seq).

(8) OJ C 295 of 22.10.1994, p. 1.

(9) The most significant of these opinions were the own-initiative opinion on the Single market and consumer protection: opportunities and obstacles (OJ C 39 of 12.2.1996, p. 55), which noted that at that date there had been no follow-up to the suggestions and proposals put forward by the ESC in its previous opinion on the Green Paper; the opinion on the Single Market in 1994 - Report from the Commission to the European Parliament and the Council (COM(1995) 238 final), which pointed to delays in the effective implementation of the internal market, particularly regarding consumer legislation, and in particular for cross-border relations (OJ C 39 of 12.2.1996, p. 70); the opinion on the Communication from the Commission: Priorities for Consumer Policy (1996-1998), in which the Committee, while welcoming the proposal for a directive on actions for injunctions and the action plan presented by the Commission on consumer access to justice, said that it awaited with interest developments in the area, that, in that area, the single market was far from complete and that a 'conscious adherence to consumer rights' was a basic condition for gaining that confidence from the consumer (OJ C 295 of 7.10.1996, p. 64). The same kind of concern was also expressed in the ESC's opinion on the Communication from the Commission to the European Parliament and the Council on the impact and effectiveness of the single market (COM(1996) 520 final of 23 April 1997) (OJ C 206 of 7.7.1997). Reference should be made here to the following EESC opinions: own-initiative opinion on Consumer policy post-enlargement (point 11.6) (OJ C 221 of 8.9.2005); opinion on the Programme of Community action in the field of health and consumer protection 2007-2013, point 3.2.2.2.1. (OJ C 88 of 11.4.2006); Opinion on a Legal framework for consumer policy (OJ C 185 of 8.8.2006).

2006 (10), the EESC clearly supported the concern expressed by the Commission in its Green Paper on actions for damages where there was a breach of the EC antitrust rules and confirmed the importance of having effective means of redress for victims of breaches of anti-trust rules in its opinion of 25 March 2009 (11).

4.3. Since the EU makes provision for harmonised substantive rights for consumers, the EESC agrees that it should in the same way ensure that there are appropriate procedures in place for consumers to be able to uphold these rights. So consumers should have a court-based collective redress procedure if justice is to take its course as in other instances concerning commercial transactions. As the EESC has already maintained in previous opinions, consumer redress is a fundamental right that should give judicial protection for collective and individual homogeneous interests. EU action is needed because collective and individual homogeneous rights in the EU are lacking a judicial tool to make them effective and enforceable. Collective redress mechanisms are necessary to give consumers a realistic and efficient possibility to obtain compensation in cases of damages of distinct, numerous and similar nature.

4.4. Furthermore, enhancement of competitiveness is a primary policy of the European Union. On the consumer protection side, the European Union has constructed a corpus of substantive legislation. It now needs to ensure that such laws are applied so that the economic engine can be cranked up through increased cross-border trade, based on confidence that any disputes can be resolved quickly, cheaply and under similar rules and procedures anywhere in the single market. Consumers might be subject to unfair commercial practices on increased scales, and therefore procedures are necessary to prevent and stop such abuses. Enforcement, prevention, rectification and compensation are all important. Amounts of compensation are typically small for individuals but overall they can amount to large sums.

4.5. The EESC is of the opinion that judicial redress has to be available and made effective. However, out-of-court settlements must be complementary to court proceedings and can offer a less formal and less costly procedure. However, this requires both parties involved in a dispute to be genuinely willing to cooperate. These out-of-court measures could make it possible to reach a fair solution and at the same time contribute to keep the backlog of court cases from increasing.

(10) OJ C 324 of 30.12.2006. The EESC expressed its support for this Commission initiative and confirmed the need for collective actions where they 'provide a perfect example of some key objectives: i) effective compensation for damages, facilitating claims for damages by organisations on behalf of the consumers affected, thus helping to provide real access to justice; ii) the prevention and deterrence of anti-trust behaviour, given the greater social impact of this type of action'.

(11) OJ C 228 of 22.9.2009, p. 40.

4.6. Nonetheless, the EESC underlines the importance of establishing appropriate mechanisms in observance of European States' cultural and legal traditions.

4.7. The EESC is also of the opinion that such an EU judicial tool ought to be used mainly for collective rights in instances where there is a breach of consumer laws and competition rules.

## 5. Specific observations regarding the Green Paper

### 5.1. *Judicial collective redress*

5.1.1. The EESC acknowledges that a European judicial collective redress mechanism in line with what is being proposed in option 4 of the Green Paper should be put in place if justice is to prevail in favour of both consumers and business. The creation of such a mechanism would make it possible to provide access to justice to all consumers, irrespective of their nationality and financial situation and the amount of individual damage which they have suffered. Furthermore, such a mechanism would address the problem acknowledged by the Council of Ministers of the OECD in the Recommendation on Consumer Dispute Resolution and Redress<sup>(12)</sup> that most existing frameworks for consumer dispute resolution and redress in the different Member States were developed for dealing with domestic cases and are not always adequate to provide remedies for consumers from another Member State.

5.1.2. However, the EESC also recognises that the identification of a harmonised collective court-based procedure may have its own difficulties and disadvantages deriving from inherent complexities, costs, duration and other challenges. Minimising the substantial risk of abuse arising from litigation is one such challenge as is the mode of funding such actions. One also needs to decide whether to have the opt-in or opt-out procedure. Both of these options have their own disadvantages as already identified by the EESC<sup>(13)</sup>.

### 5.2. *Salient features of a European collective action*

5.2.1. As the Commission acknowledges in its Green Paper, only thirteen Member States currently have judicial collective redress mechanisms in place. Furthermore, one can identify three different types of mechanisms which can be classified as 'collective' judicial redress in those Member States which currently have such a system in place.

5.2.2. 'Collective redress' is indeed a broad concept, focusing on the outcome rather than the (or a) mechanism. It encompasses any mechanism that may accomplish cessation or prevention of

non-conformity and/or delivery of redress in the broadest sense, whether involving rectification or compensation. Given that a proliferation of possible procedures have emerged or are emerging within a number of EU Member States, and that most procedures are innovative and experimental, it is hardly possible to identify any model as being preferable to any other.

5.2.3. Bearing in mind the divergences in legal systems and taking into consideration the various avenues explored and suggestions made in previous Opinions on the subject<sup>(14)</sup>, the EESC is in favour of:

- an EU Directive to ensure a basic level of harmonisation and to leave at the same time sufficient leeway for those countries which to date do not have collective judicial redress systems in place. Furthermore, such a directive would follow up the directive on actions for injunction;
- safeguards to make sure that collective actions do not take the form of the class actions employed in the USA. Any EU legal measure adopted should reflect European cultural and legal traditions, have compensation as its only goal and establish a fair balance between parties leading to a system that safeguards the interests of society as a whole. The Committee fully supports the Commission's suggestion that whichever measure is adopted to institute a judicial collective redress mechanism in all Member States 'should avoid elements which are said to encourage a litigation culture such as is said to exist in some non-European countries, such as punitive damages, contingency fees and other elements';
- a combined system of group actions, which combine the advantages of the two systems of 'opt in' and 'opt out', depending on the nature of the interests at stake, the determination of the group members or the lack of it, and the extent of individual damage; in the case of an 'opt in', it is up to the parties concerned to combine their individual claims for harm they suffered into one single action; should they decide to 'opt out', actions should be proposed by representative, qualified bodies;
- granting individuals the right to opt-in to aggregate litigation proceedings rather than simply presuming them to be a party to it unless they opt out. The EESC refers to the advantages and disadvantages of these mechanisms described in its opinion of 13 February 2008<sup>(15)</sup>. This option should be preferred in order to mitigate the impact of such a collective action in particular in those Member States which to date do not have such a procedure in place;

<sup>(12)</sup> Rec (2007) 74 of 12 July 2007.

<sup>(13)</sup> OJ C 162 of 25.6.2008.

<sup>(14)</sup> OJ C 162 of 25.6.2008, p. 31, and OJ C 228 of 22.9.2009, p. 40.

<sup>(15)</sup> OJ C 162 of 25.6.2008, p. 1.

- the Commission's statement that any EU mechanism ought to prevent unmeritorious claims and that the judge can play an important role in establishing whether a collective claim is unmeritorious or admissible. Indeed, the EESC recalls its recommendations on the important role of the judge in its previous opinions. Powers need to be vested in the judge to enable him to halt early on in the litigation proceedings unmeritorious claims. The courts will conduct inquiries about the merit of a plaintiff's claim and the suitability of the claim at issue to collective resolution. In particular, the judge must ensure that the identity of the group is established, based on a certain number of identical cases and that the damages being claimed have a common origin in that they result from the non-performance or improper performance by the same trader of his contractual obligations;
- granting victims full compensation of the real value of the loss suffered, covering not only the actual loss or material and moral injury, but also loss of profit and encompassing the right to receive interest. In deed, while public enforcement focuses on compliance and deterrence, the objective of damages actions must be to provide full compensation of the damage suffered. This full compensation must therefore include actual loss, loss of profits and interests;
- such a collective judicial mechanism must be guaranteed sustainability in terms of adequate funding;
- the system ought also to cater for a system of appeals.

5.2.4. All other aspects of this judicial mechanism ought to be left to Member States themselves, in accordance with the principle of subsidiarity. Indeed, any collective action introduced at an EU level should, at all events, respect the principles of subsidiarity and proportionality; it should never go beyond what is required to meet the objectives set out in the Treaty, insofar as such objectives cannot be adequately achieved by the Member States and are thus better realised by taking action at Community level. There are different national, juridical and constitutional requirements that can impede or generate opposition for harmonisation of legislation, not least Art. 5 of the EC Treaty.

### 5.3. *Safeguarding consumer redress by other existing means*

5.3.1. The EESC has already recognised that the adoption of a collective judicial redress mechanism at EU level should in no way precludes recourse to systems of out-of-court settlement of consumer disputes. The latter measures have received the unqualified support of the EESC and their potential should be further explored in detail and further developed <sup>(16)</sup> as proposed in option 3 of

the Commission's Green Paper. Indeed, the measures being proposed by the Commission in option 3 are complementary but not substitutes to the adoption of an EU judicial tool as defined above.

5.3.2. Considerable emphasis has been made on non-court mechanisms for dispute resolution. DG SANCO commissioned a study on ADR mechanisms for consumer disputes. There were also recent Directives that have been approved on small claims mechanisms <sup>(17)</sup>, mediation <sup>(18)</sup>, and extension of the EJ-NET <sup>(19)</sup>. Indeed, European legislation on consumer protection enforcement has had to allow for both public and private systems. A policy shift that may have important consequences occurred in 2004, with the requirement that all Member States must have a central public authority for coordinating cross-border enforcement <sup>(20)</sup>.

### 5.3.3. *Internal complaint-handling procedures*

The Committee believes that effective handling of complaints by traders can be a decisive step towards increasing consumer confidence in the Internal Market. The EESC deems it of the utmost importance that the Commission ought to promote the necessary initiatives, with the sine qua non involvement of civil society and in particular representative business organisations, in order to ensure that there is a coherent legal framework in place which regulates the development of such internal complaint-handling systems by traders which have as their main focus the efficacious handling of consumer complaints.

### 5.3.4. *Public oversight*

The EESC agrees with the Commission's proposal to extend and enhance the enforcement powers of the competent authorities, including national ombudsmen, under the Consumer Protection Cooperation Regulation. It strongly recommends that the detailed workings of such a mechanism are however dealt with in a Directive in order to ensure a minimum level of harmonisation across all EU Member States. Any such proposal should limit available remedies to compensatory damages and include strong procedural protection for the entities subject to enforcement proceeding. The EESC reckons that the public oversight approach could be developed into an interoperable working network covering all Member States and might turn out to be a very effective way to identify operator across the EU who might be transgressing consumer rights. Appropriate public relations campaigns to raise consumer awareness and disseminate information could indeed encourage consumers to report breach of their rights.

<sup>(17)</sup> Regulation 861/2007 (OJ L 199 of 31.7.2007, p. 1).

<sup>(18)</sup> Directive 2008/52/EC (OJ L 136 of 24.5.2008, p. 3).

<sup>(19)</sup> COM(2008) 380 final – EESC opinion: OJ C 175 of 28.7.2009, p. 84.

<sup>(20)</sup> Regulation 2006/2004 (OJ L 364 of 9.12.2004, p. 1).

<sup>(16)</sup> OJ C 162 of 25.6.2008, p. 1.

### 5.3.5. Alternative dispute resolution mechanisms

The Commission acknowledges that existing consumer alternative dispute resolution schemes vary considerably within and between Member States and that even in jurisdictions where such mechanisms are available, there are significant gaps of a sector specific nature and in geographical coverage. Furthermore, most alternative dispute resolution schemes within the EU deal principally with individual claims. In so far as existing EU instruments are concerned <sup>(21)</sup>, the report 'An analysis and evaluation of

alternative means of consumer redress other than redress through ordinary judicial proceedings' commissioned by the European Commission, reveals that the principles on independence and impartiality of third parties involved in mediation/arbitration schemes set out in the said instruments are not even complied with within the EEC-Net database. To this end, the EESC is of the opinion that the existing recommendations in relation to alternative dispute resolution systems ought to become binding legislative tools. Expanding consumer access to ADR and small claims mechanisms can lead to prompt, fair, efficient and relatively low cost resolution of consumer protection issues.

Brussels, 5 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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<sup>(21)</sup> Recommendation 1998/257 and Recommendation 2001/310.



**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Delivering the benefits of the single market through enhanced administrative cooperation’**

COM(2008) 703 final

(2010/C 128/19)

Rapporteur: **Bernardo HERNÁNDEZ BATALLER**

On 6 November 2008, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Delivering the benefits of the single market through enhanced administrative cooperation*

COM(2008) 703 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 9 September 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November), the European Economic and Social Committee adopted the following opinion by 128 votes in favour, with two abstentions.

## 1. Conclusions

1.1. The EESC supports the more decentralised, network-based approach for cross-border cooperation within the single market that will result from the Internal Market Information System (IMI). The EESC believes that the system will help to guarantee effective compliance with single market rules and to adopt suitable solutions to the problems encountered by the public and businesses.

1.2. In their respective Member States, civil society organisations can play an active, significant role in the operation of IMI, and can also help raise awareness about the system and how it works.

1.3. As IMI will identify national obstacles preventing the Services and Professional Qualifications Directives from being properly implemented, and may extend its scope to other sectors, it would be helpful if the Commission were to define a possible specific warning and/or penalty system to remove these obstacles.

1.4. Insofar as the transmission of data from the IMI system is subject to the scheme to protect the privacy of personal data established by Community law, the Committee recommends the notification of those concerned by the data so that they may exercise the rights established in the scheme, in accordance with ECJ case law.

## 2. Introduction

2.1. Article 10 TEC broadly establishes the ‘principle of Community solidarity’ between the Member States and the

Community, which has been considerably expanded by ECJ case-law <sup>(1)</sup>, according to which, Member States should:

- adopt all measures of national law necessary to implement legally binding Union acts and
- cooperate with each other and with the Community to fulfil the aims of the Treaty and of secondary legislation.

2.2. Administrative cooperation between the Member States and the Union has to date taken place in specific areas, such as taxation <sup>(2)</sup> (setting up a central office in each Member State and the obligation for Member States to assist one another), customs, competition (network of national authorities) or even, for example, in policies on asylum, immigration and external affairs (see the ARGO-2002 Programme).

2.3. The EESC has addressed the issue of administrative cooperation between national and Community authorities in an own-initiative opinion <sup>(3)</sup>, which concluded that well-defined and effective national political and administrative procedures, together with better lawmaking and implementation and enforcement, are an integral part of EU good governance.

<sup>(1)</sup> Case C-392, judgment of 15.11.2005, and the conclusions of the Advocate-General, Mr Geelhoed.

<sup>(2)</sup> OJ L 264, 15.10.2003.

<sup>(3)</sup> OJ C 325, 30.12.2006.

2.4. Decision 2004/387/EC <sup>(4)</sup> of 21 April 2004 created a programme for the interoperable delivery of pan-European eGovernment services to public administrations, Community institutions and other entities and to European businesses and citizens (the IDABC programme). The decision provides for the application of projects of 'common interest' and horizontal measures, for which the implementation costs will be borne by the Community in proportion to its interest (Article 10).

2.5. On 17 March 2006, Member State representatives in the Internal Market Advisory Committee approved the Global Implementation Plan for the Internal Market Information System, hereinafter 'IMI', and its development, aimed at improving communication among Member State administrations. Commission Decision 2008/49/EC <sup>(5)</sup> concerning the implementation of the Internal Market Information System (IMI) as regards the protection of personal data qualifies this system as a project of common interest for the purposes of the IDABC.

2.6. IMI is intended to support legislative acts in the field of the Internal Market that require the exchange of information between Member States' administrations.

### 3. The Commission communication

3.1. Lack of trust and confidence in the legal framework and in supervision in other Member States has resulted in a multiplication of rules and a duplication of controls for cross-border activities. This has been one of the main challenges to the smooth running of the single market to date and, as a consequence, Member States should cooperate closely and build trust in each others' systems.

3.1.1. IMI will enable Member States to fulfil their legal obligations to exchange information. It will also allow new forms of administrative cooperation which would not be possible without the support of an electronic information system.

3.2. IMI makes available to competent authorities in Member States a simple tool to find authorities in other Member States and to send them a request for information through a structured set of questions, which are based on specific areas of EU legislation.

3.2.1. IMI is designed to be an efficient and effective means to lower the unit cost of the communication between Member States which needs to take place in order to implement internal market legislation properly. It has been deemed useful to start implementing the system in two restricted fields: the recognition of professional qualifications, which has already begun, and the Services Directive. The experience acquired in these two fields will be used when the system is later rolled out to other sectors essential to the operation of the internal market.

3.2.2. IMI will thus contribute to creating the environment of trust and confidence needed to ensure that the single market functions smoothly and delivers its benefits.

3.3. IMI is a multilingual tool built for an EU with 27 Member States and 23 official languages, but will be implemented in all 30 EEA countries. Multilingualism can be an enriching process. By using new technologies supported by human and automatic translation services, IMI is a good example of concrete measures that the EU can take to minimise these obstacles and to close the communication gap between administrations in Europe.

3.4. In the context of modernising the governance of the single market, IMI will support a more effective, decentralised, networked-based approach to cross-border cooperation.

3.5. IMI helps Member States to engage in more effective co-operation in the implementation of Internal Market legislation, supporting competent authorities in Member States by helping them overcome important practical barriers to communication such as different languages and a lack of clearly identified partners in other Member States. Its aim is to increase efficiency and effectiveness in day-to-day co-operation between Member States.

3.6. The development of IMI is based on three key principles:

- it does not impose additional administrative cooperation obligations on Member States beyond those already contained in the relevant Internal Market legislation;
- it provides the flexibility to respect the diverse administrative structures and cultures in Europe;
- it is a single system based on reusable building blocks. It is designed to be able to support many pieces of Internal Market legislation and will thus avoid a proliferation of information systems.

3.7. The Communication rightly highlights the relation between the IMI system and the protection of personal data, emphasising that it is fully subject to the relevant legislation in the area, particularly Directive 95/46/EC and Regulation (EC) No 45/2001.

3.7.1. Access to the information managed by IMI is restricted to national bodies and authorities designated as 'competent authorities' in the directives to which the system currently applies.

3.8. Lastly, the Commission believes that the current level of investment in training and awareness needs to be intensified in order to bring about the desired outcomes. The Commission will explore the various options and assess the possibility of a training and exchange programme, if necessary.

<sup>(4)</sup> OJ L 181, 18.5.2004.

<sup>(5)</sup> OJ L 13, 16.1.2008.

3.9. The Commission published a recommendation on 29 June 2009 <sup>(6)</sup> on measures to improve the functioning of the single market, in which it states that there must be a coordinated and cooperative approach — in partnership between the Commission and Member States — with a common objective of improved transposition, application and enforcement of single market rules. This implies that Member States assume shared responsibility for and therefore a more proactive role in managing the single market.

#### 4. General comments

4.1. The more decentralised and network-based approach to cross-border cooperation that setting up the IMI requires will boost the right to sound administration. This will benefit the public, the institutions and businesses. The fundamental principles of flexibility, re-use and not imposing further obligations on Member States should be upheld.

4.1.1. The right to good administration is applied here by providing citizens with accurate, specific information, in a flexible manner, on the requirements of the Member States in which they intend to set up, provide a service or work, and the competent authorities to which they must apply. The system will also indirectly provide information on unjustified national obstacles to the freedoms guaranteed by Community law, which will enable the Commission to react accordingly.

4.2. To ensure the smooth operation of the internal market, Member State authorities need to cooperate closely and to build mutual trust in IMI, thus helping to improve transparency and good governance. For close cross-border cooperation between national authorities with powers in single market issues, Member States should take the necessary steps to guarantee the operation of the cross-border networks or electronic information systems created by the Commission, such as IMI.

4.3. Decision 2004/387/EC (IDABC) provides for a schema to be drawn up which defines an equitable sharing between the Community and the Member States of the operational and maintenance costs of the eGovernment and infrastructure services (Article 7-3). Member State authorities should therefore provide the investment needed to ensure that IMI works properly. The EESC believes that, this being a shared competence and thus a shared responsibility, the Member States should also make additional efforts.

4.4. A successful roll-out of the system will require closer administrative cooperation between Member State authorities and the Commission. In future, the scope of IMI should be expanded, as this is currently confined to the Directive on professional qualifications and the Directive on services in the internal market.

4.4.1. In order to achieve this administrative cooperation, Decision 2008/49/EC establishes a system for information exchange

and processing which, owing to its sensitivity, is assigned to the different administrative units involved in a fragmented manner, with each being entrusted with managing a specific part of the system. Therefore, in addition to the Commission, IMI requires the involvement of national participants: namely, the coordinator and the system users. Under the supervision of either the national authority or the coordinator, the system users are identified on the basis of the different roles assigned to them by the request handler, allocator, referral handler and local data administrator.

4.4.2. It will be necessary to coordinate this system with the administrative cooperation mechanisms provided for in the directives to which it will apply, i.e. the information exchange mechanisms, the relevant national authorities, and the Services and Professional Qualifications Directives. In this context, consideration will have to be given to the possible direct or indirect relations between the IMI users and the national authorities designated in the directives, particularly, that have a direct or indirect impact on the internal market.

4.4.3. It would be helpful to cover the following aspects of the Services Directive, for the purposes of coordination with IMI:

- a) the broad definition of 'competent authority' (Article 4);
- b) the establishment of points of single contact (Article 6) and liaison points (Article 28);
- c) the establishment of highly harmonised procedures for authorisation and communication with applicants (Article 13);
- d) the establishment of alert mechanisms (Article 32), which could lead to the creation of a European network of authorities in Member States.

4.4.4. Lastly, with regard to the Professional Qualifications Directive, it would be useful to cover the following cooperation mechanisms:

- a) the detailed definition of 'competent authority' and the treatment of professional attestations issued by professional organisations (Article 3);
- b) administrative cooperation between Member States for the free provision of services (Article 8);
- c) harmonisation of the procedure to recognise professional qualifications for the purpose of establishment (Article 51);
- d) the specific administrative cooperation system which sets out the terms for the exchange of information on disciplinary action and criminal sanctions, the list of competent authorities and their coordinator (Article 56) and, lastly, the establishment of national contact points with the remit of providing specific information relevant for the application of the Directive (Article 57).

<sup>(6)</sup> OJ L 176, 7.7.2009, p. 17.

4.4.5. The EESC believes that if the IMI system is to be introduced promptly, it must include the social aspects (contribution periods, pension rights, etc.) relating to the fields covered by this first phase. The EESC advocates such an approach not only because it is customary for it to do so, but also because there must be a direct link between social and economic concerns and the exercising of professional activity.

4.4.6. This link has been highlighted by the EESC on a number of occasions: for example, in its opinion of 14/01/2009 <sup>(7)</sup> on the Social and environmental dimension of the Single Market, the Committee stated that 'the European institutions must take account of both the legitimate interests of business and the fact that economic freedoms need to be subject to regulation so as to ensure that their exercise does not undermine the fundamental social rights recognised by EU law, international labour standards and the laws of the individual Member States, including the right to negotiate and the right to enter into and implement collective agreements'.

4.4.7. In particular, the EESC has advocated harmonisation measures in this context, such as the coordination of social security schemes and pension 'portability' initiatives <sup>(8)</sup>.

4.5. The EESC is in favour of all Community legislation working effectively, the internal market reaching its full potential and the appropriate measures being taken to raise the awareness of the competent authorities and give them appropriate training.

4.6. In order to strengthen administrative cooperation, the operation of IMI should be reinforced, as should the organisations cooperating in it. The EESC and civil society organisations should also play a key role, particularly by mounting awareness campaigns about its importance in the functioning of the internal market.

4.7. The EESC believes that, in the light of experience gained in operating the IMI system and in the development of Community law, it will be possible to extract general principles leading, in the future, to more comprehensive and detailed Community rules on administrative cooperation, through the adoption of a regulation covering the most general aspects.

4.8. IMI therefore constitutes the first phase of this process: as regulated here, it will streamline the Member States' systems for administrative cooperation both with one another and with the Commission in those areas which, based on mutual recognition and the principle of non-discrimination, are essential for the operation of the internal market. Meanwhile, it maintains the protection of personal data, an issue that is crucial for European citizens, given the detailed assignment of roles among those managing IMI that has been established through the Commission's activity in this field.

4.9. Lastly, with regard to the relation between the IMI system and the personal data protection scheme, it is worth noting the recent publication of the Conclusions of the Advocate-General, Mr Ruiz-Jarabo <sup>(9)</sup> Colomer, interpreting some of the provisions of the legislation laying down this system and fully applicable in this context. This interpretation was confirmed in the ECJ judgment of 7 May 2009 regarding the obligation to ensure the right of access to information on the recipients or categories of recipient of personal data and on the content of the data disclosed not only in respect of the present but also in respect of the past, and the establishment of a time-limit for the storage of such information, maintaining a fair balance between the interest of the data subject in protecting his privacy and the burden which the obligation to store that information represents for the controller.

4.10. The Advocate-General's interpretation concerns, in particular, two distinct rights recognised by Directive 95/46 and regulated in such a way that the application of one (the right to deletion of data within one year) appears to make it difficult to apply the other (the right of access to data relating to processing): by deleting data in accordance with Directive 95/46, the right to access becomes impossible, as one cannot request information that no longer exists. It would be advisable to take on board the interpretation of the Advocate-General and of the European Court of Justice so that the two rights, as recognised by Community law, can co-exist: thus, the interested party must be informed of the transfer of data, including the identity of recipients and the existence of a one-year time limit to exercise the right to access, after which time the data will be deleted and will no longer be accessible.

Brussels, 5 November 2009.

*The President  
of the European Economic and Social Committee*  
Mario SEPI

<sup>(7)</sup> OJ C 182, 4.8.2009, p. 1.

<sup>(8)</sup> OJ C 228, 22.9.2009.

<sup>(9)</sup> Conclusions of 22.12.2008, case C-553/07.

**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Towards a coherent strategy for a European Agricultural Research Agenda’**

COM(2008) 862 final

(2010/C 128/20)

Rapporteur: **Mr CHIRIACO**

On 15 December 2008 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Towards a coherent strategy for a European Agricultural Research Agenda*

COM(2008) 862 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 13 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November 2009), the European Economic and Social Committee adopted the following opinion by 155 votes in favour, with three abstentions.

## 1. Conclusions and recommendations

1.1. The EESC welcomes the Commission’s initiative to launch a process to develop a future agricultural research agenda with a view to creating a European agricultural research area. Research and innovation in this sector must indeed be intensified <sup>(1)</sup> in order to ensure that the supply of farm products can keep up with international trends in demand.

1.2. The EESC endorses the approach put forward by the Commission, which is based on trials of the concept of joint programming which, taking into account the needs and specificities of the various national programmes, aims to guarantee the EU coordination of initiatives and effective and concrete resource sharing <sup>(2)</sup>. More specifically, the EESC urges the Commission to strengthen cooperation, not only in relation to national agricultural research programming but also in relation to other initiatives promoted by the different Directorates General (e.g. DG Environment, DG Agriculture, DG Enterprise). The EESC therefore calls on the Commission to provide further information on the instruments and operational arrangements, including the financial resources, for the initiatives proposed in a future Communication, involving all interested parties in a consultation

process and taking into account the results of the joint programming pilot trial.

1.3. The purpose of joint programming in agricultural research is to explore society’s potential for facing the challenges involved in developing biobased commodities at EU level. These challenges relate to climate change, human health protection and food security issues. These concerns, also in light of the results of the JPAR Workshop *Towards joint programming in agricultural research*, were the focus of in-depth discussion and analysis by the Standing Committee for Agricultural Research (SCAR) <sup>(3)</sup> summarised in the position paper on joint programming published in June 2009. Joint programming involves a strong element of participation and intensive efforts by the countries taking part, which translates into added value and benefits in terms of impact for citizens and European competitiveness. Even at this stage, therefore, the EESC proposes the development of appropriate mechanisms to secure the participation of all interested parties, including the private sector, especially businesses, mainly in the identification of research objectives, and to estimate the resources required and carefully identify the financial instruments for operating the system, thereby ensuring effective access to finance. In particular, the EESC recommends that the Commission and the Council take steps to draw up a proposal for a regulation to form the legal basis for the organisation and functioning of the ‘new’ SCAR, in line with the political process launched in 2004, and to replace Regulation (EEC) No 1728/74.

<sup>(1)</sup> EESC opinion on Food prices in Europe (see page 00 of the current Official Journal).

<sup>(2)</sup> OJ C 228, 22.9.2009, p. 56.

<sup>(3)</sup> Article 7 of Regulation (EEC) No 1728/74.

1.4. According to the new governance model proposed by the Commission, the Standing Committee on Agricultural Research will play a coordinating role in promoting joint initiatives at EU level and in mapping the competences of the research programmes promoted. The EESC believes that SCAR should be based on a principle of fundamental flexibility in order to stay abreast of reforms already implemented <sup>(4)</sup> or to be implemented in the continually evolving regulatory framework of the Common Agricultural Policy.

1.5. In the context of joint programming, the foresight and analysis process is closely connected with the mapping process which, by providing key figures and statistics on shortcomings, tendencies and needs in the organisation of agricultural research at the national level, contributes to providing an overview of developments in agricultural research in the EU. Until now, this type of information has been provided by the EU-AGRI-MAPPING project, an initiative of the 6th EU Framework Programme for Research. The EESC, taking into consideration not least the difficulties encountered during this project, believes that mapping should not be based on ad hoc initiatives but on a continuous and regularly updated process.

## 2. Summary of the communication

### 2.1. A new context for agricultural research in Europe

2.1.1. European agriculture faces new challenges such as the changing farming demography and structure, the impact of modern farming practices on employment, changes to the Common Agricultural Policy (CAP), and global factors affecting the sector.

2.1.2. In order to cope with these challenges, it is widely acknowledged that there is a need for a strong agricultural research area within Europe. Agricultural research should provide the knowledge that is necessary for a thorough understanding of rural development, of the drivers and impediments for sustainability, and provide the new technologies and innovation needed for the development of the agricultural sector. It should facilitate knowledge acquisition to improve, among other things, our understanding of market dynamics. However, research efforts often remain fragmented and poorly coordinated; there is underinvestment and a lack of critical mass. In Europe, several mechanisms are in place, particularly under the EU's Framework Programme, which help to foster pan-European collaboration between researchers. In this respect, the ERA-NET scheme provides funding for the networking of national programmes, ministries or funding agencies across all scientific sectors. The EU Council agreed (in November 2004) that collaboration in this area would benefit from a more structured approach. In this respect, the recently devised concept of joint programming goes a step further than the ERA-NET scheme and elicits the direct cooperation of Member State public programmes in defining common

visions, strategic research agendas, and the pooling of resources to tackle specific areas together. The Steering Committee on Agricultural Research (SCAR) was mentioned as a good example of a possible network structure in any new joint programming process.

### 2.2. The steering role of the SCAR committee

2.2.1. Following several dormant years, SCAR was given a new mandate in 2005 by the Council of the EU to play a major role in the coordination of agricultural research efforts in Europe. The 'new' SCAR is made up of the 27 EU Member States, with representatives from candidate countries and associated countries as observers. Initiatives promoted by SCAR towards a European Research Area for Agriculture include, in addition to joint programming, a foresight process to identify potential long-term scenarios for European agriculture, and a mapping process to identify needs and trends for agricultural research in the EU.

2.2.2. SCAR has adopted a structured approach to the prioritisation of research topics for further collaboration, through the establishment of a number of Member/Associated State Collaborative Working Groups (CWGs). CWGs work in a similar way to ERA-NETs, in that they follow the same step-by-step approach – focussing on information exchange during the early stages, identifying gaps in research and priority areas for collaboration and, where applicable, launching joint activities and/or common research calls.

### 2.3. Key actions towards a coherent European Agricultural Research Agenda

2.3.1. There is an urgent need to acquire a much better understanding of the driving forces underlying the processes of climate change in order to reduce their adverse impact and safeguard the dwindling resource base of soil, water, and biodiversity, with a view to supporting and promoting a more sustainable agriculture in the European and global context. The priority research areas in this context are climate change and energy resources.

2.3.2. Research could play a stronger role if different actors were better integrated in actual agenda setting and became part of the research process through actions such as innovation networks. The Commission therefore intends to strengthen the production and sharing of agricultural knowledge, through SCAR and the European Network for Rural Development <sup>(5)</sup>. With a view to consolidating joint research programming for better governance of the European agro-food system, the strategic role of SCAR could be further strengthened so it can become the strategic oversight body supervising the various agriculture-related efforts carried out by all European public research bodies.

<sup>(4)</sup> Regulation (EC) No 72/2009, Regulation (EC) No 73/2009, Regulation (EC) No 74/2009 and Council Decision 2009/61/EC of 19 January 2009.

<sup>(5)</sup> Article 67 of Regulation (EC) No 1698/2005.

2.3.3. In order to implement long-term research agendas based on common visions and shared objectives, there is a need to develop a monitoring mechanism that includes a combination of tools for foresight analysis and mapping of research capacities.

2.3.4. Europe's responsibilities in a globalised world cannot be overlooked: agricultural sustainability is becoming an issue that will have both a direct effect (e.g. through food prices) and an indirect effect (e.g. through migration) in the EU, as well as on all regions of the world. Therefore policy synergies in the area of agricultural research within and outside Europe must be strengthened and there is a need in particular to enhance synergies between EU and Member States' research policies, on the one hand, and external policies such as development aid and neighbourhood policies, on the other.

### 3. General comments

#### 3.1. *A new context for agricultural research in Europe*

3.1.1. The role and functions of European agriculture have been transformed over the last 50 years, reflecting the changes that have marked the European society and economy and involving citizens and consumers, moving from a 'rural' to a 'post-industrial' agriculture. Consequently, it is now established opinion that the farm sector should, in keeping with the European Agricultural Model, be seen in multifunctional or agro-territorial terms, i.e. no longer solely in terms of production. The same criterion should therefore apply to the definition of 'agricultural research'. This in any case confirms the primary role of agricultural production also brought to the fore by the international food crisis. Indeed, food competitiveness and security of supply are set to become challenges in the near future.

3.1.2. In this context, the EESC warmly welcomes the approach taken in devising a broader definition of 'agricultural research', reflecting the challenges for European agriculture including, in particular, adapting to and mitigating climate change, the development of renewable energies from agricultural sources, conservation of biodiversity, sustainable management of water resources, not to mention the promotion of ICT and the quality of production.

#### 3.2. *Towards common research agendas*

3.2.1. The communication adopts the recent concept of joint programming<sup>(6)</sup> as a novel approach for agricultural research aimed at making best use of the limited financial resources by opting for greater collaboration. Joint programming is currently being trialled through a pilot project on research into Alzheimer's disease. The Council is also scheduled to adopt further initiatives

in other major research sectors by 2010 and, where positive results are produced, joint programming could have a decisive impact on future research coordination mechanisms at European level.

3.2.2. Joint programming involves the Member States, on a voluntary and variable geometry basis, in defining, developing and applying strategic research agendas based on a shared vision of how the leading social challenges should be tackled. The concept can include strategic cooperation between existing national programmes or jointly planning and implementing completely new programmes. In both cases the purpose is to pool resources, select or develop the most appropriate instruments, apply them and collectively monitor and review progress.

3.2.3. Given that agricultural research efforts are often fragmented and poorly coordinated, and that there is underinvestment, a lack of dissemination and targeted communication of findings, and a absence of critical mass, the EESC welcomes the joint programming approach, seeing it as an ambitious objective that, combined with a pragmatic and flexible approach, can launch a strategic, structured process of agricultural research.

#### 3.3. *The steering role of the SCAR committee*

3.3.1. The Communication from the Commission and the accompanying Staff Working Document provide a detailed description of the analysis, monitoring, evaluation and consultation functions, as well as of the organisational and operational working methods of SCAR in keeping with the guidelines of the Agriculture Council of 19 July 2004. More specifically, SCAR would be responsible for monitoring national research initiatives in the agro-food sector, coordinating these activities at Community level, and establishing reasonable forecasts for the long-term development of research priorities in this sector.

3.3.2. The EESC considers that Community-level coordination is crucial to tackling the common challenges and speaking with a single voice in international forums, preventing duplication and further developing programmes, and increasing competition for obtaining funding and, consequently, the quality of research proposals. It must be borne in mind, however, that the research situation is very different in every Member State, and that national programming must take account of specific priorities and needs, where European-level cooperation would not always guarantee benefits of significant scale or scope. For this reason, SCAR should be provided with instruments for ensuring the management of a continuous and up-to-date monitoring process.

<sup>(6)</sup> OJ C 228, 22.9.2009, p. 56.

#### 4. Specific comments

4.1. Among key actions towards a coherent European Agricultural Research Agenda, the communication includes reducing the negative impact of climate change, safeguarding water and soil resources, and protecting biodiversity. The EESC believes that the social impact should also be considered, as underlined in the 2008 FAO report *Gender and Equity Issues in Liquid Biofuels Production*, covering the overall connections between business, employment, and region.

4.2. The new priority areas for the future Agricultural Research Agenda should reflect – in addition to climate change and agriculture-related energy issues – the struggle to preserve biodiversity, the sustainable use of water resources, environmental and human health impact assessments on the cultivation and marketing of GMO products, issues relating to the agro-food sector, with special reference to the processing stage and biotechnologies, and all innovations that can be used to deal with these issues that present new challenges, as recently pointed out in the 'Health Check' on the reformed CAP (November 2008).

4.3. Research could play a stronger role if different actors were better integrated in actual agenda setting and became part of the research process. In particular, it is essential to involve businesses,

especially small and medium-sized enterprises, in identifying research objectives based on the real needs of the businesses themselves, and in promoting applied research and technological transfer by ensuring effective access to funding. As a consequence, the EESC welcomes the Commission's proposal to strengthen links between knowledge and innovation in order to reconcile the interests of business and the individual and urges the Commission to set up appropriate training programmes to this end.

4.4. With particular regard to the European Network for Rural Development <sup>(7)</sup>, rather than introducing specific measures, which might give rise to problems of coordination with the network's regulatory functions, incentives for the exchange of best practice should be provided. The European Network for Rural Development, the European technological platforms and the other knowledge-sharing tools are strategic solutions for sharing and developing viable ideas, reliable information and practical experience across Europe, thereby structuring and strengthening production and knowledge-sharing.

4.5. If European research is to be networked with international research, especially in the developing countries, then appropriate mechanisms must be put in place that can ensure the efficacy and efficiency of the initiatives that are promoted, in particular by means of boosting local governance capacity and enhancing the quality of the relevant human resources.

Brussels, 4 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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<sup>(7)</sup> Article 67 of Regulation (EC) No 1698/2005.



**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Food prices in Europe’**

(COM(2008) 821 final)

(2010/C 128/21)

Rapporteur: **Mr KAPUVÁRI**

On 9 December 2008, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Food prices in Europe*

COM(2008) 821 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 September 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November), the European Economic and Social Committee adopted the following opinion by 75 to 5 with 3 abstentions.

## 1. Conclusions and recommendations

1.1. Work to improve the food supply chain and make it more efficient and competitive should not be aimed at achieving low food prices. Doing so would keep the food chain on the wrong track, as it is today. We need to ensure that the price/value ratio remains at a realistic level. Anticipation of low prices in the production chain ultimately restricts the investment and innovation capacity of agro-food suppliers as well as consumer choice, and the Commission must take these factors and their side effects into account in the medium- and long-term and abandon its exclusive focus on the immediate benefits of low prices. It would be wrong to assert that low food prices are in consumers' interest; rather, consumers benefit from realistic prices ensuring the quality, quantity and service which they expect. However, an approach which aims to reduce the amplitude of volatility of prices is an appropriate one, enabling greater reliability and predictability in the food supply chain.

1.2. The European Union has an interest in ensuring that, in the long term, consumers enjoy the benefits of safe foodstuffs. For this to happen, a high degree of self-sufficiency is necessary. In turn, sustainable agriculture can only be ensured by means of research and development, innovation, and technological development, and for this to happen, CAP resources are essential. However, access to such resources must be organised in such a way as to encourage adaptation to market conditions, while making it obligatory to provide information and cooperate, and taking rural development issues into detailed consideration.

1.3. The scope of action can only be expanded if social consultation takes place on the broadest possible basis. For each of the areas in which action is to be taken, background analyses must be

carried out, a precise action plan drawn up, and competences and responsibilities clearly defined. All of this is vital, given that any measure relating to food prices affects a complex interplay of factors. Food is the main force which holds society together; it is of strategic importance, and enjoys considerable consumer trust. In view of this, production conditions must be organised in such a way so as not to threaten long-term sustainability.

1.4. It is not possible to restrict investments in basic commodities, which usually take place via stock exchanges. However, a means must be found of mitigating the effects of factors which do not reflect actual demand, as these disrupt supply chains of agricultural products. Although the EU is aware of its responsibilities with regard to food supplies to developing countries, it must not forget that its main task is to ensure supplies to its citizens of a full range of safe foodstuffs, by reducing dependence on world markets, and preserving autonomy.

1.5. The EESC supports the initiative of setting up the **High Level Group (HLG) on the Competitiveness of the Agro-Food Industry** which was set up by Commission Decision of 28 April 2008 (2008/359/EC). The EESC looks forward to the results of the work of the HLG. To achieve as much as possible stability of agro-food markets should be one of the most important objectives of the work of the HLG.

## 2. The Commission's Communication

2.1. Due to faster rises in the prices of agricultural products in the second half of 2007, food retail prices also increased significantly. The Commission responded with its Communication on 'Tackling the challenge of rising food prices – Directions for EU action' (COM(2008) 321 final).

2.2. The Commission feels that identifying and resolving regulatory and competition-related problems in the functioning of the food supply chain is key to achieving this objective. The Communication, which comprises five chapters, analyses the situation and recommends measures to solve the problems.

2.3. According to the Communication, higher agricultural commodity prices resulted from a combination of structural and temporary factors. Structural factors such as global population growth, rising incomes in emerging economies and the development of new market outlets have strengthened world demand.

2.4. 'From August 2007 until July 2008 food price inflation (excluding alcohol and tobacco) accounted for around 1,0 percentage points (pp.) of total inflation.' Price trends were characterised by, among other things, differences between rises in the prices of processed and unprocessed foods, due to the 'composition' effect.

2.5. The Commission predicts that food price inflation and the contribution of food prices to headline inflation will decline over the next two years.

2.6. The Commission feels that restrictions on agricultural exports imposed by some countries last year did more harm than good because they cut off market signals.

2.7. Since the beginning of 2006 there has been a surge in investment flows into these markets, as reflected in the total number of outstanding futures contracts held by market participants.

2.8. The Communication includes a table summarising practices giving rise to competition concerns, as follows:

- cartels,
- purchasing agreements,
- resale price maintenance,
- single branding,
- private label products,
- tying,
- exclusive supply agreements,
- certification schemes.

2.9. Based on its analysis, the Commission proposes a roadmap to improve the functioning of the food supply chain, consisting of four main components.

2.10. The Commission hopes that the recommendations from the High Level Group on the Competitiveness of the Agro-Food Industry set up in spring 2008 should help the food supply chain to improve its competitiveness.

2.11. In order to address potential anti-competitive practices identified as concerns in Chapter 4, the Commission will in the context of the European Competition Network continue dialogue with national competition authorities, so as to ensure coherent and well-coordinated enforcement of competition rules throughout the EU, to the benefit of European consumers.

2.12. In connection with reviewing at national and/or EU level regulations which are potentially problematic for the functioning of the food supply chain, the Communication mentions the following rules and practices:

- rules that restrict the entry of new companies into the market,
- rules which restrict businesses' ability to compete on prices; these should be reviewed,
- practices which distort the relationship between suppliers and retailers; these should be discouraged.

2.13. The Commission will examine, together with the regulators of commodity markets and in close contact with other non-EU regulatory authorities (in particular the US where the most important exchanges are located), what measures contributing to a reduction in price volatility in agricultural commodity markets could be taken.

2.14. On the basis of this work programme and related measures, the Commission will examine the possibility of taking further action and proposes that the European Council revisit this matter in December 2009.

### 3. General comments

3.1. The structural factors which caused the rise in prices of agricultural products will remain in place over the medium term; however, fluctuations over the past two years suggest that the market for agricultural products will have to come to terms with increasingly volatile prices. The current economic crisis has merely dented the growth in demand on global markets, and as a result we could see a repeat of the processes which started in mid-2007 at any time, making agricultural markets even less predictable. Besides, adjusting to the demand caused by speculative manipulation of prices – which does not reflect real demand – is impossible, as this would require a degree of flexibility incompatible with the characteristics and potential of agricultural production.

3.2. The European Union is aware that fluctuations in agricultural prices affect not only the entire agricultural sector, but also – via food prices – all consumers. Abrupt and major fluctuations mean that we need to rethink the position of the EU's agricultural sector. The High Level Group on the Competitiveness of the Agro-Food Industry is an appropriate forum for this. In this context, we need to clarify: (1) the EU's agricultural future; (2) the future position of agriculture in EU policies; we also need to consider (3) how to deal with the consequences of opening up markets; and (4) how to correct imbalances in the relations within the food supply chain.

3.3. Although no progress has been made on developing the territorial specialisation within the EU since the CAP was launched, there are clear signs of this phenomenon on international markets. Due to the gradual opening of EU markets to goods from third countries, EU agricultural producers are being forced to compete on a playing field which is not level. As a result, European producers are losing ground on markets. In the medium term, this development could seriously threaten rural economy in Europe. In view of this, the EU can only pursue an open trading policy if various forms of financial support for agricultural producers remain in place and provide sufficient incentives to maintain production levels.

#### 4. Specific comments

##### 4.1. *Developments in agricultural commodity and food prices*

4.1.1. In the post-crisis period the growth in demand for agricultural products will probably overtake growth in supply once again. As a result, these products are once again likely to prove more attractive for venture capital. This could result in fluctuations similar to those experienced over the past two years, if variations in agricultural prices generate higher yields than those offered by other financial market constructions. Given post-crisis economic conditions, the chances of this happening are less than in 2007. Nevertheless, in the medium term we need to prepare for continuing volatility of prices.

4.1.2. As the European Parliament has emphasised in a Resolution of 26 March 2009 (2008/2175(INI)), an ever smaller share of retail food prices goes to agricultural producers and food processors. In view of this, it is clear that price fluctuations at the beginning of the supply chain will only have a limited and delayed impact on retail prices.

The rise in retail food prices particularly affects those who spend a large part of their income on food. This phenomenon is closely correlated to the level of economic development in a given country, which is why rising food prices had the greatest impact on inflation in the EU's new Member States. In these lower-income countries, food can account for up to 40-50 % of total household expenditure.

4.1.3. Over the next few years, food prices are likely to remain above the average for the 2002-2006 period, but below late-2007 levels. At the same time, prices will remain extremely volatile. One of the unwelcome changes resulting from the past two years is that prices have become more sensitive to market information. Given that we are likely to see a growth of information on both supply-side and demand-side factors, prices will continue to fluctuate. The media have an important role to play here too, as effective media give markets instant information on everything which happens in the world.

4.1.4. EU agricultural producers must prepare to meet a constantly growing demand for food. Both the quantity and quality of EU agricultural production must be improved. However, the CAP bears a significant responsibility for ensuring that the gradual

opening up of EU markets does not undermine the competitiveness of European agro-food sectors. The EU needs a long-term strategy for agriculture, defining the extent to which the Community should aim for self-sufficiency in supplies of various products. However, we need to accept that in the medium term, the EU will need to import numerous products.

##### 4.2. *The role of speculation in food commodity prices*

4.2.1. The amount of capital from various pension, investment and sovereign wealth funds on international financial markets is constantly growing, by means of swaps, banks and multinational conglomerates. Given their size, the latter exert a considerable influence on the markets where they operate. Having failed to achieve satisfactory yields on conventional investments, they have turned to commodity markets.

4.2.2. Given the speculative nature of high-risk investments, they have an impact on prices over short term but not in the long term. Agriculture needs to consider this development as well as developments on financial markets in general. Products on financial markets which result in significant fluctuations in agricultural product prices and do not reflect actual product flows have an unfavourable influence on price movements in the physical markets.

##### 4.3. *The functioning of the food supply chain*

4.3.1. As the Commission also points out in its Working Document on the subject (SEC(2008) 2972), there is a close correlation between events on agricultural markets over the past two years and disruptions to the functioning of the food supply chain. The distribution of agricultural product prices over the supply chain closely reflects the capacity of each link in the chain to defend its own interests.

4.3.2. Competition authorities intending to evaluate the anti-competitive effect of the consolidation process in the food supply chain could find themselves in quite a difficult position. It is important to tackle the anticompetitive practices and competition-related problems highlighted by the Commission that occur between agro-food suppliers and the trading stage of the production chain, in order to adapt conditions to the actual economic and market situation. As the Commission notes, it is important that competition rules are enforced in a coherent and well-coordinated way across the EU. The food supply chain is sufficiently fragmented to ensure that individual transactions do not appear to have an anti-competitive impact from the perspective of the single market. The practices discussed in the document show that, for a particular country and product, a given degree of concentration can have a seriously anti-competitive effect. The emergence of processing capacities which can, given economies of scale, achieve a dominant position on a particular product market, could reduce consumer choice and push small and medium enterprises out of the market. This has become all the more so

since private label brands began to exert a significant influence. At the same time, the current dominance of price competitiveness in companies' commercial policies can result in products of lower nutritional value. Although the level of food safety is growing, the substitution of natural ingredients by artificial ones of lower nutritional value means that foodstuffs are increasingly unable to meet consumers' needs for high-quality nutrition.

4.3.3. We would suggest that reimbursement methods used by large retailers should be added to the list of anti-competitive practices set out in Table 1. Such methods make it possible to decouple, on the one hand, suppliers' prices and real costs, and on the other prices paid by retailers and consumers. As a result, reference prices are established at unrealistically low levels, well below what could be achieved through increased efficiency. Anti-competitive practices such as cartels and exclusive supply agreements are clearly unacceptable, as is use of a dominant position to unilaterally impose conditions on suppliers. At the same time, this double profit margin technique - retailers enjoy considerable profit margins not only on shoppers but also on suppliers, due to refunds - obscures commercial profit margins, and helps to distort the distribution of income from the food supply chain. This is an anti-competitive practice in that it requires suppliers to adapt to a price which bears little relation to the costs of production.

4.3.4. The EESC fully agrees with the concerns expressed by the Commission concerning some anticompetitive practices that can alter the functioning of the food chain. In this connection, it seems clear that the imbalance of power between producers, processors and retailers needs more attention. The concentration of power downstream puts retailers in a dominant position vis-à-vis producers and processors, allowing undesirable abusive practices. In view of this, our approach to consumer welfare should not only focus on achieving lower prices in the short term, but also on the long term, while taking into account both direct and indirect effects, in order to prevent financial difficulties for suppliers, a lack of innovation, reduced choice, and even - in the long terms - higher prices.

## 5. A roadmap to improve the functioning of the supply chain

5.1. Ensuring an appropriate distribution of remuneration at each stage within the supply chain is a very complex task, various aspects of which require extensive interference in market processes. However, such measures are indispensable in enabling European foodstuffs to improve their competitiveness on a real basis.

5.1.1. The EESC welcomes the Commission's efforts to bring transparency to the market. A better understanding of how the market works and the role played by the different links of the chain will always be useful. It is very important for a detailed

analysis of this chain to be carried out so that authorities can take appropriate measures where necessary if there are flaws or disruptions in the chain. The EESC therefore absolutely supports the course of action proposed by the Commission in its communication and will cooperate fully in its implementation.

Nevertheless, the Commission should bear in mind that conditions vary from one sector or even country to another, and therefore the factors determining prices differ, and are dynamic rather than static.

All the efforts made by the Commission to design and set up a permanent tool to monitor food prices and income distribution across the chain should be based on these facts, and its results should be viewed as a reference rather than infallible truth.

5.1.2. The food supply chain can only be made more competitive if there is significantly closer cooperation within the chain. Indeed, the very term 'chain' suggests that each link only cooperates with directly neighbouring links, whereas true efficiency can only be ensured if all work together in the common interest. If we really believe that consumers' needs should, via products, determine the conditions under which the food supply chain functions, those within the chain need to engage in serious thought.

5.1.3. The European Union must accept the fact that many of the factors discussed in the Commission's Communication cannot be dealt with by competition policy measures. Harmonisation of competition legislation and cooperation between competition authorities are only effective in dealing with conventional cases of anti-competitive practices (such as cartels and misleading adverts). Experience shows that competition law is not a suitable means of dealing with the situations listed in Table 1, due to the complex interdependence of those involved. The influence of certain retail chains on the market does not justify a response by competition authorities at Community level; however, it is significant that from a supplier's perspective, dependence on individual retailers and purchasing centres has become a decisive factor in their survival on the market. As a result, cooperation between retailers and suppliers has become one-sided in nature.

At the same time, heavier sanctions under competition law could effectively discourage practices which involve misleading consumers.

Over the next few years, work on revising consumer protection will continue. This has to do with the quality of foodstuffs arriving in the single market from third countries due to more open markets, and with the conditions under which such foodstuffs are produced. Among other things, the growth in imports reflects a focus on prices and on paying less for food. However, this goes hand-in-hand with increased risks in terms of lower food safety and consumer protection, given that many imports come from regions where food production culture is at a much lower level than in Europe.

5.1.4. There is not much scope for interference in retailers' commercial policies. Nevertheless, we should identify all possible steps enabling a shift in the focus of large retailers' commercial policies away from cutting prices (or in some cases, achieving the lowest price). This focus has to answer for the currently unbalanced distribution of income within the food supply chain, and it also affects consumer attitudes.

5.1.5. The European Union can only act effectively to correct malfunctions in the food supply chain and make it more efficient if it can draw on the requisite information. Another important task of the EU is to raise awareness among European consumers so that they can make more informed decisions. Consumers are the key to the survival and sustainable development of European agriculture and the food industry. Consumer awareness in Europe could help to put into practice one of the Community's fundamental principles, preference for Community products – a principle which has inevitably been sidelined during GATT and WTO negotiations.

When developing a monitoring instrument, we must incorporate incentives for market operators to provide reliable information into the system. For example, this could involve tax inspections,

tax breaks and subsidies. Ensuring transparency on a voluntary basis is not a real option.

5.1.6. In order to mitigate the negative effects of speculation, we should consider the possibility of regulatory steps to ensure that only transactions on stock markets which are backed by actual guarantees in goods are permitted, in contrast to current market practices which allow very limited flows of goods to exert a considerable influence on market prices, which in turn translates to price fluctuations on the physical market.

#### 5.1.7. Shorter food supply chains

Reducing the number of intermediaries between agricultural producers and consumers could help the chain to function more effectively. Following the example of programmes to distribute milk and fruit to schoolchildren, direct relations between producers and consumers should be encouraged. One of the most obvious ways of doing this is to encourage traditional farmers' markets. This would help to preserve rural lifestyles and to keep small and medium farms in business, besides delivering numerous other benefits.

Brussels, 5 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Towards a comprehensive climate change agreement in Copenhagen’**

COM(2009) 39 final

(2010/C 128/22)

Rapporteur: **Mr Thomas McDONOGH**

On 28 January 2009, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Towards a comprehensive climate change agreement in Copenhagen*

COM(2009) 39 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 September 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November 2009), the European Economic and Social Committee adopted the following opinion by 168 votes to 2 with 3 abstentions.

## 1. Conclusions and recommendations

1.1. The EESC is very disappointed that the EU Heads of State have still not found agreement on crucial decisions on climate change financing.

1.2. The EESC recommends, in line with scientific findings, a long term (by 2050) target about 2 tonnes CO<sub>2</sub>e per capita per annum, in order to keep global warming to less than 2 °C.

1.3. The EESC asserts that the EU should take up a strong interim target of at least 30 % reduction in GHG global emissions from 1990 by 2020, providing there are comparable reductions by other developed and by economically more advanced developing countries.

1.4. Developed countries should commit to a reduction of at least 80 % in GHG emissions by 2050, relative to 1990.

1.5. The EESC is in agreement with the Commission that developing countries as a group (with the exception of Africa's least developed countries) should commit to limit the growth of their emissions to 15 % to 30 % below 'business as usual' by 2020.

1.6. GHG emissions from aviation and maritime transport should be included in the negotiations in Copenhagen.

1.7. The EESC reiterates the need to reduce gross tropical deforestation by at least 50 % compared to current levels by 2020, whilst at the same time ensuring a sustainable management of forests, grasslands, wetlands and peatlands elsewhere in developed countries and for the future in developing countries.

1.8. The EESC endorses the Commission's support of an international arrangement to add new fluorinated gases to the Kyoto Protocol 'basket'.

1.9. Adequate financing for global (and regional) climate change Research, technology Development and Demonstration must be provided.

1.10. The EESC is supportive of a pro-active education and outreach policy, to promote better understanding of climate change and its impacts, to the citizens of Europe and beyond.

1.11. The present global economic downturn should not be used as a deterrent in taking decisive and urgent actions on climate change.

## 2. Introduction

2.1. The EESC is convinced, in light of recent scientific findings since the IPCC Fourth Assessment Report (AR4), that there is now need, more than ever, for urgent and immediate action.

2.2. A warming target of 2 °C above pre-industrial levels has been established by the EU Governments in 1996 and reaffirmed since by the European and Environmental Councils, and more recently by the EU Climate Change Expert Group as the maximum that can be tolerated, above which will likely cause major societal disruption through health impacts, water shortages, food insecurity and forced migration. However, 2 °C is by no means safe, as for example, precipitous receding of Arctic sea ice is already occurring at the current global mean temperature of 0,8 °C above pre-industrial levels.

2.3. Recent scientific findings are more alarming than those from the IPCC AR4 Report. The Global Carbon Project has confirmed that the growth of carbon emissions is intensifying, with growth rates (on average 3,5 % in the years 2000-2007, an almost four fold increase from 0,9 % per year in 1990-1999) outgrowing even the worse case scenario of IPCC-Special Report on Emissions Scenarios.

### 3. Emission Targets

#### 3.1. Background material

Developed industrialised countries, which contain about 1 billion of the 6,7 billion people in the world in 2008, are the source of around 70 % of all emissions since 1950. In the future, countries, now considered 'developing', will be the source of the bulk of emissions

Global emissions for both 1990 and 2000 were around 40 Gigatonnes (Gt) CO<sub>2</sub> equivalent (e) per annum, and were about 50 Gt CO<sub>2</sub>e in 2008. The global emissions per capita per annum in 1990 and 2000 were 7-7,5 metric tonnes per capita, and close to 8 metric tonnes per capita in 2008. Recent work, led by the Climate Impact research Group at Potsdam, Germany, concludes that global GHG emissions must be cut by more than 50 % by 2050, relative to 1990 levels, if the risk of exceeding 2 °C is to be limited to 25 % (which is still not an insignificant risk).

3.2. The EESC recommends, in line with scientific findings and with the general scientific consensus, a longer term (by 2050) target of about 2 tonnes CO<sub>2</sub>e per capita per annum, which equates to a stabilisation target for GHG emissions of around 500 ppm CO<sub>2</sub>e. The target of 2 tonnes per capita per annum should be promoted at national level.

3.3. The EESC agrees with the emission reduction targets outlined by the Commission that global emissions must be reduced to less than 50 % of 1990 levels by 2050.

3.4. The EESC agrees with the IPCC AR4 and findings of more recent work that developed countries should commit to a reduction of at least 80 % by 2050, relative to 1990.

The EU has set the example of committing to an autonomous 20 % reduction in its emissions compared to 1990 levels by 2020.

3.5. The EESC also agrees with the Commission that the EU should, as proposed, take up a higher – 30 % - reduction target by 2020, providing there are comparable committed reductions by developed countries and appropriate committed reductions by 'economically more advanced' developing countries. Not only should all the Kyoto 'Annex I countries' commit themselves to

this target, but all OECD member countries and all EU Member States, EU candidate countries and potential EU candidate countries. This commitment is vitally needed, if not conditional, from developed countries in order for developing countries to follow suit and take on targets. These targets should be revised over time, along with a roadmap with projected decadal targets for 2030 and 2040, in the light of then latest available scientific research results.

3.6. The EESC is very concerned about the lack of ambitions in the proposals from other key developed countries like the United States and Japan which fall way behind the proposed targets by 2020 proposed above. The US Congress House Energy and Commerce Committee approved on 21 May 2009 energy and global warming legislation, which calls for a 17 % reduction in emissions from 2005 levels (not the significantly lower 1990 levels!) by 2020 and for a 83 % reduction by 2050. However, the 930 page measure requires enactment by the US Government, which is unlikely to be achieved in a required timeframe prior to the Copenhagen Meeting in December. The EESC is concerned of the consequential impact on success of the Copenhagen negotiations.

3.7. It is also critical of the lack of concrete financial commitment made by the G8, eight other nations and the EU representing the Major Economies Forum on Energy and Climate in L'Aquila, Italy on July 9, 2009. While they agreed on a global long-term goal of reducing global emissions by at least 50 % by 2050 and, as part of this, on an 80 % or more reduction goal for developed countries by 2050, no base year was referred to for emission reductions, and no mid-term (2020) targets were agreed.

3.8. The EESC is in agreement with the Commission that developing countries as a group (with the exception of Africa's least developed countries) should, at the same time, commit to limit the growth of their emissions to 15 % to 30 % below 'business as usual' by 2020.

The EESC is of the opinion that reaching these targets will require early and concerted action.

3.9. The EESC is of the view that mass of emissions per capita is an equitable index for developed and developing countries' reduction targets, as every world citizen should have equivalent non-pollution or pollution rights.

3.10. Ratios such as carbon intensity [carbon emissions / unit of GDP] could be used as a reduction target index, although the EESC expresses caution in its use, since reduction of this parameter can occur through an increase in a country's GDP, rather than through a reduction in overall emissions for that country.

#### 4. Emissions from aviation and maritime transport

##### 4.1. Emissions

4.1.1. Emissions from international (and national) aviation as well as from maritime transport are an increasing source of global emissions – GHG emissions from international aviation have grown 4,5 % per annum between 1990 and 2004, while emissions from international maritime transport has increased by 2,75 % per annum over the same period. Despite that, these emissions are not controlled under the UNFCCC and its Kyoto protocol. Aviation accounts for about 2 % of global emissions, based on CO<sub>2</sub> emissions from aviation in 2007, and are likely to increase for the foreseeable future. The International Air Transport Association (IATA) has adopted a set of targets to mitigate GHG emissions from aviation in June 2009. IATA also proposes that emissions be accounted for (paid) at a global, rather than at regional or local level. The International Maritime Organisation (IMO) recent reports indicate that international maritime transport emits ~ 843 MT CO<sub>2</sub> per annum [~ 3,5 % of total global GHG emissions], equivalent to the emissions from a large developed country like Germany.

##### 4.2. Targets

4.2.1. The EESC concurs with the Commission that emissions from international aviation and maritime transport be included in the Copenhagen agreement: 'below 2005 levels by 2020, and significantly below 1990 levels by 2050'. Furthermore, the EESC agrees with the Commission, that if at the end of 2010 there is no agreement from the International Civil Aviation Organisation and from the IMO on emission targets, emissions from international aviation and maritime transport should be counted towards national totals under the Copenhagen agreement. The EESC reiterates that the application of emission trading schemes is considerably more complicated in maritime transport than in aviation and that an alternative global scheme could prove to be much more effective than an EU scheme or other regional scheme (see also the EESC Opinion on *The Greening of Maritime Transport and Inland Waterway Transport*).

#### 5. Emissions from land-use and from land-use changes

5.1. Changing land use – largely deforestation, peat burning and the like is responsible for about 17,4 % of current global emissions.

5.2. In view of this large fraction of emissions from land-use changes, the EESC reiterates the need to reduce gross tropical deforestation by at least 50 % compared to current levels by 2020 (see EESC Opinion on *Addressing the challenges of deforestation and forest degradation to tackle climate change and biodiversity loss*).

5.3. At the same time, sustainable management of forests, grasslands, wetlands and peatlands in developed countries in the first instance (and later in developing countries) must be ensured in order to maintain the sequestration of CO<sub>2</sub> also in these countries. All nations should take measures to keep deforestation in check.

5.4. Europe should set a good example in promoting the preservation of forests through for example requiring certification of sustainably managed timber products.

5.5. The agricultural sector as it relates to climate change is covered in a separate EESC Opinion <sup>(1)</sup> and is therefore not further elaborated upon in this Opinion.

#### 6. Sectoral approaches in the context of climate change negotiations

6.1. The EESC proposes that consideration be given to the role of a sectoral approach as complementary to the climate negotiations. For example, similar to content of a Report from a Working Group for the Kyoto Protocol, voluntary/mandatory, quantified/qualified targets in specific sectors (for example: electricity; iron and steel; cement) could be agreed, in addition to national emission targets. The sectoral approach is further described in relation to mitigation options for a global climate change agreement.

#### 7. Fluorinated gases

7.1. The EESC agrees with the proposed targeting of several new industrial chemicals for inclusion in a future climate treaty. One such compound, nitrogen trifluoride (NF<sub>3</sub>), is a component commonly used in making PCs and LCD flat-screen televisions, and is roughly 17 000 times more potent than CO<sub>2</sub>. Hydrofluorocarbons (HFCs) for example are not controlled by the Montreal convention, and are used as replacements for HCFCs. Other new chemicals under consideration are new types of perfluorocarbons (PFCs) and HFCs, trifluoromethyl sulphur pentafluoride (SF<sub>5</sub>CF<sub>3</sub>), fluorinated ethers, perfluoropolyethers (PFPEs) and hydrocarbons (HCs). The chemical industry is encouraged to develop substitutes for new industrial gases with high global warming potential.

##### 7.2. Targets

7.2.1. The EESC endorses the Commissions support of an international arrangement to add the following fluorinated gases (F-gases) to the Kyoto Protocol 'basket': new types of HFCs and PFCs; trifluoromethyl sulphur pentafluoride, fluorinated ethers, PFPEs and HCs, leading to a cap and subsequent phase-down.

(1) OJ C 27, 3.2.2009, p. 59-65.



7.2.2. The EESC recommends that monitoring and verification of new F-gases' concentration levels should constitute an important component of international agreements.

## 8. Mitigation Measures

8.1. The EESC is of the firm view that national governments should strongly promote low-cost reductions in energy use such as energy efficiency measures in buildings - through regulation and standard-setting. Legislation can be introduced to promote waste reduction and recycling. Subsidies can be offered to encourage people to retrofit their homes with solar panels, increase insulation in their homes and so on.

8.2. Renewable sources of energy should be supported. For example: subsidies should be provided to erect wind turbines for power generation, with facility to feed into the electrical grid; use of biogas generators from a mixture of grass, vegetation, rye etc – then fermented to produce methane, which is then fed into the grid, as achieved in Germany under their Renewable Energy Sources Law, which has resulted in more than 14 % of the country's electricity coming from renewable sources.

8.3. Low carbon and green technologies need to be fostered. Developed and developing countries are encouraged to take the path of innovation and to move to new energy efficient technologies where feasible.

8.4. Improvement of existing and new power generation plants is required through a number of measures such as: switch to low carbon fuels; increasing the proportion of renewable or nuclear energy; use of more efficient power plant technologies.

8.5. The EESC advocates that initial investments in less developing countries should be directed towards the purchase of best available technologies available locally or adapted to local conditions.

## 9. Adaptation Measures

9.1. The Bali Action Plan recognises that adaptation will need to be explicitly included in a post-2012 climate change agreement. Adaptation to climate change, whereby society increases its capacity to cope with climate change impacts has recently been highlighted at an International Scientific Congress on Climate Change. On April 1, 2009, an EC White Paper (COM (2009)147 final), on Adaptation Measures was presented, through which the EU and its member states can better prepare for the impacts of Climate Change.

9.2. The EESC is in support of the Commission for establishing a framework for adaptation within the Copenhagen agreement, which should include the following elements:

- there should be a strategic approach to adaptation,

- adaptation needs to be mainstreamed into EU key policy areas,

- adaptation must take place at local and regional level,

- support of adaptation in Least Developed Countries and Small Island Developing States through the Global Climate Change Alliance and also under the UNFCCC, via the Framework for Action on Adaptation.

9.3. It is vital for the success of adaptation policies that the distribution of burdens are equitable and that impacts on jobs and on the quality of life of low-income groups are taken into account. The social dimension of adaptation policies also needs to be pursued, and all social partners need to be involved.

## 10. Global Research, technology Development and Demonstration

10.1. The EESC is of the firm view that funding for global (and regional) Research, technology Development and Demonstration (RD&D) must be provided and is urgently needed. RD&D schemes are recommended for the accelerated development, technical improvement and market introduction of renewable energy sources and combined heat and power production for electricity and power plants.

10.1.1. The EESC is in support of the Commission's position (SEC (2008) 3104 final) to implement integrated climate change research under the current 7<sup>th</sup> Research Framework Programme (FP7). The EESC recommends a closer partnership between the EC and the IPCC, in FP7 and related and future Research programmes.

10.1.2. The EESC supports a major boost to research, development and demonstration of low-carbon and energy efficiency technologies identified by the International Energy Agency, as well as those technologies identified under the EU's Strategic Energy Technology (SET) Plan in order to kick-start and accelerate deployment of strategically important low-carbon and energy efficiency technologies.

10.1.3. The whole area of intellectual property protection and developing countries has changed significantly since 1995, when the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) became effective. Under the TRIPs Agreement, developing countries undertake obligations to respect foreign patents. Since the introduction of TRIPs, companies are finding it more worthwhile to file patent applications in developing countries.

10.2. The EESC supports the Commission towards the following objectives:

- to undergo research on Impacts of Climate Change, Adaptation and other Mitigation options at national and international level;

- to promote international science and technology cooperation for all climate-related research including low-carbon technologies, and renewable energy sources across all sectors;
- to at least double energy-related RD&D by 2012 and increase it to four times its current level by 2020, with a significant shift in emphasis towards low-carbon technologies, especially renewable energy sources.

## 11. Financial Resources

11.1. A comprehensive Copenhagen agreement must be underpinned by adequate financial resources. Financial proposals by developed countries will have to be put on the table very soon in order to motivate and move developing countries to take action as well. Financing is, together with targets agreed by developed and developing countries, the key factor for success and failure of Copenhagen.

11.2. The commitment of the EU to the Copenhagen Conference seems at the best to be lukewarm, evidenced by the fact that the EU Heads of State at the June 18-19, 2009 meeting postponed crucial decisions on climate change financing, apart from stating that the principles of ability to pay and responsibility for emissions should serve as a basis for climate funding.

11.3. Since the European Council has made no decision on funding so far, the EESC is very concerned on the lack of urgency in this regard. It is very worrying that, so far, developed countries, including the EU, are not making sufficient financial pledges or commitments.

11.4. Investment in areas such as energy efficiency technologies and a broad portfolio of low-carbon technologies will promote economic growth and enhance energy savings.

11.5. Finance for developing country mitigation should come from domestic and external sources, the global carbon market and contributions from developed countries:

- **Domestic:** most investments until 2020 and reductions in energy use should come at relatively low cost – such as energy efficiency measures both in the home, in buildings and in the private sector; and government environment and energy policies can leverage this financial investment. In addition, other potential funding sources could be through the use of grants and loans under national, international and bi-lateral programmes.
- **External:** for mitigation action that goes beyond low cost/short term net benefit options and that require financing beyond the domestic capabilities of the respective developing country, support must come from the full range of sources and innovative financing mechanisms, including

public funds and international carbon crediting mechanisms. The EESC supports the Commission's effort to build an OECD-wide carbon market by 2015, by linking the EU ETS with other comparable cap-and-trade systems and an even broader market by 2020.

11.6. The European Council has underlined the need to explore in more detail international financing mechanisms. The subject will be on the agenda of the October European Council again. The EESC is of the strong opinion that this is leaving matters very late, given the holding of the Copenhagen Conference in December.

11.7. The EESC is in support of the Commission's view that developed countries should contribute via public funding and through the use of carbon crediting mechanisms. Public financial contributions should be comparable and be based on the 'polluter-pays principle' and each country's economic capability. The scale of contributions should be negotiated and form an integral part of the Agreement:

- (i) determining the annual financial commitment of developed countries on the basis of an agreed formula (based on a combination of the polluter pays principle and its ability to pay);
- (ii) setting aside a certain percentage of the allowed emissions from each developed country. These emissions are then auctioned to governments at an agreed international level;

11.7.1. The EESC particularly welcomes the Mexico proposal that every country in the world should contribute to a central pot, with the size of contributions based on a formula that takes account of each country's population, GDP and level of GHG emissions. The central pot would then be divided among all countries according to their needs for cutting emissions, building green technologies and adapting to impacts from climate change.

11.8. The EESC

- endorses the position of the Commission to further develop cap-and-trade systems among developed countries in the first instance and then, over time, among major developing countries;
- is also supportive of reforming the Clean Development Mechanism (CDM), which because of the project-specific nature of CDM has led to high transaction and administrative costs. A move from the current project based CDM to sectoral CDM is a possible way forward. Another route is a technology development and transfer CDM, which fulfils the requirements of the Bali Action Plan.

11.9. Projected costs to reach the long-term goals by 2050 are not small – of order 2 % of current GDP, but costs will be appreciably higher if decisive action is not taken.

## 12. Public Awareness and Outreach

12.1. It is important that the general public be made more aware of the seriousness of the present global warming situation and the consequences thereof, if no action is taken quickly regarding climate change.

12.2. Citizens need to be encouraged and incentivised to play their part through using greener forms of energy, purchasing more energy efficient goods and services and by reducing their carbon footprint.

12.3. The EESC is of the opinion that countries should, through media outlets, advertise to their citizens the urgent need for action and the need to conserve energy and provide alternate (non fossil-fuel) energy sources, thus helping in the diminution of damaging GHGs. Climate change issues should also be mediated in primary and secondary level schools, through curriculae fora, albeit a longer term strategy.

The EESC is supportive of the need of a pro-active education policy, to promote better understanding of climate change impacts, proposed by the Commission.

Brussels, 5 November 2009.

*The President  
of the European Economic and Social Committee  
Mario SEPI*

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12.4. The EESC strongly believes that the European Council should encourage Member States, within their own national domains to support and facilitate the involvement of local and regional governments, business, trade unions and other representatives of organised civil society in promoting climate change strategies and initiatives.

12.5. The EESC also believes that local, regional and national authorities should cooperate more closely to help build a solid knowledge base on impacts and consequences of climate change, through mobilisation of their citizens and the private sector. There is, for example, a commitment by some 500 municipalities to reduce their CO<sub>2</sub> emissions by more than 20 % by 2020 within the framework of the EU Initiative Covenant of Mayors.

## 13. Review clause

13.1. The EESC underlines the need to include periodic review of overall progress and the adequacy of commitments and actions as an integral part of the agreement, including a comprehensive review in 2015.

## Opinion of the European Economic and Social Committee on the White Paper 'Adapting to climate change: Towards a European framework for action'

(COM(2009) 147 final)

(2010/C 128/23)

Rapporteur: **Mr OSBORN**

On 1 April 2009 the Commission decided to consult the European Economic and Social Committee, under the first paragraph of Article 262 of the Treaty establishing the European Community, on the:

*White paper 'Adapting to climate change: Towards a European framework for action'*

(COM(2009) 147 final).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November 2009), the European Economic and Social Committee adopted the following opinion by 183 votes to 3 with 6 abstentions.

### 1. Conclusions and recommendations

1.1. Climate change is one of the greatest challenges facing the world in the 21<sup>st</sup> century. Action to limit these changes by limiting emissions of greenhouse gases is the top priority. Nevertheless it is also important to plan ahead in good time for adapting to such changes as have now become unavoidable.

1.2. In 2007 the Commission published a Green Paper on Adaptation. Following extensive consultation on that document and further analysis the Commission has now published a White Paper 'Adapting to climate change: towards a European framework for action' on which the Committee's opinion is sought.

1.3. In the Committee's earlier opinion on the Green Paper <sup>(1)</sup> the EESC recommended that an over-arching European adaptation strategy should be put in place as a framework outlining the actions that will need to be taken at European level, at the national level, and by other actors. The White Paper now proposes just such a framework and the Committee welcomes its general approach.

1.4. The Committee considers, however, that some of the actions proposed by the Commission do not have sufficient urgency and are not specific enough. In particular the Committee urges:

- A stronger role for the co-ordinating European strategy pulling together a set of national adaptation strategies;

- A tighter timetable for further development of the strategy giving particular attention to issues or areas that may require the most urgent adaptation measures to be put in place;

- The establishment of an independent high level committee or body to monitor progress on mitigation and adaptation in Europe and to draw attention publicly to issues where progress is falling short;

- An early effort to quantify the scale of adaptation expenditures that are likely to be needed in Europe (comparable to the admirable efforts that the Commission has already made to quantify developing countries' needs in this regard);

- More intense collaboration at least at OECD level and preferably worldwide, since adaptation must be global in its scope;

- Greater effort to engage the public and civil society in developing plans and actions for adaptation.

### 2. The White Paper and its background

2.1. Climate change is one of the greatest challenges facing the world in the 21<sup>st</sup> century. Action to limit these changes by limiting emissions of greenhouse gases must be the top priority for the world and for the forthcoming meeting of the UNFCCC in Copenhagen. However it is also important to plan ahead in good time for adapting to such changes as have now become unavoidable.

<sup>(1)</sup> OJ C 120 of 16.5.2008, p. 38.

2.2. In 2007 the Commission published a Green Paper on Adaptation. Following extensive consultation on that document (including an opinion from the Committee) the Commission has now published a White Paper 'Adapting to climate change: towards a European framework for action' on which the Committee's opinion is sought. Many of the points in the Committee's earlier opinion are reflected to a considerable extent in the White Paper.

2.3. The White Paper starts from the recognition that significant climate change is already happening in the world and that substantially more will occur leading to serious impacts on many sectors that need to be planned for now. There are many uncertainties about the extent of the impacts and how they will be distributed geographically, depending in part on how successful the world's efforts are to mitigate climate change by reducing emissions of greenhouse gases. But even in the most optimistic mitigation scenario, big changes will have to be adapted to, and which need to be planned for now.

2.4. For the European region the White Paper identifies several sectors that are likely to be particularly affected:

- Agriculture and forestry
- Fisheries and aquaculture, coastal and marine ecosystems
- Infrastructure and its vulnerability to extreme events and to sea level rises
- Tourism
- Human health and plant health
- Water resources
- Ecosystems and biodiversity.

2.5. The White Paper suggests that the most effective strategies are likely to be based on working with nature's capacity to absorb or control impacts rather than simply focusing on physical infrastructure. It refers to a Green Infrastructure approach set out in the Impact Assessment.

2.6. The White Paper argues that autonomous adaptation by individuals and businesses affected by these impacts is unlikely to achieve the optimal results. It sees a clear case for preventive policy measures in order to head off inappropriate actions ('mal-adaptations') and to secure the economic, social and environmental advantages of earlier rather than later action.

2.7. The White Paper recognises that most adaptation measures will need to be taken at the national, regional or local level, but sees a clear role for European involvement in areas where problems transcend national boundaries, and in sectors where there are already well-developed European competences and activities that can themselves have a significant influence on adaptation.

2.8. The White Paper now proposes a two-phase framework for action. In the first phase (2009-2012) it proposes four pillars of action and a set of actions for the EU and Member States under each of these headings:

- Building a solid knowledge base
- Integrating adaptation into EU key policy areas
- Employing a combination of policy instruments to ensure effective delivery of adaptation
- Stepping up international cooperation on adaptation.

2.9. For the second phase, starting in 2013, a more comprehensive adaptation strategy is envisaged, but the White Paper currently does not provide any detail of its possible scope.

### 3. General comments

3.1. In the Committee's earlier opinion on the Green Paper (NAT/368) the EESC recommended that an over-arching European adaptation strategy should be put in place as a framework, outlining the actions that will need to be taken at European level, at national level and by other actors. The White Paper now proposes just such a framework, which includes many of the points recommended by the Committee in its earlier opinion. The Committee naturally welcomes this, and the general approach described in the White Paper.

3.2. Under many of the headings, however, the form of action proposed is rather tentative. Several proposed actions are to be explored, considered, assessed or encouraged. None are to be required or mandated, and there seems to be no immediate prospect of legislation in this field. In view of the increasing severity of climate change impacts and the importance of a European lead on this, the Committee believes that Europe should move more quickly towards a more prescriptive strategy with more specific objectives. The rest of this opinion outlines some key elements of the stronger strategy which the Committee believes Europe should work towards.

3.2.1. **Europe's role in relation to adaptation** - Although much of the practical action needed to adapt to climate change will need to be taken at local, regional and national levels the Committee agrees with the Commission that there is a need for significant European involvement as well. There are a number of reasons for this:

- Analysis of likely changes and impacts will require major research and monitoring efforts that would benefit from co-ordination at European level.

- Some of the problems that will arise will cross national boundaries and will need a concerted response.
- The impacts will differ markedly from one part of Europe to another, and some of the poorer regions may be amongst the most severely affected, pointing to a need for burden sharing through cohesion or other mechanisms.
- Several of the Commission's key policies and programmes including the CAP and the structural funds will need to be adjusted in the light of climate change in order to make them better fit for purpose.
- Looking beyond Europe there will need to be a major international effort to assist the least developed countries of the South that are likely to suffer more severely from climate change with less capacity to adapt adequately. The EU would be best placed to co-ordinate European efforts in this area.
- Above all, the challenge of adapting adequately and in good time to the coming changes in our climate requires the political leaders of Europe to work together in a common enterprise that transcends national boundaries.

For all these reasons the Committee fully supports the need to develop a strong European strategy on adaptation, and urges the Commission to develop the strategy more decisively and with more specific objectives as soon as it can.

Since climate change is global in nature, so adaptation programmes must also be global in approach, all the more so since this change most deeply impacts those least developed countries that are also the most vulnerable. The OECD is undertaking a major initiative on this front and EU frameworks and programmes should also be fully coordinated at this level.

At the same time as developing actions at European level it is also vital to stimulate more vigorous action at national, regional and local level. The background information to the White Paper shows that there is a great variety of approaches at national level at present, and that some member states have made much more progress than others in analysing their own situations and in developing appropriate adaptation strategies. To give more impetus to the adaptation process the Committee suggests that it would now be helpful for a European initiative to mandate common parameters and timetables for the establishment of national adaptation strategies.

**3.2.2. Targets and Timetables** - The Commission proposes a two stage process, the first running from 2009 to 2012 during which the knowledge base would be strengthened, adaptation would be integrated into key EU policy areas, measures would be developed and international cooperation efforts would be strengthened. Only in a second phase starting in 2013 would a fully comprehensive adaptation strategy be developed.

3.2.3. The Committee understands the logic of this two stage approach. But it is concerned that it may be too leisurely for the urgency of the problem. Impacts of climate change are already beginning to make themselves felt both within Europe and more acutely in other parts of the world. Even if mitigation efforts are successfully introduced around the world following the Copenhagen meeting, concentrations of greenhouse gases in the atmosphere are bound to continue increasing for several decades ahead with increasingly severe climate impacts. Adaptation measures need to be started now, not in some vague middle term future. Similarly, action to prevent inappropriate developments and investments (avoiding 'maladaptation') should be starting sooner rather than later.

3.2.4. The Committee therefore urges the Commission to give particular attention in its analytical work of the next three years to improving the methods of forecasting near term (1-5 years) impacts that may require the most urgent adaptive measures and action within that period. Which are the most vulnerable coast lines that require the most urgent protective measures? Where are water shortages likely to be most acute, and what responses can be made? What health impacts are imminent, and how can they best be prepared for?

3.2.5. Similarly, the Commission should seek to identify urgently where there are the greatest risks of inappropriate investment being undertaken ('maladaptation') and how such mistakes can best be prevented. Continued developments in areas that are going to become more liable to serious flooding in the future is one example of this.

3.2.6. The analytical and predictive capacities of the key institutions need to be developed urgently to the point at which they can give meaningful guidance to decision-takers on critical issues of this kind. In addition, CO<sub>2</sub> concentrations need to be constantly recorded at various representative locations across the EU and the globe, and climate change, as well as the impact of the atmosphere's carbon dioxide content on the climate, monitored.

**3.2.7. Institutional Arrangements** - The White Paper proposes the establishment of two new cross-European pieces of machinery – an Impact and Adaptation Steering group to step up cooperation on adaptation, and a Clearing House Mechanism to serve as an IT tool and database on climate impacts and vulnerability and best practices on adaptation. Both proposals seem useful as far as they go, but in the Committee's view they are unlikely by themselves to generate the kind of visibility and political momentum that is needed to get adaptive measures under way on the scale and pace that will be needed.

3.2.8. The Committee therefore wishes to put forward again the recommendation it made in commenting on the Green Paper that the EU should establish an independent monitoring body with an independent Chairman of stature, charged with keeping under review the progress of the whole climate change strategy (both adaptation and mitigation). Such an independent body would report regularly and publicly on progress across Europe, and give early warnings if action appeared to be falling behind commitments or, in the case of adaptation, to be failing to prepare adequately for imminent impacts of climate change.

3.2.9. Since the Committee first made this recommendation the independent climate committee established in the UK has made a number of challenging recommendations which have galvanised further action in that country, and successfully demonstrated the value of such a body. A similar body at European level could play a valuable role in maintaining pressure for action at that level.

3.2.10. **Finance for Adaptation** - In the context of the Copenhagen negotiations, Europe has an urgent need to establish what funds will need to be made available to support adaptation (and mitigation) efforts in the developing world, and what contribution Europe should make to this. In a separate communication, COM(2009) 475/3, the Commission has estimated that by 2020 developing countries will have financing requirements of the order of € 100 billion per annum for mitigation and adaptation expenditure; and it makes suggestions for how much of this might need to be met by contributions from public finance sources in Europe. The Committee welcomes these timely proposals and urges the institutions to give urgent consideration to them so that they can indeed help to achieve a successful outcome in Copenhagen.

3.2.11. It is understandable in the context of Copenhagen, but disappointing nonetheless, in that there appears to be much less clarity so far about the potential costs of adaptation within Europe itself. The White Paper is disappointingly short of figures about the likely cost of adaptation in Europe and speaks merely of estimating the costs of policy adaptation measures in due course. The Committee suggests that it should be an urgent task to make an initial appraisal of the scale of resources that are likely to be needed in Europe. This overall assessment would then need to be divided into tranches – the highest priorities needing expenditure within the first five years, leaving less urgent spending to be taken up in later periods. The assessment would need to consider what expenditures could reasonably be left to the private sector, what part insurance could reasonably be expected to cover, and where public expenditures are likely to be needed. It would also be necessary to consider how the public spending effort might best be divided between national and European budgets.

3.2.12. Of course such estimates are not easy. However, if they can be made for the developing world it must surely be possible to make them for Europe itself. In the Committee's view this needs to be tackled with a greater sense of urgency and of the potential scale of the problems ahead than the White Paper implies. The world is moving into uncharted territory, and plans for precautionary and adaptive spending cannot be based on past experience or such old-fashioned benchmarks as providing protection sufficient to guard against every natural disaster except for the once in a hundred year event. In the future natural events that may in the past have only occurred once in a hundred years will happen much more frequently. Contingency planning criteria and guidelines and the precautionary expenditures that flow from them will have to be adjusted accordingly and built into relevant budgets.

3.2.13. As the impacts of climate change become more severe in the years ahead, adaptive expenditures are bound to become larger and to become a larger element of public and private sector budgets, and to feature more prominently in insurance premiums and payments. All the studies to date indicate that for adaptation, as for mitigation, there are likely to be advantages in moving promptly to take appropriate measures rather than reacting too late after serious damage has occurred.

3.2.14. If on the other hand action is taken in good time, and integrated effectively with other policy measures there should at least in some cases be the possibility of win-win measures that will improve the resilience of an area or a function to climate change impacts at the same time as advancing other policy objectives. It is urgent to begin the quest for these possible synergies as soon as possible, and to begin to get total figures for the costs of adaptation out into the open for discussion and refinement.

3.2.15. **Participation** - Climate change will affect many different sectors of the economy and many different businesses and individuals. It is important that there should be a wide understanding of these impacts, and that everyone should feel involved in the implementation of the changes that will be necessary to handle these impacts. At present, public engagement with the climate change issue tends to focus primarily on what individuals, groups and organisations can do to help the mitigation efforts by the decisions they make in their own lives and businesses.

3.2.16. However, in parallel, it will soon be necessary for the wider public to address adaptation issues that may affect them such as:

- where to live, work and take holidays in the light of changing climate patterns;
- how the management of long-life trees and forests should cope with continuously changing climate conditions;
- what plants and trees will thrive in gardens in changing circumstances and how traditional landscapes in all parts of the EU can be preserved;
- how the distribution of health risks may change and what precautions to take;
- how our food and diets may have to be altered.

It will be important to keep the general public and the most affected groups fully abreast of the latest analytical understanding of these types of climate change impacts as they emerge, and of the further changes that may lie ahead. At the same time, the public and particularly the most affected groups will need help to

enable them to think through the kind of adaptive measures that lie within their own capacity. Europe could play a major part in stimulating this kind of public dialogue and spread of understanding. The Committee would urge the Commission to give further attention to this aspect.

Brussels, 5 November 2009.

*The President  
of the European Economic and Social Committee*  
Mario SEPI

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Stepping up international climate finance: A European blueprint for the Copenhagen deal’**

COM(2009) 475 final

(2010/C 128/24)

Rapporteur-general: **Ms ANDREI**

On 10 September 2009, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Stepping up international climate finance: A European blueprint for the Copenhagen deal*

COM(2009) 475 final.

On 29 September 2009, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to undertake the preparatory work.

Given the urgent nature of the work, the European Economic and Social Committee appointed Ms Andrei as rapporteur-general at its 457<sup>th</sup> plenary session, held on 4 and 5 November 2009 (meeting of 5 November 2009), and adopted the following opinion by 179 votes to 4 with 11 abstentions.

## 1. Conclusions and recommendations

1.1. The Committee welcomes these timely proposals and urges the institutions to give urgent consideration to them so that they can indeed help to achieve a successful outcome in Copenhagen. The communication is a good start, as up to now the industrialized countries did not want to put any number for finance on the table.

1.2. Climate finance is not to be seen as voluntary aid but as an obligation, enshrined within the UNFCCC Convention Articles, to provide new, additional, adequate and predictable financial resources to developing countries. It is a necessary obligation of industrialised countries to respect the Convention’s principle of ‘common but differentiated responsibility’.

1.3. Developing countries need substantial help to fight climate change, as the EU has agreed under the UN Climate Convention. They will likely face hundreds of billions of Euros in costs per year in the coming decades for mitigation and adaptation.

1.4. The EESC is supporting the EU proposal for ‘fast start’ public funding from industrialised countries of EUR 5 to 7 billion a year for the period before 2013. This is a good start, given the current atmosphere and the lack of trust between South and North.

1.5. The Committee also appreciates the Commission’s positive approach towards action to source finance from international aviation and shipping.

1.6. On the other hand, there are already strong signals from developing countries, especially in Africa, that the EU’s offer is far too low and would effectively ask developing countries to pay for the damages caused by others over many years. Many NGOs and UN economists have argued that a conservative estimate for the required financing from developed countries for developing countries amounts to a sum in the region of USD 150 bn per annum (or around EUR 110 bn), during the 2013-2017 commitment period.

1.7. Regarding the revenues from the carbon market, the Commission assumes that the huge profits made by the players there will be fully captured by developing countries and then spent on low-carbon activities. In practice, such profits are much more likely to end up in the pockets of private companies, many of them from developed countries.

1.8. The EESC is also concerned about the EU vision on domestic private investment in developing countries given that the European Union has not found a way to ensure Member States will use revenues from its own emissions trading system for clean energy investment.

1.9. The Commission should come with a reviewed, viable plan to maintain its leadership in the international climate policy. The EU should also continue to press the United States and others to reveal their positions on climate finance.

1.10. The promises of increased financial resources, be they international or domestic, should be subject to ‘measurable, reportable and verifiable’ provisions.

## 2. Introduction

2.1. On 10 September 2009 the European Commission put forward the communication 'Stepping up international climate finance: A European blueprint for the Copenhagen deal'.

2.2. This paper seeks to unlock the current impasse in the negotiations when developed countries expect the more advanced developing countries to contribute to the overall effort when, at the same time, developing countries want to see a clear position from developed countries on finance for mitigation and adaptation.

2.3. However, this proposal is not sufficient for assuring an effective deal in Copenhagen. We will need ambitious cuts by all developed countries, appropriate mitigation measures by developing countries and an effective global architecture to give the right incentives to galvanise investment into a low-carbon economy.

2.4. By 2020 developing countries are likely to face annual costs of around EUR 100 billion to mitigate their greenhouse gas emissions and adapt to the impacts of climate change. Most of the finance needed should come from domestic sources and an expanded international carbon market, but international public financing of some EUR 22-50 billion a year will be necessary.

2.5. The European Commission proposes that industrialised nations and economically more advanced developing countries should provide this public financing in line with their responsibility for emissions and their ability to provide funding. This could mean an EU contribution of some EUR 2-15 billion a year by 2020.

## 3. Commission document

3.1. The Commission estimates that finance requirements for adaptation and mitigation actions in developing countries could reach roughly EUR 100 billion per year by 2020. Domestic finance (public and private) in developing countries, the global carbon market and complementary international public financial flows should all play a role in meeting these requirements. Domestic private and public finance could deliver between 20-40 %, the carbon market up to around 40 %, and international public finance could contribute to cover the remainder.

3.2. The international carbon market could potentially deliver as much as EUR 38 billion per year in 2020. The Copenhagen agreement needs to establish a new sectoral carbon market crediting mechanism, while focussing the Clean Development Mechanism (CDM) on Least Developed Countries.

3.3. International public funding in the range of EUR 22 to 50 billion per year should be made available in 2020. From 2013 public funding contributions should be shared out on the basis of

ability to pay and responsibility for emissions and include economically more advanced developing countries. On the basis of these assumptions, the EU share would be from around 10 % to around 30 % depending on the weight given to these two criteria. In case of an ambitious outcome in Copenhagen, the EU's fair contribution could therefore be between EUR 2 to 15 billion per year in 2020 depending on the overall size of the global financing agreed and the weight given to each distribution criterion.

3.4. Support to adaptation should give priority to the most vulnerable and poor developing countries.

3.5. International aviation and maritime transport can provide an important source of innovative financing.

3.6. Governance of the future international financial architecture should be decentralised and bottom-up. A new High-level Forum on International Climate Finance should monitor and regularly review gaps and imbalances in financing mitigation and adaptation actions.

3.7. All countries, except Least Developed Countries, should prepare low-carbon growth plans by 2011, including credible mid-term and long-term objectives and prepare annual greenhouse gas inventories.

3.8. Between 2010-2012, fast-start financing is likely to be needed for adaptation, mitigation, research and capacity building in developing countries in the range of EUR 5 to 7 billion per year. To this end, the EU should consider an immediate contribution of EUR 0.5 to 2.1 billion per year, starting in 2010. Both the EU budget and national budgets should be ready to contribute to this funding.

3.9. For the period after 2012, and as part of the package of proposals for the next financial framework the Commission would make a proposal for a single, global EU offer, including whether to fund such an offer from 2013 within the budget, or whether to establish a separate Climate Fund, as part of the package of proposals for the financial framework post-2013, or a combination of the two. Direct contributions from individual Member States could also form an important source of EU funding as part of the overall EU effort.

3.10. If the EU budget is not used, the sharing of contributions inside the EU should follow the same principles of contribution as the international level, taking into account the special circumstances of Member States.

## 4. General observations

4.1. The EESC welcomes the Commission's communication seeking to unlock the current impasse in international negotiations on a new climate agreement in Copenhagen by presenting a blueprint on climate finance and highlighting the ongoing need for a highly ambitious emission reduction targets.

4.2. The G77 (the group of developing countries) has made clear that the provision of sufficient levels of climate financing is the central issue for its members in the context of a UN climate deal. There is widespread acceptance that developing countries (and the poorest members of such societies) will be hit first and hardest by changing climatic conditions.

4.3. Developing countries also need our help to fight climate change, as the EU has agreed under the UN Climate Convention. They will likely face hundreds of billions of Euros in costs per year in the coming decades.

4.4. The EESC appreciates that the Commission made the first step analysing the different possible financing sources and the wish to encourage the exploration of each source, both in terms of resource identification and in terms of spending options and channelling. However, many NGOs and UN economists have argued coherently that a conservative estimate for the required financing from developed countries for developing countries amounts to a sum in the region of USD 150 bn per annum (around EUR 110 bn).

4.5. More attention should be paid to the exploration of the new flexible mechanism (SCM) in order to ensure practical ways for its implementation and for the minimization of the failure risks. Attention needs to be paid to the additionality criteria in the CDM and in the SCM, in order not to create confusion.

4.6. All climate financing should be new and additional to developed countries Official Development Assistance (ODA) commitments, i.e. 0,7 % of GNP, as climate change will impose substantial extra costs on top of what these commitments initially accounted for when the targets were set. We have to consider that only a few countries have met their promise to increase ODA to 0.7 % of GDP. The trend over the past decade suggests that the prospects of it being met are slim.

4.7. More than ever, the EU should maintain its measures and its leadership in international climate policy during the negotiations for a comprehensive climate change agreement in Copenhagen. The unprecedented financial crisis will be short-lived and eventually pass. Climate change is here to stay.

4.8. Economic recovery is dependent on tackling climate change. If leaders fail to take the actions urgently needed this year, the impacts of climate change will likely cost over 20 % of global GDP. This, according to Lord Stern, former World Bank chief economist, is more than the Great Depression and both World Wars combined, in addition to the human deaths and species extinctions.

4.9. The EU should continue to press the United States and others to reveal their positions on climate finance. The promises of increased financial resources – international or domestic, should be subject to ‘measurable, reportable and verifiable’ provisions.

## 5. Specific comments

### 5.1. *Generating adequate financial flows*

#### 5.1.1. Mobilising domestic finance

5.1.1.1. Domestic private finance will constitute a large part of the necessary investments, not only in developed countries but also in developing countries; a major part of these investment is already commercially viable – with the additional investment recouped via reduced energy bills.

5.1.1.2. The poorest countries, in particular least developed countries (LDCs), together with the poorest segments of the populations in developing countries, will not have sufficient means to invest in adaptation to cope with the adverse effects of climate change. They will depend largely on public assistance, both domestic and international.

#### 5.1.2. Making full use of the carbon market

5.1.2.1. The EESC agrees that the international carbon market is one tool to leverage private sector investment in developing countries; although the market is not mature yet and multiple question marks are raised on the quality of the offsets; the carbon market effectiveness will be enhanced by providing a shortage of emission allowances through an ambitious agreement in Copenhagen.

5.1.2.2. Market-linked financing in the form of the auctioning of a percentage of national emissions allowances (Assigned Amount Units – AAUs) in the international regime (not EU ETS in this instance) or buying them at a fixed price should be the chief vehicle for raising new UNFCCC finance. This could be complemented with, for example, a levy on air and maritime travel, or by auctioning emissions allowances to these sectors in regional and national schemes (for example EU ETS), as well as levies on carbon market transactions.

5.1.2.3. We have to bear in mind that the carbon market is a derivatives market which allows speculation on the expected (future) price of emissions reductions by large investors. This market is already showing its weaknesses and could further destabilise the international financial market. Developing countries in Bangkok argued that relying on market mechanisms would increase the vulnerability of those countries in the South which are already suffering due to the food, financial and climate crisis.

5.1.2.4. There is a need for providing validation/verification procedures to allow for faster processes both in the CDM and the new sectoral carbon market (SCM) mechanisms.

5.1.2.5. More money needs to be invested into capacity building and training of experts in all carbon market areas, both in developed and in developing countries.

5.1.2.6. In order to be able to apply the SCM, a transparent definition of 'economically more advanced developing countries' must be offered; the EESC supports the idea of the SCM for highly competitive economic sectors, but also warns that the risk of failure is very high indeed if the mechanism's design is not as robust as possible.

### 5.1.3. Determining the scale of international public funding

5.1.3.1. The EESC agrees on the assertion that: 'The less the carbon market delivers, the higher the demand for public finance for mitigation will be'.

5.1.3.2. Mechanisms to review the needs for public financing regularly must be set in place, but the Commission must be aware of the risk of introducing distortions on the carbon market through the supply of public financing if funding is not directed towards sectors where the carbon market lacks access/interest/initiative (i.e. capacity building, training).

### 5.1.4. Fast-start international public funding for 2010-2012

5.1.4.1. The EESC agrees that fast-start international public funding is important in the context of a comprehensive, balanced and ambitious Copenhagen agreement. It should target capacity building in particular, including for designing low carbon growth plans, readiness for mitigation, pilot projects, and immediate adaptation concerns. The purpose of such fast-start support should be to prepare for effective and efficient action in the medium- and long-term and to avoid any delay of ambitious action.

### 5.1.5. Innovative financing from international aviation and maritime transport

5.1.5.1. Emissions from international aviation and shipping are large and growing quite rapidly. These will need to be regulated if

atmospheric concentrations of greenhouse gases are to be stabilised. Regulation in this area could generate substantial financial resources for the climate agreement. These costs would be borne mainly by air travellers and consumers in developed-countries. However, this will require cooperative action by the International Civil Aviation Organization and International Maritime Organization, which have stymied efforts to address these emissions for the past decade.

### 5.1.6. Determining contributions to international public finance

5.1.6.1. The EESC agrees that 'Giving more weight to emissions as compared to GDP would provide an additional incentive to cut emissions, and acknowledge early action to reduce emissions'. However a correct weighting mechanism must be promoted so that an agreement in Copenhagen may be reached.

## 5.2. The EU's contribution to public climate change finance

5.2.1. The EESC supports the Commission's decision to act in the negotiation as one body bringing a single global offer.

5.2.2. Regarding the funding channelling, the EESC recommends using existing structures, but creating clear monitoring and reporting procedures in order to minimise costs and to ensure money is correctly spent.

### 5.3. A European blueprint for decentralised, bottom-up, climate finance governance

5.3.1. The EU governance structure may be used as model and this may bring a significant advantage to the EU in further adopted steps.

5.3.2. Regarding the deadline for the low-carbon growth plans for all nations (2011), the EESC considers it as unrealistic if the EU wants to see robust and applicable plans, considering the lack of expertise even in certain EU Member States.

Brussels, 5 November 2009.

*The President  
of the European Economic and Social Committee  
Mario SEPI*

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community and repealing Directive 2002/6/EC’**

COM(2009) 11 final — 2009/0005 (COD)

and the

**‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Communication and action plan with a view to establishing a European maritime transport space without barriers’**

COM(2009) 10 final

(2010/C 128/25)

Rapporteur: **Mr IOZIA**

On 27 February 2009 the Council decided to consult the European Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the

*Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community and repealing Directive 2002/6/EC*

COM(2009) 11 final – 2009/0005 (COD).

On 21 January 2009 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Communication and action plan with a view to establishing a European maritime transport space without borders*

COM(2009) 10 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 8 September 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November), the European Economic and Social Committee adopted the following opinion by 159 votes to two, with one abstention.

## 1. Conclusions and recommendations

1.1. The EESC takes an overall positive view of the Commission’s communication on establishing a European maritime space and the proposal for a directive on reporting formalities for ships arriving in and/or departing from Member State ports, repealing Directive 2002/6/EC.

1.2. The proposed work programme is ambitious and well-structured, with a coherent action plan apt to meeting the proposed objectives. The reduction and rationalisation of administrative formalities, to be defined in such a way as to avoid impacting upon the current levels of safety and quality of the necessary controls, are crucial to improving inward and outward port traffic.

1.3. Improving port activity could lead to rationalisation of the transport of goods, flowing from land to maritime transport, thereby boosting intermodality between sea, rail, inland waterways and roads, as indicated in the White Paper on transport and emphasised in the Mid-Term Review.

1.4. A number of specific proposals in the communication need to be looked at more closely, and the EESC urges the Commission to set up forums for all stakeholders, covering the following issues: pilot exemption certificates, formalities concerning the simplification of carriage of dangerous goods, carriage of plant and animal products and coordination of port inspections (*one-stop shop*).

1.5. The EESC has made its views clear on previous occasions regarding the specific nature of port pilot services <sup>(1)</sup>, and this position is still relevant today.

1.6. In its Communication on Strategic goals and recommendations for the EU's maritime transport policy until 2018, the Commission itself has pointed out that the 'growing shortage of maritime professionals, officers and ratings entails the risk of losing the critical mass of human resources that sustains the competitiveness of the European maritime industries in general'.

1.7. The proposal regarding pilot exemption certificates could further reduce this activity, and would make this occupation less attractive to many young people. Reliable studies or analyses must be carried out showing the potential positive effects, whereas the negative effects on employment and safety would seem to be clear. Alternatively, consideration could be given to extending remote pilotage using technological innovations, thus saving time and money while guaranteeing high standards of safety. In the event of collision or any other type of maritime event which might cause material damage or loss of life, insurance companies are authorised to refuse to honour claims for damages if the maritime licences held by those in charge of the vessel – the shipmaster and the chief engineer – are not valid. The EESC recommends that the Commission set up a forum with all stakeholders (shipowners, pilots, sectoral organisations and port authorities) to assess the actual impact of this proposal on safety and employment.

1.8. The EESC backs the project of a European maritime area without borders <sup>(2)</sup>, an integral part of the Short Sea Shipping programmes. It is essential to successfully define a Community legal basis, so that ships carrying 'Community' goods between two EU ports (for example Lisbon and Naples) can be treated in the same way as other modes of transport.

1.9. The EESC would have preferred this possibility to have been included in the new Community Customs Code. Noting that the Commission does not plan to follow this proposal, the EESC calls for it at least to be included among the future implementing rules of the Code, before the end of 2009, so that it may be implemented as swiftly as possible.

1.10. The EESC is highly supportive of the initiative to introduce a 'single window' dealing with all types of practice and other rationalisation measures, such as the planning of inspection visits by the various port and customs authorities: it will be possible to send administrative documents electronically, without prejudice to the activities of customs authorities in fighting crime.

1.11. The EESC calls on the Commission to examine the issues surrounding the possibility of granting the same privileges to ships engaged on operations between two EU ports that call at a non-EU port. According to shipowners' associations, this affects a large number of ships that could benefit from the advantages of the internal maritime space without borders.

1.12. Making English the common language of maritime transport, as in air transport, would greatly facilitate administrative formalities and practices.

## 2. The Commission's communication and action plan

2.1. Free movement of persons and goods must be guaranteed equally for all modes of transport. The advantages offered by the single market must be realised by taking steps to facilitate this objective. Maritime transport does not at present enjoy the same privileges as land transport. The plethora of formalities, administrative burdens and inspections has the effect of discouraging the use of maritime transport for carrying goods within the European Union.

2.2. The Commission document addresses the question of maritime transport procedures: even when carrying 'Community goods' between two EU ports, movement is subject to specific customs and transport rules, veterinary and plant-protection regulations and other formalities.

2.3. It should be borne in mind that the Council urged the use of Short Sea Shipping in 2006, repeating this call in 2007. The communication also refers to the EESC opinion of late 2006, which called for controls at internal frontiers for maritime transport to be done away with.

2.4. In its Mid-Term Review White Paper on Transport Policy, the Commission announced the creation of a European maritime transport space without barriers. This position was confirmed in the Blue Book on an integrated maritime policy. This fits in with the strategy for legislative simplification, and with the policy of better lawmaking.

2.5. Short Sea Shipping (SSS) can contribute to better service quality: ships produce less pollution per tonne transported, generate fewer external costs and reduce road traffic congestion.

2.6. More frequent use of SSS could help the Union to achieve its post-Kyoto CO<sub>2</sub> targets.

2.7. The Vessel Traffic Services/Vessel Traffic Management and Information Systems (VTS/VTMIS) system, using the Automatic Identification System (AIS) is – together with Long-Range Identification and Tracking of Ships (LRIT) – an integral part of the future e-Maritime environment for goods transport and navigation. Use of this technology, as part of an integrated monitoring and surveillance system, will in the future increase the ability to supervise maritime traffic.

<sup>(1)</sup> OJ C 48, 21.2.2002, p. 122; OJ C 294, 25.11.2005, p. 25; OJ C 168, 20.7.2007, p. 50.

<sup>(2)</sup> OJ C 27, 3.2.2009.

2.8. The Commission's action plan contains 11 measures: three short-term, four medium-term and four recommendations for Member States.

2.9. Actions to be completed by the end of 2009 (short-term):

- simplification of customs formalities for vessels only sailing between EU ports;
- guidelines for speeding up documentary checks related to animal and plant products carried between EU ports;
- Directive on rationalisation of documents requested under different bodies of legislation.

2.10. Medium-term measures to be presented in 2010:

- simplification of administrative formalities for vessels sailing between EU ports, but having a call in a third country or a free zone;
- enhanced electronic data transmission options;
- administrative single window;
- simplification of rules on carriage of dangerous goods by sea.

2.11. Four long-term measures, in the form of recommendations:

- coordination of administrative inspections with a view to shortening turnaround times;
- facilitation of administrative communication;
- issuing of Pilot Exemption Certificates (PEC);
- rationalisation of flux and space in ports.

### 3. Comments

3.1. The EESC warmly welcomes the overall draft action plan proposed by the Commission, subject to a number of specific criticisms to be set out in the present opinion. The idea of creating a maritime transport space without barriers has already been examined by the EESC, which wishes to reiterate its support for the initiative.

3.2. The plan is however affected by the difficulties placed by the Member States in the path of introducing a comprehensive and clear set of rules for the completion of the internal market. The largest obstacles lie in the unnecessary customs procedures,

the lack of coordination of inspections and controls by the relevant Member State authorities, and the lack of electronic communication and interoperable systems. The EESC asks the Commission, as a matter of urgency, to simplify customs formalities and procedures for ships sailing exclusively between EU ports as key factors in the creation of a maritime transport space without barriers.

3.3. The simplification of customs formalities for ships sailing exclusively between EU ports is essential to creating a European maritime transport space without barriers. The proposal to amend the Community Customs Code would have resolved the problems, but given the very recent amendment of the Code, it is proposed that the legal basis of the internal maritime space be inserted into the technical implementing document of the new Code. It should be specified in this document that, for the sole purpose of free movement of Community goods, the internal maritime space will include Community goods on board vessels sailing between two EU ports.

3.4. Most of the proposed actions are in practice limited to urging the Member States to adopt active measures to improve and streamline the administrative framework, whereas far more stringent and binding initiatives are needed.

3.5. There appears to be too great a concentration in the document proposed by the Commission on one of the three pillars of the Lisbon strategy, the economic pillar. The Committee considers that these interests should be better balanced with the other crucial aspects, the social and environmental dimensions.

3.6. The EESC supports the initiatives to improve the legislative and regulatory framework governing the single market, provided that such measures have no impact on the safety of the general public and workers or of the environment, and do not threaten employment. This would seem to be a real risk in the case of certain measures, such as the one concerning the pilot exemption certificates.

3.7. Maritime transport allows very large amounts of goods to be carried at a favourable ratio of CO<sub>2</sub> emissions per tonne/kilometre transported. The sector also offers considerable scope for improvement by developing new engine technologies, using cleaner fuels and reducing navigation speeds. By reducing the waiting times in port caused by unnecessary red tape, vessel movements in port could be increased, generating efficiency and cost gains and helping to achieve targets for lower greenhouse gas emissions and safe and sustainable mobility<sup>(3)</sup>. Transport within the space without barriers will be made more attractive, fostering an environmentally-friendly mode of transport.

<sup>(3)</sup> OJ C 277, 17.11.2009, p. 20-24 – rapporteur: Ms Bredima.

3.8. The EESC has already voiced its support for the Marco Polo II programme that aims to reduce congestion, improve the environmental performance of the freight transport system and promote intermodal transport by shifting the forecast total annual growth of international road freight transport towards SSS, and transport by rail and inland waterway. The action plan complements a broader strategy, including implementation of the Motorways of the Sea project. When the European satellite positioning system, Galileo, starts operating, this strategy will be further simplified.

3.9. The proposed administrative simplification measures follow the now consolidated and positive Union practice of verifying the need and effectiveness of obsolete Community law or of scrutinising national practices and legislation that contradict Treaty principles.

#### 4. Specific comments. Short-term measures

##### 4.1. *The directive*

4.1.1. The proposed directive is certainly not the most important among the measures set out in the action plan. The proposed directive repeals the current Directive 2002/6/EC and enables procedures to be simplified by means of three main innovations: the use of the existing European model in place of that under the IMO (International Maritime Organisation)'s FAL Convention of 9 April 1965, reviewed in July 2005, so as to avoid excessive paperwork, the use of electronic transmission systems, and the nomination of a single authority to whom all required declarations and documents should be sent.

4.1.2. The EESC takes a favourable view of the proposal which, with simple steps, allows the task of shipmasters and owners to be facilitated. It recommends that simplification should not have any negative impact on current health and environmental protection measures, especially with regard to ship-generated waste and cargo residues.

4.2. The EESC believes that the guidelines indicated for speeding up documentary checks related to animal and plant products carried between EU ports require further clarification. Worldwide public opinion is alarmed at the spread of pandemics such as bird flu and swine fever, and is calling for additional safety measures. Traceability of product origins is crucial to isolating possible focal points: it must therefore be clearly shown that the proposed measures will not water down the current rules in any way.

#### 5. Specific comments. Medium-term measures

5.1. Part of maritime transport comprises ships sailing between two or more EU ports, making one or more calls at a third country or free zone. The EESC considers that administrative facilities must be simplified for these vessels. The development of aerospace identification and tracing technologies and the progressive

improvement of electronic systems to identify Community goods can simultaneously ensure certainty of origin and significantly cut timescales and costs for shipowners.

5.2. Enhanced electronic data transmission, i.e. e-Maritime systems, which fits neatly into the planned system under the new Community Customs Code that will employ an e-customs system in accordance with Decision 70/2008, is one of the solutions that the EESC hopes will improve citizens' lives and cut unnecessary and harmful red tape.

5.3. The administrative single window is similarly anticipated. The only question is why it has not yet been introduced. The EESC strongly supports this proposal and urges the Member States to take the necessary steps soon.

5.4. Simplification of rules on carriage of dangerous goods. The current rules impose a wide range of requirements for dangerous goods carried via a variety of modes of transport rather than one single mode. Increasingly frequently, maritime transport is part of a multimodal chain and is penalised compared to alternative, mono-modal solutions such as road transport, acting as a deterrent to the use of ships. While scrupulously complying with the specific levels of safety required in maritime transport, the EESC believes that a number of measures could be adopted, in particular regarding RoRo (roll-on/roll-off) vessels transporting vehicles which are themselves already in compliance with the rules laid down by the directive on the carriage of dangerous goods and the ADR Convention on international carriage of 30 September 1957.

#### 6. Specific comments. Measures to be adopted subsequently by recommendation

6.1. **Coordination of administrative inspections.** Using the same approach as for the administrative single window, the port, customs and police authorities should coordinate and plan joint inspections possibly to be carried out at the same time or in rapid succession. This would substantially cut unloading times, bearing in mind that in some Member States, unloading is only permitted once all inspections have been completed. The EESC strongly supports this proposal.

6.2. **Facilitate administrative communication.** This proposal pinpoints a highly sensitive issue: the use of a common language for maritime transport. The Commission elegantly suggests using a shared neighbouring language or English. Dropping its traditional diplomatic reserve, the Commission emphasises the importance of this option for practical reasons. This proposal is reasonable and proportionate to the purpose. The EESC is of the view that, in the same way as for air transport, maritime transport should adopt a common language, not only for economic reasons but also on the grounds of safety. 'Mayday' is the universal distress message and English should normally be used on international radio channels. In order to facilitate comprehension, electronic translation software could be used to translate the paperwork to be completed at every port of call into the relevant language.



**6.3. Issuing of Pilot Exemption Certificates.** The EESC urges careful reflection on this proposal, seeing it as neither useful nor proportionate. Port pilots perform a highly professional function which is closely tied in with day-to-day practices in their home ports where, as is known, navigation conditions can change rapidly as a result of currents, tides, weather conditions and traffic. There is therefore no significant time-saving and the costs correspond to necessary safety measures. The EESC urges the Commission to review the proposal and consult with pilots' organisations on better ways of improving the service without reducing safety.

**6.4. Rationalisation of flux and space in ports.** The EESC considers this to be a 'competitive' measure between the various

maritime and port authorities. Port authorities should give serious consideration to the need to avoid unfair treatment of medium and small vessels. Better service attracts more traffic and it therefore considers it evident that each authority should plan for the investment needed to make its own port more efficient. The advice is however sound!

6.5. Lastly, the EESC feels that the Commission's proposal should be implemented more rapidly, and calls for the services that will be tasked with putting the Short Sea Shipping programme into practice – which are at present inexplicably small given the importance of the question – to be given the necessary additional personnel.

Brussels, 4 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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**Opinion of the European Economic and Social Committee on the 'Renewable Energy Progress Report: Commission Report in accordance with Article 3 of Directive 2001/77/EC, Article 4(2) of Directive 2003/30/EC and on the implementation of the EU Biomass Action Plan, COM(2005) 628'**

COM(2009) 192 final

(2010/C 128/26)

On 24 April 2009 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

*The Renewable Energy Progress Report: Commission Report in accordance with Article 3 of Directive 2001/77/EC, Article 4(2) of Directive 2003/30/EC and on the implementation of the EU Biomass Action Plan, COM(2005) 628*

COM(2009) 192 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 October 2009. The rapporteur was **Ms ANDREI**.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November 2009), the European Economic and Social Committee adopted the following opinion by 97 votes to two with four abstentions.

## 1. Conclusions and recommendations

1.1. The EESC considers that climate change represents one of the most important environmental, social and economic threats facing the planet and only fast and responsible measures by all countries can mitigate its effects. However, the EU and its Member States should continue to be the drivers for an ambitious climate policy. The use of renewable resources could represent one of the main tools for reducing greenhouse gases and also for ensuring energy independence and security of supply for Europe.

1.2. The Committee is concerned that the EU is unlikely to reach the 2010 targets set by Directives 2001/77/EC and 2003/30/EC, and urges the Member States to take responsible measures and make every effort to achieve the agreed targets by 2010.

1.3. The EESC highlights the need for a single long-term EU energy strategy. Furthermore, the electricity market needs a stable and predictable long-term regulatory framework.

1.4. The renewable energy sector will offer multiple possibilities for job creation in Europe and regional development.

1.5. In addition, a better evaluation of the supplementary financial pressure put on the family budget should be made available.

1.6. Farmers and SMEs could play a key role in the renewable energy sector.

1.7. The Committee reiterates that in the transport sector, energy efficiency should be the first priority, possibly followed by the use of biofuel, when such a production method is sustainable.

1.8. In order to fulfil their targets, Member States should diversify the technology, using new engines in the transport sector, investing more in alternative fuels such as second and third generation biofuels, encouraging and supporting further R&D.

1.9. For an integrated assessment on biofuel potential and also to avoid the use of valuable agriculture land and precious areas of biodiversity, the EESC proposes that each Member State create and make available a country map showing areas of land appropriate for energy crops.

1.10. Due to concerns regarding the pressure that will be placed on forest exploitation, the EESC recommends that important steps and decisions regarding the biomass used for energy production be taken only after an appropriate monitoring system is in place.

1.11. The Commission should consider allocating appropriate funding to raise public awareness and educate EU citizens on the subject of energy. Further financing should be made available to ensure that experts in the field of energy efficiency and renewable energy production are available.

It should be proposed and reiterated that R&D budgets for renewable energy must be maintained and increased despite the financial crisis affecting Member States and the EU; otherwise all autonomy vis-à-vis other powers may rapidly be lost.

1.12. For the next progress reports, the European Commission should also consider the option of monitoring and reporting the treatment and recycling of renewable energy equipment when it reaches the end of its life cycle.

## 2. Introduction

2.1. On 24 April 2009, the Commission adopted its communication COM(2009) 192 final 'The Renewable Energy Progress Report', accompanied by a more detailed staff working document SEC(2009) 503 final. *The Communication recalls the European policy framework for renewable energy: the importance of renewable energy for meeting our climate change and sustainability objectives, improving the security of our energy supply and developing an innovative European renewable energy industry to generate jobs and wealth for Europe*.

2.2. Under Directives 2001/77/EC and 2003/30/EC, the Commission established 2010 targets for the share of electricity from renewable energy and for the share of renewable energy used in the transport sector. These directives require that EU Member States submit annual reports, analysing progress against their national indicative targets, and that the EC review progress every two years. In addition, a Biomass Action Plan was adopted in 2005 <sup>(1)</sup> to focus attention on the specific need for Member States to develop Europe's biomass resources.

2.3. Member States were free to choose their preferred support mechanism in order to achieve their targets.

2.4. This latest progress report notes the poor progress of the last two years, with only two Member States already reaching their targets. It confirms the earlier analysis indicating that the EU is unlikely to reach the 2010 targets. The EU could reach a 19 % share in electricity consumption from renewable energy, rather than 21 %, and it could reach 4 % instead of 5,75 % from renewable energy resources in the transport sector.

2.5. The report explores the reasons and explains that the new Renewable Energy Directive (2009/28/EC) <sup>(2)</sup>, agreed as part of the energy and climate package, addresses all the concerns highlighted in the report and provides a solid basis for removing barriers and increasing the growth of renewable energy for the next 10 years.

## 3. Commission documents

### 3.1. Renewable energy for the electricity sector

3.1.1. The Commission Communication provides information on progress reports, focusing on data from 2004 to 2006 for electricity and 2007 for biofuel.

3.1.2. The data shows a share of 15,7 % of EU final electricity consumption from renewable energy sources in 2006, up from 14,5 % in 2004. The 2010 target of 21 % will not be reached without significant additional effort. Only two countries, Hungary and Germany, reached their 2010 target, six Member States had made more progress towards their 2010 target than the European average, but seven countries have halted or actually reduced their shares.

3.1.3. The diversity of technologies used has been limited. The highest growth has occurred in the use of solid biomass and wind.

3.1.4. Different rates of progress are registered due to the 27 different support schemes used, consisting of various policy tools, including: feed-in tariffs; premium systems; green certificates; tax exemptions; obligations placed on fuel suppliers; public procurement policy; and research and development. Inconsistency and rapid changes in the policies and budget hamper the development of renewable electricity projects.

3.1.5. The main problems for implementation are identified in the area of administrative barriers and access to the grid: insufficient grid capacity, non-transparent procedures for grid connection, high connection costs and long lead times to obtain permits for grid connection. Those major obstacles are generated more often by limits on administrative and other resources than technological constraints.

3.1.6. In addition, in some Member States grid connection and expansion costs and the charging regimes of some transmission system operators and distribution system operators still favour incumbent producers and discriminate against new, often decentralised, smaller renewable electricity producers. This hampers job creation and growth at local and regional level.

3.1.7. The guarantee of origin regime has still not been implemented fully by all Member States, due to problems of reliability, double counting and the risk of disclosure of the same energy to two different groups of consumers. This has undermined the consumer market for renewable electricity in general.

### 3.2. Renewable energy for the transport sector

3.2.1. The Directive on renewable energy in transport (Directive 2003/30/EC) required Member States to set targets for the share of renewable energy replacing petrol and diesel in transport in 2005 and 2010, taking as their starting point reference values of 2 % and 5,75 % respectively. The progress report of January 2007 <sup>(3)</sup> showed that in 2005, biofuels achieved a share of 1 % in the EU, with only Germany and Sweden reaching the reference targets.

<sup>(1)</sup> COM(2005) 628 Biomass Action Plan.

<sup>(2)</sup> OJ L 140, 5.6.2009, p. 16.

<sup>(3)</sup> COM(2006) 845 Biofuels Progress Report.

3.2.2. According to Member States' reports, in 2007, 8,1 Mtoe (2,6 %) of the total fuel consumed in transport in the EU was from biofuels. In 2007, biodiesel accounted for 6,1 Mtoe or 75 % of renewable fuels in transport, of which 26 % was imported. Bioethanol constituted 1,24 Mtoe or 15 % of renewable fuels in transport of which 31 % was imported, the remaining 10 % being made up of pure vegetable oil consumed in Germany, Ireland and the Netherlands and biogas in Sweden.

3.2.3. Germany, France, Austria, Sweden and the UK remained the top five biofuel consumers in 2006 and 2007, consuming 87 % and 81 % of the total EU biofuels respectively. There was no reported consumption of other types of renewable energy in the transport sector. The use of hydrogen from any source remains insignificant; little electricity from renewable energy sources is used in road transport.

3.2.4. Net bioethanol imports increased from 171 Ktoe in 2005 to 397 Ktoe in 2007 and the share of domestic biodiesel production has been falling. The EU trade balance of biodiesel changed from positive in 2005 (355 Ktoe exported) to negative in 2007 (1,8 Mtoe of biodiesel imported). A major cause of this change was cheaper soy oil methyl ester from the United States and ethanol produced from sugar cane in Brazil and Argentina.

3.2.5. Tax relief and biofuel obligations have been the most common instruments used by Member States to promote biofuels. In 2005-2006, all Member States, except Finland, used excise tax exemptions as the main support measure, while biofuel obligations were only used by three countries. Since 2007 more than half of Member States have adopted obligations to produce blended fuels with a certain biofuel, in most cases combined with partial but increasing levels of taxation. Some countries use a quota mechanism and tender.

3.2.6. Additionally, some Member States provide support for biofuels through specific measures. These policy instruments include measures relating to agriculture such as the production of feed stocks and to industry where necessary operations to achieve the intermediate and finished product are carried out; measures relating to distribution of biofuels; the purchase and maintenance of cars and vehicles utilising biofuels.

### 3.3. *Economic and environmental impact*

3.3.1. From an economic point of view, increased use of biofuels has contributed to security of supply by decreasing fossil fuel dependence and diversifying the fuel mix in the EU.

3.3.2. The biomass and biofuel sectors have also contributed to the EU economy by generating additional jobs. In 2005, non-grid biomass use accounted for 600 000 jobs, biomass grid and biofuels contributed over 100 000 jobs and biogas around 50 000. In addition, agriculture and forestry play an important role in supplying the fuel for biomass technologies.

3.3.3. The net greenhouse gas savings achieved in the EU from biofuels placed on the market and consumed in 2006 and 2007 amounted to 9,7 and 14,0 Mt CO<sub>2</sub> eq respectively. This implies that EU biofuel consumption has been fulfilled through the re-use of recently abandoned agricultural land or through slowing down the rate of land abandonment in the EU.

3.3.4. The introduction of biofuels remains more costly than other CO<sub>2</sub>-abatement technologies in other sectors, but with today's technologies it still remains one of the available solutions to curb the growing CO<sub>2</sub> emissions of the transport sector.

### 3.4. *Infringement proceedings*

3.4.1. Since 2004, the Commission has started 61 legal proceedings against Member States for non-compliance with Directive 2001/77/EC on the promotion of electricity produced from renewable energy sources in the internal electricity market. Of these, 16 have not yet been resolved. On the basis of Directive 2003/30/EC on renewable energy in transport, since 2005 the Commission has started 62 legal proceedings against Member States, many of which were for failure to comply with reporting obligations or failure to set national objectives in compliance with the reference values of the Directive.

### 3.5. *Renewable energy used in heating and cooling*

3.5.1. This sector is responsible for approximately 50 % of all final energy consumption and 60 % of all renewable final energy consumption. It is dominated by biomass, but also includes solar thermal and geothermal energy.

3.5.2. Biomass can be used in the production of heating and electricity, as well as in the form of 'biofuels' i.e. the use of biomass in transport. This is why the EU produced the Biomass Action Plan (BAP) in 2005 with 33 actions, which highlighted the need for coordination of policy, and why this report reviews progress in the biomass sector.

3.5.3. Problems confronting the growth of biomass include administrative and non-market barriers, such as the need for clearer and harmonised definition of terms and bottlenecks arising from long and legally complicated procedures for processing permits.

3.5.4. There are still several administrative barriers that hinder the development of bioenergy plants within EU Member States. The Commission carried out a study on benchmarking bioenergy permits, analysing time requirements in the EU and factors affecting the success or failure of getting a permit.

#### 4. General observations

4.1. The EESC welcomes the Commission's communication, highlighting the ongoing need for a new and stronger legislative framework, including ongoing monitoring and reporting. Some of the identified barriers have already been considered when drafting the new renewable energy directive and guidelines for the National Action Plan.

4.2. The EESC reiterates that it fully supports the use of renewable energy and that it is aware that in the medium to long term a much higher share of renewables than the 20 % envisaged for 2020 will be needed if the Council's ambitious target (a 60-80 % CO<sub>2</sub> emissions reduction and higher energy self-sufficiency) is to be achieved <sup>(4)</sup>.

4.3. The EESC highlights the need for a single long-term EU energy strategy.

4.4. To reach the Community's objectives with regard to the expansion of electricity produced from renewable sources, more public awareness and education is needed to obtain public support. This is why an important role could be played by national programmes for supporting developments in the renewable energy sector.

4.5. The renewable energy sector offers many possibilities for job creation in Europe. The 'Low carbon jobs for Europe' <sup>(5)</sup> WWF study shows that at least 3,4 million European jobs are directly related to renewable energy, sustainable transport and energy efficient goods and services.

4.6. Renewable energy production often depends on local or regional small and medium-sized enterprises (SMEs) and farmers.. The opportunities for growth and employment that regional and

local renewable energy investments bring about in the Member States and their regions are important. The EESC recommends that regional development measures should be taken, encourages the exchange of best practices in renewable energy production between local and regional development initiatives and promotes the use of EU funds in this area.

4.7. In recent years, the Commission has allocated substantial financial resources for the development of second-generation bio-fuel technologies under FP6 and FP7 <sup>(6)</sup>. Under the 'Intelligent Energy Europe II Programme' good practices were also identified to promote bioenergy in EU Member States. Currently, the EU should shift from innovative examples to multiplication of the best practices <sup>(7)</sup> in the most efficient way.

4.8. Financing research on new engines and second generation biofuels and other renewable fuels is necessary; taking measures to enhance market access to alternative fuels is also recommended <sup>(8)</sup>.

4.9. For the next progress reports, the European Commission should also illustrate the options for treating and recycling renewable energy equipment at the end of its life cycle. A good example in this field is the activity of the Association PV Cycle, setting up a voluntary take back and recycling programme for end-of-life modules and to taking responsibility for PV modules throughout their entire value chain, creating the tools for monitoring, reporting and developing best practices in the field.

#### 5. Specific comments

##### 5.1. Renewable energy for the electricity sector

5.1.1. The Committee is concerned that the EU is unlikely to reach the 2010 targets set up under the two directives. We therefore urge Member States to take responsible measures and to devote all the efforts needed to fulfil the agreed targets, even if they were not mandatory. As the Stern report emphasised, inaction will be much more expensive in the long run.

<sup>(4)</sup> EESC Opinion on The use of energy from renewable resources, OJ C 77, 31.3.2009, p. 43-48.

<sup>(5)</sup> [http://assets.panda.org/downloads/low\\_carbon\\_jobs\\_final.pdf](http://assets.panda.org/downloads/low_carbon_jobs_final.pdf).

<sup>(6)</sup> Over EUR 109 million according to the report.

<sup>(7)</sup> BAP Driver – European Best Practice Report, available at: <http://www.bapdriver.org/>.

<sup>(8)</sup> EESC Opinion on Alternative fuels for road transport, OJ C 195, 18.8.2006, p. 75-79.

5.1.2. Today 27 different national support schemes exist, and there is a risk that Member States will outbid each other to reach their targets, making it more expensive than necessary. In order to fulfil their targets, Member States should diversify the technology used, encouraging and supporting more R&D <sup>(9)</sup> and proper education and training <sup>(10)</sup>. A good example of the development of R&D with the financial support of the state is the IMEC centre in Belgium (www.imec.be).

5.1.3. The EESC again underlines the need for a common strategy for energy policy on the part of Member States, based on cost-benefit analysis. Many bodies, including the EESC, have called for the EU to speak with one voice. However, as long as some Member States look primarily to their own interests, the European energy arena will remain weaker, more vulnerable and less efficient than it could potentially be; the larger the Member State is, the more impact it will have <sup>(11)</sup>. In this respect, at the end of June the EC presented the guidelines for the National Action Plan <sup>(12)</sup> for renewable energy, facilitating a common understanding of the use of renewable energy.

5.1.4. In order to overcome the main barriers identified in the report regarding access to the grid, there is a need for strong support for renewable energy utility grid integration as well as for the use of intermittent energy storage systems (such as batteries) for integrated renewable energy production. Regarding administrative barriers, Member States should give serious consideration to the Commission's recommendation for a *single administrative body responsible for all necessary authorisations, working in a more transparent way* <sup>(13)</sup>. Furthermore, the electricity market needs a stable and predictable long-term regulatory framework and a better harmonisation of the incentive programmes of the Member States.

5.1.5. Proper implementation in all Member States of the guarantee of origin regime could contribute to reaching the target more cost effectively at the European level.

## 5.2. Renewable energy for the transport sector

5.2.1. The EESC agrees with the Commission's statement that 'the introduction of biofuels remains more costly than other CO<sub>2</sub>-abatement technologies in other sectors', but cannot agree that: 'it still remains one of the few available solutions to curb the

growing CO<sub>2</sub> emissions of the transport sector', as long as sustainable transport programmes are not properly implemented in all Member States.

5.2.2. The need for energy efficiency in the transport sector is imperative: a binding percentage target for renewable energy is likely to become increasingly difficult to achieve sustainably if overall demand for energy for transport continues to rise. The EESC has pointed out on a number of occasions that this issue should be tackled with a policy of traffic prevention and a change in the modal split, and also market incentives in favour of more climate-friendly modes of transport such as local public transport and shipping <sup>(14)</sup>.

5.2.3. Currently, European production from renewable energy sources in the transport sector is almost exclusively restricted to biofuels, which cover only 2,6 % for 2007, of Europe's energy needs in the transport sector. In its opinion <sup>(15)</sup> on the progress made in the use of biofuels, the Committee argued that the policy thus far pursued should be reconsidered, emphasising second-generation agrofuels. At the same time, the development of second-generation conversion technologies should be promoted and supported: they can use raw material from 'fast-growth crops', based principally on herbaceous or forestry crops or agricultural by-products, thereby avoiding the use of the more valuable agri-food seeds <sup>(16)</sup>.

5.2.4. In order to avoid the use of agriculture land and areas with biodiversity value, for producing biofuel, EESC is proposing that each MS should make available a country map, showing the areas allocated for energy crops. This measure will also contribute to a better estimation of the biofuel potential at the European level.

## 5.3. Economic and environmental impact

5.3.1. The Commission document on the economic and environmental impact is fairly optimistic, focusing largely on the positive impact and overlooking the impact of biofuels on food prices. Therefore the EESC recommends that the use of agriculture to produce high-quality food should take precedence over its use for energy production in order to react to higher food prices. The European Union should take steps to improve promotion of sustainability criteria for biofuels and the development of second and third-generation biofuels. By initiating a biofuels certification system, the EU will take the lead in promoting sustainable cropping practices (including land use change and biodiversity protection) inside and outside its borders.

<sup>(9)</sup> EESC Opinion on Facing the oil challenges, CESE 46/2009 (point 5.8).

<sup>(10)</sup> OJ C 277, 17.11.2009, p. 15-19.

<sup>(11)</sup> OJ C 228, 22.9.2009, p. 84-89.

<sup>(12)</sup> Commission decision C(2009) 5174-1/30.6.2009.

<sup>(13)</sup> OJ C 182, 4.8.2009, p. 60-64 (point 4.7).

<sup>(14)</sup> EESC Opinion on The use of energy from renewable resources, OJ C 77, 31.3.2009, p. 43-48.

<sup>(15)</sup> EESC opinion on Biofuels Progress Report, OJ C 44, 16.2.2008, p. 34-43.

<sup>(16)</sup> OJ C 162, 25.6.2008, p. 52-61.

5.3.2. The Commission document does not assess the economic and social impact of using renewable energy sources on the final consumers' budget.

5.4. *Renewable energy used in heating and cooling*

5.4.1. Due to the use of biomass in the production of heating and electricity, as well as in the form of 'biofuels', the Committee anticipates strong pressure on forests. In addition to this, the fact

that more than 70 studies <sup>(17)</sup> funded by the European Commission regarding the total 2020 potentials estimated for the EU-27 differ to a considerable degree (76 Mtoe – 480 Mtoe) increases our concern regarding forest management and the pressure that will be placed on forest exploitation. Important steps and decisions regarding the biomass used for energy production will be taken only after an appropriate monitoring system is in place. It thus looks forward to receiving the Commission's planned report on biomass sustainability <sup>(18)</sup>.

Brussels, 4 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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<sup>(17)</sup> Status of Biomass Resources Assessments Version 1, December 2008: <http://www.eu-bee.com/>.

<sup>(18)</sup> Article 17 of Directive 2009/28/EC

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on Aviation Security Charges'**

COM(2009) 217 final – 2009/0063 (COD)

(2010/C 128/27)

Rapporteur: **Mr OPRAN**

On 20 July 2009, the Council decided to consult the European Economic and Social Committee, under Article 80, paragraph 2, of the Treaty establishing the European Community, on the

*Proposal for a Directive of the European Parliament and of the Council on Aviation Security Charges*

COM(2009) 217 final – 2009/0063 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 October 2009. The rapporteur was Mr Opran.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November), the European Economic and Social Committee adopted the following opinion by 130 votes to 4 with 2 abstentions.

## 1. Recommendations and proposals

1.1. The Committee recommends that the Parliament and the Council **adopt the Commission's draft Directive on aviation security costs, so that the modern methodology and solutions proposed may be implemented by all Member States as swiftly as possible.**

1.2. At the same time the EESC proposes that **the following corrections and changes should be made** for the sake of greater clarity and ease of application of the modern methodology and solutions proposed by the Commission:

1.2.1. With reference to the Explanatory Memorandum, paragraph 3 'Legal elements of the proposal', subparagraph 'Non-discrimination', the Committee proposes that this should take account of the contribution (including as regards research and development costs) of aircraft manufacturers to raising the security level of aircraft, so that the paragraph reads as follows: **'The costs of charging for air security should be fair and non-discriminatory as regards air companies, passengers and the aeronautic industry'**.

1.2.2. With reference to Article 1 – 'Subject matter' of the draft Directive, the Committee proposes that subparagraph 1 should be modified as follows: **'This Directive sets common principles at EU level for the calculation and levying of security charges for all Community airports'**.

1.2.3. With reference to Article 4 – 'Consultation', the Committee proposes that subparagraph 2 should read as follows: **'Member States shall ensure that a Committee of aviation operators is established in every airport. This Committee shall participate in a compulsory and regular procedure for consultation with the airport managing body with respect to the operation of the system of security charges and the level of such charges. That consultation shall take place whenever necessary and**

**no less than once a year. Representatives of civil organisations supporting the interests of air passengers shall be invited to participate permanently in the work of the Committee as full members or observers, on a case-by-case basis'**.

1.2.4. Taking into consideration the financial effort imposed on the Member States to support the establishment of the new authorities, the EESC considers that **the Commission, the Parliament and the Council should finally decide between the following two possible options:**

1.2.4.1. to accept the professional and well trained structures of NASC's secretariats to fulfil the role of 'Independent Task Units', avoiding financial support;

1.2.4.2. to maintain the initial decision to set up new independent structures.

1.2.5. Similarly the Committee, which is convinced that activities relating to the provision of national security in general and the fight against terrorist threats in particular are key responsibilities of the Member States, considers that **governments' financial participation in covering the costs of air security should be reviewed and their contribution towards the costs – currently borne by airports, air operators and passengers – substantially increased.**

## 2. Conclusions and remarks

2.1. The new methodology proposed by the Commission to calculate charges for civil aviation security service providers is based on the selection and definition of **a set of basic principles** with which all airport operators in this sector must comply when establishing the level of charges to be borne by all or one or more categories of the potential users (States, airport authorities, aviation companies and passengers):

— subsidiarity;



- state responsibility;
- charging / tariffs;
- information and communication;
- harmonisation;
- transparency;
- setting up a National Independent Supervisory Authority (NISA) in each Member State.

2.2. After a careful assessment of the basic principles proposed by the Commission, the Committee considers that their practical implementation can eliminate current procedural distortions, ensuring the successful implementation of the new innovative methodology.

2.3. Regarding the need to establish a National Independent Supervisory Authority in every Member State, the Committee outlines that:

2.3.1. A National Aviation Security Committee (NASC) has already been set up in every EU country, with an inter-ministerial structure.

2.3.2. The secretariat of the NASC – despite the fact that it can not be considered a true independent body – can act as a supervisory task unit with all the necessary professional, human and financial resources at its disposal, ensuring that the provisions of the Directive are applied properly and efficiently. The EESC believes that, in general terms, matters affecting the security of people in a Member State should not be made completely independent, but should ultimately be subject to democratic parliamentary supervision.

2.4. The Committee appreciates the Commission's professional work, especially the use of computer modelling, on evaluating the **various major options for aviation security charges** based on the international principles in force.

2.4.1. The **EU plays no part in the process** and the consequences of this position.

2.4.2. **The practice of self-regulatory policies accepted by ICAO and industry** could protect the interests of passengers and more efficiently promote aviation security services through direct consultation between air carriers and airports.

2.4.3. **Similar to option '2.4.2', but regulated by a European directive.**

2.4.4. Member States **bear the full cost of covering airport security expenses**, which would eliminate any security costs to third parties and any discrimination in order to correctly select the optimal 'win-win' solution for passengers, airport authorities, air companies and governments.

2.5. The Committee supports the Commission's decision, concluding too that **the third option best serves the interests of consumers and boosts the efficiency of airport security services provided**, outlining also that the administration of this option at national level and the consequent rise in costs could be negligible if the Commission can agree to use as dedicated task units the NASC secretariats already set up in accordance with the provisions of the Directive on airport charges <sup>(1)</sup>.

2.6. At the same time the Committee considers that the option selected by the Commission will reach the expected target only if **the governments agree in their turn to make a substantial increase in their contribution** to the related costs.

2.7. With reference to the Directive's provisions on transparency, the Committee believes that these should state clearly that this aspect refers not only to problems related to air security costs, but also and to the same extent to the existing financing mechanisms; air operators and passengers will only have an **accurate grasp of how airport authorities calculate security charges if these financing mechanisms are rendered open and transparent**. In the same way, the costs of security personnel and the main performance indicators relating to them must be publicly available.

2.8. With reference to the Explanatory Memorandum, paragraph 3 'Legal elements of the proposal', subparagraphs 'Consultation and remedy' and 'Transparency', the Committee considers that **representatives of organisations of air passengers, as the principal contributors to the budget allocated to air security, should take part in the relevant dialogue between the airport authorities and the aviation companies**, if only with the role of observers. It would thus be possible to avoid the introduction or unjustified continuation of security procedures which are costly and embarrassing to passengers, without contributing to a significant reduction of terrorist threats. As a rule, such measures are proposed in addition to the standard procedures by the US and/or Israeli authorities. They are applied in certain situations depending on the level of risk, yet some EU security authorities, from an excess of zeal and sometimes from the fear of being responsible for incorrectly assessing the level of risk, endeavour to make them permanent practice. For this reason they usually reject many proposals coming from organised civil society for joint discussion on these matters.

2.8.1. Thus, at Brussels National Airport, passengers are asked to remove their shoes before passing through the metal detecting gate, with their footwear being scanned separately; this creates the risk of contamination when passengers walk barefoot from the security check area where millions of viruses may be lurking, for example from a sneeze by a person with as yet undiagnosed swine flu. At the same time, the airport administration has acquired, using public money, an important number of the latest generation scanning and detecting equipment to check passengers' footwear while it is still on the passengers' feet; this equipment has been installed in the security check area, but is not used during the security checking procedures of the passengers.

<sup>(1)</sup> OJ L 70, 14.3.2009, p. 11.

2.8.2. Another current debateable case is the ban on bringing more than a ludicrous authorised volume of liquids on board; the established threshold being primarily prompted by excessive and unjustified zeal at the ridiculous value of 100 ml per passenger.

2.9. Despite of the incompatibility between the draft Directive's ban on reaping operational profit from activities providing aviation security services and the philosophy governing the existence and operation of private companies, geared towards optimising profit, in the same time trying to avoid any further misinterpretations of Article 7 of the proposed Directive, the Committee strongly proposes for the Commission to accept private companies as air security service providers for airports, with the exemption of screening and detecting operations.

2.10. The EESC believes that the proper application of the Commission's proposal, together with a **stronger role for civil society representatives**, could offer major benefits for people in Europe and the rest of the world, together with the aviation industry and EU airport operators.

### 3. General comments

#### 3.1. *The Commission's proposal for a Directive – the result of broad consultation*

3.1.1. While drafting the Directive, DG TREN consulted Member States and vocational organisations representing industry and consumers, using data received from eleven Member States, nine professional organisations of airport administrations and air carriers, also one association representing air passengers.

3.1.2. None of the Member States supported the proposal whereby security costs should be borne in full by national governments, arguing that they are an integral part of the cost of doing business in the aviation sector, which should be borne by the aviation industry, along the lines of the car industry's investments in improving car safety. Every Member State called for a total ban on reaping operational profits from these activities, stressing the need to guarantee a high level of transparency in this area.

#### 3.2. *Definition of the problem*

##### 3.2.1. Breakdown of the cost of aviation security

3.2.1.1. There are three major components: airport security costs, aviation company costs and the costs borne by Member States. Security checks on passengers and cargo (luggage) make up the bulk of these costs.

3.2.1.2. There are two parts to the cost of security checks: wages and the cost of infrastructure and equipment. Security services are generally provided by competent national organisations or are delegated to the airport administration or a specialised private firm.

##### 3.2.2. How much does it cost and who pays in the end?

In 2007, costs of providing air security throughout the EU amounted to an estimated EUR 1.6 bn, representing approximately 1 % of the average cost of an air ticket paid by the over 636 million passengers boarding at Community airports. The bulk of the costs borne by Member States and industry are recovered from the fees and additional costs paid by air passengers. In total, aviation companies, passengers and air freight cover over 90 % of the costs of aviation security services, while Member State governments cover only 6 % to 7 % of these costs through budget allocations.

##### 3.2.3. Discriminatory practices in the field of aviation security service costs

Air passengers are subject to the same security checks regardless of their destination throughout the EU, including domestic flights. Security costs should thus be identical. Unfortunately, in order to cut their costs, aviation companies pass on to passengers the costs of security checks that they should in fact bear themselves. Generally speaking, national companies bring the strength of their position to bear in their national airports, slanting the price structure in favour of domestic flights and raising the ticket price for flights originating abroad.

**Table 1: Cost of aviation security per passenger for external flights within the EU and domestic flights**

Country / Airport	Intra-EU	Domestic
Romania – Bucharest Airport	EUR 7,50	EUR 3,81
Spain – all airports	EUR 1,39	EUR 1,18
Lithuania – Vilnius	EUR 2,32/MT of Max. Take-Off Weight of the aircraft	Max. EUR 1,16/MT of Take-Off Weight of the aircraft
Cyprus - Larnaca	EUR 0,39	0

Table 1 gives examples of the practice whereby many national companies apply different security service costs for international and domestic flights, a practice in complete contradiction with the provisions of Article 5 of Framework Regulation 300/2008 on aviation security <sup>(2)</sup>.

##### 3.3. *Modelling and simulating a variety of options / selecting the optimal solution*

When preparing the Directive, the Commission used mathematical simulation to assess four different options based on the existing international principles relating to the charges of providing aviation security.

##### 3.3.1. *Option 1: The EU plays no part in the process and the consequences of this position*

The charges applied will lead to major discrimination between aviation companies and passengers.

<sup>(2)</sup> OJ L 97, 9.4.2008, p. 72.

3.3.2. Option 2: *The practice of self-regulatory policies accepted by ICAO and industry* could protect the interests of passengers and more efficiently promote aviation security services through direct consultation between carriers and airports.

A similar framework has existed since 1981 in the form of the ICAO rules but self-regulation has not yielded any significant results.

3.3.3. Option 3: *Similar to option 2, but regulated by a European directive.*

In addition, aviation companies can take legal action against airports if security charges are discriminatory or used for a purpose other than covering security costs. This solution is supported by a series of connected EU policies and is in line with national legislation in this area.

3.3.4. Option 4: Member States **bear the full cost of airport security expenses**, which would eliminate any security expenses incumbent on third parties and any discrimination.

This solution discourages improvements in the quality of security services, since operators in the sector would not be encouraged in any way to control their costs. Furthermore, this option has been vehemently rejected by all Member States.

3.4. *The Committee's evaluation of the Commission's choice of principles used to define the new methodology*

3.4.1. Subsidiarity

3.4.1.1. This applies when the proposal is outside the scope of exclusive Community competence and when its objectives cannot be achieved satisfactorily by Member States acting individually, because the systems for establishing security and airport charges are not uniformly regulated across the EU.

3.4.1.2. Charging systems continue to vary between Member States, preventing the establishment of a level playing field for airports and air carriers.

3.4.1.3. Applying a common set of basic rules regarding security charges throughout the EU will level the field between the partners in the aviation sector as regards setting the parameters for allocating airport security costs.

3.4.1.4. There are a number of different charging systems in the EU, owing to the absence of uniformly applied guiding principles for calculating security charges. The Directive eliminates ambiguities in this field by defining and proposing a single method for calculating such charges, thus rendering uniform application possible.

3.4.1.5. The proposal restricts itself to laying down a set of minimum rules to be complied with when Member States and/or airport operators establish the level of security charges. The Directive does not impose any one charging system; the choice of system is left up to Member States.

**Conclusion:** the selection and application of the principle of subsidiarity is correct and necessary for the implementation of the new Directive.

3.4.2. State responsibility

3.4.2.1. As in the case of subsidiarity, this applies when the proposal is outside the scope of exclusive Community competence; similar problems arise for both of the principles adopted with a view to drafting the Directive.

3.4.2.2. The proposal restricts itself to laying down a set of minimum rules to be complied with when Member States and/or airport operators establish the level of security charges. The Directive does not impose any one charging system; the choice of system is left up to Member States.

**Conclusion:** the selection and application of the principle of State responsibility is correct and necessary for the implementation of the Directive, with due consideration for the potential for asymmetric, conflictual conditions and the disparity between Member States in the levels of terrorist alert that must be provided, as well as the nationality of the carrier. Governments' financial contribution to providing air security must be re-evaluated and substantially increased, since the executive is the State body largely responsible for fighting terrorism.

3.4.3. Charging

3.4.3.1. The collection of charges for the provision of air navigation and groundhandling services has already been covered by Commission Regulation (EC) 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services <sup>(3)</sup> and Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports <sup>(4)</sup>.

3.4.3.2. The legal costs relating to security cannot be laid down by a common charging scheme owing to major disparities in the levels of Member States' contributions to developing, setting up and putting into practice air security systems in national airports.

**Conclusion:** the selection and application of the principle of charging is correct and necessary for the implementation of the Directive; however, it is impossible to draw up a common charging scheme owing to the wide range of conditions across the EU.

<sup>(3)</sup> OJ L 341, 7.12.2006, p. 3.

<sup>(4)</sup> OJ L 272, 25.10.1996, p. 36.

### 3.4.4. Information and communication

3.4.4.1. Generally speaking, users at airports in Europe and on other continents are organised into committees of airport operators engaged in permanent dialogue with the airport administration.

3.4.4.2. This framework allows information to be exchanged regarding the procedure and the basis for calculating security charges, specifically users' operational forecasts, development plans, specific requests and proposals.

**Conclusion:** the principle of information and direct communication between security operators and airport authorities has been chosen correctly and is apt for the implementation of the new Directive; it would become still more important if PR activities were included.

### 3.4.5. Harmonisation

3.4.5.1. The rate base for security costs could be harmonised in Community airports, where these costs are fully covered by security charges.

3.4.5.2. The yield accrued from the application of these charges must not exceed the total costs incurred in providing security, including all public funds; in short, no operational profit from this type of activity is allowed.

3.4.5.3. For this reason, security charges in general cannot be fully harmonised.

**Conclusion:** the selection and application of the principle of harmonising the rate base is correct and necessary for the implementation of the Directive, although attention is drawn to the impossibility of harmonising all the charges and to the ban on reaping operational profit.

### 3.4.6. Transparency

3.4.6.1. Transparency must be guaranteed when the existence of national security measures more restrictive than the specific

Community standards laid down in Regulation (EC) 300/2008 of the Parliament and the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) 2320/2002 has an impact on the economy.

3.4.6.2. It should be noted that some of these measures may only be imposed, permanently or temporarily, at the express request of one or more air operators.

**Conclusion:** the selection and application of the principle of transparency is correct and necessary for the implementation of the Directive, when national security measures are more restrictive than Community measures or at the express request of the air operators. It must be complemented by detailed information regarding the sources of the funds and the bodies responsible for collecting the funds allocated, should they be other than the airport authorities.

### 3.4.7. Need to establish a National Independent Supervisory authority in every Member State

3.4.8. A national aviation security committee has already been set up in every Member State, with an inter-ministerial structure.

3.4.9. As a governmental structure, the NASC secretariats cannot fully act as an independent supervisory authority, but we consider that – based on the professionalism and international reputation of their specialists and on the financial resources at their disposal – they can supervise in a neutral way that the provisions of the Directive are applied properly and efficiently.

**Conclusion:** establishing an independent supervisory authority is correct and necessary for the successful implementation of the provisions of the new directive. Despite their integration in governmental structures, the Committee considers that the NASC's secretariats can fulfil this role in a neutral and professional way, minimising the financial effort of the Member States to set up the new structures and to help them to become operational.

Brussels, 5 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Decision of the European Parliament and of the Council on Community guidelines for the development of the trans-European transport network’**

**(Recast)**

COM(2009) 391 *final* — 2009/0110 (COD)  
(2010/C 128/28)

On 11 September 2009, the Council decided to consult the European Economic and Social Committee, under Article 156 of the Treaty establishing the European Community, on the

*Proposal for a Decision of the European Parliament and of the Council on Community guidelines for the development of the trans-European transport network (Recast)*

COM(2009) 391 *final* – 2009/0110 (COD).

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it decided unanimously, at its 457th plenary session of 4 and 5 November 2009 (meeting of 4 November) to issue an opinion endorsing the proposed text.

Brussels, 4 November 2009

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive .../.../EC of the European Parliament and of the Council of [...] on uniform procedures for checks on the transport of dangerous goods by road'**

**(codified version)**

COM(2009) 446 final – 2009/0123 (COD)

(2010/C 128/29)

On 29 September 2009, the Council decided to consult the European Economic and Social Committee, under Article 156 of the Treaty establishing the European Community, on the

*Proposal for a Directive .../.../EC of the European Parliament and of the Council of [...] on uniform procedures for checks on the transport of dangerous goods by road (codified version)*

COM(2009) 446 final - 2009/0123 (COD).

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it unanimously decided, at its 457th plenary session of 4 and 5 November 2009 (meeting of 4 November 2009), to issue an opinion endorsing the proposed text.

Brussels, 4 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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## Opinion of the European Economic and Social Committee on the 'European Year of Volunteering 2011'

COM(2009) 254 final (2009/0072 (CNS))

(additional opinion)

(2010/C 128/30)

Rapporteur-general: **Ms Soscha zu EULENBURG**

On 29 September 2009, the Bureau of the European Economic and Social Committee, acting under Rule 29A of the implementing provisions of the Rules of Procedure, decided to draw up an additional opinion on the:

*European Year of Volunteering 2011*

COM(2009) 254 final (2009/0072 (CNS))

and instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Ms Soscha zu Eulenbourg as rapporteur-general at its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November), and unanimously adopted the following opinion:

### 1. Conclusions

1.1. The EESC welcomes the proposal for the European Year of Volunteering 2011. This initiative recognises the valuable contribution made by those many citizens who, by volunteering in a variety of areas, place themselves at the service of society and social cohesion in Europe.

1.2. The EESC considers that the objectives set for the year are such that they will secure added value for the European public.

1.3. The EESC emphasises that volunteer work must not be exploited for other ends.

1.4. In order to generate long-term synergistic benefits, close links should be forged with other European years: 2010 (combating poverty) and 2012 (active ageing and intergenerational solidarity).

1.5. The EESC proposes that a political agenda to promote volunteer work and the appropriate infrastructure be put in place in the EU Member States.

1.6. The EESC feels that a propitious environment is needed to garner the required support and secure the proper infrastructure for voluntary work at local, regional, national and European level and to enable the public to take part.

1.7. The EESC advocates the establishment of lasting European-level structures. The setting-up of a stakeholder platform for volunteering activities could help achieve this objective.

1.8. The EESC feels that considerably more funding is urgently needed to meet the declared objectives and give due consideration to the local dimension.

1.9. The stakeholders involved must be given time to prepare and implement the year effectively. The Council and the European Parliament should therefore take the necessary substantive and financial decisions as quickly as possible.

1.10. On the basis of the evaluation report, a white paper should be drawn up indicating follow-up and further steps and measures to be taken at European level.

### 2. Objectives of the Commission proposal

2.1. In June 2009, the Commission submitted a proposal for a Council decision on the European Year of Volunteering 2011. This European Year is designed to promote the importance and usefulness of voluntary work for European societies.

2.2. The Commission proposes four objectives for the European Year of Volunteering:

- The creation of an enabling environment will help anchor volunteering as part of promoting civic participation and people-to-people activities.
- To facilitate volunteering and to encourage networking, mobility and cooperation, voluntary organisations are to be empowered and the quality of the activity improved.
- Volunteering activities are to be rewarded and recognised, not least by encouraging appropriate incentives for individuals, business and organisations.
- The general public are to be made more aware of the value and importance of volunteering.

2.3. The objectives are to be realised through exchanges of experience, the dissemination of study findings, the staging of conferences, and events such as information and PR campaigns. Funding of EUR 6 million has been earmarked for 2011, with an additional EUR 2 million for preparatory work in 2010.

### 3. General comments

3.1. The EESC welcomes the Commission proposal for the European Year of Volunteering. The Commission is thus acting on requests and suggestions expressed by the EESC and other civil society organisations, and by the European Parliament.

3.2. The EESC is very pleased to note the Commission's willingness to pursue in-depth civic dialogue with civil society organisations. The aim in relation to the coordinating bodies that are to be set up and in the planning and execution of the relevant activities must be, at national level too, to involve civil society organisations and work out appropriate national and European policy agendas. The open method of coordination could serve as a model here.

3.3. The name 'European Year of Volunteering' is well chosen, in that it takes in the full spectrum of the issue at hand. It is specific enough for the European public to relate to and provides sufficient scope to cover all the various facets of voluntary engagement. The name thus reflects both the cross-cutting nature of volunteering activity and the myriad of sectors in which volunteers operate. It should therefore be retained.

3.4. The EESC is pleased at the emphasis placed on the importance of volunteering as an expression of civic involvement, European values, solidarity and European societal development. The EESC has noted the significance of this aspect in a number of opinions.

3.5. Voluntary work must never, on any account, be exploited for other ends. Volunteers are not political tools: they are an expression or component of active citizenship. Thanks to their commitment, they give practical shape and form to abstract values such as social integration, social cohesion, solidarity and lifelong learning in areas such as the environment, sport, human rights, culture, to name but a few.

3.6. At several points in the proposal, the Commission highlights the danger of voluntary work being exploited for other ends, for instance, on the labour market or with regard to employability. Recital 3, for example, emphasises volunteering activity as 'a non-formal learning experience which enables both the development of professional skills and competences as well as a major form of active civic participation which enables both the development of professional skills and competences as well as a major form of active civic participation'. Non-formal learning experiences, which may indeed make it easier to find a job and boost employability, are a very positive by-product.

3.7. The current economic and financial crisis is often cited as an illustration of the need for a rethink in various different areas. Great care must be taken to resist the knee-jerk urge to fall back on volunteers to mitigate adverse social impacts of the crisis. In

fact, for the voluntary sector, the crisis is once again showing the real social value of civic participation, demonstrating solidarity in practice and giving people the chance to work to help their fellows, while at the same time helping themselves, not least in improving skills and/or building up social networks. Voluntary work has the potential, therefore, to cushion the effects of the crisis and help prevent society from drifting apart. This, however, is not a consequence of the crisis, but a reflection of the genuine value of voluntary commitment that is now being 'rediscovered'.

### 4. Specific comments

#### 4.1. *Creating a suitable environment*

4.1.1. A legal framework is needed to secure the infrastructure required for voluntary work at local, regional, national and European level and to make it easier for people to get involved. Furthermore, the requisite financial and political conditions must be in place to remove any obstacles to voluntary work. <sup>(1)</sup>

#### 4.2. *Empowering organisations*

4.2.1. Promoting voluntary organisations as places and catalysts for civic engagement is crucial: these organisations are for the most part the first and only contact point for volunteers and have often been set up by volunteers themselves. In 2011, particular attention should be paid to exchanges of experience and to improving the capacity and quality of work of voluntary organisations, which are the backbone of civil society and voluntary participation.

4.2.2. The aim must be to establish sustainable structures at a European level too. A stakeholder platform for volunteering activities could ensure that the impact of this initiative is felt beyond 2011 and that steps are taken to foster a policy conducive to voluntary work.

4.2.3. The European Year of Volunteering 2011 should be used as an opportunity to highlight and exchange examples of best practice.

#### 4.3. *Improving quality*

4.3.1. In connection with improving quality, the Commission proposal refers *inter alia* to 'professionalisation'. This notion is open to misunderstanding and should be avoided. The main aim is to safeguard the quality of volunteering activity. Volunteers have the right to invest their free time in sectors they enjoy. Their commitment provides a service to society, to individuals – and also to themselves. Action is needed to secure the funding and staffing required to raise skills levels, to provide, further education and training and to give support during voluntary work.

<sup>(1)</sup> One example amongst many such obstacles: in several countries, the number of hours those not in paid employment are allowed to work on a voluntary basis is severely restricted.



#### 4.4. *Recognition of volunteering activities*

4.5. The EESC welcomes the emergence of a 'culture of recognition'. However, the word 'reward' should be avoided in reference to volunteers. It creates confusion as the reward in question is not, of course, financial. Moreover, the term 'reward' is not without controversy. The European Year of Volunteering 2011 should not blur the difference between paid employment and unpaid voluntary activity, but rather seek to show how both are mutually reinforcing.

#### 4.6. *Raising awareness about the value and importance of volunteering*

4.7. Raising awareness among the general public is welcomed as a key objective. However, care must be taken to ensure that sufficient resources are in place to achieve this. An effective and successful EU-level awareness-raising campaign conveying the opportunities and usefulness of volunteering would, if the message is really to get through to people, cost in the region of EUR 3.5 million, thereby immediately using up more than half the available funding. This figure does not seem enough. For comparison: spending on the European Year of Education through Sport in 2004 was EUR 12.3 million. The evaluation report requested by the Commission itself found, however, that awareness of this year among the European public was low or virtually non-existent and that its core messages had not come through.

#### 4.8. *Funding*

4.8.1. The proposal provides for funding to the tune of EUR 6 million for activities in 2011 and EUR 2 million for preparatory work in 2010. If the stated objectives are to be achieved, and if, more importantly, due attention is to be paid to the local dimension of voluntary work among the European public, the EU must put come up with realistic funding. We consider EUR 6 million for all the activities at European and Member State level to be insufficient. It would be disastrous if 2011, with less than half the budget of the 2004 year mentioned above, were to end up with a similar result and if the worthy objectives were not attained simply because of lack of funding.

4.8.2. In 2005, the UK government provided GBP 10 million for the British Year of Volunteering alone, and the Valencia region set aside EUR 4.2 million for a similar year in its area. The special 2010 year can serve as a good example of a realistic budget at EU level: a sum of EUR 17 million has been made available, of which EUR 9 million is earmarked for activities in the Member States. In turn, the Member States have agreed to provide an additional EUR 9 million.

#### 4.9. *White paper*

4.9.1. For monitoring and evaluation purposes, the Commission intends to submit a report on the implementation and outcome of the venture and an overall assessment of the initiatives undertaken. The EESC notes its proposal in this regard and strongly recommends setting out further steps and measures in a white paper so that the European year can have a lasting impact.

#### 4.10. *Using synergies*

4.10.1. It is vital to identify and exploit the synergies between 2010 (combating poverty), 2011 (volunteering) and 2012 (active ageing and intergenerational solidarity). These three European years provide a unique opportunity to give a certain cohesion to the activities of the European institutions and the Member States in the field of civic solidarity throughout the entire period – and thus to achieve lasting results. The organising teams responsible for these three years in the European and national institutions should work closely together.

#### 4.11. *Interinstitutional process*

4.11.1. To give all the stakeholders involved time to prepare and implement the European year, the Council and the European Parliament should be urged to take the necessary decisions without delay. The end of 2009 should be the deadline for this so that the preparatory phase can officially begin and the relevant funding released.

Brussels, 5 November 2009.

*The President*  
*of the European Economic and Social Committee*  
Mario SEPI

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