

**FOLLOW-UP PROVIDED BY THE EUROPEAN COMMISSION**

**TO THE OPINIONS OF THE**

**EUROPEAN ECONOMIC AND SOCIAL COMMITTEE**

**PLENARY SESSION OF FEBRUARY 2021**

**DISCLAIMER:**

**Due to current circumstances of the COVID-19 pandemic, announcements made in this report may be subject to revision in coming weeks or months.**

N°	Title	References
<b>SG.RECOVER.A.1</b>		
1.	<u><a href="#">The Annual Sustainable Growth Strategy 2021</a></u> Rapporteur: Krzysztof Stanislaw BALON (PL-III)	ECO/537 COM(2020) 575 final EESC-2020-04985-00-00-AC
<b>TAXUD</b>		
2.	<u><a href="#">Package for fair and simple taxation</a></u> Rapporteur: Krister ANDERSSON (SE-I) Co-rapporteur: Javier DOZ ORRIT (ES-II)	ECO/531 COM(2020) 312 final COM(2020) 313 final COM(2020) 314 final EESC-2020-03578-00-00-AC
<b>ENER</b>		
3.	<u><a href="#">A Renovation Wave for Europe</a></u> Rapporteur: Pierre Jean COULON (FR-II) Co-rapporteur: Aurel Laurențiu PLOSCEANU (RO-I)	TEN/723 COM(2020) 662 final EESC-2020-04884-00-00-AC
<b>REGIO</b>		
4. (Asoc UKS.1)	<u><a href="#">Brexit Adjustment Reserve</a></u> Rapporteur-general: Florian MARIN (RO-II)	ECO/542 COM(2020) 854 final EESC-2021-00589-00-00-AC
<b>FISMA</b>		
5.	<u><a href="#">A Capital Markets Union for people and businesses – new action plan</a></u> Rapporteur: Pierre BOLLON (FR-I)	ECO/533 COM(2020) 590 final EESC-2020-04974-00-00-AC

6.	<a href="#"><u>Digital Finance Strategy</u></a> Rapporteur: Petru Sorin DANDEA (RO-II) Co-rapporteur: Jörg Freiherr FRANK VON FÜRSTENWERTH (DE-I)	ECO/534 COM(2020) 591 final EESC-2020-04935-00-00-AC
7.	<a href="#"><u>Crypto assets and distributed ledger technology</u></a> Rapporteur: Giuseppe GUERINI (IT-III)	ECO/535 COM(2020) 593 final COM(2020) 594 final EESC-2020-04982-00-00-AC
8.	<a href="#"><u>Digital operational resilience</u></a> Rapporteur: Antonio GARCÍA DEL RIEGO (ES-I)	ECO/536 COM(2020) 595 final COM(2020) 596 final EESC-2020-05040-00-00-AC
<b>HOME</b>		
9.	<a href="#"><u>Asylum management under the New Pact on Migration and Asylum</u></a> Rapporteur: Dimitris DIMITRIADIS (EL-I)	SOC/669 COM(2020) 610 final COM(2020) 613 final EESC-2020-05705-00-00-AC
10.	<a href="#"><u>Asylum procedures under the New Pact on Migration and Asylum</u></a> Rapporteur: Panagiotis GKOFAS (EL-III)	SOC/670 COM(2020) 611 final COM(2020) 612 final COM(2020) 614 final EESC-2020-05719-00-00-AC

<p><b>N°1      The Annual Sustainable Growth Strategy 2021</b>  <b>COM(2020) 575 final</b>  <b>EESC 2020/4985 - ECO/537</b>  <b>558<sup>th</sup> Plenary Session – February 2021</b>  <b>Rapporteur: Krzysztof Stanislaw BALON (PL-III)</b>  <b>SG.RECOVER – Commissioner GENTILONI / Executive Vice-President</b>  <b>DOMBROVSKIS</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>1.3. The EESC notes that public debt arising from borrowing to finance programmes under the Recovery and Resilience Facility should not burden future generations in the EU. In that connection, the EESC recommends Member States earmark funds from the Facility for budgetary expenditure relating to the current crisis, and take it as an opportunity to make our economies and societies sustainable and equitable. The EESC also acknowledges that public investment into infrastructure and education is needed in order to ensure economic, social and environmental sustainability for future generations. Moreover, this is also the base to secure prosperity, income and competitiveness in the long run.</p> <p>3.5. [...] it should be borne in mind that loans taken out to finance programmes under the Recovery and Resilience Facility will have to be reimbursed in the future. The Commission document could address a second scenario to finance the plan taking into account the possibility of future crises. However, the EESC also acknowledges, that public investment into infrastructure and education is needed in order to ensure economic, social and environmental sustainability for future generations. Moreover, this is also the base to secure</p>	<p>The Recovery and Resilience Facility Regulation describes the priority policy areas towards which the funds from the Facility will contribute. These so-called six pillars will jointly prepare the EU for the future by making it greener and more sustainable, embracing the digital transition to remain globally competitive, enhancing our cohesion and inclusiveness, making our societies more resilient and putting more emphasis on the next generation, children and the youth. The Commission works closely with Member States to help them ensure that their recovery and resilience plans meet the requirements of the Regulation.</p> <p>The sustainability of funding of the NextGenerationEU initiative is a key priority for the Commission. On 14 April 2021 the Commission took a number of decisions underpinning a new diversified funding strategy for the initiative. The Commission will propose the borrowings that will finance NextGenerationEU to be repaid relying on both existing and new revenue sources of the EU budget.</p>

<p>prosperity, income and competitiveness in the long run.</p>	
<p>1.4. At the same time, given that loans under the Facility are an exceptional measure in exceptional circumstances, the EESC suggests considering not counting them in the medium term towards a Member State's budget deficit in the EU's fiscal framework. In addition, it is necessary to continue fiscal policies that support economic development, which is why the EESC warns against phasing out support measures, such as the escape clause, too early and advocates the establishment of new fiscal rules that reflect social and economic realities after the pandemic.</p>	<p>The Commission agrees that a premature withdrawal of fiscal support should be avoided. The Communication of 3 March 2021 presented the Commission's considerations regarding the deactivation or continued activation of the general escape clause of the Stability and Growth Pact. The decision on whether to continue or deactivate the clause should depend on an overall assessment of the state of the economy, using quantitative criteria. The key criterion to use would be whether the level of economic activity in the EU or euro area exceeds the pre-crisis level of 2019. On the basis of the Commission's Spring 2021 Economic Forecast, the general escape clause will continue to be applied in 2022 and is expected to be deactivated as of 2023.</p> <p>Country-specific situations will continue to be taken into account after the deactivation of the general escape clause. In case a Member State has not recovered to the pre-crisis level of economic activity, all the flexibilities within the Stability and Growth Pact will be fully used, in particular when proposing fiscal policy guidance.</p> <p>The Communication also signalled the intention to relaunch the public debate on the economic governance framework, including on the fiscal rules, when the recovery takes hold. The crisis has highlighted the relevance and importance of many of the challenges that the Commission sought to discuss and address in the public debate.</p> <p>According to the European System of</p>

	<p>Accounts, loans under the Recovery and Resilience Facility do not enter Member States’ deficits, only their debt. However, measures financed by those loans (by opposition of those financed by grants) will add to the deficit. In its assessment, the Commission will take into consideration the quality of those measures and their contribution to growth and sustainability.</p>
<p>1.5. The EESC welcomes the appropriate steps taken, in the Annual Sustainable Growth Strategy 2021, to address the challenges of the COVID-19 pandemic in the context of the European Green Deal. This means that efforts towards a more sustainable and socially inclusive economic model and, in particular, towards the transition to a green model of growth will continue. However, the EESC stresses that a prerequisite for the success of the green transition is for the national recovery and resilience plans to be in line with the proposed territorial just transition plans under the Just Transition Mechanism.</p>	<p>The Commission appreciates the Committee’s support for the European Green Deal initiative and agrees with the need to take into account the fair and just transition principle in the elaboration of the national recovery and resilience plans. 37% of all expenditure will need to contribute toward the green transition, while all measures will need to respect the “do no significant harm” principle.</p>
<p>1.6. The EESC believes that the digital transition should not only contribute to productivity gains, but also improve education and the political, social and cultural participation of everyone living in the EU. As part of support for equality in access to digital infrastructure, equipment and skills, special attention should be paid to older people, people with disabilities, people at risk of social exclusion and other vulnerable groups. The EESC takes the view that one of the objectives of the digital transition should be to establish universal access to broadband internet as a public service free of charge for all EU residents.</p>	<p>The Commission shares the Committee’s view of the importance of the digital transition for education, skills enhancement, social and cultural participation as well as enhancing democratic participatory processes and media literacy. It also shares its view that access to digital infrastructure, equipment and skills is closely related to equality and inclusion. The Commission supports measures to facilitate internet access and improve user skills of vulnerable groups, so as to tackle the growing digital divide between different social and demographic groups, as well as</p>

	<p>different regions.</p> <p>It is with this view of quality and inclusive digital education for all that the Commission adopted in September 2020 the Digital Education Action Plan 2021-2027<sup>1</sup>. The Plan addresses the opportunities and challenges of digital transformation in education and training, with a focus on accessibility and inclusiveness.</p> <p>Furthermore, in its Communication ‘2030 Digital Compass: the European way for the Digital the Commission identified the digitalisation of public services, a digitally skilled Decade<sup>2</sup>, population, and secure and performant sustainable digital infrastructures as part of the four ‘cardinal points’ for mapping the EU’s trajectory, as part of a ‘Digital Compass’ to translate the EU’s digital ambitions for 2030 into concrete targets and to ensure that these objectives are met. In the same Communication, the Commission refers to – among others – universal digital education and skills for people to take an active part in society and in democratic processes, accessible and human-centric digital public services and administration, protecting and empowering children in the online space, and universal access to internet services as principles that could be included in a possible set that Commission will propose to include in an interinstitutional solemn declaration between the European Commission, the European Parliament and the Council.</p>
1.7. The EESC regrets that the strategy	The Commission does not share the

<sup>1</sup> COM(2020) 624 final

<sup>2</sup> COM(2021) 118 final

<p>devotes too little attention to social issues, particularly in view of the urgent need for consistent implementation of the European Pillar of Social Rights. Likewise, the Committee notes with concern that the approach proposed in the strategy is not entirely sustainable. Efforts to move rapidly towards a green and digital economy must not result in a further increase in poverty and greater social exclusion. It will be crucial to ensure a balanced distribution of the benefits of the economic recovery, which will contribute not only to improving social justice, but also to stabilising demand as a precondition for economic recovery.</p> <p>6.3. [...] Efforts to move rapidly towards a green and digital economy must not result in a further increase in poverty and social exclusion. Therefore, close monitoring of the economic consequences is not sufficient to respond effectively to the impact of the COVID-19 pandemic. It is also necessary to monitor social indicators and not only in terms of employment but also in terms of social exclusion, increasing disparities and discrimination.</p>	<p>view that too little attention was devoted to social issues, as they play a key role in the recovery and are prominently mentioned in the chapter on fairness and linked to the European Pillar of Social Rights, when for example recalling that Member States should adopt measures to ensure equal opportunities, inclusive education, fair working conditions and adequate social protection.</p> <p>In its European Pillar of Social Rights Action Plan<sup>3</sup> the Commission put forward three EU headline targets to be achieved by the end of the decade in the areas of employment, skills, and social protection. These targets will constitute an incentive for reform and investment in the Member States, including in the context of national recovery and resilience plans as well as in the context of programming the 2021-2027 Cohesion policy funds. Together with the action plan the Commission also presented a Recommendation for Effective Active Support to Employment providing ideas on supporting a job-rich recovery fully harnessing the digital and green transition. The Just Transition Mechanism should ensure that the transition towards a climate-neutral economy is fair for all, in particular for those most affected by the transition. Social indicators may help to measure the impact of investments on employment, gender equality, social inclusion and more.</p>
<p>1.8. The EESC believes that the current socio-economic situation for young people, including the postponement of key life decisions such as starting a family, could</p>	<p>The Commission agrees that the effects of the COVID crisis have been felt disproportionately by the youth and welcomes the Committee's support for</p>

<sup>3</sup> COM(2021)102

<p>have a negative impact on the future development of the EU. The Committee therefore calls for a smooth implementation of the reinforced Youth Guarantee programme and the accompanying initiatives.</p>	<p>a smooth implementation of the reinforced Youth Guarantee and the accompanying measures in the Youth Employment Support package. Moreover, while the purpose of the entire Recovery and Resilience Facility is to prepare future-proof societies, one of its six pillars addresses specifically “policies for the next generation”, including skills.</p>
<p>1.9. One of the measures to ensure the stability of public finances should, in the EESC's view, be to increase the effectiveness of existing instruments and introduce, both at EU and Member State level, new instruments to combat tax evasion, undeclared work and the shadow economy which is linked to insufficient protection of workers' rights, money laundering and corruption, including with regard to transnational corporations.</p>	<p>The issues raised by the Committee are in the national domain and have been addressed, where relevant, in previous years’ country-specific recommendations. In accordance with the Recovery and Resilience Facility Regulation<sup>4</sup>, national recovery and resilience plans should contribute to effectively addressing all or a significant subset of challenges identified in the relevant country-specific recommendations.</p>
<p>1.10. The EESC recommends that the joint, coordinated European flagships proposed by the European Commission (EC) be reviewed so that they take greater account of the social aspects of the transition, and that development of the social economy in conjunction with the European Action Plan for the Social Economy and ensuring equal access to affordable and high-quality healthcare systems and social services should be added to the list of initiatives.</p>	<p>The European flagships indicated areas relevant for the green and digital transitions where common challenges warranted a more coordinated approach among Member States. The Commission recalls that the Recovery and Resilience Facility Regulation enshrined among its ‘six pillars’ social and territorial cohesion; health, and economic, social and institutional resilience; and policies for the next generation, children and the youth, such as education and skills.</p> <p>The Commission shares the view that social economy has great potential to contribute to the strengthening and building of resilient communities. With its action plan to be adopted by the end</p>

<sup>4</sup> OJ L 57, 18.2.2021, p. 17–75

	<p>of 2021, the Commission will allow the social economy to fulfil its potential to contribute to sustainable and inclusive growth and a fair recovery while achieving the green and digital transitions.</p>
<p>1.11. The EESC recommends that the EC draw up an additional document presenting the content of the Communication in a clearer and simpler way so that it can be debated within civil society organisations.</p> <p>9.5. The EESC has repeatedly called for the social partners and other civil society organisations to be more closely involved in the European Semester process. Consistent adherence to the partnership principle in the planning, implementation and evaluation of national recovery and resilience plans is, more than ever under the current crisis conditions, a prerequisite for successfully implementing them. The quality of public dialogue and consultation deteriorated dramatically, especially during the first phase of the crisis. This has in many cases led to poor quality of legislation and difficulties implementing it, especially for businesses. In addition, the EESC draws attention to the lack of reference to collective bargaining in the EC communication.</p> <p>9.7. The EESC also stresses the crucial importance of dialogue with the younger generation of the EU – NextGenerationEU – including through civil dialogue with youth organisations.</p>	<p>The Commission agrees with the importance of involvement of social partners and the civil society at large in the policy dialogue. Social partners and other stakeholders have always been a valuable part of the European Semester dialogue. Moreover, the Recovery and Resilience Facility Regulation requires that national recovery and resilience plans present a summary of the consultation process of local and regional authorities, social partners, civil society organisations, youth organisations and other relevant stakeholders, and how the input has been reflected in the plans.</p>
<p>2.6. Environmental sustainability, productivity, fairness and macroeconomic stability, which were identified as key dimensions in the Annual Sustainable Growth Strategy 2021, are at the heart of the European Semester and remain the guiding</p>	<p>One of the assessment criteria of recovery and resilience plans pursuant to the Recovery Resilience Facility Regulation is whether the plans are expected to contribute to effectively addressing all or a significant subset of</p>

<p>principles of Member States' recovery and resilience plans. At the same time, the EESC points to the need to review the Council recommendations issued in previous years in the context of the European Semester in terms of how feasible they are in the economic and social context caused by the pandemic.</p>	<p>challenges identified in the relevant country-specific recommendations. Previous years' Council recommendations continue to be overall relevant as they focus on structural issues that still need to be addressed. This is why they play a key role in the context of the implementation of the Recovery and Resilience Facility. Future rounds of the European Semester will identify emerging and future policy challenges.</p>
<p>3.1. The Recovery and Resilience Facility, as a core component of the NextGenerationEU initiative, is to be one of the main tools for economic recovery. Effective implementation of the instrument could provide 2% of additional GDP by 2024 and create two million additional jobs<sup>5</sup>. At the same time, the EESC stresses that while the instrument, in the short term, is intended primarily for recovery and increased resilience, its main function in the medium to long term should be to support the green and digital transitions.</p>	<p>The Facility is a temporary recovery instrument that allows the Commission to raise funds to help repair the immediate economic and social damage brought about by the coronavirus pandemic, as well as to help strengthen the economic resilience, including by promoting the green and digital transitions.</p>
<p>3.2. In order to ensure synergies, Member States will, under certain conditions, be able to combine funding from different instruments, in particular EU cohesion policy funds and the Recovery and Resilience Facility. Also in this context, it is necessary to increase the absorption capacity of EU funds by Member States, including through appropriate mechanisms for the rule of law and good governance, high-quality public administration and effectively fighting against corruption, and to align the European Semester with the activation of the Facility, including linking the National Reform Programme and the</p>	<p>The Facility is fully embedded in the European Semester. The recovery and resilience plans should contain measures to address country specific recommendations already identified in the context of the European Semester.</p> <p>Moreover, as outlined in the 2021 Annual Sustainable Growth Strategy, Member States are invited to submit their National Reform Programme and the final recovery and resilience plan in one single integrated document. The reason for suggesting a joint submission was to ensure consistency between both documents.</p>

<sup>5</sup> [COM\(2020\) 575 final, page 2](#)

<p>recovery and resilience plan in a single integrated document.</p>	<p>The Commission agrees with the importance of policies increasing Member States' absorption capacity, in particular as regards the quality of public administration, governance and rule of law. Measures included in the recovery and resilience plans will have positive effects on the absorption capacity of other EU funds. Moreover, several EU schemes (such as technical assistance under funding programmes, the Technical Support Instrument, the advisory hub under Invest EU) are dedicated to the reinforcement of Member States and beneficiaries' implementation and absorption capacities. Complementarities and synergies between the Facility and other EU financing instruments are fostered in the recovery and resilience plans.</p>
<p>7.7. Budgetary deficits linked to the costs of emerging from the crisis are making joining the European single currency a more distant prospect for those Member States that have yet to do so, and are contributing to a decline in confidence in the euro. The EESC therefore considers it necessary to review the criteria for joining the euro area, and to carry out measures to stabilise the euro in relation to other leading currencies and cryptocurrencies.</p>	<p>The convergence criteria measuring countries' preparedness to adopt the euro are enshrined in the Treaty on the Functioning of the European Union. Pursuant to the Treaty, the definition and the implementation of the monetary policy of the Union is one of the exclusive tasks of the European System of Central Banks.</p> <p>The process of euro adoption gathered new impetus in July 2020, when Bulgaria and Croatia entered the Exchange Rate Mechanism (ERM II). These Member States could become the next countries to adopt the euro. We also note that the euro has been broadly stable in nominal effective terms since February 2021, with a strengthening of the euro against the Japanese yen and the Swiss franc, offsetting the losses against the US dollar.</p>

<p><b>N°2      Package for fair and simple taxation</b>  <b>COM(2020) 312 final</b>  <b>COM(2020) 313 final</b>  <b>COM(2020) 314 final</b>  <b>EESC 2020/3578 – ECO/531</b>  <b>558<sup>th</sup> Plenary Session – February 2021</b>  <b>Rapporteur: Krister ANDERSSON (SE-I)</b>  <b>Co-rapporteur: Javier DOZ ORRIT (ES-II)</b>  <b>DG TAXUD – Commissioner GENTILONI</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>1.2. The EESC agrees with the Commission's approach that good tax governance, the basis for fair taxation, requires tax transparency through the exchange of information between tax authorities, fair tax competition, the absence of harmful tax measures, more efficient tax measures and the implementation of internationally agreed rules.</p>	<p>The Commission is committed to promoting tax good governance standards in the EU and in third-country jurisdictions. The Commission monitors the implementation of the EU legislation that introduced such standards in the EU and contributes to the EU listing process to identify non-cooperative tax jurisdictions. It furthermore negotiates with third-country jurisdictions cooperation agreements that include a tax good governance clause, as mandated by the Council of the EU in 2018<sup>6</sup>.</p>
<p>1.4. The EESC supports the Commission initiative on reviewing the Code of Good Conduct and praises the fact that the Commission proposal takes the OECD's work and the importance of embracing internationally agreed standards into due consideration, especially with regard to global principles leading to a minimum effective corporate tax rate.</p>	<p>The Commission is following up on the Communication on tax good governance in the EU and beyond. To this end, it is actively working on the reform of the Code of Conduct on business taxation together with the Member States. Additional steps will be undertaken once there is a global agreement on the Organisation for Economic Co-operation and Development/G20 project for an international tax reform. More specifically, following a global</p>

<sup>6</sup> Council Conclusions 8344/18, 26 April 2018

	<p>agreement, the Commission will seek to swiftly transpose such agreement into EU law and to reflect such agreement (notably as regards minimum effective taxation) in the EU listing criteria.</p>
<p>1.5. The EESC deems that the result and achievements of the Code of Conduct should be more regularly updated and publicly available to civil society, in line with the Commission objective of making the concrete activity and results of the Code more transparent.</p>	<p>The Commission agrees with the Committee that the work of the Code of Conduct Group should be more transparent. More information should be made publicly available, without jeopardising the necessary minimum level of confidentiality, especially taking into account that the Group also discusses international tax matters.</p>
<p>1.22. The EESC has proposed launching a European pact to effectively combat tax fraud, evasion and avoidance and money laundering. The EESC called on the European Commission to promote a political initiative involving national governments and the other European institutions in achieving this goal, fostering the consensus needed for this and involving civil society. Cooperation between Member States should be the main pillar of the pact.</p>	<p>The Commission places a high priority on combatting tax fraud, evasion and avoidance and money laundering.</p> <p>It works with national governments and civil society to achieve this end through a wide range of platforms at political and operational level, such as the Platform for Tax Good Governance, which brings together Member State representatives and civil society.</p> <p>Over the years, many initiatives have been taken to address tax fraud, evasion and avoidance, such as the Anti-Tax Avoidance Directive (ATAD)<sup>7</sup> and its amendment<sup>8</sup>, and the Directives on Exchange of information on tax rulings<sup>9</sup>, Country-by-Country Reporting<sup>10</sup>,</p>

<sup>7</sup> Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market; OJ L 193, 19.7.2016, p. 1–14.

<sup>8</sup> Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries; OJ L 144, 7.6.2017, p. 1–11.

<sup>9</sup> Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation; OJ L 332, 18.12.2015, p. 1–10.

<sup>10</sup> Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation; OJ L 146, 3.6.2016, p. 8–21.

	<p>Mandatory Disclosure Rules for intermediaries<sup>11</sup> and reporting obligations for digital platforms<sup>12</sup>. The Commission also continues to support the work of the Code of Conduct on Business Taxation, which looks into critical elements that can lead to tax avoidance and evasion.</p> <p>In addition, the Commission set up a Tax Observatory<sup>13</sup> in 2021, with a launch event planned for 1 June. It will aim to promote high-quality research, create a public repository of data and information, and, ultimately, to become an active voice in the EU and internationally on tax evasion and avoidance issues. The work of this Observatory should facilitate bringing together the interests of various stakeholders (including parliaments, civil society and taxpayers) in this important area.</p>
<p>1.24. The EESC encourages the Commission to continue its evaluation of the effectiveness of earlier directives on administrative cooperation.</p>	<p>Article 23 of Directive 2011/16/EU provides for a general obligation for Member States and the Commission to examine and evaluate the functioning of the administrative cooperation provided for in this Directive. In addition, Article 8b(2) of Directive 2015/2376/EU provides that the Commission shall submit by 1 January 2019 a report that provides an overview and an assessment of the statistics and information received, on issues such as the administrative and other relevant costs and benefits of the automatic exchange</p>

<sup>11</sup> Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements; OJ L 139, 5.6.2018, p. 1–13.

<sup>12</sup> Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation; OJ L 104, 25.3.2021, p. 1–26

<sup>13</sup> [https://ec.europa.eu/taxation\\_customs/calls-tenders-grants-calls-expression-interest/TAXUD/2020/CFP-01-eu-tax-observatory\\_en](https://ec.europa.eu/taxation_customs/calls-tenders-grants-calls-expression-interest/TAXUD/2020/CFP-01-eu-tax-observatory_en)

	<p>of information, as well as practical aspects linked thereto. The Commission published such a report in December 2018<sup>14</sup>.</p>
<p>3.1.8. The adoption of a single VAT registration, through a continued extension of the OSS, similar to the e-commerce package, is very welcome. Even though no more details are given on what sectors will be covered, an expansion of the OSS to Articles 36-39 of the VAT directive, covering B2C supplies of goods, can be considered a very significant step forward. For example, expanding the OSS to cross-border supplies of gas, electricity, heat or cooling energy (Article 39 of the VAT directive) could also be helpful in deepening the EU energy market and aiding the energy transition.</p>	<p>The Commission welcomes the Committee's support for the adoption of a single VAT registration.</p> <p>As of 1 July 2021, the One Stop Shop (OSS) will be extended and will cover all Business to Consumer (B2C) supplies of services and intra-Community distance sales of goods.</p> <p>In contrast, there are certain types of B2C supplies of goods which, even though they may have a cross-border aspect, cannot be declared through the OSS yet (from 1 July 2021), such as for instance:</p> <ul style="list-style-type: none"> <li>- supplies with installation and assembly (Article 36 of the VAT Directive);</li> <li>- supplies of goods made on board means of transport (Article 37 of the VAT Directive);</li> <li>- supplies of gas, electricity, heat or cooling energy (Article 39 of the VAT Directive);</li> <li>- supplies of goods on a weekly market by a vendor established in another Member State;</li> <li>- supplies of goods made by vendor when participating in an exhibition, trade fair or similar event in a Member State in which the taxable person is not established.</li> </ul> <p>A further extension of the scope of the OSS, possibly by covering remaining cross-border B2C supplies, will be</p>

<sup>14</sup> COM(2018)844

	assessed by the Commission under the announced initiative ‘VAT in the Digital Age’ <sup>15</sup> .
<p>3.1.9. The EESC welcomes the European Commission's proposal to modernise and harmonise VAT reporting requirements through increased use of transaction-based ("real time") reporting and e-invoicing. Transaction-based reporting allows tax administrations to have a complete overview of the different supply chains in real time, leading to better targeted audits and much earlier detection of fraud and potentially risky traders. Reporting requirements must, however, be easy to abide by and not entail high administrative costs or costly investment spending, in particular for SMEs. Similarly, a greater use and harmonised standard of e-invoicing could lower storage and compliance costs for businesses and would improve the fight against VAT fraud.</p>	<p>The Commission welcomes the Committee’s support for its proposal to modernise and harmonise VAT reporting requirements through increased use of transaction-based reporting (TBR) and e-invoicing. It also takes note of the Committee’s remarks concerning the necessity of ease of abiding by the new requirements and avoidance of excessive administrative costs or costly investment spending.</p> <p>The Commission acknowledges the Committee’s concerns, and will assess them under the initiative ‘VAT in the Digital Age’. The preparatory work on it has already started and a study launched by the Commission is currently ongoing. The stakeholders (including Small and Medium Size Enterprises) will be able to provide their feedback within targeted consultations and an Open Public Consultation.</p>
<p>3.1.10. The EESC also welcomes a review of whether VAT should be levied on financial services. Many businesses encounter extra costs since some firms or financial institutions are not liable for VAT. Furthermore, exempt entities cannot claim deductions for input VAT while the created value added is not taxed by VAT. It is a complex matter and the EESC expects comprehensive impact assessments to be conducted. The EESC notes that an increase in VAT revenues would also have a positive</p>	<p>The Commission welcomes the Committee’s support for the review of the current VAT rules pertaining to financial services. The Commission’s work in this area is ongoing. A study has been carried out to feed into the impact assessment.</p>

<sup>15</sup> VAT in the Digital Age, See *the Directorate-General for Taxation and Customs Union (DG TAXUD) Management Plan 2021*, [https://ec.europa.eu/info/system/files/management-plan-taxud-2021\\_en.pdf](https://ec.europa.eu/info/system/files/management-plan-taxud-2021_en.pdf)

<p>implication for the EU budget.</p>	
<p>3.1.11. The EESC notes that Member States have the option of using a reverse charge system to combat VAT fraud. Such an option has been used to combat VAT carousel fraud. The EESC calls for a Commission assessment of which method is most effective and has the least administrative burden to address carousel fraud.</p>	<p>The targeted and, for Member States, optional application of the reverse charge mechanism can, under certain circumstances and conditions, be applied to combat (carousel) fraud via options under Art. 199 and 199a, the Quick Reaction Mechanism (Art. 199b), or derogations (Art. 395). The Commission remains however of the view that its definitive regime proposal is the best way to tackle the problem of Carrousel fraud at its root.</p> <p>The Generalised Reverse Charge Mechanism, provided as a temporary possibility under Article 199c has not been used so far.</p>
<p>3.1.14. On first evaluation, the preventive dialogue to solve cross-border tax disputes planned by the Commission seems a useful and positive development, also considering that it has been a long-standing request from the business community. A harmonised approach by several Member States would be strongly welcomed, even though it remains to be evaluated how such an approach can be concretely implemented, starting from the current heterogeneous regulatory scenario<sup>16</sup>.</p>	<p>The Commission thanks the Committee for the support to the Commission initiative. Furthermore, the Commission confirms that it is working on feasible options to create an effective mechanism for the benefit of businesses and Member States in the field of VAT in addition to the existing dispute resolution mechanism in the area of direct taxation.</p>
<p>3.1.16. Given that some businesses are already suffering liquidity issues, invoices might be going to be paid with a delay or even not at all in the end, with the consequence that businesses that charged VAT in their invoices have to submit the amount to the tax authorities in the relevant VAT return period without VAT having been received (so-called "bad debt"). In this light, the EESC would also urge the European</p>	<p>The Commission takes note of the concerns of the Committee. The bad debt relief is foreseen by the VAT Directive and to a large extent it is dealt with at the level of Member States, since the Directive grants them certain options in this area and recognises that the conditions regarding bad debt relief shall be determined by Member States. There is</p>

<sup>16</sup> See EESC Opinion *Initiative on Improving double taxation dispute resolution mechanisms*, OJ C 173, 31.5.2017, p. 29

Commission to assess how a simpler, more harmonised VAT bad debt relief mechanism can be brought forward. This mechanism should ensure that VAT which businesses have not been able to collect from their customers but have already paid to the tax authorities can be reclaimed by businesses from the tax authorities in a swift and timely manner.

currently no plan for a review of the VAT Directive in this area.

Nevertheless, in the framework of the ‘Action Plan for fair and simple taxation supporting the recovery strategy’<sup>17</sup>, the Commission is preparing a Communication and a Recommendation on taxpayers’ rights in the EU, scheduled for adoption in the 3Q of 2021 and aiming to simplify tax obligations and ensure that taxpayers’ rights in the EU Member States are respected. A public consultation on possible issues to be addressed in the Recommendation on taxpayers’ rights was open until 2 June 2021. The public consultation expressly refers to the issue of VAT relief on bad debts, in particular for Small and medium-sized enterprises and micro-businesses. The Commission will examine thoroughly the replies in this respect.

---

<sup>17</sup> COM(2020) 312 final

<p><b>N°3      A Renovation Wave for Europe</b>  <b>COM(2020) 662 final</b>  <b>EESC 2020/4884 – TEN/723</b>  <b>558<sup>th</sup> Plenary Session – February 2021</b>  <b>Rapporteur: Pierre Jean COULON (FR-II)</b>  <b>Co-rapporteur: Aurel Laurențiu PLOSCEANU (RO-I)</b>  <b>DG ENER – Commissioner SIMSON</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>1.5. The EESC calls on the Commission to put in place incentives for the development, at local level, of the industrialisation and mass roll-out of energy-efficiency renovation processes, and at the same time to establish a new ‘Erasmus for energy-efficiency renovation 2050’ so as to attract young people in Europe to these new jobs of the future.</p>	<p>As regards incentives for renovation put in place by the European Union, the following financial support is being made available:</p> <ul style="list-style-type: none"> <li>- cohesion policy funds will remain a principal long-term instrument for energy efficiency in buildings;</li> <li>- the Recovery and Resilience Facility will provide extensive funding for the immediate future for building renovations;</li> <li>- public guarantees to mobilise private investment will be assured under InvestEU;</li> <li>- assistance to regional and local authorities in designing and implementing their plans for building renovations is addressed in the cohesion policy funds under the Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU) initiative), or through ELENA (European Local Energy Assistance) for project development assistance;</li> <li>- Horizon Europe will support innovation and development of new technologies, including a proposed dedicated partnership on Sustainable Built Environment (Built4people);</li> </ul>

	<ul style="list-style-type: none"> <li>- the LIFE programme will support removing market barriers for the uptake of technologies and new approaches to speed up renovation;</li> <li>- the Renovation Wave identified certain areas for reinforcement in the EPBD: a phased introduction of mandatory minimum energy performance standards; update of the framework for Energy Performance Certificates (EPCs); introduction of Building Renovation Passports; and facilitation of ‘deep renovation’.</li> </ul> <p>As part of the ongoing revision of major elements of the EU’s climate and energy policies, the Commission also considers more ambition in the EU Emission Trading System and the extension of emissions trading to buildings. If adopted, this would create price signals in favour of decarbonised heating and cooling and enhanced local energy efficiency measures, making them more cost-efficient over the lifetime of the investments.</p> <p>The Erasmus+ Programme will continue to support young people to enter the job market and promote the new jobs of the future. It will fund learning mobility and cross-border cooperation projects for 10 million Europeans of all ages and all backgrounds.</p> <p>The Green Erasmus+ programme will promote using sustainable modes of transport. It will also invest in projects promoting awareness of environmental issues and facilitate exchanges related to mitigating the climate crisis.</p>
<p>1.8. The EESC calls for genuine synergies between the Building Stock Observatory</p>	<p>The EU Building Stock Observatory, the EU Energy Poverty Observatory,</p>

<p>and the Energy Poverty Observatory.</p>	<p>the Horizon Europe Mission on Cities and the EU Covenant of Mayors Office (itself part of the global network of the Covenant of Mayors) can assist Member States in taking stock and identifying segments in need, and in linking renovation strategies to social indicators and policies to address energy poverty.</p> <p>The Commission is working to revamp the EU Building Stock Observatory (BSO) aiming to restructure and rationalise the list of indicators and collect quality data. This will make the BSO more user friendly and create links with ongoing initiatives including the EU Energy Poverty Observatory, H2020 projects, EUROSTAT, national data sources studies, etc.</p>
<p>2.9. The Commission must ensure convergence not only of the existing provisions, but also of the provisions to be revised and the proposed new provisions, not only towards the Member States and their long-term investment strategies, but also towards households, social landlords, public authorities and businesses – all of the final decision-makers making individual long-term investments that will feed into the surge between now and 2050 with their own rationale.</p>	<p>When proposing its updated 2030 greenhouse gas emissions reduction target of at least 55%, the Commission also described the actions across all sectors of the economy that would complement national efforts to achieve the increased ambition. The ‘Fit for 55’ package involves a high number of interlinked initiatives underpinned by individual impact assessments. Coordination between these proposals and initiatives is a priority for the Commission.</p>
<p>3.2. The Committee agrees with the Commission's analysis of the urgency from the climate perspective of taking action on renovating housing and other buildings and of the opportunity presented by the COVID-19 crisis to rethink, redesign and modernise our buildings, taking an environmental, social and economic win-win-win approach. This is</p>	<p>In line with the Renovation Wave, the Commission is acting to maximise investments in affordable housing across the EU and for higher energy efficiency in low-income households by:</p> <ul style="list-style-type: none"> <li>- strengthening information, legal certainty and incentives for public and</li> </ul>

indeed a unique opportunity to take action simultaneously on climate neutrality, recovery and social cohesion.

The Committee would raise the issue of the diversity of the buildings concerned – in particular the diversity of housing to be renovated, ranging from individual houses to large soviet-era housing estates and working-class suburbs. In this great housing diversity, Eastern European housing blocks, very old houses from undervalued city centres, suburban housing and rural housing can be subject to specific prioritisation. In connection with the fact that the housing stock has become obsolete and requires renewal processes both to improve the quality of life of citizens and for building technical advancement, it is necessary to ensure access to financing for citizens as it is currently a major barrier for renovation. Similarly, accessibility for people with disabilities will have to be taken into account. The European Union also needs to seize this opportunity for large-scale action to get closer to its citizens and the areas in which they live by means of appropriate communication.

private owners and tenants to undertake renovations;

- ensuring adequate and well-targeted funding, namely through guidance during the preparation of the Recovery and Resilience Facility national plans to prioritise renovation and affordability; and

- increasing the capacity to implement projects through scaled up technical assistance that is closer to the regional/local level<sup>18</sup>.

The Commission works actively with Commission Representations in all Member States to promote its policy objectives and provide access to all information of interest to citizens, associations, non-governmental organisations and actors at all levels of government and self-government. In its outreach, it will resort to communication products developed along with new policy proposals. Moreover, the Renovation Wave will feature prominently in the upcoming NextGenerationEU campaign.

The Commission agrees that accessibility for persons with disabilities must be considered when renovating buildings and of course, in new buildings. This will ensure more inclusive solutions for the increasing numbers of persons with disabilities in an ageing society. This is well in line with the Renovation Wave communication, but also with the Strategy for the Rights of Persons with Disabilities 2021-2030. Following

---

<sup>18</sup> See also SWD(2020) 550 final “Support from the EU budget to unlock investment into building renovation under the Renovation Wave”.

	<p>Mandate 420 of the Commission, the European standard EN17210 can be used to provide guidance on how to ensure accessibility of the built environment. In addition, accessibility of built environment is an obligation under the United Nations Convention on the Rights of Persons with Disabilities, to which the EU and all its Member States are party. Ensuring accessibility during the renovation of buildings will contribute to its implementation.</p>
<p>4.2. In line with Principle 19 of the European Pillar of Social Rights, the Committee would stress the particular importance that should be given to the affordability of housing and of the investments to be made by the households concerned, whether they be owner-occupiers, tenants, or co-owners in a co-ownership in difficulty, particularly when it comes to poorly insulated buildings and combating energy poverty, but also on the part of social landlords whose rent levels fall under public service financial accessibility obligations imposed in accordance with the specific public service tasks assigned by the Member States.</p>	<p>The Renovation Wave Strategy is one of the Commission’s flagship initiatives contributing to Article 19 of the European Pillar of Social Rights on housing and assistance for the homeless. One of its focus areas is tackling worst performing buildings and energy poverty. As part of it, the Commission will launch an Affordable Housing Initiative for 100 lighthouse projects.</p> <p>The idea is to provide blueprints for replication, setting liveability and latest innovations at the forefront. It will mobilise cross-sectoral project partnerships linking them to local actors, including from the social economy, to promote efficient, circular and modular processes, social engagement models to empower residents, inclusive and accessible developments and cultural innovation.</p> <p>The Energy Poverty Observatory and the EU Building Stock Observatory are Commission platforms that could contribute to an assessment of existing data and influence upcoming ESTAT updates on available data on homeless people in the EU.</p>

<p>5.5. The Committee considers that this exceptional situation should lead the EU, in addition to setting quantitative renovation targets, to strengthen the Member States and their annual programmes for investment in energy-efficiency renovation, and to assess these programmes on an annual basis under the European semester, by establishing specific "green governance" alongside economic governance or under the open method of coordination.</p>	<p>The Commission assesses and provides recommendations on the National Energy and Climate Plans in the context of the country-specific recommendations issued as part of the European Semester process and ensuring coherence with the Recovery and Resilience Plans under NextGenerationEU.</p> <p>The Commission's preliminary assessment of the Long Term Renovation Strategies was adopted on 25 March 2021<sup>19</sup>.</p>
<p>5.6. The Committee considers that this unique situation should also be seized to tackle and eradicate energy poverty by making it a priority in mobilising financing. The remit of the European Energy Poverty Observatory should be stepped up, and this body should lead a European network of energy poverty observatories in the Member States.</p>	<p>The Commission is currently in the inception year of stepping up work of the EU Energy Poverty Observatory. The new platform, named the Energy Poverty Advisory Hub, will allow the platform to become an active supporter and adviser to municipal policies and involve public and private stakeholders. It will offer training, support through technical assistance and provide an updated indicator dashboard that displays national and regional/local level indicators. Studies will assess the positive impacts on homelessness reduction through monitored best practices to target energy poor households. Impacts will also be discussed with stakeholders.</p>
<p>5.8. Given the duration of the investment in question and the 2050 objective, and with a view to simplification and clarity for the European households concerned, the Committee suggests that the Commission explore the feasibility of a specific European Investment Bank (EIB) investment fund, which would provide technical assistance,</p>	<p>The types of market barriers to energy efficiency investments on buildings renovation are multi-faceted, and are addressed through a series of dedicated initiatives under different financial instruments.</p> <p>For example, removing market barriers for the uptake of technologies and new</p>

<sup>19</sup> SWD(2021) 69 final

<p>blend the existing schemes and guarantee continuity up to 2050.</p>	<p>approaches to speed up renovation will be supported under the LIFE programme, while the assistance to regional and local authorities in designing and implementing their plans for building renovations can be addressed in the Cohesion policy, or through ELENA for project development assistance.</p> <p>Public guarantees to mobilise stronger private investments will be assured under InvestEU. The Private Finance for Energy Efficiency (PF4EE) - which has been proposed to be integrated into InvestEU combining lending from the European Investment Bank (EIB) to private banks together with guarantees and technical assistance - is a very good example of an instrument that reduced the risk of investments in energy efficiency including for buildings.</p> <p>Many other initiatives complement the landscape of the support to energy efficiency investment in building renovations. Given the considerable resources reserved for the Recovery and Resilience Facility, it will also be key in mobilising investments for building renovations.</p>
<p>5.11. The Committee proposes that the Commission, drawing on the experience of ELENA, and with the support of the EIB, encourage the Member States to set up a public technical support service for energy-efficiency renovations, particularly aimed at the households concerned, in order to prevent the abusive doorstep selling and fraudulent practices already observed in some Member States in connection with energy-efficiency renovation work.</p>	<p>As announced in the Renovation Wave Communication, the Commission, together with the EIB, is ready to help Member States to design national, regional or local programmes to replicate the ELENA model, the main EU project development facility in the field of energy efficiency with successful results (every euro spent on ELENA has leveraged on average €34).</p> <p>Also other sources of support for technical assistance and administrative</p>

	<p>capacity building remain available, notably from the Cohesion Policy.</p> <p>These demand-driven project development assistance facilities have the potential to further push a faster and more effective rollout of funds, and therefore support the achievement of the milestones and targets and scale up building renovation in the EU. Different implementing options are possible, including via the Recovery and Resilience Facility or Cohesion Policy.</p> <p>Moreover, the Clean Energy Transition sub-programme under LIFE programme will support innovative approaches to integrated buildings renovation services, including testing and replicating promising concepts of one-stop-shops or other type of comprehensive assistance to building owners covering all the steps of building renovation journey.</p>
--	---

<p><b>N°4      Brexit Adjustment Reserve</b>  <b>COM(2020) 854 final</b>  <b>EESC 2021/589 - ECO/542</b>  <b>558<sup>th</sup> Plenary Session – February 2021</b>  <b>Rapporteur-general: Florian MARIN (RO-II)</b>  <b>DG REGIO – Commissioner FERREIRA</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>1.4. Workers' rights have to be protected immediately and the mutual recognition of qualifications must be further negotiated. The EESC recommends that all Member States should immediately start organising information campaigns to raise awareness among citizens regarding the new rules in place. For such action to be a complete success, the social partners and civil society organisations must be fully involved. Trade unions, and employers' and civil society organisations have a vital role to play in building a strong economic and social partnership with the UK.</p>	<p>The Commission agrees in substance with the Committee. However, the actions advised by the Committee are initiated and developed by Member States and their respective social partners, civil society organisations and trade unions. Therefore, the Committee's call should be understood as directed to them.</p>
<p>1.5. The EESC suggests that the fisheries sector should have a completely separately designed reserve that will support this sector only. Special attention should be paid to other sectors, such as tourism and agriculture, for example. Appropriate infrastructure investments and support for the EU citizens that are returning to their home countries after Brexit should also be considered.</p>	<p>Firstly, the Commission agrees with the Committee that the fisheries sector is one of the sectors most affected by the withdrawal of the United Kingdom from the Union. Accordingly, the Commission's proposal reflects this reality, by taking into account the fisheries sector in the allocation method of the pre-financing, as one of its components. Nevertheless, the fact that it was considered in the allocation method does not mean that the draft regulation introduces a specific earmarking for the fisheries sector.</p> <p>In accordance with the conclusions of the European Council from July 2020, enacted in the Regulation laying down</p>

the EU's multiannual financial framework for the years 2021-2027<sup>20</sup>, the Commission's proposal leaves Member States the flexibility to decide which economic sectors are most affected and in need of support measures under the Brexit Adjustment Reserve.

Secondly, the Commission would like to clarify that the component of trade of goods and services of the allocation method for the first allocation in the form of a pre-financing covers all sectors of exchange between the United Kingdom and European Union Member States, including also the tourism sector. As the composition of national economies and the effects of the withdrawal on these economies differ between Member States, it is therefore up to Member States to identify and decide on the most affected economic sectors.

Thirdly, and closely related to the two points of clarification above, the draft regulation contains a comprehensive yet non-exhaustive list of types of eligible measures. This means that Member States can support additional measures, as the ones recommended by the Committee, provided there is a link with the impact of the withdrawal of the United Kingdom, that such measures respect the applicable law and that double funding is avoided.

It should be noted though that the political agreement between co-legislators led to earmarking a minimum support for the fishery sector of those Member States who benefit from the fishery component in the

<sup>20</sup> <https://eur-lex.europa.eu/eli/reg/2020/2093/oj>

	allocation method.
<p>1.6. The EESC expects prolonged discussions between stakeholders on who gets the biggest slice of the Reserve and considers that additional funds should be immediately provided for. In this respect, the EESC asks the co-legislators to increase the proposed ceiling.</p>	<p>The Commission is fully aware that the adverse impact of the withdrawal of the United Kingdom from the Union on Member States, sectors, regions and communities would be substantial and would probably exceed the €5 billion. The amount of €5 billion (in 2018 prices) was agreed by the Council and the European Parliament and endorsed in the Regulation laying down the EU's multiannual financial framework for the years 2021-2027<sup>21</sup>.</p>
<p>1.9. The eligibility period could be extended by two more years, just to make sure that the Member States have adequate time to make use of their share of the Reserve and absorb the shock waves from the UK's withdrawal.</p>	<p>The Commission proposed an eligibility period for implementing the measures, going from 1 July 2020 to 31 December 2022, i.e. 30 months. This proposal strikes the right balance between the need to act quickly and the need to support financially Member States as early as possible in the aftermath of the withdrawal of the United Kingdom from the Union.</p> <p>On the one hand, this eligibility period would give sufficient time to the Member States to set up and implement the specific necessary measures to counter the consequences of the withdrawal. It also takes into account that some measures had to be taken before the transition period expired. Thus, the support from the Reserve will be focused on the immediate impact in the months leading up to and following the end of the transition period.</p> <p>On the other hand, an eligibility period until end of 2022 would allow the Commission to make the final additional payments to the eligible</p>

<sup>21</sup> <https://eur-lex.europa.eu/eli/reg/2020/2093/oj>

	<p>Member States as early as possible, already in 2024.</p> <p>Furthermore, in reply to the Committee's advice for using the contributions from the Reserve to absorb throughout time the shock waves from the withdrawal, the Commission would like to point out that other European Union and national programmes and instruments can be used to support the long-term economic reconversion of Member States.</p> <p>Having said this, following the political agreement between co-legislators the eligibility period was extended from 1 January 2020 to 31 December 2023.</p>
<p>1.10. The EESC considers that a small part of the Reserve should be earmarked for technical assistance purposes, for when a new management system is created. However, the EESC strongly believes that the largest part of the Reserve should be allocated to supporting employment and economic activities.</p>	<p>The Commission agrees with the Committee's underlying statement. Indeed, it is important to concentrate the allocation from the Reserve where needed most, at the level of most affected sectors, regions and communities. The Commission took note of the Committee's suggestion for a limited amount of technical assistance being eligible in view of the subsequent interinstitutional negotiations.</p> <p>In this context, following the political agreement between the co-legislators 2.5% of the contribution for Reserve will be paid for technical assistance in the form of flat rate.</p>
<p>1.13. The EESC calls for the creation of a monitoring committee in each Member State with the main purpose of eliminating possible risks that could appear in the implementation process, while ensuring the formal involvement of civil society in the process. The committees should comprise representatives of social partners, NGOs and</p>	<p>The Commission agrees that the consultation and involvement of civil society is indeed important for democratic legitimacy and ownership of the supported measures under the Brexit Adjustment Reserve. Nevertheless, given the unprecedented nature of the instrument, its short</p>

public institutions involved in the implementation of the Reserve.

period of implementation and specific purpose, and the fact that it is a thematic special instrument outside the Multiannual Financial Framework ceilings and not covered by the cohesion policy rules, the legislative proposal does not impose binding obligations on the Member States for the creation of Monitoring Committees, specific to cohesion policy.

In terms of management and control, the Commission proposes the implementation of the contributions from the Reserve under shared management between the Member States and the Commission, guaranteeing full respect of the principles of sound financial management, transparency and non-discrimination and the absence of conflict of interest. In doing so, the proposal strikes the right balance between keeping the management and control measures proportionate to the size and objective of the Reserve on the one hand, and assurance of legality and regularity of the expenditure on the other hand.

In addition, in order to avoid arrangements that may be too burdensome, Member States could also roll over existing bodies designated and systems set up for the purpose of the management and control of cohesion policy funding or the European Union Solidarity Fund.

Taking into account the above considerations, the Commission is of the opinion that it is for Member States to decide, in accordance with their national legal frameworks, which stakeholders to involve and in what

	<p>way in the planning and implementation of the contributions from the Reserve. The co-legislators confirmed by political agreement this approach.</p>
<p>1.15. The EESC calls for an intermediary performance framework to be created, based on specific performance-driven indicators to be established by the Member States and evaluated by the European Commission yearly. It considers that limited use of the available funds will proportionally increase the negative economic and social impact of Brexit.</p>	<p>Given the unprecedented nature of the instrument, its short period of implementation and specific purpose, and the fact that it is a thematic special instrument outside the Multiannual Financial Framework ceilings and not covered by the cohesion policy rules, the legislative proposal does not impose binding obligations on the Member States in this respect.</p> <p>Indeed, the setting up of an intermediary performance framework, requiring programming and Member States to introduce specific performance-driven indicators and annual evaluations by the Commission, does not fit with the financial architecture, and the short period of implementation proposed for the Brexit Adjustment Reserve instrument.</p> <p>At the same time, the Commission proposal does contain an obligation for the Member States, when submitting their applications for a financial contribution from the Reserve, to report on the achievement of a set of core indicators. The proposal also envisages that the second allocation of €1 billion (in 2018 prices) is distributed on the basis on real expenditure and implementation on the ground.</p>

<p><b>N°5 A Capital Markets Union for people and businesses – new action plan COM(2020) 590 final EESC 2020/4974 - ECO/533 558<sup>th</sup> Plenary Session – February 2021 Rapporteur: Pierre BOLLON (FR-I) DG FISMA– Commissioner MCGUINNESS</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>1.1. “The EESC welcomes the Commission communication on ‘A Capital Markets Union for people and businesses - new action plan’ [...], “approving all of the 16 actions proposed by the Commission”. The Committee stresses that “the plan is even more urgent in the context of the unexpected COVID-19 crisis”, and that “the agreement reached on Brexit at the end of December 2020 is another key reason for making a new push for the CMU.”</p>	<p>The Commission is grateful for the support the Committee has been showing consistently to the Capital Markets Union (CMU) initiative since its launch and value the views it been expressing through its opinions on the different steps taken by the Commission: the first CMU action plan in 2015, the mid-term review in 2017, the individual legislative proposals falling under the CMU initiative and now on the new CMU action plan adopted in September 2020.</p>
<p>1.5. The Committee suggests using “concrete milestones to measure progress” on CMU actions.</p>	<p>The Commission agrees that, in addition of a clear deadline for delivery for each action of the CMU action plan, it will be essential to monitor the progress towards CMU objectives. Such a monitoring would provide an empirical backdrop for discussing the impact of past CMU measures and help identifying areas where past measures may need to be adjusted or complemented with new measures. The Commission is thus working on a set of targeted indicators, which should help assess progress made under the CMU. The plan is to be published in mid-2021.</p>
<p>1.7., 3.11. The Committee underlines the importance of a “properly targeted Invest EU</p>	<p>The Commission welcomes the Committee’s support for the Invest EU portal, which is one of the tool used to</p>

portal (action 15)".	deliver on action 15, which aims at strengthening the investment protection and facilitation framework.
1.10. The Committee notes that, on pensions, "one-size-fits-all additional pan-European rules on funded schemes complementing pay-as-you-go systems would not be beneficial, as retirement provisions are deeply embedded in national social laws. The EESC therefore welcomes the Commission's proposal (Action 9) to collect, share and promote best practices. "	The Commission shares the Committee's wish that all EU pensioners get suitable income during retirement and welcomes the Committee's support on action 9. The Commission believes that to successfully address the problem of ageing, is necessary to assess all possible solutions holistically (including occupational pensions), while respecting the principle of proportionality and subsidiarity.
1.12., 3.9. The Committee recommends that "the CMU take full account of the different forms of social impact investment, especially those in the field of the "social economy" thereby contributing positively to the general interest and the common good" and that "the CMU take full account of the different forms of social impact investments". The Committee believes that "the European Social Entrepreneurship Funds (EuSEF) should be strongly supported, possibly through a review of Regulation (EU) No 346/2013".	<p>The Commission agrees with the Committee on the importance of the social dimension of the CMU project, and hence on the effectiveness of the EuSEF Regulation to frame and support social investment. It notes that the European Social Entrepreneurship Funds (EuSEF) Regulation was amended as part of the cross border distribution of investments funds' package adopted in 2017 (which entered into application on 1 March 2018) to solve some of the shortcomings surrounding the distribution and marketing of funds.</p> <p>The Commission will continue to monitor the impact of these changes, notably on the uptake of EuSEFs, before considering potential further changes to the framework.</p>
1.15. The Committee indicates that "developing employee shareholding would be a welcome third complementary element in the action plan" to help "shift long-term savings towards long-term investments" (in addition to the ELTIFs' review and the	The Commission agrees that Employee Share Ownership Schemes (ESOs) can have a number of benefits for employees and companies, but also for society in general. Yet ESOs' take up being largely dependent on their tax treatment

<p>review of the insurance prudential framework).</p>	<p>by national authorities, possible actions to promote them should be taken at Member States' level. EU level best practices also already exist.</p>
<p>1.16. The Committee recommends that “any new regulation linked to the building of the CMU would be submitted to four tests, additional to the necessary "traditional" ones ("is it good for building a single market?" and "is it protecting European Consumers?").</p> <ul style="list-style-type: none"> <li>– "is it having positive effects on the competitiveness of European financial companies in the world, strengthening the strategic geopolitical autonomy of the EU?"</li> <li>– "is it safeguarding financial market stability?"</li> <li>– "is it positive for the long-term financing of European companies, especially SMEs and mid-caps, and employment?"</li> <li>– "is it positive for the climate, social and digital transitions?"</li> </ul>	<p>Before adopting any legislative proposal, the Commission makes an in-depth assessment of the associated costs and benefits. As part of this impact assessment the Commission assesses, where relevant, a possible impact on financial stability and progress as regards the Commission's key priority objectives, notably the ones related to the twin priority of the green and digital transition.</p> <p>An impact assessment also seeks to assess whether the proposed legislation is truly the best option to tackle the problem and whether it will ensure a proportionate treatment of companies that will be impacted by this legislation.</p> <p>In addition, any legislative proposal is being carefully assessed as regards facilitating access to finance to Small and medium-sized enterprises, which is an important Commission's objective. The importance of safeguarding the open strategic autonomy of the EU has been emphasised in the Commission's Communication adopted 19 of January 2021<sup>22</sup>. Any Commission's proposal takes therefore in consideration this horizontal overarching objective.</p>
<p>3.10. The Committee considers that “Among other things, it will be important to rely on European providers of information and ratings based on converging and reliable standards, while acting in the international scene in favour of consistency across the</p>	<p>The Commission agrees with the Committee that the importance of the Environment Social and Governance (ESG) ratings, research and data has been growing alongside investors' interest in ESG assets. The Commission</p>

<sup>22</sup> COM(2021) 32 final

world. In addition, specific regulation on ESG data and rating agencies could be welcome, be it as an amendment to the Credit Rating Agencies regulation (No 462/2013) or as a separate regulation, in line with the Digital Market Act.”

thus conducted a study on sustainability-related ratings, research and data<sup>23</sup>, which was published in January 2021, and has been seeking the input of a broad range of stakeholders, notably through the recent consultation on the Renewed Sustainable Finance Strategy<sup>24</sup>.

The study and the consultation identified several issues pertaining to the functioning of the market of ESG ratings providers: (i) the lack of transparency of the operations of ESG ratings providers, (ii) the low level of comparability between ESG ratings and (iii) potential conflicts of interests.

The Commission agrees with the Committee that better comparability, more transparency and increased reliability of this market is necessary.

The Commission also considers that a number of clarifications on the actual scope of the issues and the costs for market players need to be further assessed. The Commission is therefore currently organizing outreach activities to gather further evidence and data from market participants. Once the Commission has all necessary elements, it will decide on the next course of action.

<sup>23</sup><https://op.europa.eu/en/publication-detail/-/publication/d7d85036-509c-11eb-b59f-01aa75ed71a1/language-en/format-PDF/source-183474104>

<sup>24</sup> [https://ec.europa.eu/info/consultations/finance-2020-sustainable-finance-strategy\\_en](https://ec.europa.eu/info/consultations/finance-2020-sustainable-finance-strategy_en)

<p><b>N°6 Digital Finance Strategy</b>  <b>COM(2020) 591final</b>  <b>EESC 2020/4935 - ECO/534</b>  <b>558<sup>th</sup> Plenary Session – February 2021</b>  <b>Rapporteur: Petru Sorin DANDEA (RO-II)</b>  <b>Co-rapporteur: Jörg Freiherr FRANK VON FÜRSTENWERTH (DE-I)</b>  <b>DG FISMA – Commissioner MCGUINNESS</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>2.3. Strong support from the EESC regarding the recently adopted new digital finance strategy, including removing obstacles to the Single market, adapting the EU legal framework, supporting data-driven innovation in finance while addressing the new challenges it raises.</p>	<p>The Commission welcomes the strong support for the priorities set out in the digital finance strategy.</p>
<p>3.14. The opinion underlines in particular the need to address the challenges that the new financial ecosystem brings (“level playing field “issues between players).</p>	<p>The Commission fully agrees with this point. As set out in the strategy, the Commission has recently invited the European Supervisory Authorities to provide technical advice on this issue.</p>
<p>1.7. The opinion notes that the financial sector is dependant of a handful of non-EU cloud providers and welcomes GAIA-X initiative aiming to support the emergence of EU cloud providers.</p>	<p>The Commission fully agrees with this point, while pointing out that GAIA-X is a private initiative that is fully independent from the Commission.</p>

<p><b>N°7      Crypto assets and distributed ledger technology</b>  <b>COM(2020) 593 final</b>  <b>COM(2020) 594 final</b>  <b>EESC 2020/4982 - ECO/535</b>  <b>558<sup>th</sup> Plenary Session – February 2021</b>  <b>Rapporteur: Giuseppe GUERINI (IT-III)</b>  <b>DG FISMA – Commissioner MCGUINNESS</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>2.2.7. The EESC believes that the two proposals are timely and of the utmost importance in order to properly regulate the use of a technology, which is becoming increasingly widespread with more practical applications and which is constantly and rapidly changing.</p>	<p>The Commission welcomes the continued support of the Committee and the well-prepared report on the proposals on the regulation for a market in crypto-assets and distributed ledger technology (DLT) pilot regime. The Commission is working at full speed together with the Council in order to swiftly adopt the regulation and ensure European citizens and businesses can make the most of the opportunities this innovation presents.</p>
<p>3.9. The EESC believes that the recent emergence of national frameworks is one of the pressing reasons to swiftly adopt legislation in this area to avoid a fragmented regulatory framework that could go against the internal market and add compliance costs for businesses.</p>	<p>One of the primary objectives behind the Commission’s proposals on crypto-assets and DLT is indeed to tackle fragmentation, especially since digital finance and crypto-assets are inherently cross-border. The Commission set it as a top priority to promote the digital single market, which is also the reason for presenting these proposals as regulations with a passporting regime.</p>
<p>3.11. The EESC also supports the ambition to properly regulate issuers of so-called ‘stablecoins’ strictly due to their potential systemic nature, ensuring that for example appropriate investor protection rules are in place.</p>	<p>The issue of so-called ‘global stablecoins’ have been on the Commission’s radar since the emergence of the Libra project in mid-2019. The Commission has been actively engaged in developing international recommendations through the Financial Stability Board and have</p>

	<p>ensured consistency between these and the proposed regulation. Together with the Council, the Commission also committed in December 2019, to put in place an appropriate framework for these new assets to ensure consumer protection and mitigate potential financial stability risks. The Commission believes that the markets in crypto-asset proposal presents this framework.</p>
<p>1.12. On the application of the MiCA regulation into force, the EESC has serious concerns as regards the transitional measures, which allow for exemptions for crypto-assets already on the market before the regulation came in to force, which could lead to a regulatory exemption derogating from the principle of fair treatment of similar assets.</p>	<p>The markets in crypto-assets proposal seeks to regulate crypto-asset issuers and crypto-asset service providers.</p> <p>The transitional measures in the proposal (the grandfathering clause) is for a subset of crypto-assets, while issuers of so-called ‘stablecoins’ for which refers to an underlying for example, would still need to seek authorisation under the new regime. At the same time, it is important to highlight that there is no exemption for crypto-asset service providers, which will need to seek the relevant authorisation after the entrance into force of the regulation.</p>
<p>2.1. As regards the pilot regime, the EESC believes it is an important step in order to identify potential technological risks stemming from the use of DLT. They support the use of a controlled environment to build up experience of using DLT in market infrastructures, while maintaining market integrity and financial stability.</p> <p>However, the EESC believes that the 5-year deadline for ESMA to submit a report on the outcomes of the regime is very long considering the speed of which digital finance evolves.</p>	<p>The Commission appreciates the support for the DLT pilot regime. The ambition behind the proposal is threefold; to foster innovation and remain globally competitive, to gain evidence for potential further regulatory changes and to preserve financial stability.</p> <p>At the same time, the Commission would like to remind that the DLT pilot regime is fully voluntary, and does not prohibit market infrastructures from moving towards DLT while meeting the full obligations of existing rules as more experience is gained on the application</p>

	<p>on existing rules on DLT systems and tokenised financial instruments.</p> <p>On the specific mention of the Committee and the 5-year period and final report, the Commission notes that experience and knowledge gained through the pilot regime is expected to inform other Commission initiatives and relevant reviews on an ongoing basis.</p>
--	--

<p><b>N°8 Digital operational resilience</b>  <b>COM(2020) 595 final</b>  <b>COM(2020) 596 final</b>  <b>EESC 2020/5040 - ECO/536</b>  <b>558th Plenary Session – February 2021</b>  <b>Rapporteur: Antonio GARCÍA DEL RIEGO (ES-I)</b>  <b>DG FISMA – Commissioner MCGUINNESS</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p>1.1. DORA not only enhances the sector's resilience to ICT risks, but is also of interest to a number of stakeholders, including customers, investors and employees, and contributes to the implementation of sustainable development.</p>	<p>The Commission appreciates the continued support of the Committee and congratulates the Rapporteur for its timely and excellent report on the proposals for a digital operational resilience act (DORA). The Commission's objective is to lay the foundations for a resilient financial ecosystem: finance must remain safe as it goes fully digital, while at the same time ensuring the sustainable development goals and protecting the stakeholders and consumers concerned.</p>
<p>1.2.1. Enhancing the effectiveness of DORA by including within the scope of DORA any provider of critical financial services that develops financial activities and excluding the use of ICT services for non-critical functions.</p>	<p>Under DORA, all regulated financial entities - banks, investment firms, stock exchanges, clearinghouses, - will have to respect strict standards to prevent and limit the impact of the Information and Communications Technology (ICT)-related incidents. The Commission has been subjecting regulated financial entities as they have operational risk (including digital risk) requirements and relevant supervision so that DORA rules can smoothly function.</p> <p>Critical ICT third-party service providers (e.g. cloud computing services) will be subject to an oversight framework to ensure they do not pose undue operational risks for finance.</p>

	Overall, DORA establishes a common framework for all actors and counterparts of our financial system to be resilient against ICT risks.
1.2.2. Ensuring consistency in definition and scope between DORA and the requirements set out in existing guidelines issued by the ESAs.	The Commission agrees that guidelines would have to be fully compliant with DORA. Hence, the European Banking Authority (EBA)/ the European Insurance and Occupational Pensions Authority (EIOPA)/ the European Securities and Markets Authority (ESMA) guidelines on outsourcing/ cloud outsourcing will need to be revisited to adjust where appropriate, to the final content of DORA.
1.2.3. Regarding ICT Management, favouring a framework focused on a principle and risk-based approach that facilitates the implementation of controls that are future-proof, flexible and proportionate to the risks.	Since the pandemic, cyberattacks on financial institutions have risen by 38%. Under DORA, all financial entities - banks, stock exchanges, clearinghouses will have to respect strict cyber hygiene rules prevent and limit the impact of ICT-related incidents. To achieve a resilience baseline DORA lays down high level and principle-based rules based on existing international standards and in line with the current acquis, avoiding unnecessary granularity and embedding proportionality by category and by specific rules.
1.2.4. Regarding ICT-related incidents, full alignment with the FSB's Cyber Incident Response and Recovery toolkit.	<p>The Commission is closely following all related work undertaken at international level, especially in the context of the Financial Stability Board (FSB) Cyber Incident Response and Recovery toolkit. This work has also been one of the multiple sources of inspiration in the drafting of DORA.</p> <p>The Commission is currently engaging in the shaping of high-level common principles on the Commercial Interest</p>

	<p>Reference Rates (CIRR) building on previous work of the FSB (such as the Cyber Lexicon).</p> <p>The Commission and the European supervisory authorities (ESAs) are contributing to the stock take questionnaire preparing the ground for such principles.</p>
<p>1.2.5. Regarding digital operational resilience testing, emphasising not only the scale of the financial institution, but also the complexity and critical nature of the service; avoiding mandatory outsourcing conducted by the limited number of external testers, and mutual recognition of testing results.</p>	<p>Advanced digital testing will be required only for significant financial entities as the Commission considers that these raise systemic concerns in case of ICT disruptions and have more mature cyber defence systems. In determining the precise scope of such advanced testing, the criticality of the service would have to be assessed.</p>
<p>1.2.6. Consolidating requirements on outsourcing into a single rulebook, in order to enforce legal certainty for all market participants and reliably comply with supervisory expectations.</p>	<p>In the Commission’s approach, DORA lays down rules on ICT third-party risk management covering all ICT third-party dependencies in general and not just only on outsourcing. On the other hand, detailed outsourcing rules applying throughout the various financial sectors would continue to apply along.</p> <p>DORA would be complementary to these rules.</p> <p>The guidelines established by the three European Supervisory Authorities would contribute to consolidate a convergent application of the outsourcing rules.</p>
<p>1.2.8. Ensuring access to outsourced services that are deemed critical to TPPs established in third countries so as to avoid restricting firms' freedom of contract and the capacity to access the services of high value-added</p>	<p>DORA proposal grants the Lead Overseer powers to conduct general investigations and inspections at the critical ICT third- party service providers premises. Third country ICT</p>

<p>providers.</p>	<p>providers which are not critical to the EU financial system based on the criteria set out in this regulation, may continue to provide ICT services to financial entities without business presence in the EU. The requirement for ICT third-party service providers designated as critical to legally incorporate in the Union does not affect their ability to deliver relevant ICT services and technical support through entities outside the EU in addition to the business presence itself, and does not require data localisation. This Regulation does not impose an obligation for data storage or processing to be undertaken in Union.</p>
<p>1.2.9. Including proportionality in the penalty regime to avoid disincentives for ICT providers to serve EU financial entities and moving away from the current reference to worldwide turnover.</p>	<p>The proposed rules incorporate proportionality in some cases by exempting some categories of financial entities, or by providing specific rules for certain types of entities. Since the rules are generally principle and process based, they would also entail more efforts for larger financial entities than for the small ones.</p> <p>Microenterprises will be exempted from certain ICT risk management requirements while larger entities - which have more resources - will have to establish more complex governance arrangements, set-up dedicated risk management functions, perform in-depth assessments after major changes in the ICT infrastructures, regularly conduct risk analyses on legacy ICT systems, expand the testing of business continuity and response and recovery plans to capture switchover scenarios between primary ICT infrastructure and redundant facilities.</p>

	<p>The Commission continues the reflection and debate on proportionality in the context of negotiations to allow DORA to have tailored rules to size business profile and risk.</p>
<p>1.2.10. Providing clarity on the ability of firms to share cyber-threat information by ensuring that such arrangements are put in place on a voluntary basis and that an explicit provision allowing for the exchange of personal information is included in the DORA proposal.</p>	<p>The financial system is strongly interconnected and firms are interdependent in their operations. A localised ICT threat or incident could endanger more than the exposed firms and propagate to more than just one single financial market or sector. ICT risks in finance can threaten financial stability and market integrity.</p> <p>Risks at one firm can become systemic if triggering liquidity runs and loss of confidence in financial markets. To ensure that relevant cyber threat information is quickly shared with relevant counterparts DORA encourages the set-up of information sharing arrangements, which should indeed remain voluntary and take place in trusted communities in full respect of data protection and business confidentiality.</p>

<p><b>N°9 Asylum management under the New Pact on Migration and Asylum</b>  <b>COM(2020) 610 final</b>  <b>COM(2020) 613 final</b>  <b>EESC 2020/5705 – SOC/669</b>  <b>558<sup>th</sup> Plenary Session – February 2021</b>  <b>Rapporteur: Dimitris DIMITRIADIS (EL-I)</b>  <b>DG HOME – Commissioner JOHANSSON</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p><b>AMR - COM(2020) 610 final</b></p>	
<p>1.3. The EESC welcomes the improved information for asylum-seekers about the application process envisaged in these regulations and their rights and obligations under it, which will enable them to better defend those rights. The right to appeal is strengthened by defining the scope of the appeal and setting a target for court decisions to be taken within a harmonised time limit. The rules on remedies have also been adapted in order to considerably speed up and harmonise the appeal process.</p>	<p>The Commission welcomes the positive Committee's view on the proposal to strengthen the safeguards guaranteed for applicants, in particular as regards information to be provided, the clarified scope of appeal and setting time limits for assessing the appeal. These are important elements to respect the rights of the persons concerned at the same time as they will ensure effective access to the procedure for granting international protection.</p>
<p>1.4. The EESC is also pleased to note that the right to private and family life and the rights of unaccompanied minors are strengthened by expanding the scope to include siblings, as well as families formed in transit countries, within the criteria for family reunification and by applying the principle of the best interests of the child.</p>	<p>The Commission also welcomes the positive view as regards the right to private and family life. These elements particularly aim at ensuring the protection of fundamental rights of the persons concerned, as well as contributing to a wider application of the responsibility criteria in order to ensure a better balance in the responsibilities of Member States.</p>
<p>1.5. The EESC recognises the importance of the proposals having the legal status of a regulation – as opposed to a Directive – which is binding in its entirety and directly applicable in the Member States under the Treaties. However, all the relevant proposed</p>	<p>The Commission agrees that all the proposed mechanisms should be understood as a whole since they are complementing each other. The Pact presents a comprehensive package with many different proposals, and sets out</p>

<p>regulations need to be adopted concurrently in order to represent a fully-fledged policy: if one of them should not be adopted, that would have a dire impact on the implementation of the others. Furthermore, past non-compliance with binding EU law on the part of some Member States leaves ample room for doubt as to the implementation of several provisions of the proposed regulations.</p>	<p>measures that balance fair sharing of responsibility and solidarity between the Member States practically and politically. It is important that all these elements are linked into a coherent framework.</p>
<p>1.7. The EESC is pleased that the [AMR and crisis] regulations invoke the principles of solidarity and fair sharing of responsibility, but feels that this burden is not sufficiently balanced by a corresponding degree of solidarity. Put simply, solidarity, in the form of relocation, cannot be voluntary. Solidarity needs to be binding, in the form of mandatory relocations.</p>	<p>The Asylum and Migration Management Regulation (AMR) proposal proposes a mechanism of solidarity for situations of migratory pressure and captures the specificities of disembarkations following search and rescue operations (SAR). Solidarity is not optional. It is compulsory and seeks to capture the new realities of migration by providing for a wider set of solidarity measures that can relieve the pressure caused by the different realities of migration. The correction mechanism built into both the mechanisms for migratory pressure and SAR ensure that a solid guarantee is provided to benefitting Member States in terms of relocations and return sponsorships.</p>
<p>1.11. The EESC is encouraged by the recognition that a wider solidarity concept is needed and that solidarity should be compulsory in nature to guarantee a predictable and effective response to the changing situation, in which an increasing share of mixed migration flows towards the Union, and to ensure fair sharing of responsibility in line with the Treaty. However, this falls short of expectations for a solidarity mechanism that would really alleviate the burden of the states of first entry.</p>	<p>The New Pact, including the AMR proposal, sets out mechanisms to support the Member States of first entry in coping with situations of migratory pressure and disembarkations following SAR operations. The solidarity mechanism is designed to ensure that all Member States contribute. Better monitoring of the migratory situation within, at and outside EU borders will enhance preparedness and contingency, also planning for extreme situations of crisis and force majeure. The border</p>

	<p>procedure will be reinforced, making returns of those with no right to stay in the EU more swift and effective. The solidarity mechanism ensures that the burden of Member States of first entry will be alleviated through relocations, return sponsorships, and other measures, which include capacity building measures, operational support and measures in the field of the external dimension.</p>
<p>1.14. Given the voluntary nature of the choice between relocation and sponsored returns, the EESC could accept a mandatory allocation of relocations, in the sense that if all states choose to finance returns but do not choose to relocate or only accept a very small number of relocations, this will further aggravate the current situation in the countries of first entry.</p>	<p>The mechanism designed by the Commission ensures a solid guarantee for benefitting Member States in the form of relocations and return sponsorships, while maintaining the flexibility for contributing Member States to choose between these two measures if the correction mechanism is triggered. The Commission considers that both these measures contribute to alleviating pressure in the benefitting Member States.</p>
<p>3.2. As noted in EESC opinion SOC/649, under the new solidarity mechanism Member States would be able to participate in the relocation or sponsored return of persons in an irregular situation. The EESC doubts the feasibility of the mechanism, which is based on hypothetical voluntary solidarity. No mention is made of the incentives that would be needed to induce Member States to participate in this mechanism, especially following the refusal of some of them to participate in the previous relocation programme, or of the lack of express obligation. This "solidarity-based" mechanism may also have the contrary effect of relocating the individual concerned to the sponsoring Member State, if the return is not actually carried out within eight months,</p>	<p>The contributions of each Member State in terms of solidarity measures will be set out by the Commission in an implementing act and will therefore be binding on the Member States.</p> <p>Member States indeed have a choice of the measures they wish to contribute with, including following the triggering of the correction mechanism, where they may choose between relocation and return sponsorship. Member States will receive financial support for both such measures (as opposed to capacity building and other measures).</p> <p>The Commission respectfully disagrees that there is a greater incentive to choose return sponsorship rather than relocation. Under return sponsorship, a</p>

<p>resulting in accountability gaps regarding the rights of returnees. Furthermore, under the proposed new solidarity mechanism, Member States are incentivised to not participate in relocation – the more pressurising, difficult and costly option – but to choose return instead. Therefore, binding solidarity measures in the form of compulsory action as provided for in the European Commission communication need to be put in place.</p>	<p>Member State commits to support a Member State under migratory pressure by carrying out the necessary activities to return individually identified illegally staying third-country nationals from the territory of the latter, in close coordination. However, if the efforts to return a third country national are unsuccessful after 8 months, the sponsoring Member State is under the obligation to transfer the person concerned to its own territory, and continue its efforts to return that person in accordance with the Return Directive. In case the person is not returned, this transfer to the sponsoring Member State ensures that the person leaves the territory of the benefitting Member State at the latest after 8 months.</p>
<p>3.3. The EESC welcomes the shortening of the periods for securing long-term residence from five to three years for persons benefiting from international protection when they decide to stay in the Member State that has provided them with such protection. The aim is clearly to facilitate integration into local communities, although it could be deemed to be limiting mobility within the EU, thus confirming that the burden still remains with the countries of first entry.</p>	<p>The Commission welcomes the Committee's views on the shortening of the long-term residence requirement.</p>
<p>3.5. The EESC welcomes the measures to improve coordination between national strategies on asylum and return policies, but regrets that more proposals have been made on coordinating return instruments than on coordinating asylum and refugee reception procedures.</p>	<p>The Commission appreciates the positive views of the Committee on the governance framework that is built on the national strategies of the Member States.</p> <p>The national strategies of the Member States will design the principles and support the implementation of migration management at national</p>

	<p>level, notably the need for integrated policy-making and ensuring the principle of solidarity and fair sharing of responsibility. They will therefore ensure the coherence of the various sectoral national strategies and measures in the relevant areas, e.g. migration, asylum, border management, return, visa etc.</p> <p>The national strategies will have a strong contribution in building resilience and preparedness at national level through contingency planning to prevent the build-up of migratory pressure and to help address migratory pressure or crisis situations; they will also enhance the monitoring of fundamental rights.</p> <p>Not least, these strategies will feed into a European Strategy on Asylum and Migration Management that will set out the strategic approach to managing asylum and migration at the European level and on the implementation of asylum, migration, and return policies in accordance with the comprehensive approach, enabling a forward looking perspective on the risks and opportunities present in migration management and how best to deal with them.</p>
<p>3.8. In the same light, the EESC suggests that having three different categories of emergencies (cases of pressure or threat of increased pressure, cases of crisis, and cases of search and rescue operations) for solidarity purposes is not practical. [...] It is a dysfunctional and time-consuming process: first one has to request solidarity, then the opinion is formulated, then one can contribute in voluntary solidarity and then the decision for mandatory solidarity. Even in the</p>	<p>It is necessary to distinguish between the ex-ante mechanism for SAR and the mechanisms for pressure and crisis. For SAR, solidarity pools are set up on a yearly basis following the adoption of the Migration Management Report, for a Member State to draw upon as disembarkations occur.</p> <p>The mechanism is different for situations of pressure and crisis, where</p>

<p>case of mandatory solidarity, the Commission's decision depends on the opinion of a special committee and if that committee does not give a positive opinion then no measures are taken.</p>	<p>the mechanisms have to be triggered by the relevant Member State or the Commission, although in both cases the Commission has proposed a speedy process for solidarity measures to be implemented in a matter of weeks. The Commission can make use of the urgency procedure for the adoption of the implementing act, which means that the committee would be consulted after the implementing act comes into force.</p>
<p><b>Crisis proposal - COM(2020) 613 final</b></p>	
<p>4.1. The EESC welcomes the introduction of a crisis and <i>force majeure</i> component in the field of migration and asylum. The EESC feels, however, that the very definitions are not clear or adequate. This fact, along with the absence or existence of objective indicators, creates a lack of legal certainty.</p>	<p>The Commission welcomes the overall positive approach of the Committee to the crisis proposal.</p> <p>As regards the definitions, the Commission believes that they are adequate and provide the appropriate legal certainty. The Commission wanted to ensure that the realities of crisis situations may be covered by this Regulation by providing the necessary flexibility for use in case of the wide range of crises that may arise and would therefore fall within the scope.</p>
<p>4.2. The EESC points out that although the crisis and <i>force majeure</i> regulation provides a window of opportunity for binding solidarity, it covers procedural support rather than emergency solidarity measures. Solidarity is undermined by the complex and bureaucratic procedures required to implement it. It is clear that in a crisis situation or situation of pressure, relocations need to be ensured. In addition, measures should be put in place to prevent Member States from reaching a crisis situation.</p>	<p>As regards the need to ensure relocations, the proposal:</p> <ul style="list-style-type: none"> <li>- introduces specific rules on the application of the solidarity mechanism, namely a wider scope for compulsory relocation that is extended to include all applicants, be they subject to the border procedure or not, irregular migrants, and persons granted immediate protection;</li> <li>- shortened timeframes for triggering the compulsory solidarity mechanism procedure foreseen in the Regulation on Asylum and Migration Management are</li> </ul>

	<p>established;</p> <ul style="list-style-type: none"> <li>- as regards return sponsorship, the obligation to transfer the irregular migrant to the territory of the sponsoring Member State will be triggered if the person concerned has not returned or has not been removed within four months (instead of eight months).</li> </ul> <p>As regards prevention, the proposal puts in place more robust tools to fend off any future crises, such as situations of mass influx, but also flexibility in situations of <i>force majeure</i>, in light of the lessons learned from the COVID-19 pandemic.</p>
<p>4.3. The EESC points out that establishing procedures and mechanisms addressing situations of crisis and <i>force majeure</i> in the field of migration and asylum should also be compatible with fundamental rights and the general principles of Union, as well as international, law.</p>	<p>The proposal respects fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union, as well as the obligations stemming from international law. In particular, including the right to human dignity (Article 1), prohibition of torture and inhuman or degrading treatment or punishment (Article 4), the right to the protection of personal data (Article 8), the right to asylum (Article 18), the protection from <i>refoulement</i> (Article 19), non-discrimination (Article 21), equality of rights between men and women (Article 23), the rights of the child (Article 24) and the right to an effective remedy (Article 47). The proposal fully takes into account the rights of the child and the special needs of vulnerable persons.</p>
<p>4.4. The EESC welcomes the fact that in times of crisis, the Member State that activates the mechanism will be able to suspend its international obligations (e.g. for processing asylum applications) for up to</p>	<p>The Commission welcomes the Committee's positive view as regards extended time periods for Member States to deal with crisis situations. However, with a view to ensuring legal</p>

<p>three months. In addition, this timeframe should be extendable for as long as the crisis is in place. Clarity on how crisis situations will be determined and clear benchmarks for when a country's capacity is/might become overburdened might be useful.</p> <p>4.5. The EESC welcomes the proposal to provide Member States with the additional time needed to deal with the crisis situations while also ensuring effective and prompt access to the relevant procedures and rights, and the Commission's ability to authorise the application of the asylum crisis management procedure and the return crisis management procedure for a period of six months, which can be extended up to a period not exceeding one year. After expiry of the relevant period, the extended deadlines provided for in the asylum and return crisis management procedures should not be applied to new applications for international protection.</p>	<p>certainty for Member States' authorities and asylum seekers alike, the timeframe for the application of the derogatory rules cannot be made longer. The timeframe is clearly defined for all cases: six months, which can be extended to maximum one year, for the provisions on the asylum crisis management procedure and the return crisis management procedure; and maximum four weeks for the application of derogation from registering applicants for international protection.</p>
<p>4.7. Although, the EESC believes that this proposal may serve as an opportunity to make the case for binding solidarity, it is not included in the body of the relevant regulation. Therefore, the EESC feels that it should be incorporated in the body of the Regulation of the European Parliament and of the Council on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund] to avoid any uncertainties and to remove the risk of it not been adopted, as the one cannot exist without the other.</p>	<p>Although the comprehensive approach to asylum and migration should allow the Member States to be better prepared to avoid that a situation of crisis arises, it cannot be excluded that a situation of crisis will arise given the various factors operating outside the control of the Union and its Member States.</p> <p>The legislative framework under the Asylum and Migration Management Regulation and the Asylum Procedure Regulation should therefore be <i>complemented</i> by an instrument that ensures that the Union has at its disposal specific rules that can address the exceptional situation of crisis in an effective manner. These complementary crisis rules will provide for appropriate procedural rules and</p>

derogations and a rapid triggering of solidarity to the benefit of one or more Member States to respond to crisis situations of such a magnitude that put under significant strain even well prepared and functioning asylum and migration management systems.

<p><b>N°10 Asylum procedures under the New Pact on Migration and Asylum COM(2020) 611 final COM(2020) 612 final COM(2020) 614 final EESC 2020/5719 – SOC/670 558<sup>th</sup> Plenary Session – February 2021 Rapporteur: Panagiotis GKOFAS (EL-III) DG HOME – Commissioner JOHANSSON</b></p>	
<p><b>Points of the European Economic and Social Committee opinion considered essential</b></p>	<p><b>European Commission position</b></p>
<p><b>Asylum Procedures Regulation amended proposal - COM(2020) 611 – final</b></p>	
<p>1.1. The four or five Member States concerned will have to create "closed centres", based on the principle of non-entry, for human beings for a period of up to six or seven months, if not more, until the outcome of the procedures is known, resulting in situations that are much worse than before.</p> <p>Concerns about (...) how and where people are going to be kept during the border procedure, and how to avoid legal limbo by guaranteeing the right to effective judicial protection.</p>	<p>The border procedure is to be applied mandatorily in a limited number of cases (clear, objective grounds, easy to assess from the outset). All the safeguards and guarantees applicable to the asylum procedure would also apply for the border procedure. The concept of non-entry is something that exists both in the Schengen and asylum acquis (Article 43 APD). It is up to each Member State how it chooses to enforce it. The proposed regulation does not refer to detention centres. Detention may only be used as a measure of last resort and following a case-by-case assessment based on the principle of proportionality and consideration of less coercive alternative measures in accordance with grounds and conditions foreseen in the Reception Conditions Directive.</p>
<p>Concerns about the new border procedures, especially relating to the need to protect the right to request asylum and to the following issues:</p> <ul style="list-style-type: none"> <li>- the flawed concept of "countries with low</li> </ul>	<p>It is unclear why the concept of “low recognition countries” is considered flawed. The new provision in the Asylum Procedures Regulation (APR) proposal clearly explains how such countries should be determined (by</p>

asylum recognition rates;

- the use of ill-defined legal concepts ("security threat", "public order") that give rise to legal uncertainty;

- foreign children between the ages of 12 and 18, who are also considered to be "children" according the 1989 UN Convention on the Rights of the Child.

reference to objective Eurostat data) and also includes a safeguard allowing Member States not to apply this criterion if the specific circumstances related to a person make the low recognition rate not representative for the person in question.

The concepts of "security threat" or "public order" are well-established concepts both in EU asylum legislation and in the Schengen acquis and they have been further framed by European Court of Justice case-law. The amended proposal is crafted in a way that aims at ensuring a careful balance between the need to have an efficient border procedure that is easy to apply and the need to protect the most vulnerable. This is the rationale behind the differentiated system of exemptions. The mandatory application of the border procedure is limited to three well-defined cases and there are provisions aimed to protect the vulnerable persons, including minors, in this framework, either by explicitly excluding certain categories from the border procedure or by ensuring a sound set of safeguards and guarantees.

In this sense, the explicit exemption of unaccompanied minors and minors below 12 years old and their family members from the application of the border procedure is a change compared to the text of the current Asylum Procedure Directive. These categories may only be put in the border procedure if they may be considered, for serious reasons, a danger to the national security or public order of the Member States.

In addition, the provision allowing

	<p>Member States not to apply the border procedure to persons with special procedural needs if the necessary support cannot be provided will also be applied to minors, unaccompanied or with their family, regardless of their age. Therefore, this provision will also allow the exemption of minors from the border procedure. Furthermore, all safeguards and guarantees foreseen for the asylum procedure apply also in the framework of the border procedure.</p> <p>Finally, for the minors who will be in the border procedure, the appropriate accommodation, the access to education and all the relevant rights and benefits foreseen in the proposal for a Reception Conditions Directive will need to be ensured.</p>
<p>1.4. The provision regarding solidarity should also be included in the Asylum Procedures Regulation (APR), right after screening has taken place, and with IT help from Eurodac. If "mandatory solidarity" does not take the form of "mandatory relocation" under the APR provisions, or if procedures are not created that allow people to apply for asylum in EU Member States without the need to cross EU borders, in practical terms the regulation will not be operational. There should be also incentives and disincentives for relocation, and in any case it should be possible for the APR process to be conducted in other Member States and not exclusively in the country of first entry.</p>	<p>The solidarity provisions are contained in a separate Asylum and Migration Management Regulation (AMR), as they are closely linked to the provisions on responsibility.</p> <p>In the current AMR proposal, the scope of relocation depends on the situation of the benefitting Member State (under migratory pressure or faced with disembarkations following search-and-rescue (SAR) operations) and in any event excludes persons subject to the border procedure, as the categories of persons and situations covered by the border procedure are aimed at persons less likely to be granted international protection. This is also the rationale for introduction of return sponsorship as a solidarity measure.</p> <p>The Commission has struck a balance between flexibility and effectiveness, by giving a choice to contributing</p>

	<p>Member States as to the mandatory solidarity measures, while guaranteeing (with the correction mechanism) a solid mandatory solidarity towards the benefitting Member States in the form of relocation and/or return sponsorship.</p>
<p>1.5. The EESC underlines that the effectiveness of the proposed new procedures need to be constantly measured through systems monitoring respect for fundamental rights, particularly as regards the rights of vulnerable people and children, the individual assessment of asylum claims and effective remedies.</p>	<p>The monitoring of the border procedure in the Member States will be ensured by the EU Asylum Agency under its new mandate, once the proposal is adopted.</p>
<p>1.6. There is unfortunately no possibility for a person to apply for asylum in a Member State other than the country of first entry – something that should be possible. The rules on determining the Member State responsible for processing an asylum application, at present laid down in the Asylum and Migration Management Regulation (AMR) should be set out in the APR, providing an opportunity through Eurodac for claims to be processed by other Member States as well.</p>	<p>The rules regarding the determination of the Member State responsible to process an asylum application are foreseen in AMR, as the rules on responsibility are linked to the provisions on solidarity. This explains why the criteria for determining the Member State responsible are not in APR, nor in Eurodac.</p> <p>Discouraging/ preventing asylum shopping was one of the objectives of the Pact and of the accompanying proposals, as firmly requested by Member States and relevant stakeholders.</p>
<p>1.7. Where is the solidarity in the APR, not to mention the AMR – if indeed it makes any provision for solidarity? When a person is granted asylum, can they go to another Member State instead of the country of first entry ? Can the Member States grant asylum to protect people in need or will they start to reject them?</p>	<p>As regards the question whether Member States can grant asylum to protect people in need, the Commission highlights that the European Union is an area of protection for people fleeing persecution or serious harm in their country of origin. Asylum is a fundamental right and an international obligation, as recognised in the 1951 Geneva Convention on the protection of refugees.</p>

	<p>Footnote 2 of the Opinion comes from informal comments sent by the Commission to the Committee in January 2021:</p> <p><i>In accordance with the provisions of the Qualification Regulation, beneficiaries of international protection are entitled to the rights and benefits stemming from that status in the Member State that granted the status.</i></p> <p>They are entitled to a travel document, but are not entitled to free movement within the Union, except in a number of specific situations and under certain conditions. Persons who qualify for international protection according to the criteria set out in the Qualification Regulation should be granted refugee or subsidiary protection status as applicable. The right to asylum as enshrined in the Charter is fully respected by the Commission’s proposals.</p> <p>As stated previously, the provisions on solidarity are laid down in the AMR and not in the APR.</p>
<p>1.9. If asylum is not granted, the Member State must return the rejected asylum seeker. This approach must look at ways of establishing EU agreements with the third countries of origin and transit and ensuring effective procedures, as provided for under international law and human rights instruments. No single agreements can be established between Member States individually, and nor does the Commission make any mention whatsoever of such a procedure.</p>	<p>The obligation under international law for States to readmit their own nationals staying illegally on the territory of another is not dependent on readmission agreements. These agreements help structure and render cooperation more effective by laying down detailed provisions on the modalities of cooperation between the requesting and readmitting States. Several EU readmission agreements and arrangements are in place and several negotiations are ongoing. Member States’ bilateral agreements or</p>

	arrangements with third countries structure and support the cooperation in a similar way for those Member States.
<p>1.11. The "pre" means that the person concerned goes to a "closed detention centre" and stays there, without any possibility of moving until the Member State authorities decide either to grant them asylum or return them to the country of origin or of transit.</p>	<p>The Screening proposal does not prescribe detention or imprisonment of persons subject to screening; it only defines the objective of preventing entry to the territory and leaves Member States the discretion to use appropriate measures. Such measures may involve administrative detention.</p> <p>If the person applies for asylum during screening and the grounds for border procedure do not apply, the person will be allowed entry to the territory for a normal asylum procedure.</p> <p>Moreover, footnote 4 of the Opinion comes from informal comments sent by the Commission to the Committee in January 2021:</p> <p><i>As regards the use of detention during the border procedure, please see paras 179 and 183 of ECJ judgement C-808/18: “Member States are authorised to place in ‘detention’, within the meaning of Article 2(h) of Directive 2013/33, applicants for international protection arriving at their borders, before granting them a right to enter their territory, on the conditions set out in that same Article 43 and in order to ensure the effectiveness of the procedures for which Article 43 provides”; “it follows from Article 43(1) of Directive 2013/32 that detention based on that provision is justified only in order to allow the Member State concerned to examine, before granting the applicant for international protection the right to enter its territory, whether his or her</i></p>

	<p><i>application is not inadmissible [...] or whether that application must not be rejected as unfounded [...].”</i></p>
<p>2.1. The proposed regulations under examination will place a huge burden on the Member States of southern Europe, with the inevitable consequence that the regulations will be inapplicable and will fail to achieve their intended result. After a reasonable period of time, Member States will be forced de facto to reject many asylum applications, even those that meet the conditions for asylum to be granted, in order to avoid increasing numbers of people being held together in inhumane conditions.</p>	<p>The provisions regarding the pre-entry phase (screening, on the one hand, and border procedure, on the other) should be seen together with the solidarity mechanism foreseen in the AMR proposal to cover situations of migratory pressure and the specificities of disembarkations from search and rescue operations, which are a reality in the Mediterranean. The solidarity measures will alleviate the burden of the Member States of first arrival, and ensure that all applicants have access to the asylum procedure.</p> <p>As regards “inhumane conditions” - the applicants in the border procedure are entitled to the same reception conditions as the applicants in the asylum procedure in the territory. If detention needs to be used, the conditions for detention foreseen in the Reception Conditions Directive (RCD) must be respected. According to Article 43(9)(d) of the proposed Asylum Procedure Regulation, if the border procedure cannot be applied without detention and if the conditions for detention set out in RCD cannot be ensured, Member States should not apply or should stop applying the border procedure and should allow the person to enter the territory.</p>
<p>4.1. It can only endorse this proposal if it does not turn the Member States in the south into detention or pre-departure centres for human beings.</p>	<p>The aim of the border procedure is to ensure swift processing of applications for a limited number of persons who are likely not in need of international protection (based on clear and objective criteria).</p>

<p>4.2. It regrets that more proposals have been made to coordinate the implementation of closed detention centres in countries of first entry than have been made on the common asylum system, imposing the exclusive obligation to manage asylum seekers on the countries of first entry. This gives the overriding impression that the proposals to be implemented are addressed to the countries of the south, without any referral to relocation during the application of "border procedures.</p>	<p>After adoption, the Asylum Procedure Regulation would apply to all Member States. The rules for determining the Member State responsible and solidarity measures for Member States faced with disembarkations following search and rescue operations or under migratory pressure are provided in the AMR proposal. As an EU regulation, it would have direct effect in all Member States and therefore it is not directed to any specific Member State.</p>
<p>4.4. The EESC underlines the urgent need for a more comprehensive strategy based on a system of balanced and shared responsibility for the governance of migration flows between the EU and non-EU countries.</p>	<p>These aspects are addressed in detail in the AMR proposal, which strikes a balance between responsibility and mandatory solidarity between Member States and sets out a governance system underpinning the comprehensive approach to migration. This governance system entails the adoption of a European Asylum and Migration Management Strategy, which takes into account the national strategies to be adopted by Member States.</p>
<p>4.5. Moreover, the EESC stresses the need to provide adequate protection for families with children and urges the Commission to take special care with regard to unaccompanied minors (...) It is not acceptable that a child is only considered as such if under the age of 12, and not 18, in accordance with international law. According to the 1981 UN Convention on the Rights of the Child, a child means every human being below the age of 18.</p>	<p>The Asylum Procedures Regulation proposal contains exhaustive provisions regarding safeguards for minors of all ages and unaccompanied minors including in the context of the border procedure. The same goes for the proposals for a Reception Conditions Directive and for a Eurodac Regulation. The various elements related to the differentiated exemptions of these categories from the border procedure have been explained above.</p>
<p>4.6. The EESC asks how a properly-functioning solidarity mechanism among Member States could be realistically implemented under the new amended</p>	<p>As previously stated the provisions on responsibility and mandatory solidarity are found in the AMR proposal, as these two aspects are closely linked.</p>

<p>proposal. The rules on determining the Member State responsible for processing an asylum application, at present laid down in the AMR, should be in the APR, providing an opportunity through Eurodac for claims to be processed by other Member States as well.</p>	<p>Having said this, the adoption of the various elements of the Pact will contribute to a comprehensive approach to asylum and migration management. As indicated above, the scope of relocation in the proposal does not extend to persons subject to the border procedure, given that the categories of persons and situations covered by the border procedure are aimed at persons less likely to be granted international protection. This is also the rationale for including return sponsorship as a mandatory solidarity measure to alleviate Member States of first arrival.</p>
<p>4.3. Furthermore, the EESC regrets that potential problems in operating the return programmes have not been properly identified in the proposal, above all as regards the willingness in practice of non-EU countries, countries of origin or countries of transit to cooperate with the EU.</p>	<p>The obligation under international law for States to readmit their own nationals staying illegally on the territory of another is not dependent on readmission agreements. These agreements help structure and render cooperation more effective by laying down detailed provisions on the modalities of cooperation between the requesting and readmitting States. Several EU readmission agreements and arrangements are in place and several negotiations are ongoing. Member States' bilateral agreements or arrangements with third countries structure and support the cooperation in a similar way for those Member States.</p>
<p><b>Screening proposal – COM(2020)612</b></p>	
<p>3.3.4. The screening should be mandatory and should apply not only in the countries of first entry, but in every Member State, in line with the principle of EU solidarity. The proposed screening is expected to add value to current procedures and, with the exception of health issues, should not be</p>	<p>The proposed screening is mandatory both at the external borders (Article 3 of the proposal), as well as in cases of apprehension within the territory (Article 5 of the proposal). Moreover, all EU Member States have external borders by virtue of having air borders.</p>

<p>conducted only in countries with external borders.</p>	
<p><b>Eurodac proposal – COM(2020)614</b></p>	
<p>5.3. The EESC is not convinced that using Eurodac would be the appropriate tool for combatting irregular migration, nor that it would effectively support Member States in monitoring the granting of assistance for voluntary return and reintegration.</p>	<p>Footnotes 6 and 7 of the Opinion, which are based on informal comments previously sent by the Commission make nevertheless reference to positive aspects of Eurodac:</p> <ul style="list-style-type: none"> <li>- <i>“It will improve Member States' monitoring capacities in this field and prevent assisted voluntary return and reintegration (AVRR) "shopping", as Member States will have immediate access to this information and a person granted assistance in one Member State will have to refrain from moving to another Member State with the objective of obtaining another type of, or better, assistance. Currently, Member States have no common database or any way to find out if a returnee has already benefitted from return and reintegration support. This information is essential in combatting misuse and double-benefits.”</i></li> <li>- <i>“The Entry/Exit System allows Member States to detect third-country nationals who have been staying on illegally although they have entered the EU legally. However, no such system exists for identifying illegally present third-country nationals who enter the EU irregularly at the external borders. The current Eurodac system is the ideal database for hosting this information as it already contains such data. For the time being, the purpose of collecting such data is limited to assisting in the determination of the Member State responsible for examining an asylum</i></li> </ul>

*application. The identification of illegally present third-country nationals and those who have entered the European Union irregularly at the external borders will, in particular, assist Member States in re-documenting a third-country national for return purposes.”*