

**FOLLOW-UP PROVIDED BY THE COMMISSION TO THE OPINIONS OF THE**

**EUROPEAN ECONOMIC AND SOCIAL COMMITTEE**

**PLENARY SESSION OF OCTOBER 2016**

N°	Title	References
<b>SJ</b>		
1.	<p><b>The characteristics of fishing vessels (recast)</b></p> <p>Proposal for a Regulation of the European Parliament and of the Council defining the characteristics of fishing vessels (recast)</p> <p>Rapporteur: Gabriel SARRÓ IPARRAGUIRRE (GRIII-ES)</p>	<p>COM(2016) 273 final – 2016/0145 (COD)</p> <p>EESC-2016-04323-AS-TRA</p> <p>NAT/694</p>
<b>DG GROW</b>		
2.	<p><b>Promoting a fairer agro-food supply chain</b></p> <p>Report from the Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain</p> <p>Rapporteur: Peter SCHMIDT (GRII-DE)</p>	<p>COM(2016) 32 final</p> <p>EESC-2016-01870-AS-TRA</p> <p>NAT/680</p>
3.	<p><b>Cross-border parcel delivery services</b></p> <p>Proposal for a Regulation of the European Parliament and of the Council on cross-border parcel delivery services</p> <p>Rapporteur: Raymond HENCKS (GRII-LU)</p>	<p>COM(2016) 285 final – 2016/0149 (COD)</p> <p>EESC-2016-04454-AS-TRA</p> <p>INT/799</p>
4.	<p><b>Strengthening the European personal care, body hygiene and beauty products industries</b></p> <p>Rapporteur: Madi SHARMA (GRI-UK)</p> <p>Corapporteur: Dirk JARRÉ (GRIII-DE)</p>	<p>EESC-2016-01027-AS-TRA</p> <p>CCMI/143</p> <p>Own-initiative opinion</p>
5.	<p><b>Communication on European standardisation</b></p> <p>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European standards for the 21st century</p> <p>Rapporteur: Antonello PEZZINI (GRI-IT)</p>	<p>COM(2016) 358 final</p> <p>EESC-2016-03406-AS-TRA</p> <p>INT/794</p>

<b>DG CNECT</b>		
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7.	<p><b>Review of the Audiovisual Media Services Directive</b></p> <p>Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities</p> <p>Rapporteur: Raymond HENCKS (GRII-LU)</p>	<p>COM(2016) 287 final – 2016/0151 (COD)</p> <p>EESC-2016-03427-AS-TRA</p> <p>TEN/599</p>
8.	<p><b>Review of the wholesale roaming market in the EU</b></p> <p>Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets</p> <p>Rapporteur: Raymond HENCKS (GRII-LU)</p>	<p>COM(2016) 399 final – 2016/0185 (COD)</p> <p>EESC-2016-03429-AS-TRA</p> <p>TEN/600</p>
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<b>DG JUST</b>		
17.	<p><b>European control mechanism on the rule of law and fundamental rights</b></p> <p>Rapporteur: José Antonio MORENO DÍAZ (GR II-ES) Corapporteur: Ákos TOPOLÁNSZKY (GR III-HU)</p>	<p>EESC-2016-01275-AS-TRA</p> <p>SOC/536</p> <p>Own-initiative opinion</p>
18.	<p><b>Consumer protection laws</b></p> <p>Proposal for a Regulation of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance)</p> <p>Rapporteur: Bernardo HERNÁNDEZ BATALLER (GR III-ES)</p>	<p>COM(2016) 283 final – 2016/0148 (COD)</p> <p>EESC-2016-04489-AS-TRA</p> <p>INT/798</p>
19.	<p><b>Revision of the anti-money laundering directive</b></p> <p>Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC</p> <p>Rapporteur: Javier Doz ORRIT (GR II-ES)</p>	<p>COM(2016) 450 final – 2016/0208 (COD)</p> <p>EESC-2016-04274-AS-TRA</p> <p>ECO/408</p>
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21.	<p><b>Mid-term evaluation of Horizon 2020</b></p> <p>Rapporteur: Ulrich SAMM (GR I-DE)</p>	<p>EESC-2016-03274-AS-TRA</p> <p>INT/792</p> <p>Exploratory opinion requested by the Slovak presidency</p>

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23.	<p><b>Conservation of Atlantic tunas</b></p> <p>Proposal for a Regulation of the European Parliament and of the Council laying down management, conservation and control measures applicable in the Convention Area of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007</p> <p>Rapporteur: Thomas MCDONOGH (GRI-IE)</p>	<p>COM(2016) 401 final – 2016/0187 (COD)</p> <p>EESC-2016-04324-AS-TRA</p> <p>NAT/695</p>
24.	<p><b>Marine energy: renewable energy sources to be developed</b></p> <p>Rapporteur: Stéphane BUFFETAUT (GRI-FR)</p>	<p>EESC-2016-01175-AS-TRA</p> <p>TEN/585</p> <p>Own-initiative opinion</p>
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25.	<p><b>Passenger ships - safety rules and standards</b></p> <p>Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/45/EC on safety rules and standards for passenger ships</p> <p>Rapporteur: Tomas ABRAHAMSSON (GRII-SE)</p>	<p>COM(2016) 369 final – 2016/0170 (COD)</p> <p>EESC-2016-04285-AS-TRA</p> <p>TEN/602</p>

26.	<p><b>Passenger ships - registration and reporting formalities</b></p> <p>Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and amending Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States</p> <p>Rapporteur: Vladimír NOVOTNÝ (GRI-CZ)</p>	<p>COM(2016) 370 final – 2016/0171 (COD)</p> <p>EESC-2016-04290-AS-TRA</p> <p>TEN/603</p>
27.	<p><b>Ro-ro ferry and high-speed passenger craft in regular service</b></p> <p>Proposal for a Directive of the European Parliament and of the Council on a system of inspections for the safe operation of ro-ro ferry and high-speed passenger craft in regular service and amending Directive 2009/16/EC of the European Parliament and of the Council on port State control and repealing Council Directive 1999/35/EC</p> <p>Rapporteur: Jan SIMONS (GRI-NL)</p>	<p>COM(2016) 371 final – 2016/0172 (COD)</p> <p>EESC-2016-04259-AS-TRA</p> <p>TEN/604</p>
<b>DG COMP</b>		
28.	<p><b>Competition policy 2015</b></p> <p>Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Report on Competition Policy 2015</p> <p>Rapporteur: Juan MENDOZA CASTRO (GRII-ES)</p>	<p>COM(2016) 393 final</p> <p>EESC-2016-04505-AS-TRA</p> <p>INT/800</p>
<b>DG BUDG</b>		
29.	<p><b>A performance-based EU budget and its focus on real results: The key to sound financial management</b></p> <p>Rapporteur: Petr ZAHRADNÍK (GRI-CZ)</p>	<p>EESC-2016-00760-AS-TRA</p> <p>ECO/399</p> <p>Own-initiative opinion</p>



**DG DEVCO**

30.	<b>The 2030 Agenda – A European Union committed to supporting sustainable development goals globally</b>  Rapporteur: Ioannis VARDAKASTANIS (GR11-EL)	EESC-2016-00758-AS-TRA  REX/461  Own-initiative opinion
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<p><b>N°1 Proposal for a Regulation of the European Parliament and of the Council defining the characteristics of fishing vessels (recast)</b>  <b>COM(2016) 273 final - EESC 2016/4323 - NAT/694</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Gabriel SARRÓ IPARRAGUIRRE (GRIII-ES)</b>  <b>SJ – President JUNCKER</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The aim of the Commission’s proposal is to undertake a codification of Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels. Codification is necessary in order to make EU law simpler, clearer and more transparent, and in doing so render it more accessible and easier to understand for citizens.</p> <p>The Commission’s proposal fully preserves the content of the act being codified. However, the proposal also makes a substantive amendment to Article 5(3) of Regulation (EEC) No 2930/86, with a view to delegating powers to the Commission for adapting the requirements for the determination of continuous engine power to technical progress. Therefore, the proposal is being presented in the form of a recast.</p> <p>The EESC agrees with the amendments made to Article 5(3), which empowers the Commission to adopt delegated acts for adapting the requirements for the determination of continuous engine power to technical progress in accordance with the requirements adopted by the International Organization for Standardization in its recommended International Standard ISO 3046/1, 2nd edition, October 1981.</p>	<p>The wordings of recital 8, Article 5(3) and Article 7 will be slightly adapted in order to be aligned with the standard clauses annexed to the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.</p>



<p><b>N°2 Promoting a fairer agro-food supply chain</b>  <b>COM(2016) 32 final - EESC 2016/1870 - NAT/680</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Peter SCHMIDT (GR11-DE)</b>  <b>DG GROW– Commissioner BIENKOWSKA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.5. The EESC strongly supports the European Parliament's resolution of 7 June 2016 highlighting the need for framework legislation at EU level in order to tackle Unfair Trading Practices (UTPs) [...]</p> <p>and</p> <p>1.7. The EESC also proposes the establishment of an Ombudsman with regulatory powers in pre-trial mediation.</p>	<p>As stated in its 2017 Work Programme, the Commission will consider the necessity of further action to improve the position of farmers in the food supply chain in the light of the findings of the Agricultural Markets Task Force and the High Level Forum on the food supply chain,</p>

<p><b>N°3 Cross-border parcel delivery services</b>  <b>COM(2016) 285 final – EESC 2016/4454 - INT/799</b>  <b>520<sup>th</sup> Plenary Session – October 2016</b>  <b>Rapporteur: Mr Raymond HENCKS (GRII-LU)</b>  <b>DG GROW – Commissioner BIENKOWSKA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.4. The EESC fears that the measures proposed in this regulation, notably the introduction of transparency on tariffs and terminal rates, the publication of reference offers, and assessment of the affordability of tariffs, measures that are undoubtedly needed, may in the absence of additional measures, not be enough and do little to encourage the cross-border parcel delivery services concerned to charge reasonable tariffs.</p>	<p>The proposed measures mandate for example, price transparency and affordability and will give a strong incentive to universal service providers to reduce prices that are unreasonable, not least as there will be a review two years after adoption.</p> <p>The proposal for a regulation complements other initiatives to develop the single market for cross-border parcel delivery services. Universal service providers are, for example, working to make their services more interoperable which should help to reduce costs.</p>
<p>1.5. The EESC regrets that the Commission is shelving any more stringent measures until the end of 2018 as it waits to see whether the situation has improved by then. The Commission, however, does not give any indication of its future plans if the improvement it hopes for does not come to pass.</p>	<p>Two years after adoption of the Regulation the Commission will take stock of progress made and assess if further measures are necessary. The assessment will also cover other initiatives for completing the single market for parcel delivery services.</p>
<p>1.6. The EESC calls on the Commission to take the same approach it took on roaming charges in mobile communications, and, at the very least, make a final urgent appeal to all cross-border parcel delivery services to lower their tariffs, and announce now that, if that does not happen it will intervene by</p>	<p>The Commission is not proposing direct or indirect price regulation mechanisms, as it does not consider that such an approach would be warranted, particularly given the substantial differences between the telecoms sector and the parcel delivery sector (e.g. the postal sector is much</p>

<p>means of a regulation and a cap on tariffs.</p>	<p>more labour-intensive than the electronic communications sector, which is more capital intensive; there are wider cost differences in the postal sector; product market definitions are, in general, more clearly defined in the European regulatory framework for electronic communications in comparison to the postal sector).</p>
<p>4.7. Moreover, the regulation's proposals on transparency of tariffs and terminal rates, publication of a reference offer, assessment of the affordability of tariffs and transparent, non-discriminatory cross-border access apply only to universal service providers which provide parcel delivery services.</p>	<p>Universal service providers are the focus of certain elements of the regulation's main provisions – notably on transparency and tariff affordability -because they have, under the Postal Services Directive and the universal service obligation, already an obligation to provide affordable and cost-oriented parcel delivery services with transparent prices, for which in return they receive certain privileges.</p> <p>Furthermore, they are the operators that tend to be used by individuals and small businesses, yet their cross-border prices are on average three to five times higher than domestic prices, for equivalent products, and without obvious explanatory cost factors.</p> <p>As far as the provision on access is concerned, it should be recalled that universal service providers have networks developed through their previous monopoly position that cover the full territory of each Member State, unlike other operators. Access to these networks and underlying agreements among traditional universal service providers will often prove essential for new market entrants whose services do not have the sufficient scale and scope to develop nation-wide delivery networks or conclude cross-border</p>

	<p>delivery agreements with several providers. Third party access will facilitate development of competition in cross-border parcel delivery, lead to innovative solutions and contribute to lower prices.</p> <p>Making better use of existing universal service providers' networks should also lower universal service providers fixed costs and benefit consumers in more remote areas.</p>
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<p><b>N°4 Strengthening the European personal care, body hygiene and beauty products industrial sector (own-initiative opinion)</b>  <b>EESC 2016/1027 - CCMI/143</b>  <b>520<sup>th</sup> Plenary Session – October 2016</b>  <b>Rapporteur: Ms Madi SHARMA (GRI-UK)</b>  <b>Corapporteur: Mr Dirk JARRÉ (GRIII-DE)</b>  <b>DG GROW – Commissioner BIENKOWSKA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The EESC accepts that the sector is well regulated to ensure consumer protection and safety.</p>	<p>The Commission agrees and is appreciative of this comment.</p>
<p>The EESC considers additional legislation to be unnecessary.</p>	<p>The Commission is aligned with this comment.</p>
<p>The EESC considers that increased transparency on research into alternatives to animal testing together with regulatory acceptance of proven alternative methods should be a high priority.</p>	<p>This is the role of the European Centre for the Validation of Alternative Methods (ECVAM) hosted by the Joint Research Centre (JRC). Their work can be followed through publicly accessible information. A report on animal testing was presented by the Commission in September 2016.</p>
<p>The EESC recommends that increased transparency should be considered regarding any review of international cooperation to increase accessibility, harmonisation and the promotion of EU standards worldwide to combat fraud.</p>	<p>The Commission takes note of the Committee's recommendation.</p>



<p><b>N°5 European standards for the 21st century</b>  <b>COM (2016)358 final - EESC 2016/3406 - INT/794</b>  <b>520<sup>th</sup> Plenary Session – October 2016</b>  <b>Rapporteur: Mr Antonello PEZZINI (GRI-IT)</b>  <b>DG GROW - Commissioner BIENKOWSKA</b></p>	
<b>Points of the EESC opinion considered essential</b>	<b>Commission position</b>
<p>1.1. The EESC considers that a new vision is imperative in order to establish a European Standardisation System (ESS) able to adapt to constantly changing international circumstances and deliver increasing benefits to businesses, consumers, workers and the environment alike.</p>	<p>The Commission welcomes the EESC opinion on this essential point.</p>
<p>1.2. In its role as the "home of civil society", the EESC attaches particular importance to enhancing the transparency and inclusiveness of the ESS and calls for it to play a proactive role with regard to steering, applying and disseminating standards and supporting a culture of standardisation.</p>	<p>The Commission welcomes the EESC opinion on this essential point.</p>
<p>1.3. The EESC stresses the importance of strengthening the strategic role of technical standardisation to ensure:</p> <ul style="list-style-type: none"> <li>- the quality, safety and performance of goods and services</li> <li>- an ever-higher level of consumer, worker and environmental protection;</li> <li>- higher levels of innovation to keep businesses competitive.</li> </ul>	<p>The Commission welcomes the EESC opinion on this essential point.</p>
<p>1.4. The EESC welcomes the launch of the Joint Initiative on Standardisation (JIS) bringing together public and private ESS partners to establish a common approach to setting priorities and developing joint</p>	<p>The Commission welcomes the EESC opinion on this essential point.</p>

<p>initiatives to modernise and simplify the adoption of standards.</p>	
<p>1.5. However, the EESC is greatly concerned about the limited guidelines for implementation and related funding, which are vital to turning a common innovative vision into tangible modernisation strategies and measures.</p>	<p>The Joint Initiative on Standardisation (JIS) is a voluntary collaborative effort and does not establish any new legal commitments, therefore there is no need for guidelines on its implementation.</p> <p>All actions agreed under the JIS are progressing well. Wherever a specific need for financing has been identified (i.e. Action 1 - Study on the economic and societal impacts as well as access to standards in the EU and the European Free Trade Association (EFTA) Member States) then this will be examined under the provisions of the Articles 15-17 of the EU Regulation No 1025/2012<sup>1</sup>.</p>
<p>1.6. In this regard, the EESC recommends that the JIS public-private partnership (Joint Initiative on Standardisation) be embedded structurally and financially within the framework of the Horizon 2020 Joint Technology Initiatives (see for example the metrology Public-public Partnership), with the aim of:</p> <ul style="list-style-type: none"> <li>- ensuring that well-defined technical and regulatory objectives are achieved within industry, services and consumption; and</li> <li>- obtaining a greater and better concentration of financial and human resources and knowledge on shared priorities.</li> </ul>	<p>Article 185 of the Treaty on the Functioning of the European Union (TFEU) enables the EU to participate in research programmes undertaken jointly by several Member States, including participation in the structures created for the execution of national programmes. The Joint Initiative on Standardisation as such cannot fit as a Public-public Partnership under the provisions of this article and therefore cannot be financed by Horizon 2020. However, Horizon 2020 will give strong support to the market uptake of innovation, in particular to supporting standardisation through research and putting science into standards.</p>

<sup>1</sup> Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council Text with EEA relevance, OJ L 316, 14.11.2012.

<p>1.7. The EESC supports the Commission with regard to creating an integrated and structured system aimed at reaching a common strategy that helps to reduce the fragmentation of standards and of their planning systems.</p>	<p>The Commission welcomes the EESC opinion on this point.</p>
<p>1.8. The EESC therefore calls for an improved system of governance of standardisation strategies that takes account of the convergence of technologies and the digitisation of businesses and services as well as of the new and growing social and environmental competences, and which could operate in tandem with the current technical committee for standardisation.</p>	<p>The Commission focuses on a single standardisation policy in support of multiple economic sectors and stakeholders. All different instruments are aligned in a comprehensive annual governance cycle of EU standardisation policy, central to which is the adoption of the Annual Union Work Programme (AUWP) in July of each year, preceded, as of 2017, by an interinstitutional dialogue.</p>
<p>1.9. European interinstitutional dialogue on standardisation should give a key role to all the representative bodies concerned. Standing groups should be set up within the EU institutions to provide guidance and assessment, first and foremost in the EESC and the Committee of the Regions (CoR), given that Article 114 of the TFEU stipulates that consultation is mandatory.</p>	<p>In its Communication, European standards for the 21st century<sup>2</sup>, the Commission proposed to launch an interinstitutional dialogue, to ensure the full involvement of the European Parliament and of the Council, and the European Economic and Social Committee (EESC) as well as the Committee of the Regions (CoR). To facilitate the interinstitutional dialogue, the Commission is preparing a report on the implementation of EU standardisation policy and the contribution of European standards to EU policies in general and to jobs creation, competitiveness and growth in particular. This report will be addressed to the European Parliament, the Council, the EESC and the CoR and will set the</p>

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<sup>2</sup> COM(2016) 358 final.

	basis for a structured dialogue.
<p>1.10. In the EESC's view, there is a need to strengthen capacities in the ESS and in the relevant Commission Directorates-General for making coordinated use of the relevant technical standardisation instrument for individual sectors, especially for service sectors.</p>	<p>The Vademecum<sup>3</sup> on European Standardisation in support of Union Legislation and policies provides guidelines on:</p> <ul style="list-style-type: none"> <li>- the role of the Commission's standardisation requests to the European Standardisation Organisations (ESOs); this part is relevant for Commission officials and all actors in the European standardisation system;</li> <li>- the preparation and adoption of the Commission's standardisation requests; this part is relevant for Commission officials.</li> </ul> <p>There is also a chapter on the execution of standardisation requests; this part is addressed to the ESOs and their technical bodies.</p>
<p>1.11. The EESC considers it a priority to develop a fully-fledged European standardisation culture starting from basic education up to policy-makers and negotiators of international agreements, by launching and supporting a vigorous European awareness-raising campaign.</p>	<p>Awareness, Education and Understanding about the European Standardisation System is one of the three cluster domains in the JIS.</p>
<p>1.12. The EESC stresses that a truly innovative European standardisation policy should, primarily, seek customer satisfaction among individuals, businesses and workers and, by taking a balanced and flexible approach that reconciles standardisation and creativity, should achieve high levels of</p>	<p>"European standards" are market-driven. Promotion of innovation, increasing quality and safety, enabling jobs and growth, supporting global value chains, overcoming costly fragmentation in the Single Market are objectives of standardisation policy, as</p>

<sup>3</sup> SWD(2015) 205 final.

safety, quality and efficiency, as well as job creation and increased international competitiveness (see opinion TEN/593, not yet published in the Official Journal).	clearly spelled out in the Communication on European Standards for the 21th century.
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<p><b>N°6 Proposal for a Regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC</b></p> <p><b>COM(2016) 28 final - EESC 2016/3623 - INT/797</b></p> <p><b>520<sup>th</sup> Plenary Session - October 2016</b></p> <p><b>Rapporteur: Mr Joost VAN IERSEL (GRI-NL)</b></p> <p><b>DG CNECT – Vice-President ANSIP</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.10. The EESC welcomes the information requirements imposed on traders to enhance transparency and the provision of information to the customer, in line with the 2011 Consumer Rights Directive. An informative EU website may be helpful here. In the context of the 2011 Consumer Rights Directive, companies are obliged to ensure price transparency. The EESC encourages companies to go beyond minimal standards in order to gain consumer trust.</p>	<p>The Commission acknowledges the need to clearly explain to all stakeholders the implications of the Proposal. The Commission will make the necessary efforts in this regard, including the possibility of a comprehensive Questions and Answers (Q&amp;A) section on the Commission's website.</p>
<p>1.12.1. The wording on laying down the applicable law – Article 1(5) states that the trader can "sell" just as he does at home, relying on his home-country rules – needs urgently to be formulated more clearly.</p>	<p>The Commission shares the view of the EESC that clarity on the applicable law is of paramount importance for both customers and traders.</p> <p>The regulation will not affect the application of the rules established by the Rome I or Brussels I Regulations on the applicable law and jurisdiction respectively.</p> <p>Traders may or may not target their activities to another Member State from where the customer accesses their services. When they do, with the intention of doing business with customers there, the mandatory consumer protection rules of that</p>

	<p>Member State will continue to apply. Traders actively selling to these markets are aware and have internalised the extra costs involved in their prices.</p> <p>But if traders do not actively target another Member State, the mere compliance with the geo-blocking regulation will not automatically mean that they direct their activities to another Member State.</p> <p>This balance between the interest of traders and consumers is well reflected in the legal text. The Commission would welcome any further clarifications in this regard in the legislative process.</p>
<p>1.12.2. After-sale services (in cases of non-conformity, returns costs, options for compensation, etc.) are not specifically covered by the Regulation and therefore are regulated by the 2011 Consumer Rights Directive. A reference should be added in the geo-blocking regulation to the relevant EU legislation that would apply. This warrants further consideration.</p>	<p>The Commission considers that the Proposal does not affect the application of Directive 1999/44/EC<sup>4</sup> on certain aspects of the sale of consumer goods and associated guarantees nor that of Directive 2011/83/EU<sup>5</sup> on consumer rights.</p> <p>The regulation does not provide for an obligation to deliver goods cross-border to another Member State where the trader would not otherwise offer the possibility of such delivery to its customers, nor for an obligation to accept to take back goods in another Member State, or bear additional costs in this regard, where the trader would otherwise not be under such an</p>

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<sup>4</sup> Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, OJ L 171, 7.7.1999.

<sup>5</sup> Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council Text with EEA relevance, OJ L 304, 22.11.2011.

	<p>obligation.</p> <p>The Commission would welcome any further clarifications in this regard in the legislative process.</p>
<p>1.12.3. Some important provisions, such as Article 7 on penalties for infringements and Article 8 on assistance to consumers, confer responsibility for enforcing the regulation on the Member States. It must be ensured that potentially diverging interpretations do not lead to more fragmentation and, consequently, to a weakening of the regulation's impact.</p>	<p>The Commission considers that an adequate and effective enforcement of the Proposal is necessary in order to ensure that its objective is attained. Provided that this aim is reached, the Proposal leaves a certain margin of manoeuvre to Member States in order to allow the organisation of the enforcement taking into account their national specificities.</p> <p>The Commission will regularly report on the evaluation of the Regulation and, if necessary, will present a proposal for amending the Regulation in order to ensure a consistent application of it throughout the EU.</p>
<p>1.13. The date, mentioned in Article 11 for the application of point (b) of Article 4(1), namely 1 July 2018, should remain open and only be determined at a later stage, depending on the duration of the legislative process.</p>	<p>The Commission considers that given the specific characteristics of electronically supplied services and the need to allow service providers to prepare for the changes introduced by the Regulation, the application of the prohibition of discrimination should be delayed until mid-2018.</p> <p>The Commission agrees, however, that this date depends on the entry into force of the Proposal and might therefore change accordingly.</p>
<p>4.2. The Proposal for a regulation on geo-blocking forms part of this overall package. It should be noted that a number of important</p>	<p>The Commission has proposed to focus its action on the sectors within the scope of the Directive 2006/123/EC<sup>6</sup> to ensure</p>

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<sup>6</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ L 376, 27.12.2006.



<p>sectors are not covered by the regulation, for instance the patients/health sector, rail passenger transport, (retail) financial services, electronic music, audio-visual services and certain forms of gambling. The rationale is that these sectors require specific sectorial provisions that, according to the EESC, should be put in place soon to fill gaps in Digital Single Market legislation.</p>	<p>consistency between the Directive and the proposed regulation. The Commission notes the acknowledgment of the EESC that certain economic sectors are excluded from the scope of the Proposal because they are either covered by specific existing rules (such as in the case of transport or health) or need specific rules, some of which are under elaboration. As regards the scope of the Proposal, the Commission also notes that in the case of electronically supplied services, the main feature of which is the provision of access to and use of non-audio-visual copyright protected works or other protected subject matter, these are included in the scope of the proposed regulation, with a specific exemption from Article 4, which is subject to the first review.</p>
<p>4.3. The same also applies to the extremely important issue of copyright. While copyright issues are rightly excluded from the scope of the present proposal, although definitely related to it, the EESC urges the Commission to take appropriate measures to combat fragmentation in this area, to alleviate consumer frustrations and to help construct a genuine Digital Single Market.</p>	<p>The Proposal on geo-blocking does not affect rules in the field of copyright and facilitating access to audio-visual services across borders is part of other initiatives under the Digital Single Market strategy.</p> <p>In December 2015 the Commission proposed a regulation to allow Europeans to access digital content – films, sports broadcasts, music, e-books and games – they have purchased or subscribed to at home when they travel in the EU<sup>7</sup>.</p> <p>In September 2016, the Commission proposed a regulation which aims at facilitating licensing of rights for broadcasters and retransmission</p>

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<sup>7</sup> COM(2015) 627 final.

	<p>operators to offer wider access to television and radio programmes across borders<sup>8</sup>.</p> <p>Further measures are set in the Proposal for a directive on copyright in the Digital Single Market with regard to out-of-commerce works (i.e. works still protected by copyright but no longer available to the public through usual commercial channels, for example print books, films, phonograms, photos etc.). A licensing mechanism is proposed to facilitate and increase the digitisation and availability of out of commerce works held in the permanent collections of cultural heritage institutions.</p>
<p>3.4. However, the decision to go international is and will remain the exclusive right of each company. Practical evidence shows that the (large) majority of companies choose a national approach.</p> <p>4.5. The EESC notes that it is important for SMEs that the proposal does not create an obligation to deliver throughout Europe.</p>	<p>The Regulation does not create an obligation to offer delivery throughout the EU. Article 4.1(a), which applies to purchases of goods, envisages that foreign customers should be entitled to delivery in the country of the trader in the same way as local customers.</p> <p>This means in practice that when the trader offers no delivery to local customers, the same applies to foreign customers. When delivery is offered within a specific territory, it should be offered to foreign or domestic customers on a non-discriminatory basis.</p>
<p>4.7. Consumers have many complaints about cross-border trading, although the available examples are somewhat limited in size and further assessment is desirable. The complaints cover a broad range of issues [...]. Some of these result from differences</p>	<p>The Commission would like to underline that contractual restrictions of so called “passive sales” are already forbidden by EU law in the vast majority of cases. However, under competition law there may be</p>

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<sup>8</sup> COM(2016) 594 final.

between legal systems. Others, however, which result from contractual provisions or concerted practices, leading to fairly widespread vertical market segmentation, i.e. based on personal characteristics, should be banned.

exceptional cases where such agreements may be found to be in compliance with EU law. The Proposal aims at banning passive sales restrictions in all cases. This would bring increased legal certainty for traders.

<p><b>N°7      Review of the Audiovisual Media Services Directive (AVMSD)</b>  <b>COM(2016) 287 final – EESC 2016/3427 – TEN/599</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Raymond HENCKS (GR11-LU)</b>  <b>DG CNECT – Vice-President ANSIP</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>Should the Commission's proposal [on a European Accessibility Act] not come to fruition, Article 7 should be upgraded to oblige Member States to promote, inter alia, sign language, subtitling, audio description and easily understandable menu navigation.</p>	<p>In view of the adoption of the Commission proposal for a European Accessibility Act that sets stricter common accessibility requirements to audiovisual media service providers, the Commission considered that the current Article 7 of the AVMSD was no longer necessary. The Commission is however open to considering the reintroduction of a provision on accessibility in the proposal if such is the will of the co-legislators.</p>
<p>The EESC nevertheless proposes that the minimum 20% quota imposed on major video-on-demand (VoD) providers be increased to 50%, in line with the minimum quota set for television broadcasting. It also proposes that a minimum 20% quota be set for providers with a low turnover or low audience numbers, together with clarification of what is meant by "low turnover" and "low audience".</p>	<p>As regards the promotion of European works in on-demand services, by setting a 20% share of European works, the AVMSD will secure a minimum level of diversity across Europe and a safety net below which the share of European works in catalogues should not fall. At the same time, it will ensure that providers established in Member States with smaller markets will still be able to grow. In bigger markets – where production capacity is high, service providers can fulfil a significant part of the quota with domestic works. In smaller markets – where production capacity is low – they will have to fulfil the quota with European works from other Member States, which usually have more difficulties to reach out to audiences. For VoD services, a combination of a lower</p>

	<p>percentage with the prominence obligation would be the most efficient way to promote European works. In any case, Member States will preserve the opportunity to set higher standards if they wish.</p> <p>The rationale of the Proposal is to strike the right balance between promoting cultural diversity and securing a competitive environment for small and new services to grow. By alleviating the burden on services with "low turnover" and "low audience" we make it easier for them to enter and develop in the European market. This will increase competition and consumer choice. As regards, clarification of what is meant by "low turnover" and "low audience", these are technical measures to be discussed at the implementation stage, for example within the frame of the Contact Committee, to make them as adapted as possible to the European markets.</p>
<p>The EESC is opposed to the option granted to Member States to impose on on-demand services in their jurisdictions, as well as those established in a different Member State but targeting their national audiences, financial contributions in the form of direct investments in works or levies allocated to national film funds.</p>	<p>As regards the possibility to impose financial contributions on on-demand service providers established in a different Member State, the proposal clarifies the existing situation in which Member States can impose financial contributions extraterritorially as long as they comply with State aid rules. This approach was confirmed on 1 September 2016 by Commission Decision C(2016) 5551 on the State aid scheme which Germany is planning to implement for the funding of film production and distribution. The Commission considers that clarifying that Member States can impose financial contributions ensures a level playing field without undermining the Country of Origin principle as it is set in the AVMSD.</p>

<p>The EESC calls for the opportunity to be taken to clarify the provision in Article 27 of the AVMSD (2010/13/EU), which requires Member States to take appropriate measures to ensure that, at times when minors are likely to be watching, broadcasts do not include any programmes which might seriously impair their physical, mental or moral development. The EESC suggests setting a specific time period, and including a ban during that period on advertising alcohol, over-the-counter medicines and foods considered harmful because they contribute to child obesity.</p>	<p>Given the alignment of the levels of protection of minors in linear and non-linear services in Article 12 of the AVMSD, the Commission proposal deletes Article 27 of the AVMSD.</p> <p>The AVMSD is an Internal Market Directive that seeks to achieve a high level of consumer protection, based on the standards established in Member States. Defining a specific time period during which advertising for alcohol, over-the-counter medicines and unhealthy foods would be banned is a matter of subsidiarity that should be left to Member States, which have varying rules and levels of protection. Moreover, minors' habits vary across Member States. In addition, watersheds are not always the most efficient means to protect minors, as a lot of such advertising can be broadcast just after the watershed. Minors may then be exposed quite heavily to such advertising just after the watershed, when many minors might still be awake. This would be particularly relevant in the case of cross-border transmissions, given that the time at which minors watch television changes from one Member State to another.</p>
<p>It is proposed that Article 28a(1)(b) use the same wording as in Article 6.</p>	<p>The Commission will take into account the suggestions within subsequent negotiations with the other Institutions.</p>
<p>The EESC is opposed to the European Commission's proposal to allow audiovisual media services more space and flexibility for advertising, to the detriment of consumers, who will be faced with more and longer commercial breaks during peak viewing hours.</p>	<p>As regards advertising rules and the concerns voiced by the EESC, the Commission does not expect broadcasters to overwhelm viewers with advertising spots, as, in view of recent market developments, viewers are now more likely to switch to new offerings, mainly delivered via the Internet or without</p>

	<p>advertising.</p> <p>Although there could be more frequent interruptions in films made for television and cinematographic works, the Commission's proposal does not modify Article 20(1) of the AVMSD on the integrity of programmes and maintains limits for the most vulnerable (i.e. the interruption rule is maintained for children's programmes). More flexibility for advertising will also serve a better scheduling of advertising in view of natural breaks in programmes, which could benefit consumers and businesses at the same time.</p> <p>The proposed rules on sponsorship and product placement maintain the essential safeguards for the protection of viewers.</p>
<p>In the EESC's view, the rules concerning monitoring by national regulatory authorities have failed with regard to fictitious companies in one Member State that use the satellite capacity of a third country to reach a wide audience in another Member State; it believes that these rules need to be revised, and supplemented with a provision stating that operators who have an audiovisual licence in one Member State but provide audiovisual services in another, are subject to the legislation of both Member States.</p>	<p>The country of origin principle is the cornerstone of the European audiovisual market and of the AVMSD. Thanks to this principle audiovisual media service providers are only subject to the rules of the Member State where they are established and may freely distribute their services across borders.</p> <p>In view of this, the Commission proposal maintains and facilitates this principle by:</p> <ul style="list-style-type: none"> <li>— simplifying the rules which determine the country having jurisdiction over a provider;</li> <li>— establishing an obligation on Member States to inform about what providers are under their jurisdiction and maintaining an up-to-date database to ensure transparency;</li> <li>— clarifying cooperation procedures between Member States regarding</li> </ul>

	<p>permissible limitations to the country of origin principle.</p> <p>In particular, the Commission proposal provides for appropriate safeguards for Member States of reception where audiovisual media services originating in another Member State seriously infringe certain fundamental values. It equally allows a Member State of reception to take appropriate measures in case media service providers established in other Member States have circumvented its stricter national rules.</p>
<p>The differentiation between "linear" and "non-linear" services, which has been rendered obsolete by digital developments, could be dropped.</p>	<p>The proposal already aligns or reduces the gap between the rules for linear and non-linear in some areas, as for example protection of minors or promotion of European works. However, the complete alignment of the rules for linear and non-linear services would not be technically possible in certain matters (for instance quantitative advertising limits for non-linear services) or could stifle innovation in markets that are still at an early stage of development (for instance by imposing a 50% quota of European works on on-demand catalogues).</p>



<p><b>N°8 Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets</b></p> <p><b>COM(2016) 399 final – EESC 2016/3429 - TEN/600</b></p> <p><b>520<sup>th</sup> Plenary Session - October 2016</b></p> <p><b>Rapporteur: Mr Raymond HENCKS (GR11-LU)</b></p> <p><b>DG CNECT– Vice-President ANSIP</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The EESC supports wholesale roaming caps on voice, Short Message Service (SMS) and data proposed by the Commission.</p>	<p>The Commission welcomes the EESC's support of this essential part of the proposal.</p>
<p>The EESC has serious reservations about the possibility given to operators to negotiate "innovative wholesale pricing schemes" outside the regulated price caps.</p>	<p>The Commission notes the reservations of the EESC on this point.</p> <p>The Commission underlines that the opt-out possibility from the regulated wholesale roaming caps has to be agreed by both parties to a wholesale roaming agreement and is part of the commercial freedom of undertakings. It will not undermine the ability of any mobile operator to benefit from the wholesale roaming price caps established in this Regulation if it so demands.</p> <p>The Commission also underlines that, at retail level, such an opt-out from regulated roaming prices has been part of the Roaming Regulation since it was first adopted in 2007: an end-user may always choose other tariffs for roaming services in the EU than the EU regulated roaming tariffs. As this requires an active request/consent by the end-user, this has never undermined the ability of end-users to</p>

	<p>benefit from regulated roaming prices.</p> <p>The Commission notes that, in the draft text of the Regulation agreed on 31 January 2017 by the European Parliament and the Council, the co-legislator did not amend the Commission proposal's provision concerned by this point of the EESC's opinion.</p>
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<p><b>N°9 Shipbreaking and the recycling society (own-initiative opinion)</b>  <b>EESC 2016/0456 – CCMI/145</b>  <b>520<sup>th</sup> Plenary Session – October 2016</b>  <b>Rapporteur: Mr Martin SIECKER (GR11-NL)</b>  <b>Corapporteur: Mr Richard ADAMS (GR13-UK)</b>  <b>DG ENV – Commissioner VELLA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>Overall assessment</p>	<p>The Commission welcomes the opinion of the EESC and informs that the report to be addressed to the European Parliament and the Council on the same topic will be sent to the EESC as soon as it is available. The report will refer to the opinion of the EESC.</p>

<p><b>N°10 Access to anti-money laundering information by tax authorities</b>  <b>COM(2016) 452 final – EESC 2016/4584 - ECO/414</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Petru Sorin DANDEA (GRII-RO)</b>  <b>DG TAXUD – Commissioner MOSCOVICI</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.1. The EESC welcomes the Commission's initiative and supports its efforts to combat tax evasion and money laundering, a practice which erodes Member States' tax bases and is one of the main sources of funding for organised crime and terrorism at global level.</p>	<p>The Commission welcomes the European Economic and Social Committee's broad support.</p>
<p>1.2. Given the serious impact of tax fraud and tax evasion, the EESC endorses the rules laid down by the proposal for a directive amending the Directive on Administrative Cooperation (DAC). Information on the beneficiaries of financial transactions which may arouse suspicion as to their legality during checks, reviews and audits, or might even constitute money-laundering operations, is to be included in the categories of information to be exchanged between Member State tax administrations, which will enhance their administrative capacity and boost the effectiveness of the fight against money laundering.</p>	<p>Beneficial ownership information is crucial to ensure fair and transparent taxation. It should be stressed that giving access to this information is the only way to ensure that tax authorities can confirm not only the information being reported to them but also whether the person being taxed is the real beneficial owner. This is a strategic tool to fight tax evasion.</p>
<p>1.3. Since the amendment of the DAC Directive can only be fully implemented if the draft directive amending the Fourth</p>	<p>Most of the information the amendment of the DAC Directive gives access to has already been collected by</p>

<p>Anti-Money Laundering Directive (4AMLD) is also approved, the EESC recommends that the Member States and the European Parliament approve the Commission's proposed legislative package in its entirety.</p>	<p>obliged entities in the context of the Anti-money Laundering Directive<sup>9</sup>. This amendment of the DAC Directive adopted by the Council on 6 December 2016 provides very important tools to the tax authorities, and there was no benefit in potentially delaying its approval until the amendments to the 4AMLD have been approved.</p>
<p>The EESC calls on the Member States to ensure that their tax administrations have the human, financial and logistical resources needed to successfully implement the new anti-money laundering rules.</p>	<p>Respecting the commitment to ensuring access to beneficial ownership information is an internal organisational matter for the Member States, which are responsible for its practical implementation, and the Commission supports the EESC's call for adequate resourcing by Member States.</p>

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<sup>9</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance), OJ L 141, 5.6.2015.

<p><b>N°11 Prosumer energy and prosumer power cooperatives: opportunities and challenges in the EU countries (own-initiative opinion)</b>  <b>EESC 2016/1190 - TEN/583</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Janusz PIETKIEWICZ (GRI-PL)</b>  <b>DG ENER - Commissioner ARIAS CAÑETE</b></p>	
Points of the EESC opinion considered essential	Commission position
<p>1.1. The EESC takes the view that the general development of distributed prosumer energy should form an important and sustainable part of the European Union’s energy policy.</p>	<p>The Commission recognises the great potential of decentralised energy production for the energy transition and the important role active consumers or prosumers can play in its development. This was already highlighted in the Staff Working Document "Best practices on Renewable Energy Self-consumption"<sup>10</sup>. The Commission also recognises that active customers and self-consumers can help to achieve the European target for renewable energy.</p>
<p>1.2. The EESC proposes that the European Commission develop a framework for prosumer energy, while the detailed regulation in this field should remain a matter for the individual Member States.</p> <p>1.5. To ensure that the concept of the prosumer is better understood in the Member States, it is suggested that the Commission draw up a framework definition of the prosumer covering essential common elements.</p>	<p>Within the “Clean Energy for All Europeans” package adopted on 30 November 2016<sup>11</sup>, the Commission proposes to develop a framework for active consumers in the electricity directive, and more detailed rules on renewable energy self-consumption in the renewables energy directive. The objective is to remove remaining barriers, empower citizens to take part in the energy transition and help achieve the European renewable energy target while ensuring that self-consumers contribute adequately to</p>

<sup>10</sup> COM(2015) 339 final.

<sup>11</sup><https://ec.europa.eu/energy/en/news/commission-proposes-new-rules-consumer-centred-clean-energy-transition>.

<p>1.22. The EESC proposes that the Commission take account of prosumer energy issues in the current Electricity Market Design and Renewables Package review initiatives.</p>	<p>system costs.</p>
<p>1.6. The EESC suggests that anyone can become a prosumer regardless of whether they own property, installations or facilities used to generate prosumer energy. For example, both the owner of a family house and the tenant of an apartment in an apartment block can become a prosumer.</p>	<p>The European Commission shares the opinion that also persons living in apartment blocks should be empowered to self-consume renewable energy. In this context, the Commission believes that local energy communities can play an important role in empowering those consumers. The Commission intends to address those issues within the “Clean Energy for All Europeans” package.</p>

<p><b>N°12 An EU Strategy on Heating and Cooling</b>  <b>COM(2016) 51 final - EESC 2016/2885 - TEN/591</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Ms Baiba MILTOVIČA (GR11-LV)</b>  <b>DG ENER – Commissioner ARIAS CAÑETE</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.3. The annual State of the Energy Union report should contain a specific section identifying progress on this strategy.</p>	<p>The first progress has been included in the Clean Energy for All Europeans package adopted on 30 November 2016<sup>12</sup>. In relation to heating and cooling the Commission is proposing, <i>inter alia</i>, to prolong the energy savings obligation schemes to 2030, to introduce similar obligation systems to increase the renewables share in heating and cooling, to require district heating and cooling operators to open up their networks to waste and renewable heat or cold, and to strengthen consumers' rights in metering and billing of heating, in particular for people living in multi-apartment buildings.</p> <p>Since the second State of the Energy Union report (1 February 2017) followed close after the Clean Energy for All Europeans package (30 November 2016), there was no additional progress to report on. The Commission takes note of the Committee recommendation and will report on the progress on energy efficiency in heating and cooling in the energy efficiency section of future</p>

<sup>12</sup><https://ec.europa.eu/energy/en/news/commission-proposes-new-rules-consumer-centred-clean-energy-transition>.



	State of the Energy Union reports.
1.4. Eurostat should prioritise work on a more comprehensive data set collection, particularly on energy used in heating.	Data on heat is already covered by Eurostat's data collection (e.g. the type of plant in which heat is generated and the broad sectors in which the heat is used). Currently, Eurostat is working on a data collection of district heating and cooling data as well as more detailed data collection on final energy use in the industrial sector.
1.5. Improve awareness and the creation of clear incentives for consumers to stimulate behaviour change, in particular for the vulnerable and energy poor.	<p>The proposal for amendment of the Energy Efficiency Directive adopted by the Commission on 30 November 2016<sup>13</sup> includes changes on metering and billing for heating and cooling, and hot water supplied from collective systems, which will give consumers clearer and more frequent information on the energy consumed, in particular to those that live in multi-apartment buildings.</p> <p>Further, the Commission supports projects that deal with low cost energy efficiency measures, mainly behavioural measures, to tackle fuel poverty under Intelligent Energy Europe and under Horizon 2020. The following projects target in particular the vulnerable and energy poor:</p> <ul style="list-style-type: none"> <li>- REACH (Reduce Energy use And Change Habits)<sup>14</sup>,</li> <li>- TRIME (Trias Mores Energetica)<sup>15</sup>,</li> <li>- ACHIEVE (Actions in Low</li> </ul>

<sup>13</sup> COM(2016) 761 final.

<sup>14</sup> <http://reach-energy.eu/>.

<sup>15</sup> <http://www.trime-eu.org>.

	<p>Income Households to Improve energy efficiency through Visits and Energy diagnosis)<sup>16</sup>,</p> <ul style="list-style-type: none"> <li>- EC-LINC (Energy Check for Low Income Households)<sup>17</sup>,</li> <li>- Energy Ambassadors (Campaign to fight against fuel poverty and raise awareness on energy efficiency and energy savings)<sup>18</sup>,</li> <li>- SMART-UP<sup>19</sup>.</li> </ul> <p>Currently, under the Horizon 2020 (H2020) energy efficiency work programme 2016-2017, there is the topic "Engaging private consumers towards sustainable energy (EE6)" which also shall:</p> <p>"support clearly defined groups of vulnerable consumers in tackling fuel poverty by facilitating more sustainable energy behaviour and choices in their everyday life, without compromising comfort levels. This should also aim at achieving structural changes of national policies to specifically address fuel poverty and could include the transfer of best practices for the active engagement of vulnerable consumers."<sup>20</sup></p>
<p>1.6. Comparative analysis of public and private sector schemes designed to support efficient, low carbon heating and cooling programmes is undertaken.</p>	<p>Although no specific comparative analysis of public and private sector schemes designed to support efficient, low carbon heating and cooling is</p>

<sup>16</sup> Achieve: <https://ec.europa.eu/energy/intelligent/projects/en/projects/achieve>

<sup>17</sup> EC linc: <https://ec.europa.eu/energy/intelligent/projects/en/projects/ec-linc>

<sup>18</sup> <https://ec.europa.eu/energy/intelligent/projects/en/projects/energy-ambassadors>.

<sup>19</sup> <http://smartup-project.eu/>

<sup>20</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/wp/2016\\_2017/main/h2020-wp1617-energy\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/wp/2016_2017/main/h2020-wp1617-energy_en.pdf) , p. 27.

being developed right now, the Directorate-General for Energy launched a comprehensive study on energy efficiency financing schemes, both public and private, in Member States. The created database contains a large number of schemes that were/are operational or are planned to be operational in the period 2010-2020 with a total volume of finance of at least EUR 1 million per year. It will allow a comprehensive analysis and consistent comparison between numerous schemes in all Member States and will also contain a detailed description of each scheme and classification by source of financing, type (e.g. debt financing schemes, guarantees, grants and subsidies, energy loans and risk sharing facilities), size, etc.

A cross-cutting priority on heating and cooling technologies for buildings is being developed in the context of the Strategic Energy Technology Plan (SET-Plan) Action 5. The aim is to maximise impact of public funding and private investments in heating and cooling technologies for buildings. The Commission, together with Member States and the stakeholders from the sector, will identify common priorities, and set common targets to orient the Research and Investment (R&I) support at EU and national level towards these common priorities.

Moreover, the challenge of sustainable heating and cooling is supported under the Horizon 2020 Programme and its predecessors: Intelligent Energy Europe and the Seventh Framework Programme (FP7). Two comprehensive

	<p>analyses have been developed by the Executive Agency for SMEs (EASME) summarising the support to H/C of a number of EU funded projects:</p> <ol style="list-style-type: none"> <li>1. Market Uptake Activities in support of the New Heating and Cooling Strategy<sup>21</sup>,</li> <li>2. Overview of support activities and projects of the European Union on energy efficiency and renewable energy in the heating and cooling sector (EA-01-16-841-EN-N)<sup>22</sup>.</li> </ol>
<p>1.8. Explicit contributions by member states with implementation in national plans through, for example, 5 year targets, specified by sector.</p>	<p>In the Governance Regulation adopted by the Commission on 30 November 2016<sup>23</sup>, the Commission proposes that Member States prepare integrated national energy and climate plans with the time horizon to 2030 and beyond and a mid-term update. These shall include objectives for heating and cooling.</p>

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<sup>21</sup> [http://ec.europa.eu/easme/sites/easme-site/files/heating\\_and\\_cooling\\_projects\\_market\\_uptake\\_activities\\_0.pdf](http://ec.europa.eu/easme/sites/easme-site/files/heating_and_cooling_projects_market_uptake_activities_0.pdf) .

<sup>22</sup> The report will be available soon on the website: <https://ec.europa.eu/energy/en/topics/energy-efficiency/heating-and-cooling> .

<sup>23</sup>COM(2016) 759 final.

<p><b>N°13 The new electricity market design and potential impacts on vulnerable consumers (exploratory opinion)</b>  <b>EESC 2016/2885 – TEN/598</b>  <b>520<sup>th</sup> Plenary Session - October 2016;</b>  <b>Rapporteur: Mr Vladimír NOVOTNÝ (GRI-CZ)</b>  <b>DG ENER – Commissioner ARIAS CAÑETE</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.8. Policy must also provide a clear answer to the question of who should, may and/or can produce electricity as part of future decentralised production. This is also crucial for solving the problem of energy poverty.</p>	<p>The Commission considers that active consumers and local energy initiatives, such as cooperatives, contribute to the energy transition and that they can play an important role in the fight against energy poverty. It should be noted, however, that the supply of electricity from local initiatives should not reduce consumer choice or compromise on safety standards.</p>
<p>4.5. Energy poverty is most often related to the ability to heat homes; however, in southern EU countries it can also refer to the availability of air conditioning in hot summer months. Energy poverty is expressed specifically in the inability to pay electricity bills. In such cases, approaches are used that are based on direct or indirect support for consumers faced with energy poverty.</p>	<p>The European Commission agrees that inappropriate heating is one of the main sources of energy poverty. The phenomenon of energy poverty can be generally understood as the inability of a household to afford adequate energy services. These energy services, however, are delivered through different fuels, in addition to electricity.</p>
<p>4.8. Indirect support is provided via social or special tariffs. Social tariffs are currently provided in ten Member States; eight Member States have defined the status of vulnerable customers; and a total of 16 apply regulated electricity prices to their own internal markets. The EESC has expressed its clear opposition to these kinds of regulated prices (see TEN/578).</p>	<p>The Agency for the Cooperation of Energy Regulators (ACER) 2015 Report on Consumer Protection and Empowerment estimates that only the Czech Republic and Slovakia lack a definition of vulnerable consumer in electricity and gas. The Commission agrees with the findings of this report that regulated prices hinder the competitiveness of retail energy</p>

	<p>markets. ACER estimates that 15 Member States maintain some type of price regulation in energy markets.</p>
<p>4.9. However, it will be possible to limit the risks of energy poverty by adopting a series of measures that are compatible with the new electricity market design. This will include the following elements in particular:</p> <ul style="list-style-type: none"> <li>– greater availability of information on the electricity prices of individual suppliers;</li> <li>– removal of obstacles to changing energy service providers;</li> <li>– greater competition and transparent offers of comprehensive energy services;</li> <li>– transparent contracts, prices and energy bills;</li> <li>– training and educating customers with a high level of active participation in their municipalities;</li> <li>– removal of unfair trading practices and coercive procedures for concluding energy supply contracts;</li> <li>– savings in energy consumption and availability of information on own consumption, broad availability of smart metering and control devices in homes and for other small consumers;</li> <li>– supporting thermal insulation of flats and houses, renovating and restoring old buildings in order to reduce energy loss;</li> <li>– supporting incentive schemes and training programmes for vulnerable customers;</li> </ul>	<p>The Commission takes note of and supports the measures proposed to limit the risks of energy poverty. The Commission considers, however, that prohibiting excessively high costs for vulnerable consumers may bring significant administrative costs and, depending on the design on the policy, unintended negative effects on competition. For example, if the definition of vulnerable consumers includes a substantial share of the population, the price cap may act similarly to price regulation. In addition, any discount on the price will have to be compensated with higher energy prices for the other consumers. In such a situation, those who do not qualify as vulnerable but are, for example, in low-income may face higher bills. Conversely, support provided through social policy can be targeted to provide for vulnerable consumers' needs on energy services and does not constitute a burden on energy bills.</p>

<ul style="list-style-type: none"><li>- supporting local initiatives in the fight against energy poverty;</li><li>- prohibiting excessively high costs for vulnerable customers;</li><li>- increasing efficiency and reliability of electricity supply.</li></ul>	
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<p><b>N°14 Concluding observations of the UNCRPD Committee – A new strategy for persons with disabilities in the European Union (own-initiative opinion)</b>  <b>EESC 2016/0695 - SOC/538</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Ioannis VARDAKASTANIS (GR11-EL)</b>  <b>DG EMPL – Commissioner THYSSEN</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>(...) EU policy making on the ground of disability requires a profound transformation in the way policies have been made up to now. So far, the EU has not really undertaken a real adaptation of its policy making to this new transformation required by the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).</p>	<p>The European Commission has been working to reduce and remove barriers preventing people with disabilities from fully participating in society and from enjoying their rights.</p> <p>Framing the commitment assumed with the conclusion of the UNCRPD, the Commission set the European Disability Strategy 2010-2020. Its objectives are still valid today. The Commission continues to work on the main issues faced by people with disabilities, namely in the areas highlighted in the Strategy: accessibility, participation, equality, employment, education and training, social protection, health and external action.</p>
<p>(1.3; 1.6 and 3.3.2) The EESC calls on the EU Institutions to mainstream disability rights and the concluding observations (COs) in all EU policies and legislation, including in the EU's international cooperation policies and programmes.</p>	<p>An overview of what the Commission has been doing to implement the Strategy, and therefore the UNCRPD, can be found in the recently published Progress Report on the Implementation of the European Disability Strategy 2010-2020<sup>24</sup>. Among its annexes, it includes a detailed account of the state of play regarding the implementation of the actions defined in</p>

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24 SWD(2017) 29 final.



	2010 and a detailed account of the state of play regarding the implementation of the UN COs.
<p>(1.9; 1.10; 1.14; 2.8; 2.9 and 3.2.27) The EESC considers the UN CRPD and the committee’s COs to be a unique opportunity for the European Commission to present an EU overarching strategy on the rights of persons with disabilities.</p> <p>The EESC asks the European Commission to introduce more areas of action and linking it to the review and revision of policies, programmes and funding instruments (...) with a clear implementation timeframe, budget and specific and precise benchmarks and indicators.</p> <p>The European Commission should include the implementation of the 2030 Agenda in the revised European Disability Strategy (EDS) by establishing European targets and actions in order to achieve all Sustainable Development Goals (SDGs) inside the EU also for Persons with Disabilities (PWDs).</p> <p>The European Commission should initiate the process to prepare and develop the new 2020–2030 Global Disability Rights Agenda [and] start the implementation (...) with the European Year of Disability Rights 2021.</p> <p>The EESC calls on the European Commission to elaborate and implement a specific initiative on the application of Agenda 2030 and the SDGs for PWDs within the EU, and in its external policies including development cooperation and international trade.</p>	<p>With a view to define the future priorities on disability, in a post-2020 context, the Commission will reflect on the proposals presented by the EESC. The 2030 Agenda will feed into this work.</p> <p>For this exercise the Commission will endeavour to actively consult with and count on the involvement of DPOs, EU Institutions and other relevant stakeholders.</p>
<p>(2.7. and 3.1.1.) (...) the European Commission needs to undertake a cross-cutting and comprehensive mapping exercise across all its law, policies and programmes to</p>	<p>The revision is happening in a progressive manner when the legislation is being revised.</p>

<p>ensure full harmonisation with the UN CRPD provisions and actively involve representative organisations of PWDs (DPOs) in this process. This mapping exercise should be accompanied by a gap analysis.</p>	<p>The Better Regulation package contains provisions for the involvement of stakeholders in consultations.</p>
<p>1.5. (and 3.1.5.) The EESC reminds the European Commission of its obligation to proceed immediately with the revision and update of the Declaration of Competences and its list of instruments. It should also introduce a self-commitment to review and revise the Declaration of Competences at least once during its term of office.</p>	<p>The Commission published, as an annex to the Progress Report on the Implementation of the European Disability Strategy 2010-2020, a list of legal acts relevant to the UNCRPD, complementing those identified in the EU Declaration of competences.</p>
<p>1.7. (and 2.5.) (...) DPOs must be consulted and involved in the process of the Convention's implementation and monitoring. The EESC calls on the European Commission to carry out a genuine and meaningful structured dialogue with the European Disability Movement (...). In addition, the European Commission should establish a capacity building programme for DPOs to empower them to fulfil their fundamental duties.</p>	<p>The Commission is involving EU level disability organisations in the implementation of the COs.</p> <p>Regular participation of stakeholders working in the area of disability takes place in the EU strategic dialogue meetings with civil society and in the Annual Convention for Inclusive Growth.</p>
<p>1.8 (and 2.4) The EESC recommends that an interinstitutional coordination mechanism should be put in place. The EESC considers that a high-level meeting of the leaders of EU Institutions and bodies is needed to initiate the process of preparing and adopting an interinstitutional UNCRPD agenda with specific goals to be achieved and targets to be met.</p>	<p>While there is no formalised structure to coordinate interinstitutional implementation, the Commission has a network of contact points within the other EU institutions in the context of the UNCRPD implementation.</p>
<p>1.11. (3.2.21 and 3.2.22) (...) the EU should prevent EU funding from being use[d] for either the creation or the continuity of operation of institutionalisation structures. (...) The European Commission should promote deinstitutionalisation more</p>	<p>The monitoring of the use of ESIF is primarily the competence of national managing authorities. Nevertheless, the Commission follows up on complaints received by individuals or organisations related to funds' misuse. ESIF should</p>

<p>systematically and effectively through specific policies, programmes and funding instruments. The EU should elaborate and implement the long awaited and much wanted European Deinstitutionalisation strategy that should (...) include a very strict monitoring of the use of European Structural and Investment Funds (ESIF) funding to ensure that they are used strictly for the development of support services for PWDs to live independently in local communities. The EESC also calls for the creation of a self-sustained European Deinstitutionalisation Fund. The EESC regrets that the European Commission has not yet produced an analysis of the impact of the ESIF on PWDs, in line with the obligation laid down by the European Social Fund Regulation regarding annual reporting on the measures taken in the area of disability. It should include strengthening of the European Commission's monitoring of the use of the ESIF [and] compliance with ex-ante conditionalities.</p>	<p>support actions which help to establish the conditions of independent living, in line with the UNCRPD.</p> <p>The work on deinstitutionalisation is included in the ESIF legislative framework for 2014-2020 and is supported by various training actions. Discussions with the European Expert Group on the Transition from Institutional to Community-based Care (EEG) take place on a regular basis.</p> <p>In addition, the Fundamental Rights Agency (FRA) began in 2016 to conduct fieldwork research in five EU Member States (Bulgaria, Finland, Ireland, Italy, Slovakia) to identify drivers and barriers to the deinstitutionalisation process. This research will continue throughout 2017, with results available in 2018.</p> <p>Finally, annual reporting on the European Social Fund programmes is ongoing. References to projects in the area of disability and compliance with ex-ante conditionalities are included. The report of 2016 is scheduled to be published at the end of June 2017.</p>
<p>1.12. (3.1.2; 3.2.2 and 3.2.26) The EESC calls on the European Commission to proceed immediately with the ratification of the optional protocol to the UNCRPD, the Marrakesh Treaty and the Istanbul Convention of the Council of Europe..</p>	<p>The Commission tabled a proposal for the EU to accede to the optional protocol to the UNCRPD in 2008. At the time, the Council prioritised the Convention's conclusion. This accession is in the EU Human Rights action plan and needs to be discussed with the Member States in the Working Party on Human Rights</p>

	<p>(COHOM). Unanimity is needed.</p> <p>The Commission adopted two legislative proposals in 2016<sup>25</sup> with a view to implement the Marrakesh Treaty into EU law.</p> <p>On 4 March 2016 the Commission proposed for the European Union to ratify the Council of Europe's Istanbul Convention, a comprehensive international treaty on combatting violence against women and domestic violence. Commission proposals are being discussed in the Council Working Group on Fundamental Rights (FREMP). Since the Commission proposed the EU's accession to the Istanbul Convention, it has put all its efforts behind constructive discussions with the Council to reach political agreement on its proposal.</p>
<p>1.13. (2.5; 2.6; 3.1.1 and 3.3.3) The EESC proposes the European Commission to establish focal points in all European Commission Directorates-General (DGs), agencies and bodies, fully including and involving DPOs in the policy making process. The EU should ensure that the DPOs have the financial capacity to support their work. Therefore, a budget line for DPOs' capacity building needs to be specifically established. Mainstreaming and implementation of the UN CRPD provisions by the EU (...) requires the creation of a participatory governance and partnership framework. The European Commission should issue [an] annual report on the</p>	<p>Contact persons in most Commission DGs and services are appointed in the context of the Inter-Service Group on Disability. This Group meets, on average, twice a year.</p> <p>The Commission provides financial support to 10 EU-level non-governmental organisations (NGOs) via the 'Rights, Equality and Citizenship Programme 2014-2020', which has, among its specific objectives, the 'promotion of the rights of persons with disabilities'.</p> <p>The Commission reports on a regular basis on the implementation of the UNCRPD, namely as part of its</p>

25 A proposal for a Directive on certain permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled - COM/2016/0596 final - 2016/0278 (COD); and a proposal for a Regulation on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled - COM/2016/0595 final - 2016/0279 (COD).

<p>implementation of the UNCRPD by the EU and its Member States.</p>	<p>obligations under the Convention.</p>
<p>1.15. (2.2; 3.2.1 and 3.2.7) The EESC urges the European Commission to conclude negotiations of the European Accessibility Act (EAA) and has concerns about the equal treatment proposal for a Directive, for which negotiations need to be unblocked. Regarding the latter proposal, the EESC also calls on the European Commission (...) to adapt the draft proposed directive to comply with the UNCRPD and of course with the COs on the ground of disability, and include the prohibition of multiple and intersectional discrimination, and discrimination by association. The EESC calls on all EU Institutions to take on board the conclusions and recommendations of the EESC opinion on the EAA and ensure the participation of PWDs, through their representative organisations, in the adoption process.</p>	<p>The EAA is among the EU's legislative priorities for 2017. The Commission has been working in close cooperation with the European Parliament and the Council. The Commission has organised an Accessibility Workshop in February 2017 to present the business case for providing accessible products and services. The workshop reflected the state of the art of accessibility legislation, policies and products and services in the areas covered by the current proposal for an EAA. Persons with disabilities and their representative organisations have been participating in the discussions.</p> <p>The Commission tabled, and remains very committed to, the adoption of the proposal for an Equal Treatment Directive. The Commission continues to cooperate with the Member States in the Council in order to achieve progress towards the adoption of its proposal.</p>
<p>1.16. (2.3 and 3.2.19) The EESC calls on all EU Institutions to ensure that austerity measures do not affect the capacity of persons with disabilities to exercise their rights as enshrined in the CRPD, and therefore asks the European Commission to create the necessary social protection floors. (...) the European Pillar of Social Rights should fully integrate and mainstream the CRPD provisions and create the necessary social protection floor, and effective mechanisms to prevent and alleviate poverty, vulnerability and social exclusion.</p>	<p>Through the social Open Method of Coordination, the EU has been promoting exchanges of good practice between Member States in the area of social protection, including the inclusion of persons with disabilities.</p> <p>The European Pillar of Social Rights will take into account considerations with regard to disability and gender.</p>
<p>1.17. (and 3.3.1) The EESC asks the European Commission and Eurostat to develop statistical tools to measure the</p>	<p>At present, the annual EU Statistics on Income and Living Conditions (EU-SILC) is being used, as it collects data on</p>

impact of the implementation of the UNCRPD on PWDs, at European and national level. (...) It considers the collection of data based on a human rights approach to disability and disaggregated by disability, age and gender will have a positive influence. The EESC urges Eurostat to organise a conference in order to agree on a unified mechanism for all EU Member States' statistical offices, providing follow up to CO 71. There is a need to create a European disability statistical human rights mechanism.

long-standing activity limitation due to health problems, as an appropriate proxy for disability. In addition, Eurostat annually publishes tables corresponding to the main SILC indicators (risk of poverty or social exclusion, material deprivation) using the Global Activity Limitation Indicator (GALI) as a proxy to monitor the situation of disabled people. EU-SILC data is also used by the Academic Network of European Disability Experts (ANED) to produce estimations of the Europe 2020 indicators on employment and education in relation to disabled persons.

Eurostat proposed to have every two years in Labour Force Survey (LFS) a variable on the limitation in usual activities (similar to the one in EU-SILC) that will allow having information on the labour market participation of people with disabilities.

A disability survey (named European Health and Social Integration Survey - EHSIS) was conducted by Eurostat in 2012/2013 and its results were disseminated in 2015.

Over the past years, Eurostat in collaboration with Member States, started working on a strategy for the modernisation of social statistics. One goal of this strategy is to streamline the existing EU social surveys. A framework regulation covering the main EU social surveys has been proposed<sup>26</sup>. In this context, it was proposed to add questions regarding barriers to participation, in

	<p>addition to those disability-related questions already included, in the European Health Interview Survey (EHIS). This survey is conducted every six years.</p> <p>Finally, a project of the Office of the High Commissioner for Human Rights (OHCHR) supported by the Commission is working on the development of human rights' indicators of the UNCRPD.</p>
<p>1.18. (and 3.2.13.) The EESC calls on the European Commission and specifically on DG Justice to adopt a programme based on the Open Method of Coordination to facilitate the Member States' convergence towards the principle of equal recognition before the law. It calls for a European conference to be held by DG Justice, targeting all justice services in the EU, including a reflection on the rights to accessing justice of PWDs and the way these rights are connected with other rights, such as legal capacity and equal recognition before the law.</p>	<p>Training provided by the Academy of European Law (ERA) has regularly addressed issues related to legal capacity under the UNCRPD.</p> <p>The topic has also been discussed in the context of the Disability High Level Group and in the annual Work Forum on the implementation of the UNCRPD.</p> <p>In relation to access to justice, Article 2(3) of Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings which was adopted on 20 October 2010<sup>27</sup> envisages "appropriate assistance for persons with hearing and speech impediments". The Directive had to be implemented by 27 October 2013 and several Member States have introduced an explicit reference to the service of a sign language interpreter into national legislation.</p>
<p>3.1.3. The EESC calls on the EU institutions' legal service to carry out a comprehensive study on the implications for the EU legal system of the ratification of the UNCRPD in order to place it as an adequate framework of law and policy making.</p>	<p>As mentioned above, alignment with the UNCRPD is ensured in a progressive manner, whenever EU legislation is being prepared or revised.</p>

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27 OJ L 280, 26.10.2010.

<p>3.1.4. The EESC calls on the European Commission's Secretary-General to review the impact assessment guidelines and modify them to include a more comprehensive list of issues and questions in order to better assess compliance with the Convention.</p>	<p>The Better Regulation Guidelines present guidance on the identification and assessment of relevant impacts of EU policies. In this respect, tool #24 on Fundamental Rights and Human Rights and tool #25 on Employment, Working Conditions, Income Distribution and Inequality are of particular relevance in terms of addressing disability issues both in impact assessments and in evaluations.</p> <p>After more than one year of practical experience, the Commission is reviewing some aspects of the guidance, with the aim to simplify and clarify how these requirements should be applied.</p> <p>During this revision, the Commission intends to review the guidance on consultations. It will further emphasize the importance to ensure that persons with disabilities can participate in consultations, on an equal basis with others, in line with the UN Convention on the Rights of Persons with Disabilities and the European Disability Strategy 2010-2020.</p>
<p>3.2.1. The EESC calls on the European Commission to proceed to a review of the Employment Equal Treatment Directive 2000/78/EC<sup>28</sup>.</p>	<p>An implementation report was published in 2014, showing that the Employment Equality Directive has been transposed in all Member States but that implementation challenges remain.</p> <p>The European Parliament adopted a (own initiative) resolution in September 2016 on the application of this Directive<sup>29</sup>.</p> <p>No review is foreseen at present.</p>
<p>3.2.2. The European Commission should</p>	<p>There is no specific action on gender, but</p>

28 OJ L 303, 2.12.2000.

29 2015/2116(INI).



<p>include the perspective of women and girls with disabilities in its gender equality policy, including the data collection efforts of the European Gender Equality Institute. Moreover, the European Commission's strategic engagement for gender equality 2016-2019 and its legislative and policy work on work-life balance should fully integrate the rights of women and girls with disabilities.</p>	<p>gender is mainstreamed in some key elements of the European Disability Strategy.</p> <p>The work-life balance initiative is currently being prepared and considerations with regard to disability and gender are being taken into account.</p>
<p>3.2.3. The EU should include and integrate in the renewed EU Agenda for the Rights of the Child a comprehensive rights-based strategy for boys and girls with disabilities, and mainstream the rights of children with disabilities in all EU disability policy. Children with disabilities and their families should also be involved in all EU decision-making.</p>	<p>The rights of children with disabilities and other special needs, as well as the support for their parents, are explicitly mentioned in the 2013 Commission Recommendation on 'Investing in Children: breaking the cycle of disadvantage'<sup>30</sup>.</p>
<p>3.2.4. The EU should assess the specific situation of young people with disabilities living in the EU and suggest relevant improvements. Furthermore, the EU should make sure that this perspective is included in the next EU Youth Strategy.</p>	<p>The perspective of young people with disabilities is mainstreamed in EU policy, namely in the programmes specifically targeted to young people, such as Erasmus+.</p>
<p>3.2.5. The EU should raise awareness about the Convention in cooperation with public media (including social media).</p>	<p>Awareness on the UNCRPD is raised through the Europa website, social media channels (such as "Social Europe"), press releases and events organised by the Commission (such as the Work Forum on the implementation of the UNCRPD and the European Day of Persons with Disabilities annual conference).</p>
<p>3.2.6. The EU should promote, facilitate and finance the training for transport and tourism staff in awareness and disability equality, and encourage the collaboration and the exchange</p>	<p>The Passenger Rights Regulations in all modes of transport, but rail, include provisions regarding the training of those involved in the provision of the transport</p>

<p>of good practice among the European organisations working in the disability field and public and private bodies responsible for transport. All materials (...) should be made available in accessible formats.</p>	<p>service to persons with disabilities and with reduced mobility. The Passenger Rights Regulation on rail is in the process of being revised.</p> <p>The training is to be provided by the economic operators at national and regional levels.</p> <p>Several projects have been co-funded in recent years in the area of accessible tourism to foster accessible tourism entrepreneurship and management and to design, implement, and market accessible tourism itineraries.</p>
<p>3.2.8. The EESC welcomes the interinstitutional agreement in the trilogue on the proposal for a Directive on the accessibility of public sector bodies' websites and urges the national governments to transpose the provisions of the proposal as a matter of urgency.</p>	<p>The transposition of the so-called 'Web Accessibility Directive'<sup>31</sup> is ongoing and Member States have until 23 September 2018 to complete it and inform the Commission.</p>
<p>3.2.9. (and 3.2.12.) (...) the EESC calls for a framework for disaster risk reduction for PWDs in Europe to be adopted by the Council of the EU. The EU should embrace a human-rights-based approach to disability in situations of risk and emergency, by adopting an implementation plan in line with the Council's conclusions of February 2015 on disability-inclusive disaster management and the Sendai Framework. (...) there is a need for raising awareness and the provision of information to PWDs and officials of emergency and civil protection services on disaster-risk reduction initiatives.</p>	<p>The needs of people with disabilities were considered among the priorities of the Union Civil Protection Mechanism activities under its Annual Work Programme 2016. They are also included in its most recent Annual Work Programme 2017, adopted in December 2016. The Commission co-finances Civil Protection Mechanism exercises and preparedness projects, taking into consideration the needs of persons with disabilities.</p> <p>The EU has strongly supported disability inclusion during the negotiations for the SDGs and the Sendai Framework for</p>

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31 OJ L 327, 2.12.2016.

	Disaster Risk Reduction.
3.2.10. The EU should put in place all the necessary measures to make the 112 emergency number accessible to all.	<p>Projects launched within the Horizon 2020 Programme will pilot accessibility solutions for disabled end-users through 112 Apps.</p> <p>Also the proposal for a European Accessibility Act contains specific references to emergency services.</p>
3.2.11. The EESC calls on the EU and its Member States to adopt a human rights approach to migration and refugee policies, as regards PWDs. It calls on the EU authorities to develop guidelines and carry out information campaigns (accessible to PWDs) for its agencies and Member States on disability, migration and asylum and systematically mainstream disability in EU migration and refugee policies.	This topic is to be assessed in the context of future priorities.
3.2.14. The European Commission should provide the necessary funding for training EU and national justice officials in EU legislation and UN CRPD. The EESC urges the EU and national courts to apply their internal rules and instructions in a way that facilitate access to justice for PWDs.	Training is provided by the European Academy of Law (ERA) on non-discrimination and disability-related EU legislation and case law. These training sessions are available to legal practitioners, civil servants and academics across the EU and are financially supported by the European Commission.
3.2.15. The EESC calls on EU Institutions and the Member States to abolish discriminatory guardianship laws enabling all PWDs to exercise their political rights on an equal footing with others. It notes that reasonable accommodation and accessibility in respect to voting procedures, facilities and materials is indispensable.	Work was undertaken by The Academic Network of European Disability Experts (ANED) and FRA to develop indicators and provide policy recommendations.
3.2.16. (...) Europeans with disabilities are deprived of their liberty and security, and are subjected to forced treatment and detention, including forced sterilisation. The EESC calls	This topic is to be assessed in the context of future priorities.

<p>on the European Commission to take effective measures to stop this unbearable situation, produce through Eurostat reliable data, and put in place an efficient assessment mechanism.</p>	
<p>3.2.17. The EESC appeals to the EU to review its ethics guidelines regarding research, and in particular to set good practice examples by developing consent forms in accessible and easy-to-read formats and to prevent substituted decision-making in this area.</p>	<p>The issues related to informed consent are assessed within the Commission's Ethics Appraisal Procedure that all research-funded activities go through.</p> <p>For more information, please see: <a href="http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/ethics_en.htm">http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/ethics_en.htm</a>.</p>
<p>3.2.18. The EU should adopt legislation to harmonise protection and combat violence, abuse and exploitation, and to ratify the Council of Europe convention on preventing and combating domestic violence against women. The EU needs to take European legislative and policy action against cross-border activities in EU countries involving trafficking of women and children with disabilities, and calls for the EU to combat violence against children with disabilities by means of specific measures and accessible support services.</p>	<p>See information on Istanbul Convention above.</p> <p>In addition, the EU adopted a Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, which specifically addresses the vulnerable situation of children with disabilities, and the Commission published a Study on High Risk Groups for trafficking in human beings, focusing on groups of children who are most at risk of trafficking.</p>
<p>3.2.20. There is a clear need for the development of an EU social security benefits coordination system in the EU, including a clear framework for portability of rights with a maximum number of days for the disability recognition procedure.</p>	<p>Directive 2014/50/EU on enhancing worker mobility by improving the acquisition and preservation of supplementary pension rights was adopted on 16 April 2014<sup>32</sup> and has to be transposed into national law by 21 May 2018. There is no specific reference to issues related to disability, but the adoption of the Directive will contribute to better supplementary pension outcomes for people who are unable to</p>

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32 OJ L 128, 30.4.2014.

	<p>remain with the same employer until retirement.</p>
<p>3.2.23. There is a need for more effective national enforcement bodies: their powers need to be harmonised and enhanced to facilitate the enforcement of passengers' rights on all modes of transport and the complaints procedure needs to be simplified. Furthermore, the EESC calls on the European Commission to guarantee free travel for carers in all modes of transport.</p>	<p>There is now a set of basic legislation to protect the rights of disabled persons and persons with reduced mobility when travelling in all modes of transport.</p> <p>Meetings with National Enforcement Bodies (NEBs) on the four modes of transport are held on a regular basis to share challenges and best practices. Stakeholders are also invited to participate in these meetings.</p> <p>The assistance provided in all modes of transport to persons with disabilities and with reduced mobility (PRM) is provided free of charge. Free passenger services shall be available under Regulation (EU) No 1177/2010<sup>33</sup> concerning passengers when travelling by sea and inland waterway, but only when the transport company requires the PRM to be accompanied.</p>
<p>3.2.24. The European Commission should give full and immediate official recognition to sign language and Braille, and undertake an assessment of its communication channels and internal processes in order to produce and present information in an accessible manner for PWDs (...) including easy-to-read format. The EU should ensure that all PWDs, regardless of their financial capacity, have access to inclusive education.</p>	<p>The Commission has been producing documents in easy-to-read and Braille, including conference materials and reports, such as the European Day of Persons with Disabilities Conference, and the Work Forum on the implementation of the UN Convention.</p> <p>The Directorate-General for Interpretation has foreseen technical audio-visual solutions to accommodate a sign language interpreter in big meeting rooms and/or big meetings in the specifications for the New Conference Centre.</p>

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<sup>33</sup> OJ L 334, 17.12.2010.

	<p>The Commission has been collaborating - and financially supporting - the European Agency for Special Needs and Inclusive Education (EASNIE) to collect data on the participation of learners with special needs in education around the EU.</p>
<p>3.2.25. The EU should adopt a compulsory inclusive education exchange quality framework, establishing minimum accessible criteria to ensure mobility of all students, especially young students, with disabilities in the EU for secondary, tertiary and vocational training. All partner universities in the Erasmus student exchange programme should include accessibility to education programmes and facilities ensuring the full participation of all students, especially young students, with disabilities.</p>	<p>The Erasmus+ Programme (2014-2020) provides opportunities for individual learning mobility, with specific provisions for the participation of disabled people. The support to access of learners from disadvantaged and vulnerable groups is mainstreamed in all the funding opportunities and activities available through Erasmus+.</p> <p>A specific Erasmus+ higher education working group of National Agencies and experts was set up in 2014 to work on concrete guidelines and best practices so as to provide a toolkit to both National Agencies and higher education institutions to best promote and support higher education students and staff with disabilities participating in Erasmus+.</p>
<p>3.3.4. For the EU framework to be able to carry out its tasks effectively, financial and human resources should be allocated as a matter of urgency.</p>	<p>On 16 January 2017, the Council decided on the withdrawal of the European Commission from the EU-level framework in accordance with the recommendation of the UN Committee for the Convention on the Rights of Persons with Disabilities so as to ensure the independence of the monitoring framework.</p>
<p>3.4.1. There is a need for the EU Institutions to revise their human resources policies and align them with the UNCRPD provisions in order to ensure that PWDs and workers with relatives with disabilities receive reasonable accommodation and support to be able to strike a proper balance between work and</p>	<p>This is an ongoing issue.</p> <p>Guidance on reasonable accommodation for persons with disabilities was developed and specific training on disability issues was launched in 2013.</p>

<p>family obligations. The EESC calls on the EU to revise its joint sickness and insurance scheme, the pension system and the disability-related social security and social protection measures in order to ensure non-discrimination and equal opportunities for all PWDs.</p>	<p>The Commission is examining the day-to-day application of its joint sickness and insurance scheme.</p> <p>The Commission issued a Communication on "A better workplace for all: a strategy for diversity and inclusion".</p>
<p>3.4.2. It is crucial that all EU Institutions proactively undertake initiatives to comply with the accessibility provisions of the Directive on access to public sector bodies' websites with a concrete deadline.</p>	<p>The Europa Information Providers Guide (IPG) requires websites to be compliant with Web Content Accessibility Guidelines 2.0, level AA. Accessibility of the website and IT tools is constantly monitored and enhanced.</p>
<p>3.4.3. The EESC calls on the European Commission and the Board of Governors of the European Schools to adopt a plan and allocate the necessary financial and human resources to developing and implementing an inclusive quality education system at all levels in the European schools, ensuring reasonable accommodation, support and a non-rejection policy for all students with disabilities in primary and secondary education.</p>	<p>The Commission has initiated discussions with the Office of the Secretary-General of the European Schools and other stakeholders involved in the decision-making process in the European Schools system, on how to fully address this recommendation.</p> <p>Independently, the Board of Governors, the highest decision-making organ of the European Schools system, approved in 2016 the revision of the Policy on the Provision of Educational Support in the European Schools as well as its implementing measures.</p>
<p>3.4.4. The EESC calls on the EU Institutions to put in place a positive action employment scheme (including specific competitions) to increase the number of PWDs employed in their services by providing reasonable accommodation and support.</p>	<p>The European Personnel Selection Office (EPSO) has a clear disability and inclusion policy, and reasonable accommodation procedure for selection tests for candidates with disabilities and special needs, aimed at ensuring equal opportunities, treatment and access to all its selections. EPSO performs accessibility, equality &amp; diversity screenings of its selection procedures in order to identify any potential barrier that these candidates might encounter, to</p>

	<p>ensure they can fully demonstrate their abilities and compete on an equal basis with others. Selection board members in charge of assessing candidates' competencies receive a thorough training in which EPSO has introduced a new module on ethics, equality and diversity including reasonable accommodation in selection tests for candidates with disabilities and special needs. They learn how to accommodate candidates with special needs for each type of selection test and exercise, receiving practical tools in order to do so (e.g. guidelines on how to conduct an interview with candidates with disabilities).</p> <p>A very detailed 5+1 steps on reasonable accommodation procedure for selection tests has been developed according to the highest international standards and was tested in 2015. Very positive results and high levels of satisfaction were reported. This new procedure will be fully implemented in 2017. In the context of the communication plan, aiming at attracting more talent with disabilities, EPSO is providing candidates with disabilities with the necessary information on their rights concerning reasonable accommodation of selection tests and how to request them.</p>
<p>3.4.5. The EESC asks the EU Institutions, agencies and bodies to ensure that the existing Staff Regulations are fully and effectively implemented in line with the UNCRPD and that internal rules and implementing provisions are developed in full compliance with the Convention's provisions.</p>	<p>Checks and assessments are done in a continuous manner.</p>



<p><b>N°15 Involvement of consumers and other financial services end-users in Union policy making in the field of financial services for the period of 2017-2020 COM (2016)388 - EESC 2016/4511 – INT/801</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Reine-Claude MADER (GRIII-FR)</b>  <b>DG FISMA – Vice-President DOMBROVSKIS</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>The EESC fully supports the policy objectives of the Programme</p>	<p>The Commission welcomes the EESC's support.</p>
<p>The EESC also supports the multi-annual nature of the financial envelope provided for implementing the Programme because it will make it possible to guarantee greater financial stability to the two beneficiaries of the Programme</p>	<p>The Commission welcomes the EESC's support.</p>
<p>The EESC insists on the membership and governance of these organisations (independence, transparency and accountability).</p>	<p>The Commission fully agrees with the EESC on that point. Based on Article 3.2. of the Proposal, members should be "independent of industry, commerce or business".</p>
<p>The EESC insists on the need to enhance geographical coverage across Europe with this Programme.</p>	<p>The Commission agrees with the EESC on this point. This essential objective however has to be considered in light of the limited resources available to these organisations.</p>

<p><b>N°16 Recast of the Dublin III Regulation</b>  <b>COM(2016) 270 final, COM(2016) 271 final, COM(2016) 272 final -</b>  <b>EESC 2016/2981 – SOC/543</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr José Antonio MORENO DÍAZ (GRIL-ES)</b>  <b>DG HOME – Commissioner AVRAMOPOULOS</b></p>	
<b>Points of the EESC opinion considered essential</b>	<b>Commission position</b>
<p>1.2. (...) a genuine common and obligatory system for all Member States should be proposed in order to harmonise national legislation or – failing this – to introduce at the very least a common system for the mutual recognition of resolutions on asylum between all EU Member States. This would make a genuine Common European Asylum System possible.</p>	<p>In April 2016, the Commission set out priorities for a structural reform of the Common European Asylum System in its Communication 'Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe'<sup>34</sup> and presented two sets of proposals to reform the Common European Asylum System (CEAS) on 4 May 2016 and 13 July 2016.</p>
<p>1.3. In any case, the EESC approves of the proposed objective to improve and speed up the determination procedures in the interest of better efficiency, but believes that protective provisions should be clarified and included on procedural issues, individual treatment of applications, maintenance of discretionary clauses, maintenance of the deadline for the cessation of obligation for a Member State to assume responsibility, the rights of applicants and the limitation of the corrective allocation mechanism.</p>	<p>See specific comments below.</p>
<p>1.4. Care must be taken to ensure that the provisions proposed in the Regulation are consistent with existing provisions in this</p>	<p>The Commission fully agrees with the EESC, and is confident that the provisions in the proposal are</p>

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<sup>34</sup> COM(2016) 197 final.

<p>area and related measures that the European Commission intends to roll out as part of the fundamental transformation of the CEAS, and that they are consistent with other EU policies.</p>	<p>consistent with other EU policies.</p>
<p>1.6. The principle of proportionality should be assured so that the system is sustainable in practice, with regard to applicants' quick access to the asylum procedure and the capacity of Member States' administrations to apply the system.</p>	<p>While the basic principles of the Dublin Regulation and the criteria for determining the Member State responsible are proposed to remain the same, the proposal aims to streamline the Dublin procedures and make them more efficient and applicable. Swift access to the asylum procedure is secured through shorter deadlines and by removing the possibility for shift of responsibility.</p>
<p>4.1. Unaccompanied minors</p> <p>The provisions go against “the best interests of the minor” given that, in many cases, unaccompanied minors do not have access to the international protection procedure owing to a variety of circumstances. Neither do they ensure an assessment of their individual needs.</p>	<p>Different interpretations of the current rule have resulted in prolonged determination procedures for unaccompanied minors. The proposal clarifies that the Member State responsible should be the one where the minor lodged the first application for international protection, unless it is demonstrated that this is not in the best interest of the minor. The proposal ensures that the procedure for determining the Member State responsible is not unnecessarily prolonged and secures quick access to the asylum procedure. It should be noted that only the criteria set out in Article 10 are applicable to an unaccompanied minor. An unaccompanied minor may only be transferred to another Member State where he or she has family members or relatives, or who previously have applied for international protection there. The proposed addition in Article 8 (4) further clarifies that any transfer decision shall be preceded by an</p>

	individual assessment of the child's best interests.
<p>4.2. Irregular entry via a Member State</p> <p>Removing the cessation of responsibility of 12 months after the date of the unauthorised border crossing appears to be at odds with one of the main objectives of the reform, namely to guarantee that responsibilities are distributed in a sustainable manner and that the system is fairer. Eliminating the cessation would not guarantee the above-mentioned fairness to Member States with external borders.</p>	<p>The cessation of responsibility after 12 months is deleted in line with the principle that if a Member State has been determined responsible, this responsibility shall remain stable. The burden sharing will, in return, be achieved through the corrective allocation mechanism, which can only work if there was a stable responsibility of a given Member State.</p>
<p>4.3.1. Discretionary clauses</p> <p>The EESC does not agree with limiting this clause to only cases of family connections that differ from the definition of family members, as it is essential to take into account the fact that problems can arise in a Member State which are not only quantitative – owing to the number of applicants for international protection – but also qualitative. These problems affect issues related to the effective application of Directive 2013/32/EU<sup>35</sup> on common procedures for granting and withdrawing international protection with regard to access to the asylum procedure for applicants of international protection, information and advice, procedural guarantees and special procedures for people who require them. In addition, the recast Directive 2013/33/EU<sup>36</sup> on reception conditions contains common standards to guarantee comparable living conditions in all Member States to applicants seeking</p>	<p>The Commission deliberately chose to limit the discretion in order to ensure that the binding Dublin criteria are applied and to ensure harmonised application. The new system will ensure solidarity and a fair sharing of responsibilities between Member States, so that no Member State is left with a disproportionate pressure on its asylum system. Consequently, all Member States should be able to guarantee that the fundamental rights of applicants of international protection, including the procedural safeguards, are upheld.</p>

<sup>35</sup> OJ L 180, 29.6.2013.

<sup>36</sup> OJ L 180, 29.6.2013.

<p>international protection and guarantee that their fundamental rights are upheld.</p>	
<p>4.3.2. Discretionary clauses</p> <p>Circumstances can arise in which a Member State is not in a position to guarantee the provisions contained in the directives in question. The wording of the Dublin Regulation III must consequently be preserved with regard to the decision of any Member State to assess an application for international protection which is presented to it even when the assessment is not that State's responsibility.</p>	<p>See comments above.</p>
<p>4.3.3. Discretionary clauses</p> <p>Furthermore, it should be taken into account that many applicants for international protection are seriously ill and/or disabled, and do not have family ties in any Member State: however, due to their particular circumstances, these applicants cannot, for medical reasons, be transferred to the Member State responsible for examining their application, which establishes the relationship of dependency with the Member State in which they applied for international protection. Such cases must be included in the new proposed draft of the discretionary clauses.</p>	<p>The issues pointed out by EESC have also been brought up by Member States at the Asylum Working Parties. The Commission intends to further reflect on these issues.</p>
<p>4.3.4. Discretionary clauses</p> <p>The assumption of responsibility on humanitarian or cultural grounds must be preserved in order to guarantee assistance to people applying for international protection who are in particularly vulnerable situations, in accordance with Directive 2013/32/EU, and to guarantee differentiated treatment in accordance with the assessment of specific circumstances.</p>	<p>Recital 21 provides that the discretionary clause should only be applied in exceptional cases, as frequent application may undermine the effectiveness and sustainability of the system. However, the Commission points out that the recital specifically refers to humanitarian grounds as a reason to apply the discretionary clause.</p>

<p>4.4.1. Process of determining which Member State is responsible for examining an application for international protection</p> <p>Assessing admissibility without prior analysis of the existence of family members in another Member State or the needs of minors, when this results in an application for international protection being rejected, may be at odds with the right to family life recognised under Article 7 of the Charter of Fundamental Rights of the European Union and Article 8 of the European Convention on Human Rights.</p>	<p>See comments below.</p>
<p>4.4.2. Process of determining which Member State is responsible for examining an application for international protection</p> <p>Automatically applying the concepts of safe third country, first country of asylum, safe country of origin and the legal concept of endangering security may lead to situations of discrimination on the basis of nationality or migratory routes. In addition, in the case of safe country of origin and security risk, Article 3(3) stipulates that an accelerated procedure should apply. This accelerated procedure may not under any circumstances cause the procedural guarantees to be undermined due to the speed of deadlines. Nor can it result in a non-individual assessment of the application for international protection, as this is prohibited under Article 10(3)(a) of Directive 2013/32/EU.</p>	<p>The Commission points out that the concepts of safe countries of origin and safe third countries are part of the proposal for an Asylum Procedures Regulation. The proposal provides for adequate safeguards in relation to both the designation of safe countries of origin and safe third countries and the application of these concepts to individual applicants. In particular, it is provided that a third country can only be considered as a safe country of origin for a particular applicant after an individual examination and provided that the applicant has not submitted serious grounds for not considering the country as safe in his or her particular circumstances [Article 47(4)]. Similarly, the proposal provides that before an application can be rejected as inadmissible on the basis of the safe third country concept, the applicant shall be allowed to challenge the application of that concept in light of his or her particular circumstances when lodging the application and during the admissibility interview [Article 45(4)]. This means that there will be no automatic application of</p>

	<p>these concepts. As for the reference made to a risk of discrimination on the basis of nationality, a difference of treatment between applicants depending on their nationality is justified by the relevance of the nationality of the applicant for assessing the protection needs. A difference of treatment between applicants depending on the possibility to receive protection in a safe third country does not constitute, as such, a discrimination either considering that all applicants are not in the same situation as regards the possibility to receive such protection in a third country. Finally, it has to be noted that an accelerated examination procedure shall be carried out in accordance with the basic principles and guarantees provided in Chapter II of the Regulation, as provided for in Article 40 of the proposal.</p>
<p>4.4.3. Process of determining which Member State is responsible for examining an application for international protection</p> <p>Article 33 of the proposal does not introduce any improvement with regard to exchanges of information between Member States on vulnerable cases, medical situations and other individual cases for the applicants who are to be transferred, in spite of the fact this is one of the biggest shortcomings observed in the practical application of the Dublin system.</p>	<p>During the initial discussions, Article 33 was evaluated. However, the Commission has not been informed of any issues regarding exchange of information between Member States. The Commission is not aware that this Article poses an important obstacle in the application of the legislation.</p>
<p>4.4.4. Process of determining which Member State is responsible for examining an application for international protection</p> <p>The provision regarding the cessation of responsibility in cases where the applicant</p>	<p>The current rules encourage applicants to choose the Member State responsible by leaving the territory for a period of three months. The Commission is of the opinion that there should be no shift of responsibility</p>

<p>voluntarily leaves the EU for more than three months, or has been expelled, may lead to situations in which family ties formed in the country of origin after the original application for international protection in the EU are not taken into account, or in which the reception and procedural conditions which were fulfilled during the first application are not guaranteed in the Member State responsible during the second application.</p>	<p>depending on the behaviour of the applicant as this encourages secondary movement and multiple applications for international protection on the territory of several Member States. The Commission points out that Directive 2003/86/EC<sup>37</sup> ensures that families with the right to family reunification are held together.</p>
<p>4.5.1. Procedural guarantees</p> <p>Regarding the right to information, the provision on the transmission of information via an information brochure does not take into account the fact that in the majority of Member States this brochure only contains general information, in terms which are barely comprehensible to applicants. This information must always be provided in the interview.</p>	<p>The Commission does not share the opinion of the EESC that the information leaflet only contains general information. In the Commission's view, the leaflet thoroughly describes the procedures as well as the rights and obligations of the applicant. During the discussions, Member States have not brought any issues regarding the information leaflet to the Commission's attention.</p>
<p>4.5.2. Procedural guarantees</p> <p>With regard to the right to an effective remedy, we feel that this remedy should not be limited to the three cases specified, given that access to a fair trial would be restricted in the following situations:</p> <ul style="list-style-type: none"> <li>- the risk of inhumane or degrading treatment in the Member State responsible for flaws in the asylum policy;</li> <li>- transfer decisions on the basis of the criterion on minors (Article 10), on the family criterion (Articles 11, 12 and 13) and on the criterion on dependent persons</li> </ul>	<p>The Commission considers that it is necessary to harmonise the time limits and specify the scope of the appeal in order to increase the effectiveness of the right to judicial review. To clarify and harmonise the scope of the remedy in the Dublin procedure, the Commission deliberately decided to limit the scope of the appeal to an assessment of whether there is a risk of inhumane or degrading treatment, or of violating the right to family life or the best interests of the child, if an applicant was transferred to another Member State.</p>

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<sup>37</sup> OJ L 251, 3.10.2003.



<p>(Article 18);</p> <ul style="list-style-type: none"> <li>- decisions to assume responsibility for the assessment (non-transfer), when the family criteria have not been applied.</li> </ul>	
<p>4.5.3. Procedural guarantees</p> <p>Regarding the right to freedom of movement and the possible detention of applicants subject to the process of determining the Member State responsible, the limitation upon time in detention (two weeks) does not introduce new provisions on exceptional cases in which detention is to be ordered. Given the divergence in state practices that the Commission itself has observed, clear and specific criteria should be established on the exceptional circumstance of detention and the assessment of the necessity and proportionality of the measure.</p>	<p>The Commission points out that the purpose of detention is not to determine responsibility, but to facilitate transfer when there is a significant risk that the person absconds. By reducing the time limits, the proposal ensures that the applicant is detained for as short a period as possible and is given quick access to the asylum procedure in the Member State responsible.</p>
<p>4.6.1. Corrective allocation mechanism</p> <p>Using such a high figure, 150% of the capacity of the Member State in question, could compromise the reception and procedural conditions of applicants for international protection who are already in the Member State until the figure is reached. If, according to the criteria, reception capacity has been established, it seems logical to activate the mechanism when that capacity is exceeded rather than wait until it reaches 150%. Furthermore, to make this mechanism effective, allocation should apply to every person who has the right to seek asylum, regardless of country of origin.</p>	<p>The Commission highlights that the mechanism would automatically be triggered once a Member State reaches levels at 150% or more of its fair share, determined on the basis of each Member States' population size and total gross domestic product (GDP). The system is based on a dynamic calculation of the total number of applications lodged on the common territory of Member States and the fair share of the single Member State. Reaching 150% of the share does not necessarily mean reaching the limits of a Member State's capacity. Therefore, no Member State will be left with a disproportionate pressure on its asylum system.</p> <p>With regard to the opinion that allocation should apply to every person who has the right to seek asylum,</p>

	<p>regardless of country of origin, the Commission notes that compared to the relocation schemes currently in place, the corrective allocation mechanism will, in principle, apply to all asylum seekers once a Member State reaches levels at 150% or more of its fair share. The Commission notes, however, that persons coming from a safe country of origin, a safe third country or who presents security risks should not be transferred between Member States. These applicants are therefore not subject to allocation.</p>
<p>4.6.2. Corrective allocation mechanism</p> <p>The mechanism is applied prior to determining which Member State is responsible, and is carried out subsequently by the Member State to which the applicants have been allocated. This implies that, after being transferred from the benefitting Member State to the Member State of allocation, the applicant for international protection may be transferred again to a third Member State where he or she has family members, which would result in a lack of efficiency in the system and a greater delay in accessing the procedure to determine the status of international protection.</p>	<p>The decision to apply the corrective mechanism before applying the Dublin criteria is a political choice which the Commission supports. A full evaluation of the Dublin criteria before applying the corrective mechanism will be counter-effective as the already overburdened Member State must determine responsibility for any application lodged on its territory. The Commission opted for an automated system in order to create an effective system and relieve the Member States under pressure. The Member State under pressure is therefore unable to perform individual assessments on a case by case basis. In comparison, the number of second transfers due to application of the Dublin criteria is considered to be low.</p>
<p>4.6.3. Corrective allocation mechanism</p> <p>In addition, because it is automatic, the mechanism does not take into account the individual circumstances of applicants for international protection or special needs, for example vulnerability, which may make transfer to the Member State of allocation</p>	<p>See comments above.</p>

inadvisable.	
<p>4.6.4. Corrective allocation mechanism</p> <p>The corrective mechanism takes no account of applicants who arrived before the reform entered into force, and applicants who were rejected before the application of the criteria for determining the Member State responsible, under Article 3, are excluded from allocation, as are applicants who arrived in a Member State before 150% of reception capacity was reached. The above points may be obstacles to the ultimate aim of the mechanism and have a very limited effect on the distribution of responsibility to assess applications and on reception.</p>	<p>The Commission points out that the automated system will be triggered once a Member State reaches levels at 150% or more of its fair share, not its capacity. The proposal contains a fundamentally new system, in need for a clear cut off date. Pursuant to Article 61 of the proposal, only persons who lodge an application for international protection as from the first day following the Regulation's entry into force are subject to allocation.</p>
<p>4.6.5. Corrective allocation mechanism</p> <p>The fact that Member States may choose not to take part in the corrective mechanism by paying a certain amount for each applicant for international protection who is not allocated to their territory may lead to instances of discrimination by allowing Member States to choose which applicants to accept or reject on the basis of religion, ethnicity or nationality.</p>	<p>A Member State of allocation may decide to temporarily not take part in the corrective mechanism for a 12 month period. The Member State would enter this information in the automated system and notify the other Member States, the Commission and the European Agency of Asylum in advance of the 12 month period. Therefore, the Member State who decides not to participate will not be able to accept or reject individual applicants.</p>
<p>4.8. Mandate for the EU asylum agency</p> <p>The EESC supports the proposals given that, since the European Asylum Support Office (EASO) was set up, the goals set have not been fulfilled. We believe that the role of the existing Consultative Forum for organisations, whose capacity has been severely weakened in practice, should be</p>	<p>The aim of having a Consultative Forum is to ensure that the Agency maintains a close dialogue with relevant civil society organisations. In the Proposal for a European Union Agency for Asylum<sup>38</sup>, the Consultative Forum is not presented merely as a mechanism of information exchange and pooling of knowledge as in the</p>

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<sup>38</sup> COM(2016) 271 final.

<p>strengthened and developed in the new proposal. The future EASO should take into account the information from the organisations in question and the work they carry out in each of the Member States in order to monitor the correct application and implementation of the CEAS.</p>	<p>current Regulation (Regulation (EU) No 439/2010<sup>39</sup>), but it will assist the Executive Director and the Management Board in matters covered by the Regulation. In addition, to ensure coherence among various relevant Union Agencies, the Proposal also foresees that those Agencies should participate in the Consultative Forum, e.g. the Fundamental Rights Agency and the European Border and Coast Guard (EBCG) Agency. The Commission proposes also to increase the minimum number of Consultative Forum meetings from one to two per year.</p>
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<sup>39</sup> OJ L 132, 29.5.2010.

<p><b>N°17 European control mechanism on the rule of law and fundamental rights (own-initiative opinion)</b>  <b>EESC 2016/1275 - SOC/536</b>  <b>520<sup>th</sup> Plenary Session – October 2016</b>  <b>Rapporteur: Mr José Antonio MORENO DIAZ (GR11-ES)</b>  <b>Corapporteur: Mr Ákos TOPOLÁNSZKY (GR11-HU)</b>  <b>DG JUST – First Vice-President TIMMERMANS</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.10. The EESC believes that the EU institutions must strengthen the procedures and mechanisms to protect and defend democracy, the rule of law and fundamental rights in all Member States.</p> <p>1.16. The EESC wishes the draft report being debated by the LIBE Committee of the European Parliament to be adopted and an interinstitutional agreement to be reached on the implementation of the EU Pact on democracy, the rule of law and fundamental rights. In general, the EESC supports the proposal as it contains the basis for the implementation of an interinstitutional agreement that is legally binding and that strengthens European governance and policy coordination between the EU institutions and the Member States. The EESC should be included in this pact, enabling a civil society debate at the EESC, and the EESC should have a role in the proposed democracy, rule of law and fundamental rights semester.</p>	<p>The Commission is grateful to the EESC for raising the important topic of how to uphold common values, democracy, the rule of law and fundamental rights within the EU.</p> <p>In that respect, the Commission fully supports the objective underlying the resolution of the European Parliament of 25 October 2016 on an EU Pact on democracy, the rule of law and fundamental rights, which is to ensure that our common values and rules are respected and enforced. The key issue is to identify the best means to achieve this objective.</p> <p>The Commission has given the resolution of the European Parliament careful consideration, and there are elements which the Commission wholly supports. In particular, the Commission supports an inclusive approach with all stakeholders, including EU Institutions, Member States and civil society.</p> <p>The Commission also supports the idea of the European Parliament to set up an inter-parliamentary dialogue between the European Parliament and national parliaments. National parliaments are</p>

involved in many of the problems related to the rule of law that we have witnessed in some Member States recently. We need to work towards a common understanding on how best to uphold our common values, at national and at European level. The inter-parliamentary dialogue which the European Parliament is envisaging to set up could, as a first step, discuss the different options and means which are currently on the table to ensure that our common values are respected and enforced. The Commission would be ready to contribute to such a dialogue.

As regards the suggestions in the resolution for a possible change to the Treaties, the Commission does not consider them realistic in the short or medium term. This applies in particular to the proposal to abolish Article 51 of the Charter of Fundamental Rights.

The Commission remains fully committed to accession of the Union to the European Convention on Human Rights. Accession will reinforce our common values, support the effectiveness of EU law and enhance the coherence of fundamental rights protection in Europe. However, the opinion of the Court of Justice of the European Union raised serious legal issues. Some of these are legally and politically complex. Therefore, the Commission, in its capacity of EU negotiator, continues its consultations with the special committee designated by the Council.

At this stage the Commission has serious doubts about the need for, and the feasibility of, an annual Report and

a policy cycle on democracy, the rule of law and fundamental rights prepared by a committee of "experts" and about the need for, feasibility and added value of an interinstitutional agreement on this matter. Some elements of the proposed approach, for instance the central role attributed to an independent expert panel in the proposed pact, also raise serious questions of legality, institutional legitimacy and accountability. Moreover, there are also practical and political concerns which may render it difficult to find common ground on this between all the institutions concerned.

The Commission considers that, firstly, the best possible use should be made of existing instruments, while avoiding duplication. A range of existing tools and actors already provide a set of complementary and effective means to promote and uphold common values. The Commission will continue to value and build upon these means.

The Commission has adopted, in 2014, a rule of law framework. The Commission is currently applying this framework in the case of Poland. This should leave no doubt about the fact that the Commission takes protecting the rule of law very seriously.

The Council also set up, in 2014 a rule of law dialogue through which it debates rule of law issues. On 15 November 2016 the Council evaluated the dialogue and most of the Member States underlined the importance of ensuring the continuation and strengthening of the dialogue by having more frequent debates, which

should be more result-oriented and better structured. It was also agreed that the rule of law dialogue should be re-evaluated by the end of 2019, to consider the possibility of turning the dialogue into an annual peer review exercise.

The Commission supports the underlying idea of the resolution to make the variety of existing data and reports more accessible and visible, also at national level. There are numerous other actors, including the Council of Europe and its Venice Commission, the EU Agency for Fundamental Rights, and NGOs, which contribute to the monitoring of the rule of law, democracy and fundamental rights in Member States.

The EU Agency for Fundamental Rights has a role to play by making easily accessible a clear overview of existing information and reports relating to Member States or particular themes, as reflected in the Agency's programming document for 2017-2019.

The Commission considers it of key importance to continue assisting Member States to improve the effectiveness of their national justice systems through the European Semester, and to support justice reforms in Member States with EU funds and the EU Justice Scoreboard. More generally, Member States should be encouraged to improve their enforcement and remedies capacity.

For the rights enshrined in the Charter to be effective on the ground, the Commission supports the development



of tools improving the awareness of judges, prosecutors, legal practitioners, as well as national human rights bodies in Member States.

The Commission also attaches particular importance to increasing individuals' understanding of how they can avail themselves of their fundamental rights and where to address themselves to enforce them.

With a view to putting fundamental rights into practice, the Commission will make the best possible use of existing programs to empower civil society organisations and human rights bodies which work on raising awareness about the Charter and ensuring its application at national level. However, the Commission notes that, except in civil and criminal procedures, there is no legal basis for enacting EU rules on legal aid in procedures before Member States' courts. As regards procedures before EU courts, schemes on legal aid are already in place, in the rules of procedure of the Court of Justice and of the General Court.

The Commission also considers that promoting and guaranteeing democratic participation and awareness of the right to vote are important. The Commission will therefore support work, alongside stakeholders including civil society, to further empower Union citizens to take full ownership of their EU citizenship rights. These rights, including the right to vote and stand as a candidate in EU and local elections in any Member State under the same conditions as nationals of that State,

	<p>underpin democracy at the Union level, and are an expression of our shared democratic values.</p> <p>The Commission is continuously assessing how existing instruments can best be used to promote and uphold the rule of law, democracy and fundamental rights, and is ready to continue the dialogue with EU institutions in this regard.</p>
<p>1.11. The EESC encourages the Commission to take an active approach in protecting and defending the EU's values and principles, as set out in Article 2 TEU, in all Member States and use the existing 2014 Framework to the fullest extent.</p>	<p>The call on the Commission to take an active approach in protecting and defending the EU's values and principles, as set out in Article 2 TEU, in all Member States and to use the existing 2014 Framework to the fullest extent is to be welcomed. The Commission notes that it is currently applying the Framework it established in 2014 in the case of Poland for the first time.</p>

<p><b>N°18 Consumer protection laws</b>  <b>COM(2016) 283 final - EESC 2016/4489 - INT/798</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Bernardo HERNÁNDEZ BATALLER (GRIII-ES)</b>  <b>DG JUST –Commissioner JOUROVA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.1. The EESC supports the Commission's proposal, considering it to be timely and its content to be well-argued and developed. Attention is drawn to the extension of the expected benefits by applying the proposal to all stakeholders - consumers, businesses and national authorities - as set out in the proposal.</p> <p>1.2. At the same time, the EESC is deeply concerned that regulating all these matters as set out in the proposal may affect the fundamental rights and their application by the Member States.</p> <p>1.3. Furthermore, the EESC urges the Commission and the Member States to ensure that the common procedural standards set out in Article 8 of the proposal are applied effectively, in accordance with the principles governing good administrative practice.</p> <p>5.2.2. The EESC points out that consequently, when exercising the minimum powers available to the competent authorities, an appropriate balance must be struck between the interests at stake, such as a high level of</p>	<p>The Commission welcomes the positive opinion of the Committee on the proposal, which is an important step to bring consumer protection up to speed with the online world and to provide for higher legal certainty to traders in the Union. The Commission will take into account the Committee's suggestions in the ongoing negotiations between the institutions. The proposal retains the basic principle of the current Regulation (EC) No 2006/2004<sup>40</sup> which ensures that the minimum powers are used by competent authorities in line with the national Constitutions and all applicable procedural safeguards. Today, and in the future, it will be for Member States to ensure that powers are exercised in full respect of fundamental rights, in particular with the right of defence, freedom to conduct business and data protection. These rights do not prevent Member States from taking enforcement action to stop illegal business practices taking place across the Union. The principles of proportionality and necessity already underpin all administrative action to tackle such</p>

<sup>40</sup> Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)Text with EEA relevance, OJ L 364, 9.12.2004.

<p>consumer protection, the freedom to conduct business and freedom of information. The EESC underlines the importance of respecting the rights of the defence, the right to be heard and the right to use the language of one's choice during proceedings.</p>	<p>illegal practices in the context of the Regulation, and the proposal will not alter this. Member States will also retain the choice of whether their authorities exercise the new powers directly under their own authority or by application to courts, depending on national traditions and the specificities of each enforcement system.</p>
<p>5.5. The proposal does not explore proactive measures that might contribute to the objective sought, but keeps to a reactive approach, the coercive effect of which may sometimes fail to offset the impact of infringements as much as expected, especially if the common procedures or their effects are time-consuming.</p>	<p>The primary aim of the proposal is to ensure the coherent enforcement of Union consumer laws in the Single Market. In addition to the cooperation mechanisms to address intra-Union and widespread infringements, the proposal also provides for a revamped system of market surveillance in order to prevent infringements and detect emerging threats on cross-border consumer markets faster. For example, the new mechanism (Article 35) foresees that external bodies can participate in the alert mechanism by notifying authorities and the Commission of suspected infringements. The objective is to enable national enforcers to benefit from the expertise of European Consumer Centres, as well as consumer and business organisations. The proposal also foresees the preparation of enforcement and prioritisation plans (Article 45) to support the cooperation efforts and use of resources of national authorities in the implementation of Union consumer law in the cross-border context.</p>
<p>6.1. The proposal could have considered including supplementary or alternative measures to purely monetary penalties.</p>	<p>The proposal foresees other measures in addition to purely monetary penalties. Article 8(2)(n) provides a possibility for authorities to order the trader responsible for the intra-Union or widespread infringement to compensate</p>

	<p>consumers that have suffered harm as a consequence of the infringement. Moreover, authorities could order the trader responsible to offer consumers the option to terminate the contract in case, for example, of a costly subscription payment plan. Authorities could also order other measures to ensure redress by facilitating consumers in bringing their claims before a court for damages, such as providing an access to the file containing the findings of the investigation.</p>
<p>6.2. Regarding cooperation with other public authorities and designated bodies, criteria should be laid down to ensure that the same approach is taken everywhere, to ensure optimum implementation of the provisions of Article 6, preventing divergences or dysfunctions in its application.</p>	<p>The objective of Article 6 of the proposal is to enable Member States that use consumer organisations in their national enforcement systems to fully benefit from the cross-border cooperation mechanisms. Only a few Member States are concerned by this provision, and no issues of divergences or dysfunctions have been reported to the Commission so far.</p>
<p>6.6. The chapter on coordinated surveillance, investigation and enforcement mechanism for widespread infringements requires greater clarity to make the text more comprehensible and readily assimilated, in view of the profusion of procedural circuits and processes and the ensuing cases. The same could be said about the phases of each procedure.</p>	<p>The Commission takes note of the Committee's suggestion.</p>
<p>6.7. Turning to Article 24, it is not clear whether the trader's commitments, once accepted by the consumer, entail termination of any other corrective action that has been launched or may be launched later, even though it may be understood from the content of Article 25 that commitments and action to impose</p>	<p>Under the proposal, national authorities decide whether a case can be solved through commitments. They also assess whether the commitments are acceptable and decide by consensus if further measures are needed, in case commitments are not offered or properly implemented by the trader. Sanctions are</p>

<p>penalties are mutually exclusive, which may clash with current law within individual Member States.</p>	<p>considered where less onerous means are not sufficient to remove the problem. Generally, where the trader commits him/herself to stop an infringement, there will be no need for sanctions. However, where less onerous means are not sufficient to cease the infringement or where a trader fails to implement the commitments, sanctions have to be imposed in order to ensure compliance with consumer protection laws.</p>
<p>6.8. In the interests of efficiency and effectiveness, attention should be drawn to the need for interoperability between surveillance and alert mechanisms in existing systems: indeed, they should be directly interconnected with a view to standardising integrated functioning.</p>	<p>The Committee's suggestion will be taken into account in the implementation of the proposal when adopted.</p>
<p>6.9. Chapter VI could include an article establishing a procedure for effective communication with the public in cases where this is necessary, defining criteria for when and how to do so.</p>	<p>Where appropriate, and taking into account professional secrecy and confidentiality of enforcement actions of national authorities, the proposal foresees several possibilities to provide information to the public. For example, Article 8(2)(h) foresees a possibility for national authorities to publish information about the start of investigations to bring about the cessation of intra-Union or widespread infringements. Article 8(2)(p) also foresees a possibility to publish final decisions, including the publication of the identity of the trader responsible for the infringement. Where the trader proposes commitments, the competent authorities concerned, where appropriate, may publish the proposed commitments to seek the views of the parties concerned (Articles 18 and 24 of the proposal).</p>
<p>6.11. The EESC considers that the</p>	<p>It is important to ensure that sufficient</p>

timeframe for submitting the report on the application of the proposal is too generous. Given the importance of the objectives sought, it should be shortened or an ongoing partial evaluation system set up, so that any deviation in its functioning can quickly be identified and, if necessary, appropriate action taken to reshape the proposal and how it is applied

time is given for the proper functioning of the new Consumer Protection Cooperation (CPC) framework in order to allow for meaningful conclusions to be drawn. In particular, a sufficient amount of infringements has to be addressed under the new Regulation in order to measure its impacts on cross-border consumer markets.

<p><b>N°19    Revision of the anti-money laundering directive</b>  <b>COM(2016) 450 final - EESC 2016/4274 – ECO/408</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Javier DOZ ORRIT (GRII-ES)</b>  <b>DG JUST – Commissioner JOUROVA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.5. The EESC is concerned that a number of factors may seriously limit the practical effectiveness of the 4<sup>th</sup> and 5<sup>th</sup> AMLD. Firstly, the list of high-risk third countries, published on 14 July 2016, does not include many of the countries or jurisdictions which – on the basis of credible evidence – are believed to be acting as tax havens for money laundering, or any of the 21 territories mentioned in the Panama papers.</p> <p>3.8. In the view of the EESC it is regrettable that FATF has not found an appropriate way of drawing-up its list of high-risk countries. It is logical that the Commission should make use of the Recommendations and other proposals of the FATF to combat money laundering. But in this case accepting its proposals could partially negate the effectiveness of the 5<sup>th</sup> AMLD, given that the reinforced measures of Article 18a will apply only to high-risk third countries</p> <p>1.5. Given that the enhanced due diligence measures mentioned in the 5<sup>th</sup> AMLD are applied only to third countries which are deemed to be high-risk, the EESC proposes that either a new list of high-risk third countries be drawn up, or the scope of the measures under Article 18a of the 5<sup>th</sup> AMLD be broadened.</p>	<p>The power to adopt delegated acts on high-risk countries is, pursuant to Article 64 of the 4<sup>th</sup> Anti-Money Laundering Directive (AMLD), subject to the conditions provided in its Article 9(2), i.e. strategic deficiencies in particular in relation to the legal and institutional Anti-Money Laundering/ Combating the Financing of Terrorism (AML/CFT) framework of the third country, in particular: criminalisation of money laundering; measures relating to customer due diligence; requirements related to record keeping; and requirements to report suspicious transactions; as well as the powers and procedures and the effectiveness to combat money laundering. Deficiencies in tax legislation are not included. Article 9(4) of the 4<sup>th</sup> AMLD expressly provides that the Commission should take into account, as appropriate, relevant evaluations, assessments or reports drawn up by relevant international organisations and standard setters. Tax crime is a "predicate offence" for money laundering and terrorist financing (see Article 3(4)(f) of the 4<sup>th</sup> AMLD. However, the 4<sup>th</sup> and the draft 5<sup>th</sup> AMLD have a broader scope and aim at preventing the financial system from</p>



	being misused.
<p>1.6. The EESC urges the European institutions to strengthen their policies aimed at closing down tax havens. In particular, the Committee believes that all obligations laid down in the 5<sup>th</sup> AMLD, especially those relating to the identification of the beneficial owners of bank accounts, businesses, trusts and transactions, should be extended to all territories or jurisdictions whose sovereignty resides with the Member States, including those which have special tax laws.</p>	<p>The 4<sup>th</sup> and the draft 5<sup>th</sup> AMLDs are addressed to the Member States. For those Member States who have a constitutional continuity with overseas territories, the requirements of the AMLD would apply. However, not all territories are subject to European Union fiscal legislation and EU legislation cannot intervene into the constitutional framework of Member States.</p>
<p>3.13. The EESC believes that the fight against money laundering and the financing of terrorism require close cooperation between the various intelligence and security services of the Member States, and between these services and Europol. It has to be acknowledged that current levels of cooperation are insufficient. Despite public statements by national and European decision-makers and public support for closer cooperation, after every terrorist attack major failures of coordination come to light. Sometimes there are coordination failures between the different services of the same Member State. Every effort must be made to put an end to this situation.</p>	<p>The 4<sup>th</sup> and draft 5<sup>th</sup> AMLD contain a number of provisions, which aim at improving the cooperation between Financial intelligence Units (FIU). Technical work is currently ongoing to ensure better exchange of information on suspicious transactions (FIU.net). In the context of the Commission Action Plan for strengthening the fight against terrorist financing adopted on 2 February 2016<sup>41</sup>, EU FIUs have already completed a mapping exercise to identify the remaining obstacles to cooperation and coordination between FIUs.</p>
<p>3.4. According to the EESC, one reservation might concern the impact on fundamental rights, in particular protection of personal data, of the improper use by the competent authorities of a large volume of sensitive information. The 5<sup>th</sup> AMLD proposal provides some safeguards in this</p>	<p>The 3<sup>d</sup>, 4<sup>th</sup> and draft 5<sup>th</sup> AMLD include a large number of provisions aiming at preventing any misuse of personal data. It has been made clear that all data collected is for sole AML/CFT purposes, and competent authorities shall ensure full respect for these</p>

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<sup>41</sup> COM(2016) 50 final.

respect. An awareness of how certain governments have behaved, as revealed by WikiLeaks (2010 and 2012) and the Snowden papers (2013), prompts us to suggest that the Commission should look into the possibility of introducing further measures to protect citizens' rights against the improper use of recorded information. More specifically, it should assess the practicality of a common classification of the unlawful use of personal information and data as a criminal offence. The EESC could help to carry out such a study.

requirements. In this context, it can also be mentioned that Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ("General Data Protection Regulation")<sup>42</sup> will apply from 25 May 2018. The General Data Protection Regulation intends to strengthen and unify data protection for individuals within the European Union. It also addresses export of personal data outside the EU.

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<sup>42</sup> OJ L 119, 4.5.2016, p. 1.

<p><b>N°20 Role and effects of JTIs and PPPs in implementing Horizon 2020 for sustainable industrial change (own-initiative opinion)</b>  <b>EESC 2016/0470 – CCMI/142</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Antonello PEZZINI (GRI-IT)</b>  <b>Corapporteur: Mr Enrico GIBELLIERI (GRII-IT)</b>  <b>DG RTD – Commissioner MOEDAS</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.1. The EESC considers that public-private partnerships in research and innovation are a formula for excellence and a powerful tool to address the main issues affecting Europe's competitiveness, and have the capacity to respond effectively to major socio-economic, employment and environmental sustainability challenges.</p>	<p>The Commission shares the EESC's view of Public-Private Partnerships (PPPs) as important drivers for strengthening Europe's competitiveness and helping Europe respond to major socio-economic and environmental challenges; in addition they are an important means to leverage the necessary private investments.</p>
<p>1.2. The EESC believes that if the technological, environmental and social dimensions are to be fully taken on board in Horizon 2020 (H2020) public-private partnerships, a new approach is needed, based on greater transparency concerning the results and socio-economic impact achieved.</p>	<p>Benefiting from the experience acquired in implementing the first generation of Joint Undertakings (JUs) under FP7, the Commission designed the second generation of JUs by embedding - in their legal bases - transparency provisions, throughout all facets of their operations including the dissemination and exploitation of research results. Especially with regard to the latter, the Commission's current "<i>Strategy for the Dissemination and Exploitation of Horizon 2020 Research Results</i>" aims at creating the necessary conditions and establishing the means to put research results into economic and societal use and make available scientific evidence in support of policy making. To this end, it sets out the actions to be taken by all actors involved in Horizon 2020 activities,</p>

	<p>including of course the JUs. As most of the JU research projects started within the past 15 months and, therefore, it is too early for project outputs to be delivered, the results of the Commission's efforts towards greater transparency of the project outputs, including socio-economic impact, will be assessed as from 2018.</p> <p>JUs develop their own targeted communication activities (including workshops, identification and development of success stories, publication through JUs' websites, project data feedback to parent Directorates-General for further exploitation, etc.) within the global communication strategy designed and managed by the Commission.</p> <p>Annually under Horizon 2020, each contractual Public-Private Partnership (cPPP) organises an Impact Workshop, at which each project provides information on progress, including wider socio-economic impacts. The reports of these Impact Workshops are made publicly available on the websites of the cPPPs.</p> <p>In addition, under the cPPPs, there are five Community Support Actions that deal specifically with impact and, in this context, public events are organised.</p>
<p>1.3. The EESC is of the view that partnerships should adopt a broader vision of innovation, taking account of innovation in services, social innovations and the necessary upgrading of SMEs and the social economy so they can be brought in more effectively at every stage of</p>	<p>It is the Commission's view that the currently operating JTIs and cPPPs were established with the aim to develop innovative technologies and to facilitate the creation of an internal market for innovative products and services, by advancing jointly on</p>

<p>demonstrating and developing applications.</p> <p>1.4. The social legitimacy of innovation should be fostered in JTIs and cPPPs by increasing the involvement of the weaker stakeholders (trade unions, SMEs and NGOs) in the overall direction and strategic programming of R&amp;I work, in keeping with the provisions of Regulation 2012/1025 on standardisation, particularly where strategies and the selection of projects and their social value are concerned.</p>	<p>critical issues such as standardisation.</p> <p>By design, the Horizon 2020 JTIs and cPPPs enable the scale of research and innovation effort needed to address critical societal challenges. The governance structures of the JTIs, revised and improved, ensure openness to new participants, the allocation of funding on the basis of excellence and better links and synergies with national and/or regional activities.</p> <p>The level of participation of SMEs in the cPPPs is higher than for any other part of Horizon 2020.</p> <p>The calls organised by the Commission in the framework of the cPPPs function like all calls under Horizon 2020. Moreover, the Info Days organised annually under Horizon 2020 are open to the involvement of all interested stakeholders.</p>
<p>1.5. The EESC considers that PPPs need to be more market-driven, focusing attention on aspects such as interoperability, standardisation, harmonisation and transnational technology transfer, so that results are sustainable at regional level and can be disseminated across the EU.</p>	<p>The Joint Technology Initiatives' (JTIs) and cPPPs' industrial sectors are of high economic relevance for Europe and are addressing pressing societal challenges. These industrial sectors are also areas where well-identified market failures require a long-term concerted research and innovation effort. In this respect, the JTIs and cPPPs can better address complex challenges as they help to develop interdisciplinary approaches and allow for a more efficient sharing of knowledge and expertise. They are facilitating the creation of an internal market for innovative products and services, by addressing critical issues such as access to finance, standardization and norm setting. The calls organised in the framework of the</p>

	<p>cPPPs include a number of topics that address aspects such as interoperability, standardisation, harmonisation and transnational technology transfer. Moreover, representatives of the cPPPs participate in the technical committees of standardisation organisations such as European Committee for Electrotechnical Standardization (CENELEC).</p> <p>The JTIs and cPPPs are expected to deliver growth and jobs and a substantial leverage effect on private investment. Through the reinforced role in the JTIs of the group of Member State Representatives, closer links are already being established with similar activities at national and/or regional level.</p>
<p>1.6. The EESC urges that JTIs and cPPPs be put in place in order to:</p> <ul style="list-style-type: none"> <li>— boost coherence with other partnerships and initiatives on a scene increasingly crowded with concurrent policies;</li> <li>— extend the value chain with a sharper focus on the market and broader participation from the demand side in terms of both numbers of users in the countries involved and new actors throughout the value chain, making use of the synergies generated by interoperability with other initiatives;</li> <li>— give greater prominence to multidisciplinary approaches, bringing in</li> </ul>	<p>The Commission shares the EESC's view on the role of JTIs and cPPPs. The activities of the JTIs, cPPPs and other related initiatives such as the Joint Programming Initiatives, Article 185 Initiatives, the EIT<sup>43</sup> KICs<sup>44</sup> or the European Innovation Partnerships are all implemented in a way that maximizes synergies and increases overall impact, in particular where they address common objectives. This is especially true when considering that all EU level research and innovation funding has been brought together in a single programme, Horizon 2020. With regard to JTIs, it is clear that synergies are sought in linking activities across the innovation cycle, from research outcomes to closer market activities, in</p>

<sup>43</sup> European Institute of Innovation & Technology.

<sup>44</sup> Knowledge and Innovation Communities.

new stakeholder communities, especially at local, grassroots level;

— JTI and cPPP should encourage SMEs to participate actively in the innovation process at an earlier phase, so that they gradually develop their own R&D potential.

order to help to boost entrepreneurship and business creation in fields of major relevance to the European economy.

Depending on their respective industrial specificities and characteristics, the JUs take particular measures to increase the presence of SMEs in their activities. These measures include:

- giving SMEs a representation in the Governing Board so they can contribute to the definition of the Work programme;
- applying lower entry fees in order to facilitate SME membership;
- simplifying the rules of participation;
- reserving access to funding only to SMEs and familiar research organisations, in certain types of action;
- defining call topics that appeal to SMEs;
- explaining the IP issues;
- communicating better the benefits and opportunities that arise from SME participation.

Currently, in signed grants, SMEs represent 21.4% of all JU beneficiaries and receive 20% of the funding. SME participation rates in JUs operating under Horizon 2020, especially in terms of EU funding, are above the overall Horizon 2020 average so far: 21.4% against 21.3% in terms of number of SME participations and 20% against 16.4% in terms of EU

	contributions granted to SMEs.
<p>1.7. The EESC recommends that JTIs and cPPPs launch new innovative measures [...], by fostering forums that include the social partners, and by targeting support on the speedy exploitation of post-project markets.</p>	<p>All JTIs are continuously developing relations with their respective stakeholders in order to ensure that they are effectively addressing the needs of society.</p> <p>For instance, the Innovative Medicines Initiative (IMI) is regularly organising focused meetings with patients and regulators, with the objective to provide their perspective and input into the potential research topics.</p> <p>Under the cPPPs, Exploitation Strategy Seminars have been organised each year since the beginning of Horizon 2020 as an integral part of project implementation and follow-up.</p> <p>Furthermore, IMI is exploring the possibility to launch a call for proposals dedicated to exploitation of IMI project results. This call aims at providing support so that significant results generated from completed projects become fully exploitable, sustainable and available to all relevant users.</p>
<p>1.8. The EESC attaches importance to more robust monitoring of JTI and cPPP capacity and coherence of action using more flexible tools that meet market requirements; and to more dynamic approaches to ensuring quality, including a full set of Key Dynamic Performance Indicators (KDPI), comparable across different initiatives, so that an annual synoptic assessment of all JTIs and cPPPs can be submitted to the European and national institutions and to European taxpayers.</p>	<p>The Commission agrees on the importance of monitoring and assessing the JUs' and cPPPs' performance. The Commission regularly monitors the JUs, thanks to its representative(s) in the Governing Boards who, in most cases, hold(s) 50% of the votes.</p> <p>In the case of the cPPPs, KPIs are in place and progress is reported in annual monitoring reports. Moreover, a mid-term review of the cPPPs is being carried out, which is due for completion by mid-2017. This will be made</p>



	<p>available to all relevant European and national authorities.</p> <p>The Commission announced, in its Communication on Partnering in Research and Innovation of 2011<sup>45</sup>, a benchmarking exercise for the PPPs. With the definition of general as well as JU-specific KPIs, the Commission has already established <i>de facto</i> a benchmarking system by reporting annual progress against the set targets, through the respective JU Annual Activity Reports. The Annual Activity Reports are communicated to the European Parliament and provide the platform upon which the discussion and decision on the annual discharge exercise for each JU is based</p>
<p>1.9. The EESC calls for greater efforts to ensure internal coherence between the objectives and priorities of the EU's FP9 and industry's R&amp;I strategies reflected in JTIs and cPPPs in coordination with all other forms of partnership for innovation to be found in other regional national and European policies.</p>	<p>All JTIs and cPPPs operating under Horizon 2020 aim, among others, at establishing a closer link with similar activities at national and regional level. By linking, where appropriate, to Structural and Investment Funds support mechanisms, synergies between Union-led actions and Member States' or regions' development policies are currently actively pursued.</p> <p>It is of course too early to discuss specifics of the next Framework Programme. Before diving deep into the details of its design, and specifically to PPPs, there will be a number of reports and evaluations – some already under preparation – that will show us more on their performance and achievement of their objectives. In this regard, the</p>

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<sup>45</sup> COM(2011) 572 final.

	<p>cPPPs are committed to participating in the public consultation in the context of the Interim Evaluation of Horizon 2020.</p> <p>The Commission will take all such input into consideration when designing the corresponding elements of the next Framework Programme (FP).</p> <p>While the Commission is fully engaged in existing Horizon 2020 activities, at the same time it continues to examine new societal challenges and may propose initiatives aimed to help address them. Such is the case of the Cybersecurity cPPP, currently under discussion.</p>
<p>1.10. The EESC proposes setting up a European Innovation Council (EIC) with strong representation of industry and society, with pan-European infrastructure networks to support innovation, as a useful instrument for closer coordination of initiatives, not least with the courses of action of other European and international R&amp;I organisations, and with comparable international partnerships.</p>	<p>The Commission welcomes the EESC support for the concept of an EIC. The Commission does not intend to set up an EIC as a new organisation under Horizon 2020. Instead, pilot initiatives will be taken to test out how the programme can better support start-up and scale-up companies and market-creating innovation. The aim is to bring together calls that target these companies and will provide support for bottom-up proposals.</p>
<p>1.11. The EESC urges regional and local authorities to give high priority to relevant JTI and cPPP innovation when planning and implementing measures such as smart specialisation strategies, cohesion policy operational and cooperation programmes, research and innovation programmes and projects to implement climate change adaptation plans.</p>	<p>The Commission is particularly pleased with the EESC's plea to regional and local authorities to give high priority to relevant JTI and cPPP research and innovation activities. It also considers that effective synergies require the concerted effort of all involved parties, JTIs, cPPPs and regional or local authorities.</p> <p>Concerning synergies with regional authorities, an excellent example is provided by Clean Sky, the Public Private Partnership between the</p>

European Commission and the European aeronautics industry. Clean Sky has launched an action plan on synergies and is discussing with interested Member States and regions possible cooperation that is tailor-made to a region's interest.

While keeping the funding processes and rules of each competent authority separate, the purpose is to ensure complementarity and synergies with ESIF in the most relevant research and innovation projects from a Member State or region. The goal is to maximise the impact of Clean Sky-funded projects.

The Commission expects that this type of cooperation will strengthen the Research and Innovation (R&I) innovation capacity and the European dimension of the regions in aeronautics, identify complementary areas of technical cooperation and achieve a leverage effect from synergies between ESIF and the Clean Sky funding.

In order to identify potential interested actors, the Clean Sky Joint Undertaking is, based on their smart specialisation strategies, currently mapping Member States and regions that have an interest in cooperating with Clean Sky. A first Memorandum of Understanding was signed with the Midi-Pyrénées region (France) in February 2015. The Clean Sky Joint Undertaking has also established cooperative relations for the pilot phase with regions in Italy (Campania), in the Netherlands (Flevoland), in Spain (Andalucía and Cataluña) and in Sweden (Västra Götaland and Östergötland), and at

	national level with Romania and the Czech Republic. Several other regions/countries are planned to be engaged in the future.
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<p><b>N°21 Mid-term evaluation of Horizon 2020 (exploratory opinion)</b>  <b>EESC 2016/3274 - INT/792</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Ulrich SAMM (GRI-DE)</b>  <b>DG RTD – Commissioner MOEDAS</b></p>	
<b>Points of the EESC opinion considered essential</b>	<b>Commission position</b>
<p>The exploratory opinion was prepared as a contribution to the interim evaluation of Horizon 2020.</p>	<p>The Commission will take the opinion of the EESC into account in the interim evaluation of Horizon 2020.</p>
<p>1.3. The EESC therefore, in line with the European Parliament’s research committee (ITRE), calls for EUR 2.2 billion to be restored from the European Fund for Strategic Investments (EFSI) back to the EU’s Horizon 2020 research and innovation programme.</p>	<p>Funds spent in the framework of EFSI are also used for Research and Innovation (R&amp;I) and will mobilise additional funding from other sources.</p> <p>As part of the mid-term review of the Multiannual Financial Framework (MFF), EUR 200 million will be added to the budget for Horizon 2020 (the Commission had proposed EUR 400 million).</p>
<p>5.6. The EFSI invests in projects that cannot be seen as compensation for those projects that can no longer be carried out under Horizon 2020, as the vast majority of the EFSI projects do not address research aspects but the implementation of existing technologies. This certainly has merit, but it must not limit the source of innovative new technologies for the competitiveness of Europe which Horizon 2020 can provide.</p>	
<p>1.6. The EESC is worried that funding for research into Societal Challenges has been significantly reduced. Many success stories of EU-wide research collaboration from FP6 and FP7 ended with Horizon 2020. Collaborative research should once again play a role as an indispensable element in the research and innovation chain.</p>	<p>Collaborative research is a crucial element of Framework Programmes. Horizon offers many possibilities to collaborate with different partners across its parts.</p> <p>The structure of the Seventh Framework Programme for Research and Technological Development (FP7) and Horizon 2020 differ and a direct comparison between the Cooperation</p>
<p>3.5. Basic research that has a long lead</p>	

<p>time before innovation is achieved, and that is chiefly motivated by societal challenges, is for the most part not covered by the ERC. This type of collaborative research was very successful in earlier framework programmes, but with Horizon 2020 it lost much of its importance. Societal challenges were reduced by 3.5% in order to finance EFSI and collaborative research in the lower Technology Readiness Levels (TRL) 1-5 lost ground to higher TRLs. This has driven many universities and research organisations away from research on societal challenges with the effect that interaction between industry and academia has been reduced rather than strengthened. The EESC urges the Commission to address this worrying development. It is of vital importance that funding for Societal Challenges is restored and research in TRLs 1-5 is included more prominently in the Horizon 2020 Societal Challenges in order to cover the entire research and innovation cycle. In this context it remains of great importance that the Commission liaises with stakeholders when developing the details of what Societal Challenges will look like at work programme level.</p>	<p>programme of FP7 and Societal Challenges pillar of Horizon 2020 are difficult to make.</p> <p>38.5% of the Horizon 2020 budget is dedicated to Societal Challenges, the biggest share in Horizon 2020. Its distribution among seven challenges and focus on different TRL varies.</p> <p>Analysis of Horizon 2020 implementation in its first two years (2014-2015) show that higher education entities are the main beneficiaries of Horizon 2020 regarding participations (34.5%) and received funding (39.6%).</p> <p>In the interim evaluation of Horizon 2020 the Commission will analyse these aspects as well.</p> <p>The Commission liaises with stakeholders in the process of work programme preparations and is trying to improve this process constantly.</p>
<p>4.5. The EESC would like to emphasise that collaborative research with a minimum of three partners from different Member States must remain the backbone of European research funding. Enabling different innovation and research players to join forces to address challenges that cannot be met by one country alone, and to create synergies within the EU research landscape is something that needs to be done at EU level and creates significant EU added value.</p>	
<p>1.7. The EESC calls for a careful evaluation to find a reasonable balance</p>	<p>The interim evaluation will evaluate Horizon 2020, and its pillars, on</p>

<p>between the three funding pillars: Excellent Science, Industrial Leadership and Societal Challenges. This evaluation should take into account their differences in terms of impact, lead times, leverage effects and, in particular, their specific EU-added values.</p>	<p>progress made towards achieving the specific objectives as set by the Horizon 2020 Regulation. The interim evaluation will be structured according to five evaluation criteria: effectiveness, efficiency, coherence, relevance, EU Added Value.</p>
<p>1.9. The EESC also emphasises that social sciences and humanities have to play a key role in analysing and predicting the societal developments caused by changes in working and living conditions resulting from demographic change, globalisation, climate change, emerging technologies, digitalisation and education for new high-quality jobs.</p>	<p>The Commission agrees with this. Social science and humanities is one of the cross-cutting issues of Horizon 2020.</p>
<p>1.10. The EESC is following with great interest the performance of the European Institute of Innovation and Technology (EIT) and the recommendations issued by the Court of Auditors. We expect the interim evaluation to lead to considerable improvements in the EIT.</p>	<p>The Commission will carry out a separate interim evaluation of EIT. Its results will feed into the interim evaluation of Horizon 2020.</p>
<p>1.11. The foundation of a new European Innovation Council (EIC), as proposed by the Commission, and which is supposed to address entrepreneurs/innovators directly, could become an umbrella which streamlines the funding instruments for innovation, thereby providing an efficient way to close the innovation gap.</p>	<p>The Commission takes note of this and is committed to continue its work on an EIC.</p>
<p>1.12. The EESC strongly recommends that when introducing a new funding instrument the other instruments be reviewed thoroughly, with the aim of reducing their number and harmonising them as far as possible.</p>	<p>The Commission takes note of this and will carry out separate evaluations of the Joint Technology Initiatives (JTIs) and article 185 initiatives.</p>
<p>5.5. In view of the next Framework Programme, the EESC also strongly urges</p>	<p>The results of these evaluations will be used for the preparations of the next Framework Programme, especially its impact assessment.</p>

<p>to refrain from setting up more instruments, and encourages the Commission instead to actively reduce the number of instruments and also to benefit from the evaluation of the JTI to limit them to the most effective ones.</p>	
<p>1.13. The EESC would like to stress that the provision of mobility funding and access, along with support for researchers to infrastructure across borders, is a key asset of the European Research Area, which should be supported more effectively.</p>	<p>The Commission agrees that the support for researchers to infrastructures across borders should be supported effectively. The implementation of this kind of activity is analysed in the context of the interim evaluation of Horizon 2020.</p>
<p>4.3 In general, mobility within the ERA is of utmost importance. The EESC urges therefore that funding programmes like the Marie Skłodowska Curie Actions should be maintained at a prominent level.</p>	<p>The budget for Horizon 2020 and its distribution between different parts was agreed in 2013 and modified following the launch of EFSI. Any discussions on the future funding after 2020 will depend on the next MFF.</p>
<p>1.14. The EESC is exceedingly concerned about the large disparities between Member States in terms of national funding for research and innovation. This has led to large differences in success with regard to receiving EU funding.</p>	<p>Differences between Member States in terms of national funding are one of the Commission's concerns. The overall target of 3% for R&amp;I will be met only with active involvement and determination from all Member States.</p> <p>The European semester process helps to monitor progress. Besides that the new mechanism in Horizon 2020, Policy Support Facility, is helping Member States to improve their national R&amp;I systems.</p>
<p>1.15. The EESC recommends that all instruments be reviewed in order to make improvements which may help to overcome these disparities. To this end, collaborative research bringing together several Member States will play an important role, as well as the new measures for Spreading Excellence and Widening Participation.</p>	<p>In order to overcome these disparities a special part of Horizon 2020 is dedicated to countries with low R&amp;I performance – Spreading Excellence and Widening Participation.</p> <p>Widening participation is also one of cross-cutting issues in Horizon 2020.</p>



<p>4.8. An analysis of the rising gap between Member States should be carried out in order to assess the reasons for it. The EESC welcomes the new measures for "Spreading Excellence and Widening Participation" which may help to reduce the gap. Other measures which should be considered are providing advice for support structures for applicants, or adding participation of EU-13 countries as a prioritisation criterion among equally good projects, provided the competing applicants meet the same excellence criteria. We would particularly propose strengthening a funding instrument already in place – collaborative research – which builds bridges between research communities, thereby helping to dissolve disparities.</p>	<p>This issue is closely analysed in the context of the interim evaluation of Horizon 2020. It was also a subject of one of the FP7 projects.</p> <p>Following the latest results regarding the participation of EU13 in Horizon 2020 and knowing the political importance of this issue, a special set of measures to be implemented in the last three years of Horizon 2020 was announced by the Commissioner responsible for Research, Science and Innovation at the conference "Spreading Excellence and Crossing the Innovation Divide" on 23 November 2016.</p>
<p>1.17. The EESC also supports the Council conclusions of 27 May 2016 stressing that, within the framework of Horizon 2020, care should be taken to ensure that loan-based financing is not further expanded to the detriment of grant-based R&amp;I funding.</p>	<p>Horizon 2020 offers different forms of funding, including grants and loans, taking into account needs and interests of different beneficiaries. According to article 10 of the Horizon 2020 Regulation, "<i>Financial instruments shall be the main form of funding for activities close to market that are supported under Horizon 2020.</i>"</p> <p>The interim evaluation of Horizon 2020 will also look into this.</p>
<p>1.18. Reasonable success rates need to be achieved to avoid wasting resources and causing frustration among the best participants from industry and academia. A variety of proposals for countermeasures are available and the Commission should implement them immediately for the remaining Horizon 2020 period.</p>	<p>The Commission closely follows the latest developments regarding the success rate and is committed to undertaking measures to overcome the negative trends in this regard. This issue is tackled for example by using, where relevant, 2-stage calls.</p>
<p>1.19. The need to further simplify Horizon 2020 procedures is still a major issue. The</p>	<p>Simplification was one of the main drivers when Horizon 2020 was</p>

<p>EESC acknowledges the Commission's successful efforts to make applications easier. In contrast to this, the project execution stage may now involve extra burdens. The EESC recommends that the Commission accept, as far as possible, the principle that compliance with national rules is the main criterion, as long as these rules meet agreed standards.</p>	<p>negotiated and it is still an important goal. A set of simplification measures was already implemented after discussions with the stakeholders.</p> <p>Further simplification improvements, within the legal frameworks of Horizon 2020, are foreseen.</p>
<p>1.20. The interim evaluation should analyse how Horizon 2020 contributes qualitatively to its objectives of fostering excellent science, addressing urgent societal challenges and supporting industrial leadership for greater economic and inclusive growth that creates real jobs in Europe, rather than focussing too much on quantitative measures such as counting publications, patents and return on investment, as the FP7 evaluation has done. It also recommends establishing compatible indicators for both research and innovation investments within the Structural Funds and the EFSI.</p>	<p>Effectiveness is one of the evaluation criteria. In its analysis, the Commission is using both, qualitative and quantitative measures.</p> <p>Horizon 2020 as the first Framework Programme introduced a set of Key Performance Indicators (KPIs) which should help to analyse the implementation of the Programme.</p> <p>Establishing compatible indicators for other programmes in terms of research and innovation could be one of issues for future consideration.</p>
<p>3.6. The evaluation should analyse the impact and effectiveness of this [SME] instrument in relation to the different types of SMEs and their reasons for applying as a single business (as most of them do) or as a consortium (national or EU-wide). Care should also be taken to analyse the extent to which a decrease in national funding for SMEs correlates with requests for funding at EU level. It is vital that SME funding also remains accessible to SMEs at regional and local level and that EU funding is not used to justify cuts to this major source of support at the local level.</p>	<p>The SME instrument is a novelty in Horizon 2020 and will be analysed as a part of the interim evaluation of Horizon 2020.</p>
<p>4.9. Open Science activities are supported by the EESC. The use of Open Access to publications has made progress;</p>	<p>The Commission implemented in Horizon 2020 a pilot project on open access to data. After analysing the</p>

<p>however there are still serious problems with some publishers – an obstacle which could be overcome by coordinated EU efforts. The development of Open Data is to be welcomed but a bottom-up process within research communities is still required for defining the details of its implementation.</p>	<p>result of the pilot as of 2017, open access to data will be mandatory, with an opt-out option.</p>
<p>4.10. A European science cloud, as suggested by the Commission, could offer Europe’s researchers a virtual environment to store, share and re-use their data across disciplines and borders. The EESC supports this initiative, believing that it could be an important element for Open Data. The EESC urges the Commission to carefully take into account cross-border cloud systems in specific science communities, which already exist and work well, as well as national activities aiming to achieve the same objective.</p>	<p>A high level expert group was established to assist the Commission on the European Open Science Cloud. As a result a set of recommendations was made on a preparatory phase for the European Open Science Cloud, including specific policy, governance and implementation.</p>

<p><b>N°22 Removing obstacles to sustainable aquaculture in Europe (exploratory opinion)</b>  <b>EESC 2016/3425 - NAT/688</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Gabriel SARRÓ IPARRAGUIRRE (GR11-ES)</b>  <b>DG MARE – Commissioner VELLA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.2. The EESC notes that the main cause of slow administrative procedures applicable to the practice of aquaculture, and the unavailability of locations, is the complex implementation of EU environmental legislation, mainly the Water Framework Directive, the Marine Strategy Framework Directive and the rules on the Natura 2000 network by the public administrations of Member States and their regions. This situation leads to requirements for aquaculture undertakings that are excessively costly economically and, paradoxically, do not ensure greater environmental protection.</p> <p>1.4. The EESC calls on the European Commission to ensure that the Member States make use of the guidelines on the application of European environmental rules, as an essential means of reducing unnecessary administrative burdens and, at the same time, to ensure that the quality of water and ecosystems is preserved.</p>	<p>Within the framework of the Open Method of Coordination the Commission encourages Member States to make good use of the guidance documents compiled to support Member States in the application of EU law. Three technical seminars with Member States have been organised since November 2015. During these seminars, experts had the opportunity to exchange experiences and practices on how EU environmental law is applied in each Member State. More information is available on the "EU Aquaculture online" website: <a href="https://ec.europa.eu/fisheries/cfp/aquaculture/policy-exchanges_en">https://ec.europa.eu/fisheries/cfp/aquaculture/policy-exchanges_en</a>.</p>
<p>1.3. The EESC calls on the European Commission to comply in full with its obligations regarding coordination of the shared competences in the field of aquaculture, including the simplification of administrative procedures and the involvement of the departments of</p>	<p>The Commission would like to recall that aquaculture policy, including administrative simplification, falls primarily within the Member States' competence. In this context, the Commission is fully committed to support and facilitate the implementation</p>

<p>national and regional public administrations responsible for aquaculture</p>	<p>of national measures simplifying administrative procedures. Under the framework of the Open Method of Coordination, the Commission is coordinating exchanges of good practice on the reduction of administrative burden among Member States.</p>
<p>1.6. The EESC calls on the European Commission to launch the Aquaculture Advisory Council as a matter of urgency and to actively support its effective operation. This forum will only be effective if the stakeholders concerned and European and national public administrations cooperate in it, especially the European Commission.</p> <p>4.8.1. The EESC expresses concern that the Commission will not retain the same level of participation in the new AAC as in the former Advisory Committee for Fisheries and Aquaculture. The Commission itself provided the executive secretariat of the former Advisory Committee, whereas the secretariat of the new AAC will be completely external to the Commission. This could affect the power of the AAC to bring European public administrations together and to disseminate its recommendations. The EESC is concerned that the Commission could be considered simply one participant in the AAC, when it should be continuing to play a leading role.</p>	<p>The Commission would like to recall that the Aquaculture Advisory Council was declared operational already in February 2016 (OJEU, C74/1 of 26.02.2016) and, since this date, Commission services have been providing constant technical assistance to accelerate its effective operation.</p> <p>The reform of the Common Fisheries Policy in 2013 led to the replacement of the Advisory Committee for Fisheries and Aquaculture with a new Advisory Council for Aquaculture. With its specific focus on aquaculture-related matters, the Advisory Council should be seen as a new opportunity for all stakeholders involved in aquaculture to provide the Commission and EU Member States with recommendations on aquaculture-related issues.</p> <p>As for all the Advisory Councils, the Commission cannot provide the executive secretariat of the Aquaculture Advisory Council. However, in line with the Common Fisheries Policy (CFP) Regulation, it awards an annual grant to each Advisory Council to contribute to their operational costs, including costs incurred for the secretariat. According to the CFP Regulation (Annex III, point 2, let. j)), the Commission cannot be a member of any Advisory Council, but can only participate in their meetings as an active observer.</p>

1.7. To identify the extent to which the objectives have been achieved, the EESC urges the Commission, in collaboration with the Member States, to monitor closely the multi-year national strategic plans for aquaculture, and to ensure that all departments of national public authorities with responsibilities for the environment are involved in these.

1.8. The EESC warns the Commission that the next few years will be critical for the future of aquaculture in the European Union. The efforts the Commission has made to draw up a regulatory framework that favours sustainable aquaculture could yet come to naught if the situation is not monitored strictly and if a solution is not found for the current bottlenecks which, as mentioned above, occur in public administration departments in Member States that were not involved in drawing up the respective multi-annual national strategic plans for aquaculture.

The Commission agrees that the monitoring of the Multi-Annual National Strategic Plans (MANP) on aquaculture is fundamental for the further socio-economic and sustainable development of the sector. It shares the views of the European Economic and Social Committee that the next years will be critical for the future of European aquaculture. The Commission would like to underline that, because of the late approval of the European Maritime and Fisheries Fund (EMFF), the adoption and implementation of national Multiannual Plans and Operational Programmes (OPs) has been delayed. The Commission has scrutinised all MANPs and has assessed their coherence with the Operational Programmes during 2015. The Commission continues to work closely with national administrations to monitor the implementation of the MANPs, to support the efforts put in place to develop the sector and facilitate exchange of good practices between all Member States. In order to measure progress, the Commission will launch a mid-term evaluation of the Open Method of coordination in 2017.

<p><b>N°23 Proposal for a Regulation of the European Parliament and of the Council laying down management, conservation and control measures applicable in the Convention Area of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007</b></p> <p><b>COM(2016) 401 final – EESC 2016/4324 - NAT/695</b></p> <p><b>520<sup>th</sup> Plenary Session - October 2016</b></p> <p><b>Rapporteur: Mr Thomas McDONOGH (GRI-IE)</b></p> <p><b>DG MARE – Commissioner VELLA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>3.1. Article 7(2) of the proposal, limiting replacement to vessels of equivalent or lower capacity, is based on ICCAT Recommendation 14-01, which is no longer in force. Recommendation 15-01, the new recommendation for tropical tunas, does not include in its current form any limitation with regard to replacements.</p>	<p>The Commission supports the views expressed by the EESC.</p>
<p>3.2. Article 9(1) about management plans for fish-aggregating devices (FADs) sets the time limit for transmission to the ICCAT Secretariat as 1 July each year, which was the date set in Recommendation 14-01. The limit set in Recommendation 15-01 is 31 January; since this applies to the Commission, Member States should be given an earlier deadline, for example 15 January.</p>	<p>The Commission supports the views expressed by the EESC.</p>
<p>3.3. Articles 31, 32, 34, 35 and 36, which impose a landing ban for non-authorized sharks, could include a reference to article 15(4) of the CFP basic Regulation<sup>46</sup>, which</p>	<p>The Commission considers that restating the provisions of the Common Fisheries Policy (CFP) is not necessary.</p>

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<sup>46</sup> Regulation (EU) No 1380/2013.

<p>sets out exceptions to the general discard ban.</p>	
<p>3.4. Article 38(4) should begin, as in ICCAT Recommendation 07-07, with the words "where practical". This should not preclude the negotiation of a more binding compromise within ICCAT.</p>	<p>The Commission supports the views expressed by the EESC.</p>
<p>3.5. Articles 54 and 55 are intended to introduce the ICCAT exceptions for longline vessels with regard to at-sea transshipment, but in the case of the EU fleet the general rule of making all transshipment operations in-port should apply.</p>	<p>Article 4 of Regulation (EC) No 1005/2008 (Illegal Fishing (IUU) Regulation)<sup>47</sup> and Article 20 of Regulation (EC) No 1224/2009 (Control Regulation)<sup>48</sup> prohibit transshipment at sea in all Union waters. However, transshipment at sea outside of Union waters is not forbidden by those Regulations. Article 4(4) of the IUU Regulation only provides that if transshipment at sea is carried out outside Union waters, then the carrier vessel shall be registered under the auspices of a Regional Fisheries Management Organisation.</p>

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<sup>47</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999, OJ L 286, 29.10.2008.

<sup>48</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006, OJ L 22.12.2009.



<p><b>N°24 Marine energy: renewable energy sources to be developed (own-initiative opinion)</b>  <b>EESC 2016/1175 – TEN/585</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Stéphane BUFFETAUT (GRI-FR)</b>  <b>DG MARE – Commissioner VELLA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>Renewable energy production from the ocean should be supported.</p> <p>1.4 The EESC is therefore of the view that this type of renewable energy production should be developed and that there should not be an exclusive focus on wind turbine and solar technologies. Of course, marine energy cannot be harnessed everywhere, but it would be detrimental to disregard a predictable source of renewable energy with a minor – or manageable – impact on the environment. It is universally acknowledged that the future of energy will be based on a variety of sources of supply.</p>	<p>This is in line with the Blue Energy Communication<sup>49</sup> (2014). Following this Communication, the Commission set up the Ocean Energy Forum in 2015, which delivered a strategic roadmap for the future of ocean energy in November 2016. The Commission intends to support the main recommendations of this roadmap by channelling resources and facilitating development of a European ocean industry.</p>
<p>Cooperation between leading countries in the EU should be strengthened</p> <p>1.5.1 The EESC strongly recommends adopting a similar approach regarding marine energy – whether water turbines or tidal barrages – that promotes cooperation between Member States or neighbouring countries of the European Union that have suitable sites for this type of facility (mainly those with Atlantic or North Sea coastlines).</p>	<p>The Commission supports cooperation on ocean energy through various channels, including the Atlantic strategy, marine spatial planning and projects such as Interreg FORESEA<sup>50</sup>.</p> <p>The Commission also aims at facilitating exchange of knowledge, data and experience from the most advanced Member States and regions.</p>

<sup>49</sup> COM(2014) 8 final.

<sup>50</sup> <http://www.nweurope.eu/projects/project-search/funding-ocean-renewable-energy-through-strategic-european-action/>.

<p>1.7. The EESC recommends keeping up research and development efforts in the area of marine energy, but also with regard to storing energy produced from intermittent sources, so the production of renewable energy can be smoothed out.</p>	<p>Financing in these areas has increased substantially over the past years within research and innovation supports (Horizon2020) but also within European Regional Development Funds and support to innovative renewable energy technologies (NER300 Programme).</p> <p>In addition, ocean energy should benefit from innovation and development from more advanced renewable energy in terms of connecting and storing.</p>
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<p><b>N°25 Proposal for a Directive on safety rules and standards for passenger ships</b>  <b>COM(2016) 369 final – EESC 2016/4285 – TEN/602</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Tomas ABRAHAMSSON (GR11-SE)</b>  <b>DG MOVE - Commissioner BULC</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.4., 4.2., 5.2.5. and 5.2.6. The EESC recommends that the application to new ships below 24 metres in length be retained in the interests of passenger safety.</p>	<p>The Commission wishes to clarify that ships below 24 metres made of steel or an equivalent material are already largely governed by national standards, hence removing them from the scope of Directive 2009/45/EC<sup>51</sup> would not have a negative impact on passenger safety but rather puts small passenger ships made from steel at the same level of regulation as passenger ships below 24 metres built in other materials. Directive 2009/45/EC does not harmonise all technical standards and, for those standards that have been harmonised, it allows Member States to apply national rules instead without any requirement to notify or assess such a decision (i.e. not as an exemption under Article 9). Retaining ships below 24 metres in the scope of Directive 2009/45/EC would therefore create a false impression that there is a common EU safety level, which is currently not the case. On the contrary, removing these ships from the Directive driven by prescriptive, one-size-fits-all international standards would pave the way for addressing</p>

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<sup>51</sup> OJ L 163, 25.6.2009.

	<p>their safety at the EU level in more adequate and effective terms, based on goal-based standards. The Commission will start the respective work with the European Maritime Safety Agency and national and industry experts in 2017 in the context of the "Small Passenger Craft Code" initiative.</p>
<p>1.7. and 5.1.3. The EESC recommends that the corresponding technical standard included in the Annex to Directive 2009/45/EC be further clarified in cooperation with national experts.</p>	<p>The Commission accepts this suggestion and, subject to the outcome of negotiations with the other Institutions on the proposed clarification of equivalent material, intends to further clarify the corresponding technical standards in the Annex to Directive 2009/45/EC in cooperation with national experts and with the assistance of the European Maritime Safety Agency.</p>
<p>4.1. The EESC notes that the fitness check applied to the EU safety rules and standards for passenger ships may well have been affected by the lack of data and therefore asks for better data collection and monitoring systems in future, in order to make EU post-implementation assessments more robust.</p>	<p>The Commission wishes to clarify that the new monitoring and evaluation arrangements have already been made and draws the attention of the Committee to Chapter 7 of the accompanying Staff Working Document (SWD(2016)190).</p>
<p>5.1.1. Point (h) – The definition of a "new ship" as a ship, the keel of which was laid or which was at a similar stage of construction on or after 1 July 1998 is outdated; however, no change has been proposed.</p>	<p>The Commission wishes to clarify that the entire set up of the Directive and the corresponding technical standards are based on the definition of "existing" and "new" ship, as provided for in Article 2. The evaluation has not recommended that these concepts should be redefined.</p>
<p>5.1.2. Point (u) – The change from "host state" to "port state" is not explained. The</p>	<p>The Commission wishes to clarify that the concept of the 'host State' was</p>

<p>EESC recommends that the Commission provide an explanation for this change of terminology and possible change of substance.</p>	<p>introduced by Council Directive 1999/35/EC<sup>52</sup> in order to facilitate cooperation with third States, notably prior to the 2004 Union enlargement. This concept was found to be no longer relevant. The Commission has therefore proposed to remove this term also from this Directive and replace it by the corresponding term without any change of substance.</p>
<p>5.1.2. Point (u) (cont.) – Furthermore, the Directive seems in this point not to draw any distinction between EU-flags and non-EU flags, which may have relevance, as the vessels in question are performing maritime cabotage (Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage)).</p>	<p>The Commission wishes to clarify that Directive 2009/45/EC is flag-neutral. Concerning cabotage, the Directive includes specific provisions clarifying that such vessels can be inspected according to the Port State Control Directive. In this respect, the Commission wishes to inform the Committee that in the Council General Approach adopted on 1 December 2016, this provision has been removed as no longer necessary in addition to the Directive 2009/16/EC<sup>53</sup>.</p>
<p>5.1.3. The EESC believes that the new definition of "equivalent material", especially the reference to "any other non-combustible material", may be confusing as it does not adequately specify which type of material a material must be equivalent to in order to fall under the scope of the amended Directive.</p>	<p>The Commission wishes to clarify that the substantive criteria for defining an equivalent material have not changed given that they have so far not given rise to questions of interpretation (i.e. structural and integrity properties equivalent to steel at the end of the applicable exposure to the standard fire test due to the insulation provided, equally defined in the Directive).</p>
<p>5.1.4. New point (zd) – The proposed definition of "pleasure yacht/craft" reads "a vessel carrying no cargo and not more than</p>	<p>The Commission does not accept this suggestion and wishes to clarify that the term "not engaged in trade" is</p>

<sup>52</sup> OJ L 138, 1.6.1999.

<sup>53</sup> OJ L 131, 28.5.2009.

<p>12 passengers not engaged in trade regardless of the means of propulsion". The EESC believes that, for the sake of clarity, the present wording "passengers for commercial purposes" should be retained.</p>	<p>considered to have the same meaning as "for commercial purposes" and that it is widely used in the related international standards.</p>
<p>5.3. It is suggested to:</p> <ul style="list-style-type: none"> <li>- replace the term "survey" by "inspection" under Article 5, and</li> <li>- make a clear reference under Article 5 to the inspection requirements under the proposed new Directive (COM(2016)371 final) repealing Directive 1999/35/EC.</li> </ul>	<p>The Commission wishes to clarify that Article 5 already refers to "inspections". Furthermore, while the Commission proposal for a new Directive replacing Directive 1999/35/EC already invites Member States to carry out the corresponding inspections at the same time or in conjunction with their flag State surveys, it remains a prerogative of a flag State to do so.</p>

<p><b>N°26 Proposal for a directive on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and amending Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States COM(2016) 370 final – EESC 2016/4290 - TEN 603</b></p> <p><b>520<sup>th</sup> Plenary Session – October 2016</b></p> <p><b>Rapporteur: Mr Vladimir NOVOTNY (GRI-CZ)</b></p> <p><b>DG MOVE – Commissioner BULC</b></p>	
<b>Points of the EESC opinion considered essential</b>	<b>Commission position</b>
<p>5.1. The EESC recommends specifying the retention period in detail in the proposal for a directive.</p>	<p>The Commission wishes to clarify that the retention period has already been specified in the Commission proposal. In this context, the Commission wishes to inform the Committee about the formal comments of the European Data Protection Supervisor issued on 9 December 2016 that welcomed the proposed specific provision on data retention as a contribution to legal certainty (by defining applicable retention periods, while allowing some flexibility in case an accident happens).</p>
<p>5.2. The EESC feels that the proposed transmission to the National Single Window should rigorously ensure that the confidentiality requirements (as defined in Article 8 of Directive 2010/65/EU) are complied with and that data transmission complies with EU law on the protection of personal data.</p>	<p>The Commission wishes to clarify that the proposed transmission to the National Single Window already fully caters for the confidentiality requirements and complies with EU law on the protection of personal data.</p>

<p><b>N°27 Proposal for a Directive on a system of inspections for the safe operation of ro-ro ferry and high-speed passenger craft in regular service and amending Directive 2009/16/EC of the European Parliament and of the Council on port State control and repealing Council Directive 1999/35/EC</b></p> <p><b>COM(2016) 371 final – EESC 2016/4259 – TEN/604</b></p> <p><b>520<sup>th</sup> Plenary Session - October 2016</b></p> <p><b>Rapporteur: Mr Jan SIMONS (GRI-NL)</b></p> <p><b>DG MOVE - Commissioner BULC</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>4.8. The proposal should avoid any potential redundancy in inspections between the new proposed Directive and Directive 2009/16/EC on Port State Control.</p>	<p>The Commission will take into account this suggestion within subsequent negotiations with the other Institutions.</p>
<p>4.8.1. Appropriate coordination between Member States will however be required in order to satisfy the time-lag between the two inspections as required under Article 5 paragraph 1(b).</p>	<p>The Commission wishes to clarify that inspections carried out under Article 5 §1(b) are on "own flagged" ships, therefore there is no need for coordination between Member States.</p>
<p>4.8.2. Under Article 10 of the proposed new Directive, the Commission is requested to establish an inspection database. Clarification should be made whether such an inspection database will be maintained in parallel to the Paris MoU-EMSA THETIS system, and in particular how inspections performed under this new Directive, will influence the ship risk profile under Paris MoU.</p>	<p>The Commission will take into account this suggestion within subsequent negotiations with the other Institutions. The Commission also wishes to clarify that inspections under the proposal for a new Directive are outside the scope of port State control and will therefore have no impact on the ship risk profile under the Paris Memorandum of Understanding (MoU).</p>
<p>4.8.3. In referring to Article 1 paragraph 1, clarification should be made on the definition of "third State" whether it means non-EU Member State or both EU Member State and non-EU Member State. The EESC understanding is that "third State" should be defined as a non-EU Member State only in</p>	<p>The Commission wishes to clarify that the reference to "third State" is to a non-EU State.</p>



<p>order to avoid confusion with ro-ro ferries and high speed passenger crafts subject to Port State Control inspections under Article 14 of this new proposed Directive.</p>	
<p>5.1. As per definition of "regular service" under Article 2(5)(a) and Article 14 of the new proposed Directive, the EESC suggests clarifying the definition as follows: "according to publically available or planned list of times of departures and arrivals".</p>	<p>The Commission wishes to clarify that the definition of "regular service" set out in Article 2(f) Directive 1999/35/EC<sup>54</sup> has never given rise to questions of interpretation and this definition has been fully aligned across the EU passenger ship safety legislation.</p>
<p>5.2. There are redundant and confusing requirements between the Pre-commencement inspections under Article 3 paragraph 2 and Exception to the Pre-Commencement Inspection Obligation under Article 4 paragraph 1. The EESC proposes merging these two paragraphs under a new Article 4 paragraph 1 in order to refer consistently to the conditions for the ship to be dispensed with inspections provided that previous inspections or surveys of the ships are found to be satisfactory by the Member State.</p>	<p>The Commission will take into account this suggestion within subsequent negotiations with the other Institutions.</p>
<p>5.2. (cont) This new paragraph shall also refer to the pre-commencement inspections required for ro-ro ferries and high speed passenger craft under Directive 2009/16/EC as amended by Article 14 of the proposed new Directive.</p>	<p>The Commission wishes to clarify that the pre-commencement inspections carried out by a port State under the amended Directive 2009/16/EC are not interchangeable with those under Article 4 of the proposed new Directive.</p>
<p>5.3. Whilst the proposed new Directive establishes a procedure in case a replacement ro-ro ferry or high speed passenger ferry craft must be introduced rapidly following unforeseen circumstances (Article 4 paragraph 3), the EESC proposes to have a</p>	<p>The Commission wishes to clarify that scheduled maintenance is not considered to be an unforeseen circumstance and such proposal would in fact reduce the current safety level.</p>

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<sup>54</sup> OJ L 138, 1.6.1999.

<p>dedicated procedure for a replacement ship for a limited time period, when paragraph 1 of Article 4 is not applicable, in case of scheduled maintenance of the ship on the regular service.</p>	
<p>5.4. The regularity of the two annual inspections as required under Article 5 paragraph 1(b) should be equally specified under Article 14a paragraph 2 in order to ensure timewise a common safety level between this Directive and Directive 2009/16/EC. Furthermore, the regularity of the two annual inspections which should be performed over a 12-month period is not specified for ships operating on seasonal service and should be further clarified.</p>	<p>The Commission will take into account this suggestion within subsequent negotiations with the other Institutions.</p>
<p>5.5. The reference under Article 5 paragraph 1(b) to "sufficient number of the items listed in Annexes I and II" to be covered by the inspection during a regular service is confusing. The EESC suggests that the inspector shall use his professional judgement to decide which items must be inspected, and to what extent, in order to check overall condition in these areas and avoid duplication of items that may have been already mandatorily checked under other international regulations. It is suggested to make the same amendment to Article 14a paragraph 2(b).</p>	<p>The Commission will take into account this suggestion within subsequent negotiations with the other Institutions.</p>
<p>5.5. (cont) Furthermore, Article 5 paragraph 1(b) and Annex III could for the sake of clarity indicate that this is an in-service inspection that will take place during a regular crossing. In particular, in-service inspections on very short-distance sea routes should be considered in both practical terms and in view of the limited time available during the crossing.</p>	<p>The Commission wishes to clarify that an inspection during a regular service as defined in Article 5 paragraph 1(b) takes place only partly during a regular crossing and includes also elements that can/shall be checked "in port".</p>
<p>5.6. Whilst clearly inspired by Article 19</p>	<p>The Commission wishes to clarify that,</p>

on rectification and detention under Directive 2009/16/EC, the proposed new Directive should specify that "when inspection is exercised under this directive, all possible efforts shall be made to avoid a ship being unduly detained or delayed".

while the Commission proposal seeks to simplify and streamline the inspection activity, it remains a prerogative and a professional judgment of the inspector to detain the vessel when it is considered unsafe to proceed to sea.

<p><b>N°28 Report on Competition Policy 2015</b>  <b>COM(2016) 393 final - EESC 2016/4505 - INT/800</b>  <b>520<sup>th</sup> Plenary Session – October 2016</b>  <b>Rapporteur: Mr Juan MENDOZA CASTRO (GRII–ES)</b>  <b>DG COMP – Commissioner VESTAGER</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.3. The EESC shares the concerns of SMEs, trade unions and EU employers' associations over the possibility that China will be granted market-economy status.</p> <p>3.1.5. Imports under conditions of dumping, which put thousands of jobs in the EU at risk, amount to unfair competition. The EESC feels that China can hardly be said to operate in market conditions since it fails to comply with four of the five criteria established in the Commission's practice and in Regulation (EC) No 1225/2009<sup>55</sup>.</p>	<p>On 9 November 2016, the Commission presented a proposal for a new method for calculating dumping on imports from countries where there are significant market distortions<sup>56</sup>, in particular where the State has a pervasive influence on the economy. The purpose is to make sure that Europe has trade defence instruments that are able to deal with current realities – notably overcapacities – in the international trading environment, while fully respecting the EU's international obligations in the legal framework of the World Trade Organisation (WTO). The proposal, which introduces changes to the EU's anti-dumping and anti-subsidy legislation, follows a broad public consultation and is accompanied by an impact assessment.</p>
<p>1.5. State aid control ensures a more efficient use of resources and improves public finances. However, such aid can be essential in guaranteeing the provision of services of general economic interest.</p> <p>3.2.3. The EESC considers it necessary to</p>	<p>The Commission has adopted new rules as regards the public finance of services of general economic interest in 2012. State aid control in this area is limited to checking for manifest errors in the qualification of Services of</p>

<sup>55</sup> Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community, OJ L 343, 22.12.2009.

<sup>56</sup> COM(2016) 721 final.

maintain coherence between competition policy and other EU policies, especially in the case of investments aimed at boosting innovation and research, such as RDI, risk financing and universal broadband.

General Economic Interest (SGEI) and to verifying those public service compensations that seem to grant an advantage to the provider, and it therefore aims to ensure that public service compensation is necessary and proportionate to the objective pursued, so as to avoid distortions of competition and trade contrary to the interest of the EU.

The Commission has overhauled the State aid rules in the context of the State Aid Modernisation (SAM) initiative, adopted in 2014. The initiative helps Member States to better target aid measures towards economic growth, job creation and social cohesion. As part of SAM, the Commission is reinforcing its partnership with the Member States on the implementation of the new rules, as they have now increased responsibility to grant aid without prior notification to the Commission.

The Commission will support strategic investments by working with Member States on how to design growth-enhancing aid measures that support EU policy objectives.

The new State aid framework will ensure that public funding helps mobilise private investment to contribute to important objectives of common interest, without distorting competition. In this respect, in addition to the rules in the expanded General

	<p>Block Exemption Regulation (GBER) adopted in 2014<sup>57</sup>, three areas are especially important to boost innovation and investment activities, to complement private funding:</p> <ul style="list-style-type: none"> <li>- the Research, Development and Innovation (R&amp;D&amp;I) framework<sup>58</sup> facilitates the granting of aid measures for research, development and innovation activities, to complement private funding;</li> <li>- the Risk Finance State aid guidelines<sup>59</sup> permits a more rapid and generous distribution of risk finance aid to innovative and growth-oriented small and medium-sized businesses (SMEs) and mid-caps; and</li> <li>- the Broadband Guidelines<sup>60</sup> support Member States in tackling funding gaps and market failures when it comes to providing adequate broadband coverage, especially in rural areas.</li> </ul>
<p>1.6. The EESC recommends that information about state aid awards should be improved in order to ensure greater publicity and transparency.</p>	<p>The EU State aid rules require that aid given to companies be transparent. Transparency means giving market participants relevant information about those public interventions that might have potentially distortive effects on competition and on intra-EU trade, i.e. government aid that confers selective</p>

<sup>57</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, available at [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2014.187.01.0001.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.187.01.0001.01.ENG).

<sup>58</sup> Communication from the Commission, *Framework for State aid for research and development and innovation*, OJ C 198, 27.6.2014, available at [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2014.198.01.0001.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2014.198.01.0001.01.ENG).

<sup>59</sup> Communication from the Commission, *Guidelines on State aid to promote risk finance investments*, OJ C 19, 22.1.2014, available at [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014XC0122\(04\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014XC0122(04)).

<sup>60</sup> Communication from the Commission, *EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks*, OJ 2013 C 25, 26.1.2013, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:en:PDF>.

	<p>advantages to companies. The State Aid Modernisation initiative introduced transparency at the level of the aid beneficiaries. On 1 July 2016, those transparency requirements for State aid became mandatory.</p> <p>The <i>State aid transparency public search</i><sup>61</sup> gives access to State aid individual award data provided by Member States in compliance with the European transparency requirements for State aid. Citizens and companies can easily access information about awarded aid: name of the beneficiary, amount of aid, location, sector and objective.</p> <p>Complementary information on all authorised State aid in the EU, including information in relation to the transparency requirement, can be found in the <i>database of competition cases (ISEF) registry</i> of the Commission<sup>62</sup>.</p> <p>In addition, in September 2016, the Commission published a competition discussion brief <i>State aid transparency: Why? What? When? Where? How?</i>, which summarises the existing transparency provisions and explains how they fit into the policy context of State aid control<sup>63</sup>.</p>
<p>1.8. The major challenge for European competition policy in a sector dominated by technology giants is to ensure that</p>	<p>The Commission welcomes the general support for its competition enforcement</p>

<sup>61</sup> <https://webgate.ec.europa.eu/competition/transparency/public/search/home/>.

<sup>62</sup> <http://ec.europa.eu/competition/elojade/isef/>.

<sup>63</sup> [http://ec.europa.eu/competition/publications/cpb/2016/2016\\_004\\_en.pdf](http://ec.europa.eu/competition/publications/cpb/2016/2016_004_en.pdf).

<p>consumers have access to the best products and prices and that all companies, whether big or small, compete in an open market and based on the merit of their products. The EESC considers that, despite some of the criticisms it receives, the EU's actions are, in general, balanced and in compliance with legislation.</p> <p>3.3.4. In general, these cases involve potentially monopolistic practices and abuse of a dominant position. The technical complexity and high impact of the cases under investigation have led to criticism that, among other things, the EU has "declared war on Silicon Valley". The EESC does not agree with this criticism and supports the actions of the Commission, which it considers to be balanced and in compliance with legislation.</p>	<p>actions on the digital markets.</p> <p>In May 2015, the Commission adopted its Digital Single Market Strategy<sup>64</sup>.</p> <p>Digital markets are also a main priority in the competition policy field. Open and fair digital markets will boost innovation and bring benefits to both consumers and businesses.</p> <p>One of the primary aims of competition enforcement is to encourage all industry participants to innovate, whether they are start-ups or have a dominant market share. The aim is to ensure that European consumers have as wide a choice as possible of innovative products.</p> <p>In addition, in May 2015 the Commission launched an antitrust sector inquiry into the e-commerce sector in the EU. On 15 September 2016, the Commission published its preliminary report on the e-commerce sector inquiry which confirmed the fast growth of e-commerce in the EU and identified business practices that might restrict competition and limit consumer choice. In a public consultation which closed on 18 November 2016, the Commission invited stakeholders to comment on the findings of the sector inquiry, submit additional information and raise further issues. The Final Report is expected to be published in the first half of 2017.</p>
<p>1.9. The European Energy Union has</p>	<p>In February 2016, the Commission</p>

<sup>64</sup> Communication of 6 May 2015 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, *A Digital Single Market Strategy for Europe*, COM(2015) 192 final, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52015DC0192>.



enjoyed significant success in ensuring security of supply (a strategic success), reducing greenhouse gases, promoting renewable energy and increasing consumer choice. Nevertheless, it faces significant challenges relating to the cost of energy, the greater interconnection of networks and leadership with regard to implementing the Paris Agreement.

3.4.2. However, the EESC – which has already expressed its support for the 2015 Framework Strategy – feels that particular emphasis must be placed on the major challenges that the EU will face over the coming years:

- reducing the cost of energy, which is still very high for European consumers and has an impact on the following areas: social (risk of energy poverty), economic (seriously affects SMEs) and external competitiveness of businesses (energy is much cheaper in other markets, such as the United States),
- improving the integration of markets, increasing the interconnection of networks, and
- assuming a leadership role in implementing the Paris COP21 objectives, so that the radical shift involved in the gradual, profitable transition towards a low-carbon economy will be a success.

made public its Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy<sup>65</sup>.

Integrating energy markets is a key objective of the Energy Union. Competition enforcement plays a key role in fostering market integration in the Energy Union by making sure that dominant positions by incumbent operators are not abused and that suppliers compete fairly, by ensuring that gas and electricity flows as freely as possible across Member States and artificial market partitioning or territorial restrictions are avoided, and by keeping infrastructures accessible. At the same time, the Commission's antitrust enforcement is also contributing to the objective of a low carbon economy and to an efficient and environmentally friendly waste management.

Through its *Energy and Environmental State Aid Guidelines*<sup>66</sup>, the Commission is also promoting the integration of renewable energy sources into the market to avoid distortions to competition. From 2016, generators using renewables have to sell their electricity directly on the market. Public support may only be granted as a premium on top of the market price. In addition, from 2017, Member States will have to grant operating aid through

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<sup>65</sup> Communication of 25 February 2015 from the Commission to the European Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the European Investment Bank, *A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy*, COM(2015) 080 final, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2015%3A80%3AFIN>.

<sup>66</sup> Communication from the Commission, *Guidelines on State aid for environmental protection and energy 2014-2020*, OJ C 200, 28.6.2014, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014XC0628%2801%29>.

	<p>a competitive bidding process.</p> <p>In addition, in April 2015, the Commission launched a State aid sector inquiry to gather information on existing or planned capacity mechanisms, i.e. measures taken by Member States to ensure that electricity supply can match demand in the medium and long term. The final report of the inquiry was adopted and published on 30 November 2016..</p>
<p>1.11. Regulation No 1/2003 has strengthened national competition authorities (NCAs) and has helped to consolidate the international standing of EU competition policy. Coordination among NCAs, as well as between NCAs and the Commission, make measures related to cross-border transactions more effective.</p>	<p>The Commission welcomes the general support for its initiative on empowering the national competition authorities (NCAs) to become more effective enforcers, which was launched through a public consultation between 4 November 2015 and 12 February 2016.</p> <p>The consultation followed up the Commission's Communication on "Ten Years of Regulation 1/2003" of 9 July 2014<sup>67</sup>, which identified a number of areas of action to boost the powers of NCAs to enforce the EU competition rules. The public consultation resulted in 181 replies from a broad range of stakeholders. 80% of stakeholders expressed broad support for taking action to ensure that NCAs have the means and instruments they need.</p> <p>The Commission is working towards an EU legislative initiative to address this, with the aim of adopting a proposal in 2017.</p>
<p>1.12. Regarding the financial crisis, the</p>	<p>The special EU State aid crisis rules,</p>

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<sup>67</sup> COM (2014) 453.

<p>EESC reiterates that the exposure of taxpayers to the costs of bailing out the banks should be reduced.</p> <p>4.4.2. Aside from the great cost to the public purse, bailouts of the banks – which should be resolved by applying the legislation in force as of 1 January 2015 – could lead to distortion of competition.</p> <p>The EESC maintains that it is necessary to:</p> <ul style="list-style-type: none"> <li>– reduce taxpayers' exposure to the costs of bailing out banks;</li> <li>assign public authorities the necessary powers to take preventive measures, and</li> <li>grant resolution authorities the power to write down the claims of unsecured creditors of a failing institution and to convert debt claims to equity.</li> </ul>	<p>first adopted in 2008 and amended in 2010 and 2011, were restructured in the Banking Communication of 2013<sup>68</sup>. According to these rules and in line with the Bank Recovery and Resolution Directive (BRRD), which entered into force on 1 January 2015, State aid control will continue to ensure a consistent policy response to the financial crisis throughout the EU.</p> <p>The BRRD sets out the rules for the resolution of banks and large investment firms in all Member States. This means that any aid for banks notified to the Commission after 1 January 2015 can only be granted if the bank is put into resolution, in compliance with the provisions of the BRRD that apply in the event of a bank resolution in addition to State aid rules.</p> <p>However, under the BRRD, there are some exceptions defining when State aid to banks outside resolution is possible. This is the case for liquidity support for solvent banks and precautionary recapitalisations, as defined in Article 32.4 of the BRRD. This forms part of the overall agreement on the Banking Union, initiated in 2012, by which the cost of banks' failures is moved onto the shoulders of their shareholders, creditors and resolution funds financed by the banking industry, in order to minimise the cost to taxpayers. In this context, State aid control, including with the burden sharing and viability</p>
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<sup>68</sup> Communication from the Commission on the *Application of State aid rules to support measures in favour of banks in the context of the financial crisis (Banking Communication)*, OJ C 216, 30.7.2013, p.1 available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC0730%2801%29&from=EN>.

	<p>requirements, continues to play a key role in order to have a sound EU banking system, ensure a level playing field within the market players and equal treatment between Member States.</p>
<p>4.1.1. The EESC agrees that transparency and a fair distribution of the tax burden are essential to the existence of the single market. Evasion, fraud and tax havens cost European taxpayers dearly and at the same time distort competition. It is estimated that the EU loses between EUR 50 and 70 billion of tax revenue every year due to tax evasion, which represents just over 16% of public investment in the EU. If we add to this the loss of income from legal – or supposedly legal – tax engineering practices, the damage becomes even worse.</p> <p>4.1.2. The action plan for applying a fair and efficient corporate tax system is an important step in reducing aggressive tax planning; a practice that erodes Member States' tax bases and promotes unfair competition.</p> <p>4.1.3. The EESC would like to underline the need for the Commission to continue its work to promote competition by reducing tax induced distortions resulting from misalignment of the 28 tax systems. The complicated transfer pricing system which is currently in place for intra-group transactions is particularly expensive and burdensome for businesses operating within the EU, and leads to disputes between Member State administrations and results in double taxation of companies. Setting up a common corporate consolidated tax base</p>	<p>The Commission welcomes the general support for its fight against tax evasion and tax avoidance as set out in its Action Plan for fair and efficient corporate taxation in the EU adopted in June 2015, which echoes the Political Guidelines set out by President Juncker in July 2014. This action is also in line with efforts at international level, in particular the Organisation for Economic Co-operation and Development (OECD), to tackle tax base erosion and profit shifting to better align rights to tax with economic activity<sup>69</sup>.</p> <p>State aid investigations into Member States' tax ruling practices, which began in 2013, before the Luxleaks revelations, is one tool the Commission has to ensure fair tax competition in the internal market.</p> <p>The Commission has also taken action to fundamentally reform corporate taxation in the EU, including measures to tackle tax avoidance, improve transparency, and strengthen the Single Market for businesses. Collectively, these measures will significantly improve the corporate tax environment in the EU, making it fairer, more efficient and more growth-friendly. Key actions include agreement to the</p>

<sup>69</sup> OECD (2013), Action Plan on Base Erosion and Profit Shifting, OECD Publishing, Paris.

<p>(CCCTB) for businesses with cross-border activities is appropriate.</p>	<p>Anti-Tax Avoidance Directive at the Economic and Financial Affairs Council configuration (ECOFIN) in June 2016, and the re-launch of the Common Consolidated Corporate Tax Base in October 2016.</p> <p>Both collecting taxes and combating tax evasion are normally competences of the Member States. However, even in this area where the Member States enjoy fiscal autonomy, any national tax measures adopted have to comply with EU law, such as internal market and competition<sup>70</sup>.</p> <p>The Commission in four final negative decisions illustrated how tax rulings can be in breach of EU State aid rules. This applies to preferential tax schemes, like the Belgian Excess Profit system<sup>71</sup> or individual tax rulings, like the case of Apple (in Ireland)<sup>72</sup>. Guidance on this issue was given in the <i>Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union</i>, which was published on 19 July 2016<sup>73</sup>. As part of the input for the High Level Forum on State Aid of 3 June 2016, the</p>
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<sup>70</sup> The Commission work in the area of tax rulings was closely followed by the European Parliament's Special Committee on Tax Rulings and Measures Similar in Nature or Effect (TAXE). On 25 November, European Parliament adopted a Report on tax rulings and other measures similar in nature or effect prepared by the TAXE Committee, which viewed positively the contribution of State aid control to tax fairness in Europe. In fact, it "*strongly welcomes and supports the key role of the Commission as the competent competition authority in the ongoing State aid inquiries dealing with tax rulings*" (para. 130). On 25 November, the Committee issued a report which broadly endorsed the Commissions approach on State aid.

<sup>71</sup> For further information see IP/16/42 of 12 January 2016, [http://europa.eu/rapid/press-release\\_IP-16-42\\_en.htm](http://europa.eu/rapid/press-release_IP-16-42_en.htm).

<sup>72</sup> For further information see IP/16/2923 of 30 August 2016, [http://europa.eu/rapid/press-release\\_IP-16-2923\\_en.htm](http://europa.eu/rapid/press-release_IP-16-2923_en.htm).

<sup>73</sup> Commission *Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union*, OJ, C 262, 19 July 2016, available at [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2016.262.01.0001.01.ENG&toc=OJ:C:2016:262:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.262.01.0001.01.ENG&toc=OJ:C:2016:262:TOC).

	Commission also published a working paper on <i>State aid and tax rulings</i> <sup>74</sup> .
<p>5.1. The widespread introduction of competition systems as a result of globalisation makes international cooperation vital. The EESC enthusiastically supports the Commission's active participation in forums such as the Competition Committee of the OECD, the United Nations Conference on Trade and Development (UNCTAD) and the International Competition Network (ICN).</p>	<p>The Commission actively seeks to strengthen the role of competition policy in international negotiations and organisations and cooperates with competition agencies globally. Such regulatory and enforcement cooperation helps to ensure effective enforcement and a level playing field for European companies active on global markets. In this context, the Commission engages in negotiations on Free Trade Agreements (FTAs) with several States with the aim to include competition, including State aid provisions, into such agreements. In addition, the recently concluded EU-Canada Cooperation Agreement includes provisions on the exchange of information.</p> <p>Another key area of Commission activity at international level is technical cooperation with its main trading partners that are developing their competition policy and enforcement regime or with which the Commission has signed Memoranda of Understanding (MoUs).</p>

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<sup>74</sup> Working Paper on State aid and Tax Rulings, Background to the High Level Forum on State Aid of 3 June 2016, available at [http://ec.europa.eu/competition/state\\_aid/legislation/working\\_paper\\_tax\\_rulings.pdf](http://ec.europa.eu/competition/state_aid/legislation/working_paper_tax_rulings.pdf).

<p><b>N°29 A performance-based EU budget and its focus on real results: The key to sound financial management (own-initiative opinion)</b>  <b>EESC 2016/0760 – ECO/399</b>  <b>520<sup>th</sup> Plenary Session - October 2016</b>  <b>Rapporteur: Mr Petr ZAHRADNÍK (GRI–CZ)</b>  <b>DG BUDG – Commissioner OETTINGER</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>There needs to be a thorough analysis and evaluation of where the funds of the EU Budget are spent, how they are spent, how the performance of the funds thus spent is evaluated and how the results achieved are communicated.</p>	<p>The EU Budget Focused on Results (BFOR) initiative indeed looks at precisely these aspects and the Commission welcomes the EESC's endorsement and cooperation.</p>
<p>A prerequisite for boosting the EU budget's performance is the establishment of clearly defined priority objectives for the benefit of EU citizens, corresponding aggregated indicators and a robust reporting system.</p>	<p>One of the dimensions of BFOR work concentrates on further alignment of the EU budget to strategic objectives and the ten priorities of the Juncker Commission. This is accompanied by a pragmatic approach of monitoring performance with a well-informed, limited number of performance indicators. While it is noted that aggregation of indicators is not always feasible, cost-effective or useful, transparency and accountability have been greatly improved with the publication of the Integrated Financial Reporting package for the first time including the 2015 Annual Management and Performance Report for the EU Budget.</p>
<p>Some options could be, for example, ex-ante conditionalities, financial instruments, or flexibility and the capacity to cope with unexpected challenges.</p>	<p>The Multiannual Financial Framework (MFF) Mid-Term Review aims to increase the flexibility of the EU budget to quickly and efficiently manage unforeseen circumstances, by reinforcing the existing flexibility</p>

	instruments. The Commission welcomes the EESC's support in this area.
Not only must EU budget expenditure comply with the rules of legality and regularity, but there must also be a targeted and systematic focus on the results and performance the budget delivers in addressing the EU's priority areas.	A central objective of BFOR is to balance compliance and performance.
Any discussion of a performance-based EU budget is also a discussion of EU political priorities.	The Commission shares this opinion.
The EESC takes the view that a performance culture is not acquired in a single step, but through a process of development.	The Commission shares this opinion, and with the BFOR initiative pursues such gradual but long-lasting improvement based on a solid performance basis both within its services (referred to as Strategic Planning and Programming) and in programmes financed by the EU Budget within the MFF.
The EESC supports further, better and closer integration and linkage of the Europe 2020 strategy and the 2014-2020 MFF.	Europe 2020 is the strategy of the EU Institutions and its Member States to which the MFF and the annual EU budget contribute. Thus the MFF and the spending programmes are fully aligned with the objectives and priorities of Europe 2020 where this is applicable.
The EESC recommends encouraging Member States to ensure that their partnership agreements and operational programmes include a comparable set of quantifiable results that can be subsequently evaluated.	Whenever possible, partnership agreements and operational programmes include a comparable set of quantifiable results that can be subsequently evaluated. The Commission and Member States continue to analyse the performance framework in order to further streamline performance evaluation and reporting to the extent possible.



The EESC views the forthcoming mid-term revision of the 2014-2020 MFF as an opportunity for greater deployment of a performance and results-oriented approach, which should then be fully evident in the shape of the MFF starting in 2021.

The Commission shares this opinion as evidenced in its proposal for the MFF Mid-Term Review<sup>75</sup> and for the revision of the Financial Regulation<sup>76</sup>, and welcomes the EESC's support.

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<sup>75</sup> COM(2016) 603 final.

<sup>76</sup> COM(2016) 605 final.

<p><b>N°30 2030 Agenda – A European Union committed to sustainable development goals globally (own-initiative opinion)</b>  <b>EESC 2016/0758 - REX/461</b>  <b>520<sup>th</sup> Plenary Session – October 2016</b>  <b>Rapporteur: Mr Ioannis VARDAKASTANIS (GRIII-EL)</b>  <b>DG DEVCO – Commissioner MIMICA</b></p>	
<p><b>Points of the EESC opinion considered essential</b></p>	<p><b>Commission position</b></p>
<p>1.3. The EESC points out that the EU will only be able to meet its commitment to sustainable development at global level, and therefore to substantially and effectively promote the implementation of the 2030 Agenda, if it makes the necessary changes in order to adapt its policies and programmes to the three pillars of SDGs in a balanced and inclusive way. The EU and the Member States have a moral and political obligation to both EU citizens and the rest of the world to address the implementation of the 2030 Agenda in a politically coherent and coordinated way. The EU Institutions and Member States urgently need to agree on the way forward at the highest political level through an interinstitutional agreement between the Commission, the Council and the Parliament in order to establish a robust basis for further political action. This agreement on the implementation of the SDGs should form the basis for an overarching strategy to mainstream the 2030 Agenda with the aim of making the EU a Sustainable Development Union.</p>	<p>Sustainable development is part of the European project. Under the current Commission, sustainable development is mainstreamed in cross-cutting projects as well as in sectoral policies and initiatives. On 22 November 2016, the Commission set out a strategic approach for achieving sustainable development in Europe and around the world. The Communication on 'Next steps for a sustainable European future'<sup>77</sup> explains how the Commission's ten political priorities contribute to implementing the 2030 Agenda for Sustainable Development and how the EU will work to meet the Sustainable Development Goals (SDGs) in the future. The implementation of the 2030 Agenda is a universal and joint endeavour. The Commission is committed to taking the implementation of the 2030 Agenda forward, by working together with the European Parliament and the Council and in coordination with other EU Institutions, international organisations, civil society organisations (CSOs), citizens and</p>

<sup>77</sup> COM(2016)739 final.

	other stakeholders.
<p>1.4. As it had done in an earlier opinion, the EESC calls for the establishment of a Sustainable Development Civil Society Forum to promote and monitor the implementation of the 2030 Agenda in order to ensure consistency in the EU's internal and external policies and programmes. In this Forum all stakeholders, including the Council, Commission, Parliament and civil society, should participate fully as key actors, making the Forum's work transparent and accountable to European citizens. The EESC is ready to facilitate this process.</p>	<p>The Commission attaches great importance to the inclusion of civil society within the domain of sustainable development and points the EESC to its response to the Opinion on 'A Sustainable Development Civil Society Forum'<sup>78</sup>. The Commission also plans to organise a multi-stakeholder platform to exchange best practices on SDG implementation.</p>
<p>1.5. The EU itself should proactively present a periodic voluntary review to the Session of the UN High Level Political Forum on its internal and external policies and programmes, starting in 2017. The EU will be the first regional organisation to do so. In addition, the EU should prepare annual thematic reports in line with the annual thematic reviews of the UN HLPF. Civil society should be fully included in this reporting process through the European Sustainable Development Forum. The EESC is ready to facilitate this process.</p>	<p>The EU and its Member States are committed to playing an active role in the follow-up and review of the 2030 Agenda at global level. This includes regularly reporting on the EU's contribution to the implementation of the 2030 Agenda in the context of the United Nations High Level Political Forum for Sustainable Development (HLPF). In 2016, four Member States (DE, EE, FI and FR) also presented voluntary national reviews to the HPLF and in 2017 a further ten EU Member States have volunteered (BE, CY, CZ, DK, IT, LU, NL, PT, SI and SE).</p>
<p>1.11. The EU delegations in third countries should conduct surveys in order to measure public awareness and understanding of the Sustainable Development Goals. The European Commission should organise and carry out awareness-raising activities and campaigns</p>	<p>EU delegations are already engaged in discussions on the SDGs. Since 2009, the Commission has annually commissioned Eurobarometer surveys to assess EU citizens' views on development, cooperation and aid. The most recent (special Eurobarometer</p>

<sup>78</sup> EESC 2016/0575 – NAT/678.

<p>to make the 2030 Agenda for Sustainable Development a European Agenda. The European Commission should undertake periodic Eurobarometer surveys in order to measure awareness and understanding of the SDGs among EU citizens. Civil society organisations have a crucial role to play in this process.</p>	<p>441 of 2016) indicated that over a third of respondents are aware of the SDGs. The Commission also has a dedicated Development Education and Awareness-Raising (DEAR) Programme which aims to inform EU citizens about development issues, mobilise greater public support for action against poverty and promote citizen engagement in development.</p>
<p>1.12. The EESC calls on the European Commission to issue an annual report on the implementation of external action and funds in regard to the 2030 Agenda. This should be part of the planned annual EU reports on the implementation of the SDGs. The European Commission should also draw up and include a set of 2030 Agenda indicators and benchmarks in its external policies and programmes in order to facilitate evaluation, assessment and reporting on how effectively the EU external instruments channel funding towards SDG-related projects and programmes, and specifically how the economic, social and environmental pillars of the 2030 Agenda are taken on board in the EU's external action instruments.</p>	<p>Keeping track of progress in a systematic and transparent way is essential. The Commission will contribute by monitoring, reporting and reviewing progress towards the SDGs in an EU context. Eurostat's publication, "Sustainable development in the European Union" provides an overview of where the EU and its Member States stand in the areas relevant for sustainable development. From 2017 onwards, the Commission will carry out more detailed regular monitoring of the SDGs in an EU context. An indicator framework is being developed for this purpose. The Commission also proposes that as part of the European Consensus on Development, the EU and its Member States produce a joint synthesis report on the impact of their actions in support of the 2030 Agenda in developing countries, as a contribution to EU reporting to UN HLPF meetings at Heads of State level (every four years).</p>
<p>1.13. The European Commission should promote the multi-stakeholder-led governance model in its external policies and programmes, making civil society organisations in third countries real partners in the implementation of the SDGs.</p>	<p>While recognising that each country has the primary responsibility for its own economic and social development, the 2030 Agenda makes clear that it will be implemented by all countries and all stakeholders acting in</p>

<p>Transparency, accountability and partnership should underpin this new approach to consultation and participatory decision making. The democratic implementation of the 2030 Agenda requires full inclusion of civil society organisations at all stages, including monitoring and review.</p>	<p>collaborative partnership. Sustainable development is a joint agenda of citizens, CSOs and businesses. The proposal for a new European Consensus on Development calls for the EU and its Member States to deepen partnerships with CSOs and promote operating space for CSOs to play their full role as advocates and implementers. They will support CSO commitments to effective, transparent and results-oriented development cooperation.</p>
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