



The joint ECOS-SBS workshop, hosted by the European Economic and Social Committee on 12 June, offered an opportunity for all stakeholders to better understand the implications of the Court of Justice of the European Union (CJEU) ruling on the James Elliott case, which stated that harmonised standards are part of EU law.

The following points were discussed:

**The growing importance of standards in policy:**

- > The increasing use of standards by policy-makers
- > The risk of delegating political decisions
- > The quasi-binding nature of harmonised standards
- > The politicisation of European standardisation

**The need to review the political approach to standards:**

- > Further clarifying the legal nature of harmonised standards
- > Strengthening the European Commission's control
- > Clarifying the extent of the judicial control
- > Clarifying where liability stands
- > Improving the standardisation process and the legal framework
- > Making standards public and free of charge
- > Internationalisation of standardisation

The conference, moderated by Hughes Belin, was opened by **Bernd Dittmann**, EESC member, who introduced how the EESC is working on the use of standards as part of the EU's legislative framework.

**Keynotes were then given by:**

> **Mariolina Eliantonio**, Maastricht Center for European Law, who outlined her view that there now exists a tense relationship between harmonised standards and public law. As stated by the ECJEU, harmonised standards are "part of EU law", not purely private, voluntary tools. The ECJEU can now rule on interpretation and validity of harmonised standards. Ms Eliantonio added that a European Commission's Communication publishing reference of an hEN could be challenged, however it wasn't clear whether such action would lead to the revision or withdrawal of the standard. Mariolina went on to argue that this was only the beginning of the uncertainty, a Pandora's box.

> **Pierre Henry**, from the European Commission's Directorate General Environment, who argued that there was clear distinction between standards in general and harmonised standards, and that harmonised standards were being used in a number of environmental laws and policies, such as on air and water quality. A different way to provide a guarantee of conformity is supplied by ETV ([https://ec.europa.eu/environment/ecoap/etv\\_en](https://ec.europa.eu/environment/ecoap/etv_en)) to help manufacturers of innovative

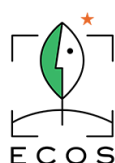
technology prove performance of their technology by a third party even where standards are not present.

The two panel discussions then allowed various stakeholders to discuss their perspectives and understanding of the ECJEU ruling. The **first panel “Standards for the free movement of goods: The inconvenient truth?”**, allowed trade unions, academia, small businesses, the European Commission, and the German government to discuss the process by which standards are being evaluated and used by policy-makers in the context of the Single Market and discuss whether the New Approach presents any loopholes. The panel took a close look at the legislators’ involvement in the standards development process.

The **second panel entitled “The use of standards in policy: Is there a perfect match?”** featured ECOS’ President and representatives of academia, the European Commission, the Belgian government, and CEN-CENELEC. The panel explored whether and how standards should be used in support of policy outside the context of the Single Market for goods.

The conference concluded with the Director of ECOS, **Laura Degallaix**, highlighting that following the CJEU ruling the legal situation was not yet fully clear, and that what is needed is trust and confidence in both the process and its outcomes, transparency and inclusiveness at all levels, as well as proper control and monitoring of the entire system. Laura highlighted that there is more than one elephant in the room and that it is headed in the direction of the standardisation system, concerning legal liability, the exact legal nature of standards, accessibility and availability of standards, and the lack of clarity that the standardisation system is currently operating in.

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