



ECOS views on the Roadmap for the Standardisation Strategy

ECOS sees the Standardisation Strategy as a key opportunity to ensure standards work for the environment by delivering an inclusive and strategic standardisation system in support of high environmental ambition:

Key messages

- Concerted proactive action to identify, eliminate and/or amend standards which are barriers to the deployment of clean technologies, environment-friendly materials or secondary raw materials
- Environmentally ambitious Standardisation Requests essential to make Europe the standards maker, achieve geostrategic ambition, and support the European Green Deal
- Commission control in initiating, managing and monitoring the procedure for the adoption of a harmonised standard is crucial
- Inclusiveness is work-in-progress and needs continued political push at the national, international and European level, including within the European Commission

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1. Develop standards in support of the European Green Deal¹

The European Green Deal, and its Circular Economy Action Plan, lay out a bold and ambitious plan to transition from a “throwaway” economy to a clean and circular one. Its realisation depends on an equally ambitious and timely execution of the underpinning initiatives and policies, as well as a recognition that the EU Green Deal should be a key pillar of any economic stimulus following the COVID-19 pandemic. Moreover, the Standardisation Strategy should be adopted swiftly: standards have a key role to play in allowing for the implementation of the ambitious twin transition, green and digital, that Europe is embarked on.

The wide sectorial coverage of these Commission priorities, combined with an ambitious timeframe means methods and technical specifications will also be in high demand. The Standardisation Strategy must prioritise the adequate implementation of all the initiatives at stake by enabling a European standardisation system that delivers.

- **Environmentally ambitious Standardisation Requests**

For Europe to be the standards maker, to fulfil its geostrategic ambitions, and to support the European Green Deal, Standardisation Requests (SR) need to be environmentally ambitious. As the interplay between regulation and standardisation, Standardisation Requests have the potential to frame the standardisation deliverables and how those support the broader environmental policy goals.

The forthcoming Standardisation Strategy must put the use of Standardisation Requests to drive environmental ambition in the standardisation system in the spotlight. This entails different types of actions ranging from the timely adoption of SRs that:

- bring environmental ambition that the market would not itself bring;
- enable the publication of standards by the time the legal requirements they support enter into force,
- mandating concrete standards to support specific regulatory requirements that have been decided upon,
- aim at anticipating the work on methodologies and specifications that are either inexistent or not harmonised within the EU.

The importance of ambitious Standardisation Requests can be seen in numerous examples such as the decision to develop generic material efficiency standards under Ecodesign which has unlocked the environmental benefits from the repairability, durability or recyclability aspects of energy-related products, or the SR on circular design of fishing gear that sets the line for the standards needed to support the implementation of the Single Use Plastics Directive enabling the reduction of their impact on the environment.

- **Concerted proactive action to identify, eliminate and/or amend standards which are barriers to the deployment of clean technologies, environment-friendly materials or secondary raw materials**

Standards can influence whether an environmental technology is deployed by an innovative first-mover company or can determine whether greenhouse gas emissions are measured in a reliable way. Consequently, standards should, and generally do, act as enablers and not barriers towards

¹ <https://ecostandard.org/wp-content/uploads/2020/04/ECOS-PAPER-Standards-in-the-time-of-the-European-Green-Deal.pdf>

environmental ambition. The Standardisation Strategy should propose a mapping of key and hard-to-abate sectors where a proactive approach to eliminating standards that pose barriers to the deployment of clean energy technologies should be taken, and develop and monitor standards that facilitate the deployment of clean technologies. Example of sectors could include natural refrigerants, clean heating technologies, energy management, electrification of transport, reuse/refurbishment of batteries & solar PV panels, or low carbon cement and cement alternatives.

- **Reinforce standardisation of services**

The updated Industrial Strategy rightly refers to the need to explore the added value of standardisation of services (not only goods). Service standards can lay down technical requirements for certain services with a proven – or steeply increasing – environmental impact such as digital services like cloud computing, and should therefore be reinforced.

2. Further improve the functioning of the European Standardisation System

- **Provide legal certainty: harmonised standards are part of the Union law**

We support the conclusions of the ECJ following the ruling on the James Elliott Case. The role and legal status of harmonised standards was clarified by concluding that harmonised standards 'form part of EU law', even though they are developed by independent private organisations and their use remains voluntary. In our view, the adoption of the New Approach and Regulation (EU) 1025/2012 determined public law relevance of private standards. This is key to acknowledge that harmonised standards serve the broader public interest hence the need for the process to be open, transparent and inclusive, to clarify the role and responsibilities of the European Commission in relation to European standardisation organisations (ESOs) and vice versa, and to determine the legal effects of harmonised standards.

The Standardisation Strategy should reiterate that harmonised standards are a necessary implementation measure hence a form of 'soft law', and provide the needed clarity, especially in hybrid cases where standards become mandatory, such as under the Construction Products Regulation.

- **Strengthen the control by the European Commission**

The Standardisation Strategy is the key opportunity for the European Commission to state the reality and necessity of its oversight role. The need of a form of control by the Commission is made clear in article 10 of Regulation (EU) 1025/2012, the Vademecum and the James Elliot ruling. In being part of the standardisation process, the Commission must assess that standards comply with and help meet the requirements in harmonised Union legislation and/or Standardisation Requests, technical aspects of standards but also other elements of the European Standardisation Regulation. The control exercised by the European Commission in initiating, managing, assessing and monitoring the procedure for the adoption of a harmonised standard must ensure that those standards are fit for purpose. It is ECOS opinion that provided that harmonised standards underpin legal requirements, the Commission's involvement and responsibility of the standardisation process is key.

Moreover, given that ex-post analysis of standards submitted for citation in the OJEU is completely insufficient since it does not allow for a timely identification of gaps and inconsistencies – and that it would cause significant delays – it is key that the European Commission is equipped with the necessary

support tools. The so-called 'Harmonised Standards (HAS) consultants', for instance, is one of the means the Commission is using to facilitate the assessment of the standardisation deliverables. While their role is sometimes put into question by the standardisation community, we believe that it should be optimised to effectively support the drafting of standards ensuring they comply with the objectives set in the Standardisation Requests, also from a standards content/substance perspective. Improvements in the HAS approach should look into internalising the assessment of the standardisation deliverables within the Commission services instead of outsourcing this critical task or the definition of clear and transparent criteria for the technical evaluation of harmonised Standards, for instance.

- **Appropriate use of standards**

While resorting to standard development could appear as an easier option compared to the regulatory path as it involves delegating some technical work to ESOs, ECOS firmly believes that regulation is more appropriate and effective to address societal concerns, in particular in protecting health and the environment. Therefore, maintaining environmentally ambitious policy goals and the supremacy of mandatory legislation over voluntary standards in areas of public interest and the environment is crucial. The Standardisation Strategy should confirm this approach and ensure the appropriate use of technical standards in support of regulation.

- **Tackle the issue of timing: better anticipating standardisation actions & timely citation**

The regulatory and standardisation processes should be better aligned. At the time of discussing regulations the Commission should be forward looking to allow for a timely identification of relevant standardisation needs without putting regulatory action in jeopardy, or watering down its ambition. This more proactive approach would enable a closer synchronisation of both processes.

Existing planning tools such as the Annual Union Work Programme for Standardisation should be used effectively by all the Commission services to ensure that possible standardisation needs are identified and requested.

Furthermore, frequent checks by the Commission, including when it comes to content and not only form, with the ESOs on the progress of the deliverables under the adopted Standardisation Requests could be a way to not only prevent potential delays but to ensure that the harmonised standards developed are appropriate to support regulations and be ultimately cited in the OJEU. On the latter, we acknowledge the importance of the timely availability of harmonised standards necessary to support EU regulation. This requires, not only for the Commission to move fast once the assessment of the candidate harmonised standard is positive; but also the ESOs enabling a more pragmatic approach towards SRs, in order to avoid rejections.

- **Clarify and encourage the use of alternative technical solutions in the absence of hENs**

The forthcoming Strategy should clarify and encourage that policy-makers consider all options available for the use of alternative methods, such as the so-called transitional testing methods or other reliable, accurate and reproducible methods, which take into account the generally recognised state-of-the-art, for those to be systematically used with the aim to avoid delays in the enforcement of the regulation. All options should be available when the official standardisation route is hindering or considerably causing delays on methodologies which are vital for policy implementation.

In the absence of existing relevant standards, for instance, due to undue delays in their adoption or in cases where ESOs would block or reject a Standardisation Request due to internal rules and structures, or the fact that specific stakeholders have reservations over regulatory decisions already taken, and until the publication of the references of the relevant harmonised standards in the Official Journal, the Commission should consider alternative technical solutions.

- **Enhance inclusiveness at the European level**

The Standardisation Strategy should ensure that inclusiveness and effective participation of societal stakeholders is implemented beyond the mere obligation of efforts as captured in Articles 5 and 16 of Regulation (EU) 1025/2012, but aiming also at actual results. Having access is not the same as having equal access.

Following the entry into force of the regulation, the ESOs had to adapt their internal rules to fulfil the provisions. Concerning stakeholder participation and inclusiveness, progress has been made particularly in CEN and CENELEC. However, when participating in ETSI, Annex III organisations, in their member status, still face limitations such as the need to submit their comments on standards through a National Standardisation Organisation they are not part of, which is an unnecessary obstacle effective participation.

The European Commission should always be inclusive with societal stakeholders during strategic discussions which is often not the case. For example, where the revised Industrial strategy plans to set up a Joint Task Force between the Commission and ESOs to define agreed solutions on standards identified as crucial, the participation and contribution of environmental NGOs, and other Annex III organisations, should be ensured.

3. Go international promoting European principles²

- **Inclusiveness as an overarching principle**

Both international and national standardisation processes have a strong impact on the European Standardisation System (ESS) and its deliverables. The way in which the ESS interacts with these two levels needs to be clarified in the upcoming Strategy with the view to ensure an appropriate implementation of Regulation (EU) 1025/2012. While outsourcing of EU standard-setting to international standardisation is growing (in the case of CENELEC for example, there is a consistent increase in the percentage CENELEC EN that are adoptions of IEC work. 84% of all European Standards in the CENELEC portfolio are identical or based on IEC standards and in 61% of active SRs in 2020, part of the work was done under the Frankfurt Agreement³), the conditions for developing international standards are different from the European, in particular, regarding the facilitation of the effective participation of all relevant stakeholders, including societal stakeholders. In the IEC, for example, environmental NGOs and other societal stakeholders are not guaranteed a seat within international

² <https://ecostandard.org/wp-content/uploads/2021/06/ECOS-PAPER-International-standardisation-that-works-for-the-environment.pdf>

³ Figures for the period January-December 2020. "Frankfurt Agreement - Report on IEC-CENELEC cooperation". CENELEC BT, 2021

Figures in the CEN CENELEC "Global outreach report" from December 2020 indicate "78% of the CENELEC catalogue is identical or based on IEC deliverables" and "33,90% of the CEN catalogue is identical or based on the ISO deliverables"

technical committees (TCs) where standards are actually developed. Civil society participation in TC work depends fully on the TC's decision, and can result in rejections of environmental NGO liaisons, depriving the process of crucial contributions.

To avoid the circumvention of inclusiveness and other principles for the development of standards such as openness or transparency, the Standardisation Strategy must push for an Aarhus-compliant international standardisation system. This is a legal obligation for the EU as the EU is party to the convention. The Standardisation Strategy must implement the EU and Member States' legal obligation under article 3, paragraph 7 of the Convention, and promote an Aarhus-compliant international standardisation system. Consequently, all international environmental discussions, including those related to standards, as well as the work of all standardisation organisations that may be used in support of international environmental agreements and laws that have an impact on the environment must fulfil the legal obligations under the Convention. This is particularly urgent in those cases where international standards are taken up as European harmonised standards; it is key for the Commission to ensure inclusiveness within those processes.

- **Environmental ambition will make Europe the standards-maker**

The issue of timing and the anticipation of the needs is critical in standardisation. It is of utmost importance that the European Commission reflects on the EU's strategic dependencies that will change due to the twin transitions (e.g. raw materials, leadership in clean energy technologies, batteries, hydrogen...) and move fast in regulatory and standardisation developments.

The EU should take this opportunity to act as the standard maker in the international arena. In cases where existing international standards fall short in matching the European environmental ambition (e.g. e-mobility), Europe should push the global agenda. A key competitive edge that Europe has is environmental ambition. Together with Europe's other competitive edge, innovation, environmental ambition, realised through ambitious standardisation requests, will make Europe the standards-maker.

- **Standardisation as part of environmental agreements & trade policy**

The forthcoming Strategy should serve as a bridge in the interaction between the implementation of international environmental agreements, trade policy and the use of standards for their implementation. International standards, developed inclusively, should strategically and proactively support the realisation of international environmental agreements and the Sustainable Development Goals (SDGs).

4. Facilitate effective participation in national standardisation bodies

The European and International Standardisation Organisations (i.e. CEN, CENELEC, ETSI, ISO and IEC) operate under the national delegation principle. This means that members are national standards bodies, often government bodies, essentially consisting of private companies. While this organised industry representation may be valid when defining voluntary technical specifications with pure market relevance, the underrepresentation (often even misrepresentation) of other interests (e.g. environmental, consumer, etc.) should be tackled as standards are increasingly playing a role and having a societal impact.

As previously mentioned for European and international standardisation, when standards are developed in the public interest areas such as environmental protection and health services, it requires all those concerned and impacted by them to be involved in their development. And this requires facilitation and

proactive support by the standardisation bodies, which to date is regrettably not the case at the national level.

In Germany, there is a positive, but so far unique initiative, co-financed by the Federal Ministry for the Environment. Established in 1996 KNU - Coordination network for German environmental NGOs on standardisation as a nation-wide representation of interests, allows for greater involvement of societal stakeholders in standards making. Sadly, facilitated participation at national level has not been sufficiently nor systematically transferred to other countries which hinders the representation of diverse interests not only when drafting standards at national level, but more importantly, when sending national delegations to draft and decide on the European and international standards.

The Standardisation Strategy should set out ways to improve inclusiveness of societal stakeholders at the national level. For example, systematic free and facilitated participation, government support for underrepresented stakeholders, such as environmental NGOs. Furthermore, fostering capacity building at national level on standardisation and its impact is instrumental to engage societal stakeholders in providing national environmental input to national, European and international standards.