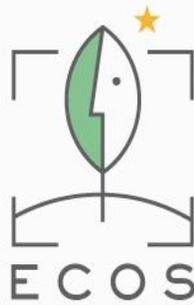


EUROPEAN ENVIRONMENTAL
CITIZENS ORGANISATION
FOR STANDARDISATION



ORGANISATION EUROPÉENNE
ENVIRONNEMENTALE CITOYENNE
POUR LA NORMALISATION

THE FUTURE OF EUROPEAN STANDARDISATION

ECOS' recommendations for a transparent and inclusive standardisation system, that can effectively support EU legislation and policies

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SUMMARY

The current EU political context promotes the principle of “Better Regulation” and views standards as an important tool that can support EU legislation and policies, including in areas of public interest. Moreover, the use of standards is also seen as a means to reduce legislation and red tape.

In this paper, ECOS provides recommendations for a future-proof standardisation system, which would contribute to the protection of the environment and the welfare of European citizens.

In particular, ECOS calls for:

- A sound, reasonable and coherent use of standards in support of, not in replacement of legislation and policies which are more appropriate and effective to address societal and environmental challenges such as resource efficiency or climate change,
- A balanced representation of interests and effective participation of societal stakeholders in standardisation at national and European levels,
- The establishment of a separate category of partnership for societal stakeholders’ organisations within the European Standardisation Organisations (ESOs), combined with the allocation of appropriate rights including a formal right of opinion at the time of final adoption of a standard,
- The acceleration of the standards’ development process which does not negatively impact the principle of inclusiveness,
- Priority given to European standardisation for the development of standards mandated by the European Commission for the implementation of legislation and policies,
- The promotion of the principles of transparency and inclusiveness in international standardisation.

The increase use of standards in support of public interests policy justifies and legitimises the interests and pleas of societal stakeholders in the ESS, especially those spelled out in this ECOS’ paper.

1. BACKGROUND

European Commission's Communication COM(2011)311¹ required the launch of an independent review of the European Standardisation System (ESS) in 2013, with a view to assess the extent to which the ESS is able to meet EU strategic objectives, as laid down in the Europe 2020 Strategy for smart, sustainable and inclusive growth, including:

- A standards' development process that is able to deliver standards more quickly, in particular to ensure the interoperability between services and applications in the field of information and communication technology (ICT),
- European standards that are able to make a significant contribution to the European economy and its competitiveness,
- A more inclusive system, involving societal stakeholders most effectively, as European standards will affect the European society, and citizens in particular,
- European standard which effectively support the competitiveness of European businesses vis-à-vis their main trade partners,
- European standards that are able to respond to an increasing demand, as a tool to support many European policies and legislation.

ECOS extensively contributed to the review, alongside ANEC and ETUC² that represent consumers and workers respectively. The report, published in March 2015, identifies three areas of intervention, including the governance of the ESS, the interaction between the ESS actors and, communication. The review also falls part of the evaluation of the relevance of the ESS, as laid down in Regulation (EU) 1025/2012 on European standardisation, initiated as part of the REFIT actions under the EC Work Programme 2015³. The recommendations will also feed into the future Internal Market Package, expected to be published in the autumn 2015.

2. STANDARDS IN SUPPORT OF LEGISLATION

Under the EU Better Regulation agenda, the EU recommends that the most appropriate regulatory approach is taken to meet the intended policy objectives while ensuring the good functioning of the EU Single market, fostering its competitiveness in a global market, and meeting societal needs, such as environmental protection. The use of standards is expected to continue being promoted in support of EU laws and policies. The principle of better regulation and the so-called New Legislative Framework (NLF) methodology will be extended to new policy areas, beyond products legislation. The EU Single Market Package to be issued in the autumn 2015 is likely to be no exception to the rule.

The increased use of standards in support of public interests' policy both justifies and legitimises the interests and concerns of societal stakeholders to be taken into account in the ESS, especially those spelled out in this ECOS' paper.

In general, ECOS believes that standards can bring important benefits for the public, through a contribution to the protection of the environment, citizens' welfare and workers. However, we strongly support the pre-eminence of legislation for achieving policy goals in environmental and public interest areas, for meeting both market and societal needs. Standards, due to the intrinsic voluntary nature of the standardisation system, shall not be used in replacement of policies and regulations. The (increasing) use of standards should also not translate to a delegation of political decisions to standardisation bodies, which are largely dominated by self-interested economic actors. (Harmonised) standards should only be used to provide guidance, technical details and best practices (e.g. terminology, common

¹ EC Communication on "A strategic vision for European standards: Moving forward to enhance and accelerate the sustainable growth of the European economy by 2020", [COM\(2011\)311](#)

² Organisations representing the interests of consumers, the environment and the workers respectively

³ [COM\(2014\) 910 final](#)

measurement methods), to allow for the proper implementation of policies and facilitate the free movement of goods and services.

In this context, there is a need for major improvements in the ESS to ensure appropriate consideration of environmental and public interest concerns in standards, especially in those used in the public policy area. In particular, there is a need to ensure effective participation of societal stakeholders and close cooperation between authorities and standardisers. The ESOs, policy-makers, and all stakeholders involved, including societal stakeholders, should work in a cooperative, efficient and effective way within the wider European and international standardisation system. Such cooperation is crucial to increase the legitimacy of standardisation and confidence in the NLF policy approach. Our recommendations for achieving an effective, and inclusive standardisation system are described in the next sections.

It is also important to ensure that the use of standards in support of EU legislation and policies is undertaken in a reasonable and coherent manner, bearing in mind policy goals and the need to establish consistency among all policy areas. There must be a clear boundary between legislation and standardisation, in order to avoid any misinterpretation of policy objectives, especially regarding health, safety and environmental protection. Legal requirements on which standards are developed should be clear and precise, while standards should be used only to define the technical means for reaching the goals set by regulators and contribute to a high level of protection. The objectives of the standardisation work required in EC mandates should be clearly defined, based on a firm timeline. It is also important to ensure that the role of standards, and the process through which they are developed, is well understood by all actors, especially by the EU decision-makers (including all EC services). The EC Inter-service Group and awareness raising initiatives within the EC are an important factor of success, not only to ensure an effective mandating process but also so that the approach to, and use of, standards is reasonable and consistent in all policy areas.

“There is a need for major improvements in the ESS to ensure appropriate consideration of public interest concerns in standards.”

In a globalised world, standardisation developments often take place at international level, even when initiated in response to an EC mandate. In this context, it is of utmost importance to ensure that the same principles are reflected at international level, including transparency and inclusiveness.

Finally, there is a need for a monitoring and reporting system to be established regarding, among others:

- Referencing of ENs in national and European legislation,
- Market sales, and proper application of standards,
- Impacts of ENs on the implementation of regulation and compliance level, and
- Appropriateness of standards to meet EU policy goals.

3. SOCIETAL PARTICIPATION

Societal stakeholders’ organisations such as those representing the environment, the consumers and the workers, bring invaluable expertise and defend interests which are otherwise under-represented (if at all) in the standardisation system. A balanced representation of interests and effective participation of societal stakeholders in standardisation contribute to increasing the quality of the standards and the legitimacy of the system. In the absence of public interests representation, standards could have negative impacts and costs for the society and the environment, with the production of externalities, such as environmental pollution, material depletion and climate change. Balanced representation of stakeholders and various interests, but also their effective participation should be ensured. This entails a stake at decision-making processes of the system, with for instance the provision of the right to vote to societal stakeholders, as further detailed later on in this document.

The work of CEN and CENELEC is based on the national delegation principle, which requires that (national) members of European technical bodies '*represent the consensus of all the stakeholders in their respective countries – not just the interests of an individual company or organization*'⁴. This principle has merits, however it is not sufficient to guarantee a balanced representation of interests in standardisation. National Environmental NGOs (ENGOS) have little to no involvement in standardisation activities at national level. When involved, it is often with limited capacities and in only a few sectors, despite an interest in a wide range of areas.

The reasons for the limited involvement of ENGOS in standardisation are broadly similar across the NGO community, despite the location, the history and the work/policy areas of the organisation. The main recurring issues include: a lack of financial resources; a lack of knowledge of the standardisation process; a lack of technical expertise or human resources; accessibility issues, including high participation fees (although participation is free in some countries); and, poor training and communication from the national standardisation body. Involvement is higher when (public) funding is available and their network of experts is mature. Those ECOS' members that are involved in standardisation in one way or another, report that the national standard organisations recognise some need for environmental concerns to be considered, to some extent; however, they feel that their presence is often unwanted. Examples of best practices are however found in Denmark, Germany and in the UK, where national networks have been established to coordinate appropriate actions and closely collaborate with ECOS. The final report of the EC-commissioned study entitled "Access to standardisation to determine to what extent the European standardisation system in its present form can guarantee appropriate access to all interested parties", published in April 2009, confirmed that environmental and consumer NGOs are the groups of stakeholder which experience the highest barriers for access.

The poor engagement of civil society at national level, and the difficulties they face, highlight the crucial role ECOS plays; representing the expertise and experience of ENGOS who have neither the funding, nor the experience or position within the national and EU-level standardisation process. Pan-European organisations that have been mandated by national NGOs to represent the societal interests in standardisation, such as ECOS, therefore complement and even reinforce the national delegation principle and contribute to ensure an inclusive system.

"Pan-European organisations that have been mandated by national NGOs to represent the societal interests in standardisation, (...) complement and even reinforce the national delegation principle"

However, the participation of organisations representing the consumers, the workers and the environment, ought to be further promoted and facilitated by the national and European standardisation organisations. Regulation (EU) 1025/2012 for European standardisation was a good step forward but the system is not yet fit for a future EU policy framework that would rely on standardisation.

Mechanisms to improve participation should include an easy and more affordable – or even free – access to standardisation work, and to documents. The ESOs, just like their individual members, should regularly identify the needs of societal stakeholders and propose appropriate actions, including as part of their Annual Work Programmes, to foster and improve their participation, and regularly report on progress.

There is also a lack of coherence and consistency between the governance structures, working procedures and decision-making processes of the ESOs, making it difficult for underrepresented stakeholders to fully understand the intricacies and contribute to standardisation work most effectively. Convergence, or alignment whenever possible, is needed, as sometimes happen between CEN and CENELEC. Attention should be given to the governance of joint groups, such as joint Coordination Groups and Task Forces. Furthermore, transparency about the governance structures, the roles, responsibilities and work plans of the various governance bodies is key. The participation of societal stakeholders in

⁴ CEN website <https://www.cen.eu/you/participate/Pages/default.aspx>

these structures should also be recognised, facilitated and effective. This will contribute to the effectiveness and credibility of the ESS while facilitating the involvement and participation of all stakeholders in view of developing quality standards that reflect the needs of both the economy and the

The use of ICT should be promoted in order to allow remote participation in standardisation work and transparent continuous exchange of information and opinions. As effectively contributing to the process requires not only technical expertise but also good comprehension of the process and its intricacies, tailored-made information and training sessions, and supporting tools should be provided to societal stakeholders.

There is a need for greater interaction, information sharing and communication between the various actors of the ESS. For instance, increased communication and closer cooperation are needed among the members of the Committee established pursuant to Article 22 of Regulation (EU) 1025/2012, also known as Committee on Standards, as well as between the members and observers therein. The involvement of Annex III Organisations and the ESOs in the work of the EC Interservice Group for Standardisation would be useful and we hope this group will help raise awareness within the various EC services about standardisation and the role of the different actors involved, while increasing coherence and consistency in the approach to standardisation and the link between standardisation and policy.

At the European level, a specific category of partnership for societal stakeholders' organisations in each of the three ESOs should be established, providing clarity about the specific statutes and role of those organisations, as reflected in Annex III of Regulation (EU) 1025/2012. Today, the Annex III organisations⁵ fall within the so-called "Partner Organisation" category⁶, alongside sectoral industry federations. A separate category would allow for the allocation of rights to meet the specific needs of those organisations and enable their effective participation. Such rights would include:



- **Unrestricted access** to the system and technical work, including to standardisation Technical Bodies (TBs). Unrestricting access to technical work has already been granted to the Annex III organisations however by means of an exemption which is often unknown by TBs,
- **A "voting" right** during the adoption phase of a final draft standard, by which a negative opinion from an Annex III organisation during the final vote phase would create awareness about the concerns raised and trigger further actions within the ESOs (e.g. the consultation of an expert in charge on the issue raised by the Annex III organisation),
- **A right of appeal** against the ratification of any standards which the organisation considers do not take the societal interests into account, such as standards that would pose a risk to human health or the environment. This right should be extended to all standards and not be limited to those standards which development the organisation would have contributed to (limiting the right of appeal to standards which have been followed cancels out one of its fundamental purposes: to address the inability of societal stakeholders to actively follow all relevant work),
- **Reduced partnership fees** (currently the cumulative partnership fees to the three ESOs are in the range of 20.000 €/year including VAT for societal stakeholders' organisations).

Standardisation activities with a public and societal impact should be subject to an impact analysis which should include and equally cover aspects of market and societal needs and expectations, in order to avoid narrowing down the work towards meeting only objectives of market relevance.

The awareness of TBs and National Standardisation Bodies about the role of societal stakeholders and the importance of facilitating their participation must be raised further and such information provided on a regular basis. Information and

⁵ Including ANEC, ETUC and ECOS as well as Small Business Standards (SBS) representing the Small and Medium sized Enterprises in standardisation

⁶ CEN-CENELEC Guide 25 on the concept of Partnership with European Organisations and other stakeholders

awareness raising activities should be carried out by the ESOs, as well as the European Commission and Member States authorities. This should also be carried out towards the international counterparts of CEN and CENELEC, ISO and IEC, as many (harmonised) standards are developed at international level.

The participation of societal stakeholders should also be proactively supported by the European Commission and the Member States, including through making inclusiveness one of the main policy goals and the provision of funding. A plan of action ought to be developed, for instance as part of the Internal Market Package, with clear objectives and responsibilities. A close monitoring of how the principle of inclusiveness – as pictured in this document – is applied in standardisation at national, European and international level is also crucial, and corrective measures should be foreseen in case of insufficient progress. A coherent policy and plan of action should be in place to ensure that standards can address societal challenges such as climate change, energy efficiency, sustainable development and consumer needs. There needs to be continued EU political and financial support for Annex III organisations beyond 2020, and at least up until 2030.

The Annual Union Work Programme for standardisation should set objectives and propose concrete actions to foster the involvement of societal stakeholders. It should give to the national standards bodies a clear, active role in facilitating the participation of societal stakeholders at European level through the ESOs, as well as directly at national level.

4. TIMELINESS VERSUS SPEED

ECOS supports the need to speed up the standard development process in some cases, in particular when harmonised standards are needed to allow the proper implementation of new laws. The unavailability of harmonised standards (ENs) at the time of the entry into force of an EU regulation jeopardises its proper implementation, induces unnecessary costs and creates uncertainties for the market and public authorities. This has happened for several Ecodesign Regulations such as Regulations (EU) No 813/2013 and 814/2013 for space and water heaters, where the EC has had to develop transitional methods until harmonised measurement methods were available. In such cases, there is clearly a need to ensure that the standardisation process is timely enough to help deliver on the expected policy goals. In this context, ECOS supports the first recommendation of the Independent Review of the ESS, which suggests improving the speed of standards development through an alternative scheme for specific standardisation needs.

On the other hand, ECOS believes that speed should not be an objective in itself. The “need” to produce standards as quickly as possible sometimes could also have a negative impact on the quality of the standard and/or lead to standards that are not representative of all stakeholders' interests. An example is EN 378 standard setting safety and environmental requirements for refrigerating systems and heat pumps, which revision was triggered even before its publication with a view to address issues that were still pending. Such decisions result in an overall longer time to produce an appropriate, quality standard. In the area of Green House Gas (GHG) emissions from energy-intensive industry, a tight deadline in the related EC mandate led to an intensive work pace that was impossible to cope with, making it impossible for every interested actor to effectively contribute to all parts of the standard.



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Moreover, fast-track procedures that have been used by CEN and CENELEC members in replacement of more 'traditional' procedures (with standards needing 3 to 5 years to be developed) have made the participation of unrepresented societal stakeholders even more difficult. These fast-track procedures often consist of dropping or shortening phases which are crucial for societal stakeholders' engagement. For example, the so-called “enquiry + final

vote” procedure, which was established with a view to align the European process with the international one, consists of merging the public enquiry phase and the final vote. If the final vote is positive (remember that societal stakeholders have no voting rights), comments may not be considered. Potential concerns of societal stakeholders regarding the potential impacts the standard may have on citizens’ welfare or the environment could simply be ignored. Societal stakeholders (as well as the weakest national standards bodies) are therefore left with a narrow window of opportunity to effectively participate in the process and exert an influence on its outcomes.

These examples clearly demonstrate the potential negative impacts of speeding up the process as an objective in itself. In this context, we believe that speeding up the standardisation process should be aimed for only when considered needed, for instance when standards are needed for the proper implementation of laws and policies. It should be done taking into consideration the regulatory needs, the feasibility for standardisers, and the potential impacts on quality, transparency and inclusiveness. This is particularly important in cases where standards are developed in support of EU laws and policies. It should be noted that building consensus among different stakeholders requires coordination, time and application. It is crucial to allow enough time and opportunities for all stakeholders to participate in an efficient and effective manner, while ensuring that deliverables contribute to achieve EU policy goals most adequately. In this context, timeliness should be aimed for in all cases. Timeliness should be the main goal.

“Speeding up the standardisation process should be aimed for only when considered necessary (...). Timeliness should be the main goal.”

In general, the pace of the standards development process could be increased through an improved cooperation between the various actors involved, all along the process from the earliest possible stage. Close and continued cooperation between the EC, standardisers and key stakeholders is needed for the suitability of the evaluation of standardisation needs as well as the speedy delivery of harmonised standards to ensure the proper implementation of EU laws and regulations. This cooperation should work from both ends: the ESOs should be involved early in

the process, e.g. at the time of defining EU standardisation goals and priorities and the mandating process, while all EC services concerned (not only DG GROW) should closely follow standardisation developments until the finalisation of the standards. Such cooperation would allow a chronological as well as objective-wise alignment of regulatory and standardisation processes without leading to standardisation replacing policy. It should be combined with involvement of Annex III organisations, other stakeholders and research institutes all along the process. A more balanced representation of stakeholders in the ESS, including among those representing private interests, would help avoid sometimes entrenched industry positions protecting business cases. In some cases, the majority of representatives of the national delegations are employed by regional or national branches of the same multinational company, leading to a “biased” standardisation process.

It is also important to ensure that a clear and detailed scope of work with clear deadlines are agreed upon before standardisation work kicks off, especially in case of standards developed to support the implementation of European legislation and policies. In case of work requested by the European Commission, the deadlines and a proposed timeline should be clearly indicated in the related mandate. In general, it also has to be stressed that the role of regulation should not be replaced by standards as a result of such closer collaboration. The role of standards in EU policy should be to provide tools and methodologies of technical nature that are considered necessary for the proper implementation of laws and policies.

Finally, it should be noted that the timely availability of harmonised standards can be sometimes hampered when the work is taken over by the international counterparts of CEN and CENELEC, as often arises under their transatlantic cooperation agreements when there is a global market interest. This leads to the involvement of a wider range of countries and stakeholders and makes the consensus building process sometimes more difficult, especially in a system than is even less transparent and inclusive than the ESS.

5. A WELL-REASONED INTERNATIONAL COOPERATION

ECOS have long raised concerns about the priority given to international standardisation over European standardisation. In the last years, standardisation work has increasingly been undertaken by the international standards organisations, including when the standards were requested (mandated) by the European commission in view of implementing European laws and policies. The European institutions have made international cooperation a priority. The trend towards globalisation of standardisation work will certainly increase further with the on-going Transatlantic Trade and Investment negotiations (TTIP).

At the international level, organisations like ECOS need to apply for a so-called “Liaison status” with each and every committee or sub-committee they have an interest in. The liaison statute is granted if the members vote positively. On some occasions in the last years, such status has been denied to ECOS on questionable grounds such as the need to keep the number of delegations low to make the consensus building process “easier”. “No” votes sometimes came from national standardisation bodies of the EU which, in other instances, state loud and clear that they strongly support balanced representation of interests and inclusiveness.

Albeit imperfect, we consider that the ESS is by nature more transparent, accessible and inclusive than the international system. The entry into force of Regulation (EU) 1025/2012 also offered a solid political basis to the European system towards more openness, transparency and inclusiveness. In this context, we believe that the EU should not promote the generalisation of the use of international standardisation. In particular, it should give priority to European standardisation for the development of harmonised standards that are meant to support of laws and policies.

In general, the ESOs should be made responsible for the implementation of the principles laid down in Regulation (EU) 1025/2012, including transparency and inclusiveness, when mandated standards are being developed at international level.

ECOS is opposed to the early involvement of ISO and IEC in the development of the Annual Work Programme for Standardisation and the early stages of standardisation requests, which CEN and CENELEC propose in their contribution to the Internal Market Package. We also question the implications of CEN-CENELEC's proposal to introduce further flexibility to the adoption of international standards as European ones. We believe that all actors of the ESS should urgently work, collectively, on a plan of action to contribute to ensure that the requirements of Regulation (EU) 1025/2012 are implemented in the international standardisation system including in relation to transparency and inclusiveness.

“the EU should (...) give priority to European standardisation for the development of harmonised standards”