

ECOS comments on the European Commission Working Paper

"The role of European standardisation in the framework of European legislation and policies"

1. Introduction

ECOS welcomes the opportunity given by the Commission to comment on the draft paper "*The role of European standardisation in the framework of European legislation and policies*".

This draft Communication follows a series of Resolutions and Communications from Council and European Commission. It may be important to complement the quotations made by mentioning the contributions and opinions that the European Parliament has delivered on European standardisation during the last years.

Article 6 of the Treaty establishing the European Community makes it an obligation to integrate environmental protection requirements into the definition and implementation of community policies and activities. Standardisation, as an important component of the European enterprise policy, shall contribute to sustainable development and take into account the environmental dimension.

The 6th Environmental Action Program "*Environment 2010 : Our future, our choice*" calls for the integration of environmental aspects into standardisation, as a way to promote sustainable production and consumption patterns. In a recent draft Communication from the European Commission, this requirement has been re-iterated, underlining the need for European standardisation organisations to make this a reality, promoting particularly the involvement of Environmental NGO.

2. Standards in new policy areas

2.1 In legislative areas

The Commission proposes to widen the application of the "New Approach" across new legislative areas. However, before this concept is transposed, for instance, to environmental protection, it is necessary to conduct an analysis of the current achievements. In particular, the failure in the area of the packaging and packaging waste directive should be investigated, and constitute a case-study to identify ways of improving the legislative and the mandating process where environmental protection is at stake.

The New Approach must not be applied in the environment field unless it becomes a requirement to integrate environmental aspects into each standard¹.

1 The way forward would be to implement a general producer responsibility in EU legislation, covering the impacts on the environment from products and processes (in line with the approach seen in the WEEE directive and the proposed EUP directive), combined with the development of models that can clearly identify the cause-effect chain of any environmental impact.

2.2 In areas other than related to legislation

2.2.1 It may be that standardisation "has reached a rather mature stage" in many fields. Environmental protection, however, has not yet been an integral part of it. The question remains whether environmental organisations will be able to guarantee the defence of the environment given the fact that there is no overarching legislative framework that makes the protection of the environment mandatory.

2.2.2 The draft working document on the Role of Standardisation makes reference to the recent Commission Communication for an Integrated Product Policy and the planned Communication on the integration of environmental aspects into standardisation.

However, ECOS is of the opinion that "encouragement" is not sufficient to ensure the introduction of environmental aspects into standardisation. This will hardly happen if there is no clear legal framework to make the dealing with environmental aspects mandatory especially when developing product standards. The directives on Health and Safety and on Producer's Liability are making the respect of health and safety requirements mandatory. Unless similar legislation exists for the protection of the environment that covers also products, environmental aspects stand little chance to be integrated into product standards.

In addition clear and precise priorities, guidance and requirements have to be stipulated in the mandates allocated by the Commission to European standards organisations. These mandates should be prepared in a transparent procedure, involving stakeholders.

"Environment" is handled in the draft paper as a specific "sector". Although we recognise that some work may be more or entirely "environmentally-oriented" (Environmental management, measurement methods for air, water, soil pollution, waste characterisation, etc.), ECOS is of the opinion that environmental concerns shall be approached by standardisers as a horizontal issue, following the model of safety issues. It should belong to the programming and prioritising phases of all standardisation programs to consider the environmental aspects that shall be covered by standards.

Since the draft promotes the establishment of European standards in the area of services, it should consider the environmental dimension of some of these types of activities. Transport, energy, tourism and leisure are impacting heavily on the environment. Therefore, it is of crucial importance to include environmental concerns from the beginning. The programming mandate delivered in the area of services should be an opportunity for European standardisation organisations to demonstrate how standards can contribute to a better environment.

3. Challenges

3.1 Increase efficiency and added-value

ECOS supports the effort to rationalise and speed up the standardisation process. However, this should not be done to the detriment of stakeholders' involvement and consultation.

Rather than trying to publish a lot of European standards quickly, European standardisation organisations should concentrate on a limited number of useful and targeted standards. A thorough analysis of the area concerned and a clear definition of the objectives and goals of a standard, before the committee work starts, may help achieving a consensus more rapidly. The quality and speed of consensus could also benefit from a more precise description of the requirements in mandates, and clearer mandates may be a consequence of a stronger involvement of stakeholders.

3.2 New standardisation products

ECOS understands the appearance of "New Deliverables" as an attempt to produce faster. "New Deliverables" however do not incorporate the degree of consensus of full European standards. Some (CWA) are the result of discussions within workshops, the access to which is even more difficult for ENGO than the access to Technical Committees. The participation in Workshops is described as open. However, in the absence of any rules, no guarantee exists of a balanced participation.

Furthermore, ECOS would see no guarantee that other types of documents as EN could give a presumption of conformity to essential requirements. In particular, CWA should not be seen as "pre-standards" or document that would necessarily lead to European standards.

3.4 Participation and openness

The European Commission has allocated a financial support to make the new European ENGO, ECOS, operational and to facilitate their involvement in the standardisation process. This support has been provided in the framework of a contract that can be renewed twice. It is of crucial importance, in view of the time scale in which standardisation operates, to ensure a robust financing of ECOS beyond 2005.

ECOS is active on a European level, has been recognised by CEN as an Associate and sends observers in a series of Technical Committees. However, standardisation is based on national participation. In particular, voting rights are restricted to national standards organisations. It is therefore necessary to ensure that ENGO positions are taken into account nationally and represented in national mirror groups. ENGOs can also be integrated as a part of national delegations to European committees. Member States are requested to support financially and politically national NGOs in their efforts to join standardisation.

Situations experienced recently in various Member States demonstrate rather a discontinuation in support, which will undoubtedly have consequences on NGO's involvement in standardisation. Governments shall not consider the existence of ECOS as a substitute to financially supported national participation. Rather, it must be considered as a first step, which, without national relays, will have very limited effects.

Whilst one of the principles of European standardisation is openness, it is important to note that standardisation is primarily meant to facilitate business and industry operations. Industry will take benefit from the existence of standards by accessing new markets, rationalising its production processes or use the conformity of their products or management systems to standards as a marketing instrument. Industry investment in standardisation (delegation of experts in Technical Committees, commenting draft standards, sitting in national mirror committee) is therefore compensated by a return on investment. On the other hand, public interests will always suffer from a disadvantage, as the costs of an environmentally-unfriendly standardisation will be supported by the society at large, whilst the representation of environmental interests in standardisation are supported by NGOs with their limited means. The result of this situation is that environmental views will always represent minority views in technical committees, although they represent public interest. Standardisation organisations should therefore introduce a principle of "balanced representation" in their statutes, and establish processes and procedures to ensure this principle is implemented.

3.5 Legal framework

ECOS welcomes the Commission's announcement of a revision of the legal framework of standardisation and the Commission's intention to introduce the general principles as set out in the Commission document on "Good Governance" as well as those of the TBT agreement. This

overhaul can also serve as a good opportunity to introduce essential requirements for the protection of the environment when dealing with product standards, can also introduce a guarantee of balanced stakeholders' participation in standardisation as well as a complaint procedure. In addition ECOS would suggest to open the existing regulatory committee 98/34 (or its counterpart in the revised legislation) to representatives of stakeholders. It would also be important that such legislation sets up detailed mandatory procedures how mandates are negotiated with ESBs, that the resulting standards are checked and commented continuously while they are elaborated. If the comments of the Commission have not been taken up and standards do not meet the essential requirements of the underlying legislation and of the Commission mandate, the Commission should be entitled to formally reject such standards.

The revision of the legal framework of standardisation in Europe could also offer an opportunity to clarify the legal status of standards, technical specifications, reports, guides or workshop agreements. Reference to normative documents in European legislation should be restricted to European Standards (EN), the elaboration process of which offers better (even not the best) guarantees of openness and participation of stakeholders. In particular, workshop agreements should not be used as a first step towards an EN.

ECOS would prefer an entirely new directive dealing with standardisation rather than incorporating the new requirements into Directive 98/34, as standardisation is such a specific and complicated area with its overlap of private and public concerns that it needs to be dealt with separately. This would also have the advantage that necessary changes could be introduced without amending the New Approach.

3.6 Relation to international standardisation

The existence of the "Acquis Communautaire" in the field of environmental protection is a specificity of the European Union. This is the frame in which environmental European standardisation develops. It creates therefore a need for European standards organisations to consider how European standards should emerge first in Europe and how they can be proposed to the international level. Such a model would support a transfer of more demanding environmental standards, rather than having to accept ISO or IEC standards that have to represent the consensus of a larger group of countries and therefore a lower level of requirements.

In addition, the problems faced by ENGO to take part in European standardisation are far more acute at an international level. For example, stakeholders can be represented in ISO or IEC only as observers in Technical Committees, on a case-by-case basis. Furthermore, participation in ISO is far more costly, as meetings may be held outside Europe.

Conclusion

ECOS welcomes the discussion opened by the European Commission regarding the role of standardisation in European legislation and policies and that the Commission acknowledges the need of an overhaul of the New Approach as a condition for it.

ECOS underlines the importance of allowing full participation stakeholders in this discussion, as well as sufficient time to ensure the presentation and discussion of all ideas and proposals, from all origins. The debate shall not be kept amongst standardisers, as it will certainly benefit from the views of a variety of interested parties, including those who have not traditionally been much involved in standardisation.