

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

517TH EESC PLENARY SESSION OF 25 AND 26 MAY 2016

Opinion of the European Economic and Social Committee on the communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — The annual Union work programme for European standardisation for 2016

(COM(2015) 686 final)

(2016/C 303/10)

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On 5 February 2016, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — The annual Union work programme for European standardisation for 2016

(COM(2015) 686 final).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May 2016), the European Economic and Social Committee adopted the following opinion by 141 votes, with 6 abstentions.

1. Conclusions and recommendations

1.1 This opinion focuses on the key issue of the inclusiveness of the European standardisation system (ESS). This choice reflects the fact that ANEC, ECOS, the ETUC, and SBS, known as the 'Annex III organisations' in the context of Regulation (EU) No 1025/2012 of the European Parliament and of the Council, are all represented by the EESC. That is why, as the 'home of civil society', the EESC intends to focus on the transparency and inclusiveness of the ESS.

1.2 The EESC has also acknowledged the Commission's intention to address the strategic aspects of the European standardisation system in the framework of the annual work programmes.

1.3 As regards relations between the Annex III organisations and the ESS, the EESC calls on the European standardisation organisations (ESOs) to give the Annex III organisations specific member/partner status, with specific rights and obligations. In practice, this should consist of granting the Annex III organisations an unlimited right of appeal and consultative powers, in particular with regard to standards of public interest.

1.4 Recognising that national delegations represent one of the fundamental principles of European standardisation, the EESC stresses the importance of facilitating access to the standardisation process for SMEs and societal stakeholders and their national representatives. In this context, the EESC proposes establishing at national level free access to 'mirror committees' for SMEs and societal stakeholders and their respective representative associations.

1.5 The EESC stresses the fundamental role of the New Approach consultants and commends their contribution to the assessment of standards' compliance with EU policies in the framework of harmonised standards. The EESC therefore welcomes the intention expressed by the Commission to ensure the continuation of their work in the long term.

1.6 In conclusion, the EESC calls for close monitoring of the efforts of the key standardisation players, in order to increase the inclusiveness of the ESS. It could perform this monitoring by setting up an ad hoc forum on the inclusiveness of the ESS. This body would be responsible for holding an annual public hearing to assess progress made in this regard.

2. Gist of the communication

2.1 The Commission set out its strategic vision for European standardisation in a communication and set out the legal framework in Regulation (EU) No 1025/2012 on European standardisation, which has been in force since 1 January 2013. One of the new elements introduced by this regulation is the obligation for the Commission to adopt an annual Union work programme for European standardisation.

2.2 The work programme is a tool to improve cooperation between the Commission and the European standardisation system (ESS) by setting out the Commission's vision and plans for the following year as regards standardisation. The Commission intends to revisit its partnership with the ESS to ensure that it suitably meets the involvement needs of all stakeholders (industry, SMEs, consumers, environmental organisations, workers, etc.).

2.3 The strategic priorities for European standardisation include the adoption of a Priority ICT Standards Plan and services standardisation. The Priority ICT Standards Plan will complement the annual Union work programme.

3. General comments

3.1 The EESC congratulates the Commission on the presentation of the annual work programme for standardisation 2016, and points to the fundamental contribution made by standards to the structuring of the internal market and the competitiveness of businesses. As stated in its Opinion INT/590 of September 2011⁽¹⁾, the annual programme for standardisation is a real asset in terms of transparency, planning and forecasting, especially for players and stakeholders in the European standardisation system (ESS).

3.2 The EESC welcomes the 2016 annual programme as a vehicle for assessing the state of play of the current discussions, but above all because it brings real added value to future programming. The EESC therefore calls on the Commission to better prepare future annual programmes, consulting stakeholders on the technical and strategic aspects and publishing the work programme in the July of the previous year. The EESC welcomes the substance of the priorities in the different sectors.

3.3 Priority given to inclusiveness

3.3.1 The stakeholders who have historically been hampered by difficult access to the ESS — consumers, environmental interests, workers and SMEs, represented by ANEC, ECOS, the ETUC and SBS, known as the 'Annex III organisations' in the context of Regulation (EU) No 1025/2012, along with their national members — are all represented by the EESC. That is why, well aware of the key contribution made by other stakeholders in developing standards and the participation challenges they generally encounter, the European Economic and Social Committee — as the 'home' of civil society — intends to focus most of its efforts on the transparency and inclusiveness of the ESS.

⁽¹⁾ OJ C 376, 22.12.2011, p. 69.

3.3.2 In this context, the implementation of Regulation (EU) No 1025/2012 requires specific attention, as the Commission rightly pointed out in the communication. This includes, in particular, the need to improve the dissemination and publication of the reports provided for in Article 24 of the Regulation, as well as communication and information regarding them.

3.3.3 The EESC welcomes the Commission's intention to closely monitor the progress and efforts of all the ESS players to make the system more inclusive. To this end, the EESC would like the Commission to play a proactive role, in particular as body which co-finances the ESS.

3.3.4 The Committee also welcomes the conclusion of the process of financing the Annex III organisations and calls for further administrative simplification and the adoption of a longer-term perspective, in order to ensure that these organisations implement a multiannual strategy.

3.4 *The joint initiative on standardisation*

3.4.1 The Committee welcomes the proposed joint initiative on standardisation, along with the involvement of stakeholders in the system, particularly the Annex III organisations, as a key sign of the revitalisation of the public-private partnership underpinning the ESS. In this context, the EESC would like to stress that it is very important that the measures proposed in the final version of the joint initiative on standardisation are aimed at and clearly contribute to better inclusiveness, to ensure ownership by all the stakeholders, particularly the Annex III organisations.

3.4.2 The EESC welcomes and supports the proposed action in the area of the joint initiative on standardisation regarding an analysis aimed at gaining better understanding of the opportunities and challenges of making standards freely available, which could be part of a study on the economic and societal impact of standards.

3.5 *The work of the European standardisation organisations*

3.5.1 The EESC welcomes and commends the role played by the CEN, Cenelec and ETSI as independent, neutral, professional organisations with rules and procedures that ensure compliance with the WTO founding principles in the area of standardisation and with the principles established by Regulation (EU) No 1025/2012.

3.5.2 In order to improve the participation of all stakeholders in standardisation, the EESC invites the European standardisation organisations (ESOs) to grant the Annex III organisations specific member/partner status, with particular rights and obligations according to their respective status and roles, including unrestricted access to technical bodies and draft standards being drawn, with due respect for a confidentiality policy that caters for the need for consultation. The EESC proposes that a reflection be launched on making access free, given the EU's contribution to the financing of ESOs and Annex III organisations.

3.5.3 The EESC also proposes to reinstate an unlimited right of appeal for Annex III organisations, including in relation to work in which they were not directly involved from the beginning, and to give them advisory power when standards are ratified.

3.5.4 The EESC highlights the importance of inclusive, quality standardisation. The EESC points out that fast production and publication of standards cannot be considered an objective in its own right, especially if that would be a barrier to the EESC's objective of including Annex III organisations in the ESS. The EESC warns the ESS against any decision which, on the pretext of speed, would limit participation and openness.

3.5.5 The EESC points out that the inclusion of stakeholders can only take place transparently and with their participation. In order to highlight, strengthen and implement the principle of national delegation, the EESC stresses the importance of facilitating access to the standardisation process for SMEs and their national representatives, which remains a challenge, as mentioned in point 4 of the communication.

3.5.6 In this connection, the EESC proposes establishing at national level free access to 'mirror committees' for SMEs and societal stakeholders and their respective representative associations. It is also especially important for it to be easy for them to participate and contribute during the public consultation phase, when practical or technical barriers must be non-existent.

3.6 *The new Vademecum on standardisation and guides for Annex III organisations*

3.6.1 In the framework of the implementation of the new Vademecum on European standardisation, the Committee congratulates the Commission on the call to ESOs to train their technical staff and bodies on the content of the new document and the measures it includes.

3.6.2 The EESC also calls on the Commission to ensure that all its departments wishing to make use of standardisation to implement European policies disseminate, understand and use the Vademecum. It would also be useful to arrange for it to be published on the Commission's website along with relevant information.

3.6.3 The EESC especially wishes to highlight the importance of officers of ESO technical bodies being familiar with the various CEN-Cenelec guides on drafting standards, taking into account the needs of societal stakeholders and SMEs (i.e. CEN-Cenelec Guides 2, 5 and 17 and CEN Guide 4). The Committee welcomes, in this context, the work already started by the CEN-Cenelec SME Working Group and the Societal Stakeholders Working Group, and calls on them to pursue it with tangible, ambitious measures. It should be stressed that these CEN-Cenelec guides should be used throughout the standardisation process, from the reflection on the need to draft a standard through to its publication.

3.7 *ICT standardisation and IPR in standardisation*

3.7.1 The EESC questions the added value of the Priority ICT Standards Plan proposed in Chapter 3.1 of the communication. This document appears to be an unnecessary addition to the Rolling Plan for ICT Standardisation and the annual standardisation programme. The Committee fears duplication of sources and levels of priority, which could make monitoring of the debate and stakeholder involvement more difficult.

3.7.2 In the area of intellectual property rights (IPRs), the Committee warns of the imbalance existing between users and holders of standard essential patents (SEPs), particularly in situations where an innovative SME is not in a position to know the number of patents it is likely to use and who holds them. The EESC therefore proposes that ETSI draft a practical guide for the negotiation of SEP licence agreements for SMEs, applying the FRAND (fair, reasonable, and non-discriminatory) requirements.

3.7.3 With regard to the FRAND requirements, the Committee stresses the need for these principles to be better defined in order to make it easier to grasp their scope and how to implement them in practice.

3.7.4 In this context, the EESC also calls on ETSI to improve the quality and transparency of the database of IPR declarations. This is important for ensuring a degree of predictability for SEP users and reassure innovative SMEs as to the costs and procedures for negotiating the aforementioned licence agreements.

3.8 *New Approach consultants*

3.8.1 The EESC stresses the fundamental role of the New Approach consultants referred to in Chapter 7.2 of the communication, and commends their vital contribution to a reliable assessment of standards' compliance with EU legislation and policies in the framework of harmonised standards.

3.8.2 The EESC welcomes the intention — expressed by the Commission in point 7.2 of the communication — of ensuring the long-term availability of the assessment. The Committee wishes to this independent assessment to be given greater precedence over any other internal assessment carried out by ESOs.

3.8.3 The EESC calls for the consultants' independence to be further strengthened, possibly through the direct hiring of 'New Approach consultant' contractors by the European Commission.

3.9 *Standardisation requests and mandates*

3.9.1 The EESC stresses the importance of the process of preparing the European mandates that the Commission sends to ESOs to request the drafting of a standard. The EESC calls on the Commission to make this process even more transparent and inclusive, particularly for Annex III organisations.

3.9.2 The EESC stresses the importance of verifying whether the effect of a standard meets the original aim, checking in particular that its scope has not been extended during the work.

3.9.3 The Committee stresses the importance of the preparatory work for standardisation, in particular in assessing the economic and societal impact of the standards and identifying the stakeholders concerned and involving them in the standardisation work.

3.10 With regard to international cooperation, the EESC underlines the substantial difficulties still encountered by Annex III organisations in following this work, and calls on the ESOs and national standardisation bodies, to take all possible measures provided for by their cooperation agreements with the ISO and the IEC to ensure transparency, participation and inclusion of all stakeholders, particularly where the work is linked to a standardisation request from the Commission.

4. *Specific comments*

4.1 The EESC could create an ad hoc forum on the inclusiveness of the ESS. The forum would meet regularly, at least once a year, and bring together members of the Committee wishing to contribute to the involvement and inclusion of stakeholders — including societal stakeholders and SMEs. The Annex III organisations would be regularly invited to meetings of the forum.

4.1.1 The forum could, among other things, be responsible for organising an annual public hearing on the inclusiveness of the ESS. As part of this event, the EESC would invite the ESS stakeholders and the Commission and publicly question them with regard to the activity reports provided for in Article 24 of Regulation (EU) No 1025/2012, with a view to improving knowledge and dissemination thereof. The EESC would take this opportunity to involve the European Parliament in this activity.

4.1.2 The forum could also finance a study on the membership of national mirror committees to assess how representative and inclusive they are.

Brussels, 25 May 2016.

The President
of the European Economic and Social Committee
Georges DASSIS
