



A step towards inclusive European Standardisation

European Disability Forum

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**EDF feedback on the European Commission's proposal to amend
Regulation (EU) 1025/2012 on European Standardisation**



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Introduction

The European Disability Forum

The European Disability Forum is an independent NGO that represents the interests of 100 million Europeans with disabilities. EDF is a unique platform which brings together representative organisation of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

EDF feedback on European Commission's proposal to amend Regulation (EU) 1025/2012 on European Standardisation

The European Disability Forum (EDF) welcomes the [European Commission's proposal to amend Regulation \(EU\) 1025/2012 on European Standardisation](#) as a first step towards ensuring a transparent European standardisation system with improved governance and empowered European rights-holders.

However, as we demonstrate below, we do not believe this amendment is enough to ensure that the European standardisation system is fit for supporting EU policies, nor that it is inclusive for persons with disabilities and their representative organisations. We support our arguments and recommendations with two examples illustrating some of the issues present in European standardisation (see Annex I).

Therefore, **we call on the Commission to build on this positive development and launch a comprehensive revision of the Regulation** to address the many challenges in relation to a truly representative, fair, and inclusive European standardisation system.

We agree with the Commission's view that "particularly when the European standardisation organisations support the application of EU legislation and develop standards that are crucial to the EU general public and to companies, the internal governance of the European standardisation organisations must duly take into account the views of all European stakeholders (including small and medium enterprises and civil society organisations)."¹

We are also pleased to see that the Commission recognises the barriers faced by European civil society actors in European standardisation. As noted in the explanatory memorandum "some European standardisation organisations are mainly composed by economic operators who have voting rights and the participation of civil society organisations and public authorities is limited in some cases."² This limitation is of great hindrance to organizations representing consumers, especially for organisations of persons with disabilities stemming from lack of accessibility of standardisation procedures, obligatory fees to participate, resource limitations, imbalance of power in European and national standardisation activities, and limited decision-making powers (e.g. no voting rights or insufficient voting weight).

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0032>

² Ibid.

The solution proposed by the European Commission

To address some of the above-raised challenges and to ensure that especially standards requested by the European Commission in support of EU legislation reflect Union policy objectives, values and public interest, the Commission proposes to put in place checks and balances through giving exclusive decision-making powers to representatives of the national standardisation organisations within the competent decision-making bodies of the European Standardisation Organisations (ESOs).³

Why the proposed solution is not enough

Although this is a positive step towards empowering European actors, EDF agrees with ANEC, which has warned that “the positions taken by the national standardisation bodies are also at risk of being influenced by a more international perspective,” as many multinational companies that do not have their headquarters in Europe have national offices in EEA member states, and these are sometimes active in standardisation at national level and in the national mirror committees.⁴

To this, EDF would like to add that there are still significant shortcomings related to inclusive standardisation and participatory decision-making in national standardisation bodies, including in national mirror committees. Representatives of organisations of persons with disabilities and accessibility experts are largely shut out of participation in national standardisation activities due to inaccessibility of standardisation procedures, documents, and meetings, lack of reasonable accommodation, human and financial resource limitations in view of required fees to participate, and unequal decision-making powers. Therefore, the amendment proposed by the European Commission, limiting important decisions to national standards bodies, will not ensure that European standardisation truly reflects Union values and interest of all consumers. Additionally, involvement of the public sector also remains limited, as its influence and participation greatly vary depending on the national standard body.

EDF recommendations to ensure representative, fair, transparent, and inclusive national standardisation

In order to reach the goal which the European Commission is trying to achieve by the proposed amendment, the proposal **should be complemented by common requirements for national standardisation bodies**, which ensure equal participation of consumer and civil society

³ Particularly decisions related to: (a) the acceptance, refusal and execution of standardisation requests; (b) the acceptance of new work items; (c) the adoption, revision and withdrawal of European standards or European standardization deliverables.’ ([article 10, paragraph 2a \(new\) Regulation \(EU\) 1025/2012 European Standardization](#)).

⁴ [Feedback from ANEC to public consultation on EC proposal to amend Regulation \(EU\) 1025/2012 European Standardization](#).

organisations, including organisations of persons with disabilities (DPOs), and public authorities. The requirements should address mentioned challenges related to:

- Accessibility of standardisation procedures, documents, and meetings
- Reasonable accommodation for experts with disabilities
- Allocation of financial resources to support participation of user representatives and accessibility experts
- Balanced representation between industry, civil society organisations, and public authorities
- Equal voting rights
- Cost-free access to harmonised standards

Further improvements needed for truly representative, fair, transparent, and inclusive European Standardisation

Building on the proposal for amending article 10 of Regulation (EU) 1025/2012, the European Commission should launch a comprehensive revision of the Regulation to achieve a more inclusive, accessible, fair, transparent, and effective European standardisation system in support of EU legislation and policy objectives.

Alternatively, the European Commission could consider new ways to prepare and adopt standards when these relate to EU policies and legislation.

The remaining challenges in the European standardisation system which need to be addressed are:

- Lack of a Design for All approach to systematic user participation in the relevant standardisation processes – at EU and national-level⁵.
- Lack of equal level of engagement and weight in decision-making by user organisations, including organisations of persons with disabilities (DPOs), due to cost, accessibility, and other barriers, and unequal voting rights in ESOs and national standardisation bodies.
- Lack of EU and Member State support for participation of representative of DPOs and accessibility experts by allocated public funding for engaging in standardisation activities at regional and national level.
- Cost barriers for consumer organisations, including DPOs to standards. Many standards which consumers contribute to, and the development of which are funded by public money, need to be purchased once they are published. These often cost a few hundred Euros. For example, recently published EN17210 costs €187.00 (exl. VAT) in Belgium (NBN EN 17210). Non-profit organisations cannot assess the quality of a standard without having access to the full, final text. The EC should address this barrier and ensure that consumer organisations, including DPOs, have free access to EU-funded standards regarding which those organisations have legitimate interest.
- Intellectual property rights hindering improvement of equality, accessibility, essentially human rights in the EU. The precedent of a copyright waiver with the aim of improving accessibility for persons with disabilities has already been set with Directive (EU) 2017/1564

⁵ Mandate 476 aimed at supporting European Standards Organisations to incorporate a Design for All approach which could result in a more accessible standardization system and better mainstreaming of accessibility in European Standards. Nevertheless, ETSI declined the request, and the impact in CEN and CENELEC has been so far minimal.

implementing the Marrakesh Treaty.⁶ The UN Special Rapporteur on the Rights of Persons with Disabilities has also highlighted that similar rebalancing of intellectual property rights with the guarantee of equal treatment and non-discrimination for persons with disabilities should be explored in other contexts.⁷ EU as signatory to the UN CRPD should seriously consider the recommendations of the Special Rapporteur as regards European standardisation in support of EU legislation and policy objectives that are of special interest to civil society organisations and social stakeholders, including DPOs.

⁶ [Directive \(EU\) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society](#)

⁷ [UN SR Thematic Report on Artificial intelligence and the rights of persons with disabilities](#)

Annex I – examples demonstrating lack of inclusive and balanced European Standardisation

Below are two examples, which illustrate the existing issues of inclusive and participatory European standardisation process, where all stakeholders and rights-holder have equal say.

Example 1: lack of voting rights by EDF given observer status in ETSI/CEN/CENELEC JWG eAccessibility under mandate M/376

At the 5th JWG eAcc meeting (2013) a decision was made regarding amendment to the text of 6.2.1.1 RTT communication in draft EN 301 549 (accessibility of ICT services and products).

EDF and the European Commission expressed objection to the agreed text. However, the acting chair for the meeting (ETSI) noted that “Views of observers will be considered as much as possible but final decision by consensus will consider only positions of the JWG participant members. EC and EDF are observers in the JWG. Their disagreements/objections will not be taken into account to determine consensus.”

The European Commission expressed concerns on how to determine consensus.

W3C Web Accessibility Initiative (WAI) also noted concerns about achieving consensus by excluding the stakeholders with the status of observers.

In essence, **EDF** (among other observer status members), **as an organisation of persons with disabilities was excluded from a decision that directly impacts persons with disabilities.**

It is also relevant to highlight that the **US Access Board declined to incorporate EN 301 549 in the final rule for updating its existing Electronic and Information Technology Accessibility Standards under section 508 of the Rehabilitation Act of 1973, ("508 Standards"), as well as the Telecommunications Act Accessibility Guidelines under Section 255 of the Communications Act of 1934 ("255 Guidelines") due to the lack of "voluntary consensus standard development process."**⁸

The Access Board noted that “Mandate 376, which was issued by the European Commission and tasked the European standardisation bodies (i.e., CEN, CENELEC, and ETSI) with development of a harmonized set of functional accessibility requirements for publicly-procured ICT, did not

⁸ Required under the US National Technology Transfer and Advancement Act of 1995.

require use of a voluntary consensus process; instead, this mandate merely provided that CEN/CENELEC/ETSI "shall work in close cooperation with relevant stakeholders" when developing the European procurement specification that became EN 301 549. See European Commission, Mandate 376 § 4 (Dec. 7, 2005), available at http://www.etsi.org/WebSite/document/aboutETSI/EC_Mandates/m376en.pdf.

Additionally, while there was public input during the development of EN 301 549 by various stakeholders (including ICT industry representatives and some consumer groups), **it does not appear that the process was sufficiently open or balanced** to satisfy the requirements of Circular A-119. See, e.g., ACT NOW! EDF Position on the European Standard on Accessibility Requirements for Public Procurement of ICT, EASPD, <http://www.easpd.eu/en/content/act-now-edf-position-european-standard-accessibility-requirements-suitable-public> (last accessed Aug. 23, 2016) (noting concern that **interests of persons with disabilities were not sufficiently represented during the development of EN 301 549 due to non-voting status of disability rights organizations**); VVA Europe Ltd., European Association for the Coordination of Consumers Representation in Standardisation (ANEC), Preliminary Study on Benefits of Consumer Participation in Standardisation to All Stakeholders 45-52 (Nov. 13, 2014), available at <http://www.anec.eu/attachments/ANEC-R&T-2014-SC-006.pdf> (noting **similar concerns with respect to consumer groups**).⁹

Example 2: lack of balanced representation and decision-making power by user representatives, including DPOs, in ETSI.

In May 2020, decision was taken by ETSI to internationalise EN 301 549 (accessibility of ICT services and products) ahead of the standardisation mandate for the European Accessibility Act issued by the European Commission.

ANEC, EDF and as well as a third organisation opposed this decision. However, given the greatly unbalanced representation of industry and user organisations, objections to ETSI application to the ISO/IEC JTC 1 PAS Submitter process weight only 0.18% of the votes as opposed to a 99.82% positive vote by industry representatives.

⁹ <https://www.access-board.gov/ict/>

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