

Document prepared by the CEN – CENELEC Management Centre

1. **ROUTING** This document will be presented to the following bodies:

CEN/AG & CENELEC/AG 2017-06-21
6th Common session

Decision in meeting (DC)	<input checked="" type="checkbox"/>
Decision by correspondence	<input type="checkbox"/>
Discussion (DS)	<input type="checkbox"/>
Information (INF)	<input type="checkbox"/>

2. **TITLE** **CEN and CENELEC Technical matters**
AGENDA ITEM 4

3. EXECUTIVE SUMMARY

3.1 CEN & CENELEC interests

Putting into practice the recommendations resulting from the STEER exercise, the CEN and CENELEC Technical Boards had a common session on 1 February 2017 – already the third of its kind - during which topics of joint standardization interest were debated. The most prominent elements resulting from the common session are highlighted hereafter.

3.1.1 Standards and the regulatory framework

3.1.1.1 Harmonized standards and OJEU listing

The lack of listing of harmonized standards in the OJEU resulting from inaction on the side of the European Commission (EC) has definitely a negative impact on the internal market and, in particular, on the competitiveness of the European industry. Therefore, discussions at the level of the Technical Boards focussed on the possible actions to be taken for solving the issue and possibly meeting the constraints that are induced - in addition to the principles of Regulation 1025/2012 - by the EC through their Vademecum, their verification mechanism (of harmonized standards complying to the terms of the standardization request) and the collateral effect of the EUCJ ruling on the James Elliott case in the field of construction products.

Because of its major effect on the CEN and CENELEC system and its stakeholders, the non-listing of harmonized standards extends also into fundamental policy matters regarding the New Approach philosophy which were considered by the Presidential Committee as well as the Administrative Boards during their common session.

As seen from a technical as well as a policy perspective, the current situation is the following:

Fundamental principles at EU level

On 2017-04-03, the CEN and CENELEC Presidents wrote a letter to the EC Vice-Presidents Timmermans and Katainen, referring to the lack of citation of harmonized standards in the OJEU. The Presidents pointed out the negative impact that this lack

of action has had on the internal market and, in particular, on the competitiveness of the European industry and they have requested a meeting in order to find a solution to the problem. A reaction from the EC is currently awaited.

REFIT Platform draft Opinion

REFIT Platform draft Opinion: Standardisation – Non citation of Harmonised Standards in the Official Journal under the corresponding Union legislation is currently under development and will be submitted for discussion first to the Stakeholders meeting on 8 June and if approved to the joint group with the Governments on 21-22 September.

Discussions with the EC

A 2nd meeting between CEN and CENELEC - supported by European industry - with DG GROW at Presidential/Director General level was not successful. The resulting proposal from the Commission's side was to organize another set of sectoral workshops but, so far, the EC have not triggered this initiative.

From an operational perspective, it would seem that the views between CEN-CENELEC and (some) Commission desk officers have the tendency to converge better though that depends largely on goodwill and common understanding and this is far from structural. So, although there is slight progress, the situation remains at a standstill because of the Commission's uncoordinated expectations.

The considerations with the EC also borders on the larger concept of the following JIS Actions:

- JIS Action 5 (CPR) – Current status: Members and stakeholders are very engaged in progressing these tasks, while several activities are pending EC feedback;
- JIS Action 8 (high-quality standards delivered and referenced in a timely manner) which comprises a variety of involved parties (EU and EFTA Member States, standardisation organizations and bodies, European industry and industry associations, SMEs, and societal stakeholders) – Current status: no relevant output yet as discussions continue on the three major elements i.e.,
 - Standardization requests development process
 - Standards development process
 - Assessment of candidate harmonized standards and publication of their references in the OJEU

Technical Board level

The discussions for finding a solution to operational issues resulting from the non-citation problems are, as planned, dealt with by a newly set-up CEN-CLC/BTWG 12 under the convenorship of the CEN VP Technical. This dynamic entity, open to all CEN BT Members and CENELEC Permanent Delegates, has been meeting on a bi-weekly basis and tackling the following concepts: the TC self-assessment guide and the associated pilot project, the Commission request for dated normative references and the collateral effect on the Vienna & Frankfurt Agreements (see global relevance of standards), the status of harmonized standards following non-citation in the OJEU by the Commission (because of pedantic and/or editorial issues) and the New Approach Consultants' involvement.

CEN/BT Members and CENELEC Permanent Delegates, with the support of their CA Members, have also been asked to pursue coherence at national level between the NSB/NC views, their Authorities and MEPs regarding the New Approach principles.

Technical body level

As a result of the unstable situation and uncoordinated approach from the Commission's side, some technical bodies go through a wait-and-see position, inducing a status of non-progress of the work items as well as demotivation from the side of the technical experts. Assisting the technical bodies in keeping the sense of proportion as well as the drive to meet the Commission's criteria is therefore an ever continuing challenge.

ECJ "James Elliott" case

The CEN and CENELEC standardization system is challenged following the Judgment of the European Court of Justice of last October on the so called "James Elliott Construction" case.

Although the case is about the interpretation of some provisions of a CEN harmonized standard in the construction sector, the fact that the European Court recognizes that hENs "form part of the EU law" raises serious concerns. This especially regarding the way the standardization making process of hENs is organized with the Commission and the recognition of the status of the hEN through the publication of its reference in the Official Journal.

The joint CEN-CENELEC CA/WG, set up earlier this year under the chairmanship of Mr Olivier Peyrat, has analysed in depth this matter and proposed a way forward, including the publication of a CEN-CENELEC Position Paper with the objective to pave the way to a pro-active collaboration with DG GROW and other Commission services to find suitable solutions that guarantee the sustainability of the CEN-CENELEC standardization system.

3.1.1.2 Technical bodies' self-assessment

In order to help the technical bodies in writing the standards mandated through a standardization request from the Commission, a system of self-assessment has been developed. The methodology thereof is essentially to support the technical experts to match their developed technical consensus, with the elements of the regulatory framework i.e. in particular the imposed essential requirements of New Approach Directives, aiming, in the end, at the swift referencing of the harmonized standards in the OJEU. As such, the self-assessment will serve as a tool in support of the New Approach Consultants' assessment and ultimately the EC-ESO compliance assessment foreseen in Regulation 1025/2012. The self-assessment methodology is laid down in a draft Guide that is currently being finalized but the provisions thereof were already applied during a pilot exercise with identified CEN and CENELEC TCs.

3.1.2 CEN-CENELEC co-operation and joint work

CEN-CENELEC joint technical bodies: Currently the IR2 foresee two possible bodies for joint work between CEN and CENELEC i.e. joint TCs and joint working groups (JWGs). A review has led to the conclusion that only joint TCs should be established in future. The reason thereof is that most JWGs have extensive work programmes, sometimes spread over sub-working groups or task groups, which is not compatible with the 'working group' concept. However, more importantly, the activities of such subgroups are not transparent in the system (i.e. not on

eCommittees or Collaboration Tool). Existing JVGs will either be converted into joint TCs or their work will be transferred to existing TCs.

Sector Fora: The Machinery and the PPE Sector Fora are now CEN-CENELEC (these were only CEN).

Personal Protective Equipment (PPE): Bearing in mind the need for coordination of activities of the CEN and CENELEC TCs active in this sector, the coordination role for all matters of PPE is now assigned to the CEN-CENELEC Sector Forum. That will in particular apply for the execution of the Commission's Standardization Request M/553 (Advanced garments with integrated smart textiles and non-textile elements for enhanced health, safety and survival capabilities).

Internet of Things (IoT): CEN and CENELEC have engaged on a series of strategic meetings with ICT technology companies and sector specific ones in order to identify topics for the development of several IoT pilot projects. As a result of these meetings, five potential topics have been identified:

- End-user data management, privacy protection + establishing public and private data brokerage in Europe
- Smart home: privacy by design
- Identification, (authentication) and authorisation of objects
- Charter and industry Code of Conduct for SEPs licensing best
- Vertical industry requirements (for 5G)

Project plans for the relevant topics are under development, with the intention to hold kick off meetings for those that reach the necessary market support. Although these activities should not be delayed, they should be coordinated as far as possible with the ongoing work in ISO and IEC as well as CEN and CENELEC technical bodies.

3.1.3 Cooperation with other bodies

Identical adoption of ISO (IEC) publications jointly developed with SDOs: The Technical Boards are currently considering the generic referencing of such adopted standards which might be EN ISO/[SDO] and EN IEC/[SDO] (as of 2018) in the future. This is completed by an assessment led by JCAG on the impact of such adoptions regarding copyright ownership and potential compensations.

Adoption of ISO-IEC/JTC 1 standards: Where in the past it was left up to the Members to adopt JTC 1 standards at national level, the needs induced by the European digital society – in particular in regulatory context – has led the Technical Boards to reconsider that position. It is now the intention to adopt JTC 1 standards, however, following due market relevance assessment and on a case-by-case basis. This is duly reflected in a process approved by the BTs. Nevertheless, taking into account the provisions of the Vienna and Frankfurt agreements - which do not mention JTC 1 explicitly – there might be a need to frame the CEN and CENELEC link with JTC 1 e.g. through a separate *modus operandi* document.

CEN-CENELEC cooperation agreement with ITU: The cooperation agreement with the International Telecommunication Union, which foresees coordination, collaboration and exchange of information between the organizations is now approved and signed.

Revision of ESO-ERA MoU: Bearing in mind the current evolution within the railways sector (in particular the 4th Railway Package and the 'Rail Standardisation Coordination Platform for Europe (RASCOP)' initiative which is aiming at promotion of European Standards and TSIs outside of the EU) the need was identified to review the original ESO-ERA MoU (2007). A draft revision as developed in cooperation with the 'EU Agency for Railways' (formerly called 'ERA') is currently under a final check by the EC.

CEN-CENELEC draft cooperation agreement with UIC: An agreement with the International Union of Railways that would frame into the context of CEN-CLC Guide 25 has been under development since quite some time. A first stable draft was submitted to both BTs early March 2017, leading to further comments from the CEN and CENELEC BT Members that will be further considered together with UIC. Hopefully a consensus can be reached soon.

CEN-CENELEC cooperation agreement with JRC: A renewed Cooperation Agreement with the Commission's Joint Research Centre (JRC) was signed in October 2016. Since 2014 the JRC and CEN-CENELEC have jointly organized foresight initiatives on standardization including, in 2016, the Putting Science Into Standards workshop on battery technologies.

3.2 CEN specificity

Beauty salon services: CEN/TC 409 developed EN 16708 'Beauty salon services - Requirements and recommendations for the provision of service' which is in essence a code of practice that also contains provisions for specific treatments. Prior to its publication, several organizations from the medical aesthetic sector had introduced a claim of defective standard which revolved, in essence, around the distinction between client (beauty salons) and patient (medical practitioners), challenging thereby the safety and – later on - hygiene provisions of the standard. In spite of a mediation effort organized by the Technical Board between CEN/TC 409 and the medical practitioners, no consensus could be achieved, leading in the end also to an Appeal from AFNOR against the publication of the standard. During its meeting in April 2017, TCMG, taking into account all the elements at hand, asked CEN/TC 409 to remove all specific treatments from the standard and to submit the resulting revised version to CEN/BT for approval, thereby solving the Appeal from AFNOR.

3.3 CENELEC specificity

Frankfurt Agreement: The revised IEC-CENELEC cooperation agreement (commonly referred to as Frankfurt Agreement) is fully operational since 2017-01-01. In order to further enhance its implementation, two dedicated documents were prepared and should be published soon: a FAQ sheet, collating some fundamental Q&As and a Day-to-Day management document, laying down in some more detail the processes involved, in particular between IEC/CO and CCMC.

3.4 CWA

Following a decision by the Administrative Boards to have CWAs in the R&D and ICT domains made publically available on the CEN and CENELEC websites against pre-payment as compensation for the possible loss of revenue to the CEN and CENELEC

members, the various implementation aspects are being discussed with the Commission (for the future funded CWAs) and will also be considered by JWG R&P/SG 1 'Deliverables' regarding the possible need to update CEN-CLC Guide 29 to reflect this aspect.

4. PROPOSAL

The CEN/AG to

- note the report of the Vice-President Technical on the CEN technical work and the CEN Technical Board activities since May 2016 as given in Annex 1 to CCMC_17_085_DC;
 - thank the Vice-President Technical for her strong commitment and dedication to the CEN standardization activities;
 - support the actions taken at all levels within the CEN and CENELEC systems in order to speed up a pragmatic solution to the current blocking of harmonized standards and their non-citation in the OJEU and in particular the initiative towards EC VPs Timmermans and Katainen.
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The CENELEC/AG to

- note the report of the Vice-President Technical on the CENELEC technical work and the CENELEC Technical Board activities since May 2016 as given in Annex 2 to CCMC_17_085_DC;
 - thank the Vice-President Technical for his strong commitment and dedication to the CENELEC standardization activities;
 - support the actions taken at all levels within the CEN and CENELEC systems in order to speed up a pragmatic solution to the current blocking of harmonized standards and their non-citation in the OJEU and in particular the initiative towards EC VPs Timmermans and Katainen
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5. ANNEXES

Annex 1 - CEN Technical Board decisions taken since April 2016

Annex 2 - CENELEC Technical Board decisions taken since April 2016

6. RESPONSIBLE

Guðrún RÖGNVALDARDÓTTIR/Maurice BUCKLEY/Jean-Paul VETSUYPENS