

# Thoughts from the employers

Traditionally, the pace of standardization is set by the big firms, because standards take time, a lot of money and technical expertise to develop that others economic and societal players rarely have. The new EU Regulation on standardization changes the game by providing financial support to small and medium-sized enterprises (SMEs) and trade unions, among others, to have a say in standardization. What do the employers' organizations think about it? We asked European manufacturers and employers' associations.

Interview by  
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*ETUI*



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Image: © Orgalime

## Adrian Harris

Adrian Harris heads Orgalime, the European organization representing the interests of some 130 000 mechanical, electrical & electronic, metalworking & metal articles manufacturers across Europe.

Interview in Brussels,  
21 December 2012

The new EU Regulation on standardization lets players not traditionally involved in developing standards – especially SMEs – play a more active role in it. What does Orgalime feel about this development?

**Adrian Harris** — Any SME coming to Brussels would likely be coming from Belgium. We don't see SMEs coming from afar to take part in standardization work, which is a job that takes time and costs money. SMEs in our industry generally have a fairly small number of highly specialized technical staff whose main task is to get on with their job.

Any SMEs that get involved in standardization will only do so at national level. We don't see much mileage in trying to set up a Brussels-based representation of SMEs as something meant to act for SMEs' interests in what is often a very complex process.

We are not talking about the same thing as trade union representation, for example, where there is greater knowledge of the issues, especially safety at work, or consumer organizations that have developed some knowledge

## "Standards should be a yardstick, not back-door legislation."

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through the testing they do. An SME could be your hairdresser, your skiing instructor or your house builder. For many SMEs, getting involved in standards development, especially at European level, isn't what they do; they benefit from it unwittingly, unintentionally and often without wanting to know more.

Do you think the new rules will really make it easier for SMEs to participate in the standards development process? Do SMEs have the necessary expertise?

**AH** — When it comes to SMEs, the basic idea is to say that "a law must be usable by SMEs". As most business undertakings are SMEs, we need laws that are not too complicated. That should translate into simplifying complicated conformity assessment procedures, including through standards, making them easy to understand and disseminating them among SMEs.

The main thing is to see that the system is a win-win; that it remains appealing to and makes maximum sense to businesses, because participation in the standardization process and compliance with standards is still a voluntary thing. Not all heads of businesses are engineers; they don't necessarily understand the role of standards for their business. But they pay the salaries of the engineers who will be involved in standards development. More education about the role of standards in all areas is needed. Engaging with standardization makes sense for SMEs if it lets them get to market quickly. In our sectors – mechanical and electrical engineering, metalworking – there are technologically

advanced innovative SMEs who are willing to engage in a big way with standardization to achieve that goal.

Standards should be a yardstick, not back-door legislation. But that is more or less how we see what the Commission means to achieve with this regulation and whatever future legislation might refer to European standards. Statute must remain the master rule. If that rule does not exist, we are getting away from the original purpose of the internal market, which was harmonization. And at the end of the day, legislation that is so unclear as to give the Commission, not to say Member States' inspection and enforcement authorities, a very free hand to decide what is good or bad for certain categories of users or certain interests in society lets a number of barriers to trade get re-erected.

The new regulation encourages the development of standards that take into account societal goals like the environmental impact of products placed on the market. Could these aims disadvantage EU manufacturers relative to their rivals in third countries?

**AH** — Using standards to underpin health and safety at work legislation is now standard practice. It seems logical to extend it to energy, the environment and other areas because these are areas of rapid technology development. Standards are needed to backstop directives in order to move forward. Extending the scope of standardization is arguably a good way to get stakeholders with an interest directly involved in developing and using standards; this also unclogs the legislative

system and preserves longer-term stability in the law for businesses, whether established in the EU or not.

Now, the legislature is looking to strengthen the presence of some organizations, most of which are funded by it. If you take an organization like Normapme which is 92% financed from EU funds, that is very much an automatic reflection of the Commission's policy of help for SMEs.

But a political idea – that of sticking up for SMEs – must not become something purely bureaucratic that demands a single organization be represented at every end and turn. In our sectors, our members feel that Orgalime sticks up for SMEs' interests much better than Normapme because we are more relevant on laws that directly affect their sector.

What could trade unions bring to improving the quality of standards, especially in terms of safety and health?

**AH** — The main thing is to keep a common-sense approach. If there is a real safety problem, it has to be dealt with. What we are more wary of is when standardization work is held up by a sort of conservative resistance to change.

Standardization has to serve the interests it was designed for, without obstacles being thrown up that drag out the process. Any stakeholder with commonsense input to give in order to get a better standard should be able to do so, but there must be no political interference in the governance of standardization. If standardization gets more political, we shall end up with a system akin to the state standardization you used to have in the new member countries of the EU, which did not really allow you to be at the cutting-edge of technology.

It has to be realized that we are operating in areas that are moving on all the time. From this angle, standardization can be preferable to legislation. Directive 2004/40/EC on protecting workers from the risks arising from electromagnetic fields is a recent example. It aims to regulate every last detail, especially in its near-incomprehensible annexes. Standardization would have helped move things on rather than having mandarins trying to fix everything in what is essentially an "old approach" style directive.

This directive has already been revised twice when it has not even been implemented by all Member States. It is still under discussion, and complying with its requirements is still a nightmare. We fail to see how a garage, for example, that welds the odd metal part will be able to do an assessment of the risks specific to electromagnetic fields! ●

## Franck Gambelli

Franck Gambelli is head of safety, working conditions and environment at the Union of Metalworking Industrial and Trades (UIMM) which represents the leading French metalworking companies. He also chairs the "standardization" working group of the EU's Advisory Committee on Safety and Health at Work.

Interview in Paris,  
10 January 2013

The new regulation recognizes trade unions as key players in standardization. How do employers view this development?

**Franck Gambelli** — It isn't a new principle; we already had it in the resolution of 7 May 1985<sup>1</sup> and the "new Approach" directives. Why is bringing these different players together important to us in terms of prevention? Because standards are tools for transferring know-how. When putting a standard together, seeing the standard, or the standardized product or service through the end customer's eye is critical to how the standard will perform in changing the real-life situation. Trade unions speak for employees and end users. "Employer" is an ambiguous concept. An "employer" can represent the market

<sup>1</sup>. Council Resolution 85/C 136/01 of 7 May 1985 on a new approach to technical harmonization and standardization.

or non-market offering of products, services or expertise: he can be a machinery manufacturer, but also an institutional, academic or laboratory "expert", or entirely the opposite, the customer sector that is the employer of the end recipient or user of the product or service. Incorporating that voice upstream in the standard will change the content and requirements of the standard.

The SME user of machinery – but also standards – will expect the standard developer to give it a usable product. The group that produces the standard must be able to take this view on board. It may fear it, because it is clearly conceivable that the end user may differ, bring up matters it does not want to hear, or that the SMEs' wish for simplicity is unreasonable in the expert's view, but it is nevertheless in its clear interest to take it on board.

A structured and joined-up dialogue with feedback of users' experiences and needs can only be welcome. For trade unions to bring the operators' voice into it is part of the essence of the standardization process.

A big part of standardization work is done upstream at the national level. Might not the European Commission's aim to bring in all the societal stakeholders remain as pretty much lip-service if they don't have a bigger presence in national standards bodies?

**FG** — The engineering sector has a wealth of experience that works pretty well, you know. The "new Approach" is relatively well scoped, especially where machinery is concerned. It is subject to at least political control in which the trade unions have a say. In France, the social security system, the National Institute of Research and Safety (INRS) and the Ministry of Labour fund Eurogip, a joint body with trade unions and employers akin to Germany's KAN (see p. 24). Also, the Ministry of Labour provides financial assistance to the trade unions to participate in certain areas of standardization. Machinery may not be perfect as an area, but it has the merit of being visible and structured. So it is the easiest to criticize because we know the boundaries and limits.

There was a sort of grandiose attitude to standardization in the 1990s: it was said that the field of traditional products was all done and standardization had to extend to the field of services, and that is within the bounds of reason; but should it extend to the whole area of ethics, individual behaviour, occupations, and employment relations? In France, for instance, there have been attempts to apply standardization to the occupations of psychologist or sales agent. Is that really a job for standardization? Oughtn't that to be more a matter for social dialogue and bargaining?



**Franck Gambelli**  
Image: © UIMM

We have seen standards starting to make inroads on the content of employment obligations. Is that legitimate? As a matter of policy, we'd say not. Standardization is not a means of laying employment obligations on a business owner.

How do companies react to this clash between legislation and standards?

**FG** — They find it bothersome. Where you get a clear tie-up between standardization and regulation is more in the "new Approach" sphere. For standards to make incursions into the scope of legislation creates problems for business, especially in the international arena.

But there is a clash of rules between an EU law that may arguably be out of date and a prescriptive standard that may improve prevention. How do you reconcile that? We as employers stick to the principle that the law is obviously above the standard. A standard is only a private document that is not binding on the employer.

A standard can become binding on a business only in three cases: first, when the standard is made a statutory rule, which is rare; second, when the standard really reflects the state of the art of a trade, which is also very rare; and third, when the standard is part of a contract, but in that case the binding effect of the standard will differ according to what the parties provide, like just taking part of it ... The standard has no legal authority in and of itself. It is only as good as its content.

Why do you think standardization has increased so much?

**FG** — Globalization is one obvious reason. There is also competition between standards bodies, among world organizations, the ISO, with the complex interaction between the national and world levels, as well as competition between national bodies, U.S. and Asian organizations.

Then there are business strategies tied into standardization and the certification bodies it spawns, i.e., the production of reference specifications that creates a market. Some areas of standardization have nothing whatever to do with civil society. Generating reference specifications generates a market. So, standardization is increasingly departing from the original aims. Government has often distanced itself from standards bodies by pulling out of funding the basic state functions of standardization bodies. They have to find means of subsisting.

Recently, the European Advisory Committee for Safety and Health at Work discussed a proposal to set up a specific technical committee on health and safety at work in CEN/CENELEC, i.e., strictly within the sphere of the social directives. We were dead set against it. The idea was to feed types of good practices into the European standards system. It is not the job of standardization to transfer good national employment practices or to export by-products like certification. Each country has its specific social/employment context even if the directives set a minimum EU-wide basis.

So, standardization generates its own market with certification businesses that are very active in it. Mightn't this trend create significant costs for employers?

**FG** — Businesses want frameworks for managerial processes. There is a real need. Now, managerial frameworks can be developed endlessly. Who today can have a complete grasp of the output of standards in this sphere of managerial activity that generates a sphere of auditing activity?

Take ISO 26000 (see article p. 28), for example, which covers virtually the entire activity of organizations. Not just businesses, organizations! It is a non-certifiable benchmark instrument, which obviously now gets certified here or there. It is clear to see that when a standard emerges in this area, a

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## "Will tomorrow's firms be more than just overlaid standardized managerial processes?"

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Franck Gambelli

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process happens that quite quickly forces it to get taken-up.

It has to be asked whether business in future will be any more than a set of overlaid standardized managerial processes certified by independent third parties, with a residual internal management whose only job will be to keep the auditor happy. We aren't there yet. But how can you condemn excessive reporting and yet pile on the constraints and the legal requirements for scoring and external certification? The social dialogue will come out of it short-changed.

So it is important for the social partners and Member States to start giving thought in the Luxembourg Advisory Committee about the new balance between standardization and EU legislation on health and safety at work. ●