

Position Paper

European Commission's consultation on the General Product Safety Directive 2001/95/EC September 2020

Background Information

Introduction

CEN and CENELEC welcome the opportunity to provide comments concerning standardization procedures under the General Product Safety Directive (GPSD - 2001/95/EC).

The main aim of the European Union consumer safety legislation is to ensure that only safe products are available on the European single market. Towards this end, according to the current General Product Safety Directive (2001/95/EC) **a product is presumed to be safe when it “conforms to voluntary national standards transposing European standards** whose references have been published in the Official Journal of the European Union (OJEU)”.

Consumer Safety has always been one of CEN and CENELEC’s primary concerns. CEN and CENELEC develop European Standards covering a wide range of products and more than 60 European Standards are cited in the Official Journal of the European Union in the frame of the General Product Safety Directive (2001/95/EC).

European standards are market-driven and facilitate the smooth implementation of European policies and legislation. Having one single standard, created with the consensus of all interested parties and adopted across the European Market, instead of 34 conflicting national standards, helps significantly to ensure common levels of safety, security and sustainability.

More than **23.000 existing European standards** play a fundamental role in making the Single Market more efficient. By providing this support, standardization makes it easier to sell products and services across Europe and beyond, therefore improving safety, protecting consumers and fostering innovation. These priorities, along with many others, are in line with the **CEN and CENELEC Draft Strategy 2030**.

1. Effectiveness of the General Product Safety Directive (Directive 2001/95)

Standards complement legislation

The complicated legal framework for consumer products, GPSD being so general, means that many national provisions for particular group of products remain in place (e.g. childcare products). GPSD effectiveness is thus affected by differences in implementation and enforcement in the Member States.

To that effect, Standards proved to be **a tool supporting the implementation the General Product Safety Directive (GPSD 2001/95/EC)** by developing common benchmarks on what constitutes a “safe” product. The European Commission entrusted CEN and CENELEC with twenty¹ Standardization Requests active under this legislation.

European standards are voluntary which means that there is no automatic legal obligation to apply them. However, laws and regulations may refer to standards. As such, they are not regulation. This separation is what allows **standards to keep up with continuous technological development and innovation.**

Open and neutral process, engaging with all stakeholders

CEN and CENELEC work is based on the principle of national delegation (weighted vote system, appeal procedure) and is in line with the WTO TBT code of conduct (openness, transparency, consensus, national commitment and technical coherence) and Regulation (EU) No 1025/2012 providing the General framework of European standardization policy. This foundation ensures that **all stakeholders can have access to the system and participate in the standardization work** at **national** level and be represented at **European and international level**. CEN and CENELEC therefore provide a platform for all stakeholders accessible and useable by all, including **societal stakeholders and SMEs**. Furthermore, the use of non-European standards might multiply the number of standards on the internal market impeding its cohesion, making the life of the stakeholders, especially SME's, consumers, trade unions more difficult because of the need to monitor/contribute to different channels.

The setting of safety requirements

CEN and CENELEC welcome the European Commission efforts over the years **to develop standardization requests in order to allow the citation of currently available as well as the citation of future European Standards**. We encourage the close consultation with the European Standardization Organizations (ESOs) and other relevant stakeholders, such as Annex III organizations and Member States, during the preparation phase. The European Commission's need for safe products coincides with the need (and work) of CEN and CENELEC stakeholders to have European Standards providing a high level of safety.

However, some group of products remained not harmonized due to the lack of relevant implementing decision (e.g.: candle fire safety, barbecue, etc.). Standardization requests for these group of products will make it easier and cost efficient for manufacturers to meet the legal requirements, ensuring transparency on testing procedures and will strengthen the protection of consumers in the EU.

The standardization requests should also leave a sufficient level of flexibility to smoothly incorporate and disseminate through standards technical/societal evolving needs. This is relevant for all sectors, but namely for the consumer sector considering the number of new

products entering the market for instance. The process might prevent quick action to protect consumers from new hazards. This was also confirmed by the consultation of stakeholders in 2019 related to the European Commission Guidance on practical aspects of the implementation of Regulation (EU) No.1025/2012¹, most of the contributions agreed the new format of standardization requests are too prescriptive.

In order to avoid a ‘freezing’ of the State of the Art via the Standardization Request, we also recommend to establish an open and transparent mechanism allowing the speedy update of the list of standards mentioned in the annexes of the Standardization Request. This update shall be prepared on regular basis and in close consultation with all stakeholders involved. This would ensure that all updates to relevant standards, i.e. revisions, amendments or corrections are covered by the Standardization Request.

Enhancing 'Design for All' & Accessibility'

Accessibility can maximize the range of potential users of products, goods and services. It has also a huge social value, and will continue to have in the coming years, as it can help increase the proportion of the population able to participate fully and independently in society. In this context, CEN established the CEN/BT/WG 213, the Strategic Advisory Group on Accessibility (SAGA)², who advises the CEN Technical Board on political and strategic matters related to accessibility. It is working on how address the concept of ‘Accessibility’ broadly in the European Standardization system.

The current GPSD covers “consumers” whereas Article 2 (iv) “the categories of consumers at risk when using the product, in particular children and the elderly”. An additional reference to “persons with disabilities” seems to be appropriate, not only to cover the European Union’s ratification of the UN Convention on the Rights of Persons with Disabilities but to have explicitly the target group covered by the term consumer.

2. Safety challenges posed by new technologies

The impact of the General Product Safety Directive (GPSD) for the consumer goods market has been positive. However, the safety concept as set out by the legislation does not cover security risks generated by connected products and the risks to be hacked and privacy in the digital world.

Safety has always been CEN and CENELEC’s flagship. Standards provide a basis for the integration of technologies into complex systems and facilitate interoperability and data exchange. European Standards are valuable tools – voluntary and strongly for the promotion of best practice, increased efficiency, interoperability, and better quality of products and services in all business sectors. The shift from functional safety solutions (traditional sector) to transversal cybersecurity approaches (privacy, safety and security intertwined) is also affecting the vertical CEN and CENELEC technical committees, with the objective to ensure a high level of security by design and by default.

European industry is digitizing its processes, systems and is therefore increasingly using digital technologies, hence creating a need for standardization (quality, interoperability, safety, security). Moreover, new technological developments (e.g. IoT, Artificial Intelligence,

¹ https://ec.europa.eu/growth/content/feedback-guidance-document-implementation-standardisation-regulation_en

² <https://www.cencenelec.eu/standards/Topics/Accessibility/Pages/default.aspx>

Blockchain, Cloud computing etc) affect consumers' products and services, also calling for consensus-based standardization to ensure a high-level of safety and security. Standards are a means to share best practices among industry and to educate consumers on how to develop new behaviours to avoid cyber risks.

[CEN-CLC JTC 13 'Cybersecurity and Data Protection'](#) addresses the development of standards for data protection, IT security and security techniques from a horizontal perspective (i.e. across sectors). CEN-CLC/JTC 13 is currently investigating how common, base-line horizontal standards could support the cybersecurity-related essential requirements of the different sectoral legislation (e.g. RED, Machinery, LVD, Toys, Consumer Products).

The [CEN-CLC Focus Group Artificial Intelligence](#) recently provided recommendations to the [EC White Paper on Artificial Intelligence](#).

Standards have a crucial role in consolidating the European single market and contribute to building trust in ensuring the protection of privacy and personal data, while meeting new, state-of-the art, technical requirements.

To meet the product safety challenges in the digitalization context, integrated cooperation between standardization organizations and European policy makers is needed.

3. International alignment

CEN and CENELEC recognize the primacy, whenever possible, of international standards. This is ensured through the Vienna and the Frankfurt agreements that link the two ESOs with their respective international counterparts (i.e. ISO and IEC standards). It is worth highlighting that 77% of CENELEC European standards and 33,51% of the total collection of CEN standards are identical or based upon international standards. On top of that, the efficiency of this system and the preservation of European interests are guaranteed by a strong European presence and an influent expertise at international level through the involvement of experts in Technical Committees.

CEN and CENELEC have also cooperation agreements with non-European countries to achieve technical alignment with national and regional standardization bodies around the world. Twice a year CEN and CENELEC issue the [Global Outreach report](#) (pdf format) that provides an overview of technical alignment achieved with non-European partners through the adoption of identical standards with a sectoral approach. Additionally, since 2018 CEN and CENELEC decided to focus on strengthening their partnerships with 3 regional and national standardization bodies: ARSO and AFSEC (Africa), GSO (Gulf region), SAC (China). CEN and CENELEC are also quite active in developing partnerships with other national and regional standard organisations worldwide. With a membership of 34 national Members, it can boast on 3 European Affiliates and 13 Memorandums of understanding (MoU) with other Regional Standardization Bodies (RSBS). Currently, 99429 active CEN and CENELEC deliverables have been adopted identically by 38 National organisations and Regional bodies outside their (CEN and CENELEC) membership. 10094 others are in the process of being adopted and 2.3 billion people outside of the EU borders are daily impacted by European homegrown standards.

European industry - in particular for SMEs - have well benefited of the international adoption of standards and their swift European harmonisation and citation in the OJEU. European manufacturers benefit in the European and the International market without divergence in the technical content.

4. Impacts of options for revision of the GPSD

CEN and CENELEC welcome any proposals that would support and strengthen the current provisions on consumer product safety legislation, and would also recommend:

- the continuous involvement of CEN-CENELEC and other relevant stakeholders in the definition of the safety aspects and requirements, especially for new emerging risks as the safety of new technologies.
- the simplification and shortening of the procedure for referencing of the European Standards that give presumption of conformity with the European legislation would certainly increase the level of certainty for consumers and manufacturers.

Annex - List of active standardization requests under GPSD

- M/253 Baby walking frames
- M/259 Consumer Safety for oil lamps
- M/264 Childcare articles
- M/266 Safety of consumers and children – lighters
- M/285 Ladders
- M/309 Draw strings on children's clothing
- M/372 Floating leisure products
- M/425 Fire safety
- M/427 Cigarettes lighters
- M/452 Safety of music players
- M/464 Safety of child-care articles
- M/465 Safety of locking devices
- M/497 Childcare articles 'risks in the sleeping environment'
- M/505 Window blinds
- M/506 Stationary training equipment
- M/507 Gymnastic equipment
- M/508 Bicycles
- M/527 Children's seats'
- M/531 Laser products
- M/538 Alcohol-powered flueless fireplaces

List of titles and references of European standards under Directive 2001/95/EC for General product safety:

https://ec.europa.eu/growth/single-market/european-standards/harmonised-standards/general-product-safety_en

ABOUT CEN AND CENELEC

CEN (European Committee for Standardization) and CENELEC (European Committee for Electrotechnical Standardization) are recognised by the European Union (EU) and the European Free Trade Association (EFTA) as European Standardization Organizations responsible for developing standards at European level, as per European Regulation 1025/2012. The members are the National Standards Bodies (CEN) and National Electrotechnical Committees (CENELEC) from 34 European countries. European Standards (ENs) and other standardization deliverables are adopted by CEN and CENELEC, are accepted and recognized in all of these countries. These standards contribute to enhancing safety, improving quality, facilitating cross-border trade and strengthening of the European Single Market. They are developed through a process of collaboration among experts nominated by business and industry, research institutions, consumer and environmental organizations, trade unions and other societal stakeholders. CEN and CENELEC work to promote the international alignment of standards in the framework of technical cooperation agreements with ISO (International Organization for Standardization) and the IEC (International Electrotechnical Commission).

ⁱ See annex for the detailed list of active standardization requests under GPSD.