



The participation of civil society in ETSI from the perspective of throughput legitimacy

Annalisa Volpato & Mariolina Eliantonio

To cite this article: Annalisa Volpato & Mariolina Eliantonio (26 Mar 2024): The participation of civil society in ETSI from the perspective of throughput legitimacy, Innovation: The European Journal of Social Science Research, DOI: [10.1080/13511610.2024.2321852](https://doi.org/10.1080/13511610.2024.2321852)

To link to this article: <https://doi.org/10.1080/13511610.2024.2321852>



© 2024 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group



Published online: 26 Mar 2024.



Submit your article to this journal [↗](#)



Article views: 32





View related articles [↗](#)



View Crossmark data [↗](#)



The participation of civil society in ETSI from the perspective of throughput legitimacy

Annalisa Volpato ^{a*} and Mariolina Eliantonio ^b

^aDepartment of Public, International and EU Law, University of Padua, Padova, Italy; ^bDepartment of Public Law, Maastricht University, Maastricht, Netherlands

(Received 17 August 2023; final version received 14 February 2024)

The use of standards to complement legislation is a prevalent regulatory technique in the EU, including in the telecommunications, information technology and broadcasting sectors, where the ETSI (European Telecommunications Standard Institute) plays a key role. In light of the recent reform of ETSI's governance model in terms of its inclusiveness, this paper examines the role of societal stakeholders in ETSI's standard-setting process through the lens of throughput legitimacy. In particular, by relying on desk research and semi-structured interviews conducted in 2020 and 2023, we analyse specific membership and voting rules of ETSI in order to discuss in detail the possibilities of effective participation for the so-called 'Annex III organisations'. The paper shows that 'Annex III organisations' have had limited participative possibilities in ETSI's standard-setting process, entailing both *institutional* throughput and *constructive* throughput legitimacy issues. Although not fully, the recent reform of ETSI's decision-making appears to tackle them to a certain extent.

Keywords: Standardisation; participation; transparency; legitimacy; ETSI; civil society

1. Introduction

The use of technical standards for the purpose of complementing and operationalising regulation is a well-established regulatory technique in EU law. The EU legislator has often relied on these non-binding, voluntary instruments in legislation. Such use of standards, issued by private European or international standard-setting organisations, is expressly favoured by EU institutions (Council of the European Union 1985, 1989; European Commission 1985, 2011) and over time it has created a solid public–private partnership between the European Commission and the standardisation community (European Commission 2018), which has brought undoubted economic advantages to all the parties concerned.

A key role in this partnership is historically played by the European standardisation organisation in charge of technical standardisation in the telecommunications, information technology and broadcasting sectors: the ETSI (European Telecommunications Standard Institute). Established in March 1993 on the initiative of CEPT (*Conférence européenne*

*Corresponding author. Email: annalisa.volpato@unipd.it

des postes et des télécommunications) (Keller 1992, 122), ETSI presents remarkable peculiarities in comparison to the other two European standardisation organisations (CEN and CENELEC, which together with ETSI constitute the ‘ESOs’) in its organisation, membership and accessibility of standards. While standardisation in general, and in particular the role of CEN and CENELEC, have rightfully attracted substantial scholarly attention, initially from economic (Blind 2004; Gabel 1987, 1991; Grindley 1995; Matutes and Regibeau 1996; Powell 1947) and political scientists (Abbott and Snidal 2001; Büthe and Mattli 2003, 2010, 2011; Schmidt and Werle 1998), and later from legal scholars (Egan 1998; 2001; Pelkmans 1987; Schepel 2005), the peculiarities and the specific role of ETSI have remained relatively untouched by the current academic debate.

Yet, the peculiar decision-making process of ETSI has recently caught the (rather critical) attention of the European Commission, which has remarked how certain rules for the adoption of standards, in particular in ETSI, ‘allow an uneven voting power to certain corporate interests’ at the detriment of the role of societal stakeholders (European Commission 2022a, 4). The attention to the avoidance of regulatory capture by (especially non-EU) large corporations and to the inclusiveness of societal interests has thus become critical in the governance of ETSI, fostering a number of reflections and initiatives both by EU institutions and by the ETSI Board itself.

In particular, in the context of the Standardisation Strategy published in February 2022, the European Commission has presented a set of actions aimed at improving the governance and integrity of the European Standardisation System. In particular, it called the ESOs, and especially ETSI, to revise their voting rules in relation to harmonised standards (European Commission 2022a, 4) and tabled an amendment to Regulation (EU) No 1025/2012 (hereinafter the Standardisation Regulation) (European Commission 2022b). The declared intention was to enhance the internal governance of the ESOs so that harmonised standards reflect European interests and values, and that the ESOs have administrative and good governance principles in place (European Commission 2022a, 4).

Formally adopted on the 14th December 2022 as Regulation (EU) 2022/2480, this amendment establishes that certain decisions concerning European standards and European standardisation deliverables are taken exclusively by representatives of the national standardisation organisations within the competent decision-making body of the ESOs. In addition, the ESOs were asked to ‘make proposals by the end of 2022 to modernise their governance to fully represent the public interests and interests of SMEs, civil society and users and to facilitate access to standards’. If these reforms are unsatisfactory, the EU may propose a further revision of the Standardisation Regulation.

ETSI has recently implemented these legislative provisions through the amendment of its Statutes and Rules of Procedure adopted on 29th June 2023. Specifically to address the geopolitical concerns of the Commission in the elaboration of harmonised standards, it has introduced detailed provisions regulating the procedure for handling standardisation requests issued by the European Commission (ETSI 2023b, Art. 20) and for the elaboration of European standards and European deliverables in response to such requests (ETSI 2023b, Art. 21). Moreover, taking the opportunity of the Commission’s push to take a hard look at ETSI’s governance model, ‘Annex III organisations’ asked for further guarantees of effective participation (ANEC, ECOS, ETUC and SBS 2022) which were partially taken on board by ETSI. These developments and the position of ‘Annex III organisations’ within ETSI following this reform deserve careful consideration.

This paper will thus discuss the issues surrounding the role of societal stakeholders in ETSI especially in terms of *throughput* legitimacy, focusing on the inclusiveness and

openness of its standard-setting process (Schmidt 2013). In the framework of a broader discussion of the legitimacy of ETSI in the global and EU standard-setting landscape undertaken in this special issue, this paper seeks to complement Temple's and De Vries' perspectives, by looking specifically at the procedural side of the standard-setting process.

In order to analyse the guarantees for civil society involvement within ETSI in terms of throughput legitimacy, specific membership and voting rules of ETSI will be examined in order to discuss in detail the possibilities of participation for the so-called 'Annex III organisations' which represent the interests of consumers (the European Association for the Co-ordination of Consumer Representation in Standardisation, hereinafter 'ANEC'), environment (the Environmental Coalition on Standards, hereinafter 'ECOS'), trade unions (the European Trade Union Confederation, hereinafter 'ETUC') and smaller companies (the Small Business Standards organisation, hereinafter 'SBS'). The discussion will encompass not only the previous situation, but also the changes introduced by the amendment of ETSI Statute and Rules of Procedure adopted on 29th June 2023 (ETSI 2023a, 2023b). The analysis has been based on desk research and on semi-structured interviews conducted in 2020 and 2023 with representatives of the 'Annex III organisations', as well as with representatives of ETSI and the 3SI Advocate. Annex I contains a list of the affiliation of the interviewees, while Annex II contains a list of the questions posed to them. The paper will show that 'Annex III organisations' limited participative possibilities are linked to both 'structural' limitations inherent in their status and position within ETSI, so relating to *institutional* throughput, and to ETSI's peculiar decision-making process and *constructive* throughput issues.

2. The notion of throughput legitimacy between theoretical aspirations and practical requirements

At its most basic level, the notion of legitimacy refers – in a Weberian conception – to the belief of the ruled that a ruler or a rule is valid and based on good faith (Beetham 2002, 17–18). If a more normative conception of legitimacy is adhered to, it will be considered that power will be more or less legitimate to the extent that it respects certain normative standards (Beetham 2002, 18). In the context of democratic systems, these standards have been conceptualised in terms of input, output and throughput legitimacy. While *input* legitimacy refers to the representative character of the decision-making process as involving political participation by the people through majoritarian institutions of electoral representation (Scharpf 1999; Schmidt 2013, 4). *Output* legitimacy points instead to the effectiveness of policy outcomes for the people (Schmidt 2013, 10). Finally, the concept of *throughput* legitimacy as elaborated by Schmidt focuses on the efficacy, accountability, transparency as well as inclusiveness and openness of the decision-making *process* itself.

It is this particular lens of throughput legitimacy, with a specific focus on the openness and inclusiveness of the process, that will be employed in this contribution to discuss the participation of civil society actors in ETSI's standard-setting procedures. When it comes to participation, conceptualised in terms of openness and inclusiveness of a decision-making process, the notion of throughput legitimacy stresses the relevance of 'the balance in access and influence among organised interests' representing industry versus those representing societal stakes (Schmidt 2013, 7). This implies, first, the existence intermediation processes through which citizens organised in interest groups have access in the workings of decision-making processes (i.e. *institutional* throughput)

(Schmidt 2013, 15). A process will therefore be more or less legitimate to the extent to which there exist institutionalised channels through which civil society can access the process itself. For the purposes of this contribution, therefore, ETSI's standard-setting process will be more or less legitimate to the extent to which 'Annex III organisations' have institutionalised participatory possibilities at their disposal. Second, throughput legitimacy is measured on the basis of the existence of productive deliberative inter-relationships among actors, such as 'procedural requirements for active participation by a broad range of stakeholders' which result in an actual influence on the decision (i.e. *constructive* throughput) (Schmidt 2013, 18). This entails that the legitimacy of a decision-making process will be assessed on the basis of the extent to which it ensures the systematic consultation and active and effective participation of a variety of stakeholders during the regulatory decision-making, i.e. participation which, in Schmidt's definition, is capable of resulting in an actual influence on the decision. As a consequence, the legitimacy of ETSI's standard-setting processes will increase or decrease in accordance with the existence of active and meaningful participatory channels of all affected stakeholders (including, therefore, also civil society organisations).

Before we embark on our quest to assess the legitimacy of ETSI's standard-setting processes, three final considerations are in order.

Firstly, the point of departure of our analysis is that technical standards are an appropriate object of scrutiny when it comes to legitimacy. Admittedly, the notion of legitimacy is – at its outset – linked to that of authority. For this reason, it might not be straightforward to even conceive of legitimacy standards when it comes to formally non-binding measures, such as technical standards. Scholarship has indeed pointed out that non-binding means of regulation cannot be easily accommodated within traditional conceptions of authority, as they are not accompanied by means of coercion (Caporaso and Wittenbrinck 2006, 477).

We challenge this statement on two grounds. First, though formally adopted by private organisations, technical standards (especially when they are endorsed by the European Commission and take the form of harmonised European standards) are to be considered as linked to the notion of 'authority' because of the clear public law effects they generate (Eliantonio and Volpato 2022, 5–6). Second, as well documented in the anthropological research field, coercion is not solely generated through bindingness and the presence of sanctions, but can also arise through peer (or market) pressure, shaming or moral persuasion (Zerrilli 2023, 73). Earlier research in the field of standardisation, showing that operators' perception of the bindingness of technical standards is not connected to their formal legal nature, proves precisely this point (Heß and Blind 2019). As a consequence, even formally non-binding measures such as technical standards ought, in our view, to respect certain legitimacy standards.

Secondly, we depart from the understanding that the relationship between input, throughput and output legitimacy is one of synergy, rather than of trade-off (Lindgren and Persson 2010). From this perspective we build on Scharpf's understanding that the various facets of legitimacy mutually reinforce each other and no single dimension is enough to ensure legitimate State action (Scharpf 1999, 43–48). Unlike Temple, who argues that '[i]n a competitive market it is the market that determines the legitimacy of a standard' (Temple 2024), we take from the view that a more inclusive and transparent standard-setting process will be capable to deliver ultimately standards that are more responsive to the needs of society at large and the values it seeks to protect.

Finally, it should be noted that the participation of societal stakeholders and, more in general, the openness of EU decision-making processes is not only an element of the

legitimacy debate, but also a requirement in positive law. Involving citizens in decision-making – beyond the democratic representation granted through the election of the European Parliament – is a principle which since 1993 (European Council 1993) has become more and more important in EU governance (Alemanno 2014). The importance of civil society is now expressly mentioned in Article 11 TEU, consecrating in primary law the need to ‘give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action’, and in Article 41 (2) of the EU Charter of Fundamental Rights. In the last decades, the need of involving civil society also in standardisation has been repeatedly stressed by scholars (Borraz 2009; Cauffman and Gérardy 2020; Kallestrup 2017) and by EU institutions (Council of the European Union 1999; European Commission 2004, 13; European Parliament 2010, point 33; EXPRESS Panel 2010, 21). Specifically, Article 5 of Regulation 1025/2012 (hereinafter ‘the Regulation’) states that ‘European standardisation organisations shall encourage and facilitate an appropriate representation and effective participation of all relevant stakeholders’. Although expressed in terms of best-endeavours obligation, this provision clearly embodies the spirit of openness and inclusiveness the Regulation meant to convey. With the increasing role of the ESOs – in particular of ETSI – in the achievement of the EU political priorities, especially the digital transition of EU economy, these aspects have arguably become an even more crucial factor to enhance the legitimacy, the acceptability and the effectiveness of standardisation. In the words of the European Commission, ‘the special status of the European standardisation organisations comes with responsibilities’ (European Commission 2022a, 5).

3. The limitation to the possibilities for participation within the ETSI framework

For the assessment of the effective participation of ‘Annex III organisations’ in the working of ETSI, the analysis of the rules governing the membership and the voting rights within this organisation are of crucial importance. Having the ESOs autonomy in establishing their own governance framework, these rules are to be found in ETSI Statutes and Rules of Procedure. As mentioned, these rules may generate a hindrance to stakeholders’ participation in a structural or institutional manner, i.e. linked to their status and position within ETSI, and/or in a procedural or deliberative manner, deriving from the actual decision-making procedures within the organisation. We will examine these possible limitations in turn.

3.1. Institutional throughput legitimacy of ETSI governance

3.1.1. The membership rules: all members are equal

The ETSI membership structure differs substantially from the other ESOs since it is not based on national representation, but on the direct participation of the stakeholders concerned in the work of the organisation. Under the ETSI framework, there are different categories and statuses of members (ETSI 2021a; Kanevskaia 2020).

a) Categories of membership

The categories of membership are eleven and include administrations and other governmental bodies, national standardisation organisations (NSOs), network operators,

service provides, manufacturers, users, research bodies, universities, consultancy companies or partnerships, and other entities who comply with Art. 3 of the Statutes. These members may participate individually and/or grouped in national or European organisations (ETSI 2021a, Art. 6.3).

Public authorities can be involved in the standardisation activities directly as ‘administrations’ or ‘other governmental bodies’ (ETSI 2021b). They are also crucial for the membership of NSOs as the specific authorisation granted by governments is conditional for national organisations’ recognition as NSOs within ETSI. National organisations integrating the functions of administrations and operators are represented in both categories independently (ETSI 2021b, Art. 1.2.2). Companies can obtain membership for their entities through different countries (Kanevskaia 2020, 126). According to the 2021 Annual Report, ETSI has 948 members established in 64 different countries across the globe (ETSI 2021c, 2). The category of manufacturers shares the largest portion of membership (380, i.e. 41%) – around the double of the figure for administrations, other governmental bodies, universities and public research institutes all together (ETSI 2021c, 46). 144 of ETSI members are Small and Medium-sized Enterprises (SMEs) and 84 are Micro-Enterprises, together representing roughly 25% of the overall membership (ETSI 2021c, 2). Also for this reason a representative of small and medium-size enterprises is granted a reserved seat in the ETSI Board and it is currently holding also the vice-presidency in the General Assembly (Interview 3).

The ‘Annex III organisations’ are listed in the category of ‘users’. The user category, however, is not specifically limited to SMEs and societal stakeholders: also larger industrial companies may qualify for it in terms of being users of ETSI standards, and not manufacturers. In fact, trade associations or companies, such as Volkswagen AG and Renault SAS, are also in the user category. Although being in the user category has allowed for some special representation to some ‘Annex III organisations’ (since e.g. the ‘users’ category has a reserved seat in the Board), it has been recognised that ‘this broad definition of the user category does limit its value for the societal stakeholders’ (ETSI 2021e, 3). At the moment, in spite of the requests, no separate category or differentiation has been introduced to single out ‘Annex III organisations’ or societal stakeholders from the users category (Interview 7). However, for the next election of the ETSI Board, planned during the ETSI General Assembly in November 2023, more reserved seats in the Board are foreseen in addition to the abovementioned ones for SMEs and for users, including a reserved seat for an ‘Annex III organisation’ and for a ‘civil society representative’. Yet, it remains to be seen whether these seats will actually be filled with ‘Annex III organisations’ representatives since they are only ‘reserved’ in the sense that, if the members elected do not fill the reserved seats, additional Board members from the remaining candidates can be chosen from the relevant category (ETSI 2023b, Annex 7, 2).

b) Statuses of membership

In ETSI, there are also three different statuses of membership: ‘full members’, ‘associate members’ and ‘observers’ (ETSI 2021a, Art. 6.2). Full membership can be acquired by the affiliates that are located in the geographical area of CEPT (CEPT 2022), while legal entities located in other areas can acquire only associate membership (ETSI 2021a, Art. 6.4; Kanevskaia 2020). Both full membership and associate membership can be obtained where the legal entity can commit itself to ‘comply with the ETSI Directives and other decisions taken by the General Assembly, to contribute to the work, to make use of the standards produced to the extent practicable, and to support those standards for use as

the basis for world standards and recommendations’ (ETSI 2021b, Art. 1.2.2–1.2.3). The right to participate in the General Assembly and in the technical bodies – and the right to vote therein – is granted to full members and (with some limitations) to associate members (ETSI 2021b, Art. 1.4; 2021d). This is radically different from the position of ‘observers’. Observers, which can choose this status even where they fulfil the conditions for full membership (ETSI 2021a, Art. 6.6; 2021b, Art. 1.2.4), can attend the meetings of the General Assembly, but they do not enjoy the right to vote (ETSI 2021b, Art. 1.2.4). Moreover, they cannot attend standard-setting meetings nor have the right to vote for the adoption of technical standards (ETSI 2021b, Art. 14; 2021d, Art. 1.4). In 2021, there were 773 full members, 165 associate members, and 10 observers in ETSI (ETSI 2021c, 46).

The ‘Annex III organisations’ are *full* members of ETSI. As such, they participate directly in the ETSI work with the same rights as any other member. In this sense, they have direct access to ETSI bodies’ documents, they can take part in the standardisation meetings and they can vote on standardisation drafts in par with industry. The system of direct participation appears truly ‘engrained’ in ETSI’s DNA, together with the principle of equality among its members, which formally represents a constitutional value around which ETSI’s organisation is built. This makes this organisation’s membership rules immediately more democratic and participative than the ones of CEN and CENELEC, which allow only national standardisation organisations to be their members. In CEN and CENELEC, ‘Annex III organisations’ are considered ‘partner organisations’, which can participate at the levels of governing bodies and of technical work as observers, and they can issue an opinion during the enquiry and formal vote phase (CEN-CENELEC 2021, point 1.2). Different from ETSI, they do not have the right to vote on draft standards.

However, the impact of practical and factual differences among ETSI’s members should not be ignored. Different from large corporations active in ETSI, ‘Annex III organisations’ – especially the ones representing societal interests – have limited human and budgetary resources. This in turn limits the availability of technical experts to take part in the highly technical discussions (Interview 7; Interview 6). Although formally entitled to participation by their full membership, the *actual* participation of ‘Annex III organisations’ in the work of ETSI’s technical bodies is often impaired by these practical limitations. The scarcity of resources also entails some difficulties to screen and identify what information is relevant for their interests and for their constituency (Eliantonio and Volpato 2022, 33; Interview 8). In order to address this specific issue, ‘Annex III organisations’ have been granted additional information and participation guarantees compared to other members. These will be discussed in the next section.

3.1.2. *The right of information and the 3SI Advocate: much ado about nothing?*

Access to relevant information on standardisation activities in ETSI has long been a prime concern for ‘Annex III organisations’. To enhance the effectiveness of the information flow for ‘Annex III organisations’, in February 2020 the ETSI Rules of Procedure were amended in the sense of providing that a copy of the mature draft standard (informal milestone between stable and final draft) was systematically sent to ‘Annex III organisations’ by the Secretariat ‘to alert them to contribute, in accordance with the Technical Working Procedures, to the final drafting of the deliverable before [the approval of the Technical Body], or to comment via a National Standardisation Organisation during the relevant upcoming Public Enquiry’ (ETSI 2021b, Art. 13). However, this provision did not achieve its purpose: ‘Annex III organisations’ unanimously considered that it had not

brought significant changes to their position. Although certainly ‘nice to have’ (Interview 6), and ‘better than nothing’ (Interview 5), it was not perceived as a ‘life-changer’ (Interview 10) or ‘silver bullet’ (Interview 6) for resolving the information hurdles of ‘Annex III organisations’. In this sense, the availability of updated information on the website and the participation in the technical working groups represented, especially for the two organisations which are more active in ETSI, already an adequate means of providing them with the capacity to acquire the necessary information (Interview 7; Interview 10). With the 2023 reform, ‘Annex III organisations’ have now the right to receive all the information about the approval of European standards, alongside the national standardisation organisations. The right to be informed for ‘Annex III organisations’ is thus upheld, but their position does not appear to have changed substantially, at least in this respect.

Moreover, in an effort for ETSI to show compliance with Regulation 1025/2012 and its requirement to proactively involve societal stakeholders in the standardisation process, a specific programme – the 3SI Programme – has been established to organise regular meetings among ETSI’s General Assembly and Board Chairs, Director-General and Secretariat with representatives of the European Commission, EFTA and the ‘Annex III organisations’ (the so-called ‘3SI Round Tables’). ECOS, ANEC, ETUC and SBS are, thus, provided with an additional channel of communication as well as with a so-called ‘3SI Advocate for societal and SME interest’. The 3SI Advocate is a volunteer, nominated by the ‘Annex III organisations’ and then appointed by the ETSI Board, who offers support to ETSI members and chairmen on matters related to inclusiveness and receives opinions raised by ‘Annex III organisations’ concerning adopted European standards (ETSI, n.d.). He is also *ex officio* member of the ETSI Board, without voting rights (ETSI 2023b, Annex 7, 1).

As with the right of information, the 3SI Programme and the 3SI Advocate, some 5 years down the road, are regarded more as ‘lightning rod’ (Interview 7) to deflect criticism against ETSI’s limited engagement with societal stakeholders than effective instruments to effectuate real change, despite the recognised efforts of the individuals involved. Certainly, there are benefits in ‘having another eye in the conversation’ (Interview 10), but it is arguable that the 3SI Advocate’s mandate is rather vague and, for that reason, likely to be unable to radically change the position of the ‘Annex III organisations’ in the process. Moreover, even though some improvements have been remarked since the chair of the 3SI Round Tables and some secretarial support have been assigned to the 3SI Advocate, the progress has been slow. Conversely, more hopes appear to be put in the working group INCLU that was set up also to respond to the criticisms from the European Commission by the Board. Chaired by the 3SI Advocate, this working group has considered how to improve inclusiveness as a strategic component in ETSI’s work and it has reported its results to the ETSI General Assembly in November 2023.

3.2. Constructive throughput legitimacy in ETSI decision-making process

3.2.1. Consensus: what’s in a name?

Despite the openness of ETSI membership to ‘Annex III organisations’ and the specific guarantees in place, the effective participation of these stakeholder organisations in the process faces the challenges related especially to the peculiarities of the ETSI voting rules. In ETSI, the procedural steps and the voting rules vary according to the kind of deliverable and its scope of application. In line with the international principles of standardisation, the general decisive method is *consensus*. This is the case both for the General

Assembly, which adopts governance-related decisions (ETSI 2021b, Art. 11.1.1), and for Technical Bodies, which elaborate and adopt the technical standards and other deliverables (ETSI 2021d, Art. 1.7.1). If consensus cannot be achieved in the elaboration of standards, the Chair of a Technical Body can decide to take a vote.

The starting point for the definition of consensus is the ISO/IEC Directives, Part 1 which defines it as a ‘general agreement, characterised by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the view of all parties concerned and to reconcile any conflicting arguments. Consensus need not imply unanimity’. This definition has been included *verbatim* in Annex 1 of ETSI Rules of Procedure. While this definition does shed some light on the notion of consensus, it still leaves a large margin of interpretation to determine whether a ‘sustained opposition’ to ‘substantial issues’ is present and, therefore, a vote is necessary.

In the absence of a legal definition of ‘sustained opposition’, the system gives in practice a large margin of discretion to Chairs of – especially – Technical Groups to determine when consensus may be deemed to have been reached, when opposition may be deemed as sustained, and when a vote is needed. This wide discretion on the part of the Chair is only partially mitigated by the recent elaboration of the so-called Chair’s Guide, providing some instructions to try to achieve that consensus (ETSI 2022). In particular, it is expected that, if there is opposition, the Chair will have to discuss how to find a solution, try to rediscuss the issue and see if the proposal can be presented differently or amended (Interview 9).

However, it does remain the assessment of the Chair of the group to determine whether or not there is consensus or ‘sustained opposition’ to a ‘substantial issue’ in the specific case. This determining role of the Chair is perceived as severely curtailing the voice of ‘Annex III organisations’ in the process, as it will be much more cumbersome for ‘Annex III organisations’ to convince the Chair to determine that there is no consensus, given the limited amount of votes they hold in the process. We shall return to this point in the next section after having discussed the voting procedures.

3.2.2. *The voting rules: some members are more equal than others*

In case that no consensus is achieved, as well as in the cases of vote listed in Article 11 of the Rules of Procedure, the vote can be adopted through (i) Weighted Individual Voting, (ii) Weighted Individual Voting by Full Members or (iii) Weighted National Voting (ETSI 2023b, Art. 11). With the recent amendment of the ETSI Directives to bring them in line with the amended Regulation 1025/2012, a special procedure was introduced for the approval of European standards and European standardisation deliverables in response to a Commission’s standardisation request, i.e. the Standardisation Request Deliverables Approval Process (ETSI 2023b, Art. 21).

a) The Weighted Individual Voting

The Weighted Individual Voting and the Weighted Individual Voting by Full Members differ in the fact that in the latter ETSI associate members are not allowed to vote. The Weighted Individual Voting by Full Members in the General Assembly is applied, in particular, for decisions on matters concerning documents intended for regulatory use by the European Union, for standardisation policies intended to meet the needs of the European Union, and for decisions on priorities in the work programme on matters that apply exclusively inside the European Union (ETSI 2023b, Art. 11.2.2). Both procedures, however,

require the same percentage of 71% positive votes for the approval (ETSI 2023b, Art. 11.3). It is mentioned that care should be taken to protect minority rights (ETSI 2023b, Art. 11.1.4), but there is no definition of what would count towards minority and the manner in which minority must be protected (Kanevskaia 2020, 129). Moreover, in both procedures the votes are subject to the weightings contained in Annex 4 of ETSI Directives (ETSI 2023b, Art. 11.2.2).

According to Art. 1 of that Annex, such weightings are based on the contribution to the ETSI budget of the member, which for private entities in turn depends upon the worldwide turnover generated by its products and services related to ICT (the so-called ECRT). This means that larger companies enjoy systematically a stronger position in the functioning of this organisation. In the case of the ‘Annex III organisations’, which as mentioned are also full members of ETSI and therefore voting in these procedures, their votes have a very weak impact since their turnover is very limited and certainly not comparable to multinational companies. In fact, in 2022 their votes’ weighting was equal to 1 unit, with other members corporately holding more than 100 units (Interview 8).

This imbalance between the votes of ‘Annex III organisations’ and those of industrial players does not only limit the possibility of societal stakeholders to effectively have a voice in the voting process, but also has implications for the process of consensus building. In effect, it has the consequence of creating a sort of hierarchy in participants’ oppositions during the discussion. In the words of a representative of an ‘Annex III organisation’:

if you have one vote and the people next to you have one hundred votes, you know very well that you can object to a decision, you can try to say that this is a sustained opposition. Even if the chair approves your opposition, the best thing that can happen according to the rules is the vote. You will only force the group to go to a vote. And when there is a vote, it is very obvious that you will lose, because the person next to you can outvote you and one single participant can still outvote you. (Interview 10)

In a sense, ‘Annex III organisations’ find themselves therefore in a sort of ‘catch-22 situation’: because they have limited votes in the process, they have little weight in the decision-making. Since, so goes the argument, in a vote they will be outvoted anyway, their opposition will also not be considered sustained and will not be able to block the forming of a consensus.

To address this imbalance and to prevent multiple votes by multi-nationals entities in different countries or by Governments with several Departments as members, a significant reform is meant to be enacted from 2024. Accordingly, the maximum weighting per entity would be reduced from 45 to 29, and the minimum weighting increased from 1 to 3. Therefore, the ‘Annex III organisations’ would also enjoy 3 units for their weighting, partially redressing the abovementioned imbalance in the Weighted Individual Voting procedure.

b) The Weighted National Voting

The Weighted National Voting, instead, involves only national delegations from CEPT countries, which have signed the ETSI-NSO Agreement (ETSI 2023b, Annex 1). It applies to the elaboration of European standards, except those adopted in response to a standardisation request from the European Commission (ETSI 2023b, Art. 13). In particular, the procedure for the adoption of these deliverables entails, firstly, the approval by the relevant Technical Body (ETSI 2023b, Art. 13). The draft is then submitted to the Secretariat which is in charge of its transmission to the National Standardisation Organisations

(NSOs) (ETSI 2021d, Art. 2.2.3.1). This opens the second phase of the procedure, the Public Enquiry, which allows national standardisation organisations to undertake national consultations and define a position in alignment with the views of their members (Kanevskaia 2020). At the end of the 90 days of Public Enquiry, the NSOs are required to submit their comments and the national position (an unconditional ‘yes’ or ‘no’, or an abstention) to the Secretariat (ETSI 2021d, Art. 2.2.1.1.1). This concludes also the third (contextual but conceptually distinct) (Kanevskaia 2020, 132) phase of Weighted National Voting. The proposal is considered approved where the percentage of positive votes is at least 71% of the votes cast (ETSI 2021b, Art. 11.3; 2021d, Art. 2.2.1.1.1).

Until recently, unlike with CEN-CENELEC, ETSI did not recognise a right to directly submit an opinion to ‘Annex III organisations’ during the work of its Technical Bodies since they were already involved there as full members. However, from the above it emerges that, with respect to the issues concerning the elaboration, approval and implementation of European standards, ‘Annex III organisations’ were actually excluded from the voting procedure since the relevant votes are the ones of the NSOs and national delegations. Therefore, their only chance of influencing the content of a European standard was through the national level by submitting their comments on standards through an NSO, rather than directly to the ETSI Secretariat or technical body.

In particular, ‘Annex III organisations’ went through the Belgian standardisation body (Interview 2), or through their members in the different Member States where they exist (Interview 4). This practice risked watering down any contribution by civil society as the NSOs positions reflect a national consensus that may differ from the European perspective of the ‘Annex III organisation’ and its constituency (Interview 4). Our findings, moreover, show that ‘Annex III organisations’ participation at the national level is severely limited by the lack of awareness of their role in the national standardisation community. This entails the need to discuss and prove their right to participate, creating unnecessary tension and effort which slows down the standardisation process as a whole. Finally, their impact on the national position necessarily depends on the work of the national civil society organisations, which vary greatly across Member States in terms of resources, expertise and experience in standardisation (Interview 2). Also the costs to join the different national standardisation bodies vary across Member States, affecting the participation of non-commercial organisations in their work. Therefore, in the absence of systematic support of national organisations, civil society involvement at the national level is rather fragmented if not ineffective.

Because of these obstacles, ‘Annex III organisations’ strongly pushed for the recognition of a right of opinion also in ETSI. With the 2023 reform of the ETSI Rules of Procedure, this right was granted to ‘Annex III organisations’ which can now submit direct comments during the approval process of a European standard. Remarkably, this mechanism gives more visibility to ‘Annex III organisations’ positions and saves them the hurdle to use national standardisation channels to convey their views. Similar to the right to submit an opinion granted in CEN and CENELEC, however, it does not equate to a right to vote in the standard-setting process.

c) The Standardisation Request Deliverable Approval Process

With the 2023 reform of ETSI Directives, including its Rules of Procedure, the elaboration of European standards in response to a European Commission’s request and in support of EU legislation (the so-called ‘harmonised standards’) has been subject to a brand new procedure, i.e. the Standardisation Request Deliverable Approval Process

(ETSI 2023b, Art. 21). On the one hand, this change is motivated by the (geopolitical) concern that the decisions on the acceptance, refusal and execution of standardisation requests should not be influenced by non-European stakeholders. On the other hand, the amendment is presented as a piece in the puzzle of broader reforms in ETSI's governance to address the need to take into account the views of all European stakeholders, including SMEs and civil society organisations.

This newly introduced Approval Process, in particular, foresees the participation only of the NSOs of the EU and EFTA Member States and of the 'Annex III organisations' in the elaboration of harmonised standards (ETSI 2023b, Art. 21.2.1). Any ETSI member has the right to inspect a copy of certain documents and bring relevant problems to the attention of the General Assembly, but the Approval Process remains firmly in the hands of EU/EFTA actors. Moreover, like in the Weighted National Voting procedure, 'Annex III organisations' have the right to directly submit comments which 'shall be given due consideration by ETSI' (ETSI 2023b, Art. 21.2.2 and 21.4). After a Public Enquiry carried out by the NSOs involved, the approval then follows the above described Weighted National Voting procedure (ETSI 2023b, Art. 21.4 and 21.5).

It is questionable whether such procedural change – which introduces a right of opinion for 'Annex III organisations', but maintains the central role of NSOs in the decision concerning European and harmonised standards – actually improves the throughput legitimacy of this standardisation organisation. As mentioned above, the involvement of civil society at the national level is fraught with obstacles and very fragmented across Europe. 'Annex III organisations' appear aware of the fact that, while it is a step in the right direction, it will probably not substantially improve their position in the decision-making process (Interview 8; Interview 10). Indeed, apart from the hurdle to effective participation mentioned above, the change in the decision-making does not guarantee that the industry prominence inside the technical groups will be eliminated (Interview 6; Interview 10).

Finally, Art. 22 of ETSI Rules of Procedure introduces the so-called 'escalation procedure', namely the right for the all ETSI members – including 'Annex III organisations' – to appeal to the Board or to the General Assembly against any decision taken at the level of the technical bodies (see also ETSI 2023b, Art. 14.3). Also this procedure resembles a mechanism already adopted in CEN and CENELEC, i.e. the right to appeal (CEN-CENELEC 2022, Art. 6). Interestingly, different from CEN and CENELEC, the right to 'escalate' does not appear to be limited to decisions to which the member has contributed, nor subject to time limits, in this respect overcoming some of the limitations of the CEN and CENELEC's system (Cuccuru and Eliantonio 2019). From this perspective, it may be of use also to those 'Annex III organisations' that, for reasons related to resources or expertise, cannot systematically participate in the technical committees' work. Still, considering their recent adoption, it is yet to be seen whether the application of these mechanisms of commenting and of escalating will significantly improve 'Annex III organisations' role in the concrete work of ETSI.

4. Conclusions

The analysis of the law and practice of ETSI's governance and decision-making process has shown several limitations to the effective participation of societal stakeholders, arguably confirming the European Commission's remarks on the suboptimal performance in terms of throughput legitimacy of this standardisation organisation. These limitations have partially been addressed with the recent reform which arguably improved the legitimacy credentials of ETSI.

On the one hand, the system of direct participation guarantees direct access to information and activities of ETSI for ‘Annex III organisations’, which can participate as full members of the organisation with all the relevant powers. Remarkably, in relation to ETSI’s activities ‘Annex III organisations’ do not suffer from information asymmetry as they receive relevant information through the existing channels. Although the scarcity of resources and expertise does not allow societal stakeholders to take full advantage of their ETSI membership, these limitations are factual and practical, rather than institutional or structural in light of ETSI’s governance.

On the other hand, the peculiar voting rules adopted by ETSI constitute an evident obstacle to effective participation of societal stakeholders since they are currently granted only one vote each in the Weighted Individual Voting due to their limited turnover. Compared to large companies active in ETSI, this means that their actual influence in the decision-making is minimal – not only in the actual vote itself (which remains rare) but, because of the discretion granted to the chairs in the assessment of the existence sustained opposition, also in the determination of consensus. Moreover, when the Weighted National Voting and the new Approval Process apply (such as in the case of the adoption of European and harmonised standards), the final vote is cast by the national delegations, cutting out ‘Annex III organisations’ from the decision-making altogether. In this case, to influence the outcome, these organisations had to participate through the national channels, facing the obstacles of stakeholder involvement at that level which were already documented in previous studies (Eliantonio and Volpato 2022). In this context, while the amendment to secure the role of EU/EFTA national standardisation organisations to contrast geopolitical pressure in the approval of harmonised standards, does not seem to change the position of ‘Annex III organisations’ (actually further exacerbating the problems with participation at the national level), the introduction of the right of direct commenting and of escalating appears to arguably enhance their position within the organisation. In particular, the right for ‘Annex III organisations’ to directly comment in the elaboration of European and harmonised standards – so both those elaborated in the absence of and in response to a Commission’s standardisation request – and the ‘escalation procedure’ represent a recognition of the peculiar role of ‘Annex III organisations’ in European standardisation and they may become important tools to make their voice heard about societal stakeholders’ issues within an inherently industry-dominated organisation.

Against this backdrop, it emerges that, until now, ETSI has enjoyed limited throughput legitimacy. Although direct participation grants undeniable institutional throughput legitimacy to ETSI, the decision-making procedures did not appear to guarantee productive deliberative interrelationships among the actors engaged in the process, limiting the actual influence of ‘Annex III organisations’ in the final decision and, consequently, its constructive throughput legitimacy. Arguably, this impacted on the overall legitimacy of ETSI, since, as remarked by Schmidt, limited throughput legitimacy undermines public perceptions on the legality of the system, regardless of how extensive the input or effective the output (Schmidt 2013). Recent initiatives taken by the ETSI Board appear to address the issue, entering in a closer dialogue with ‘Annex III organisations’. Remarkably, these reforms recognise the specific position that Regulation 1025/2012 grants to these organisations, which may justify a departure from the ETSI’s constitutional principle of equality among members. In this sense, while it may be premature to assess whether the newly introduced mechanisms will concretely improve the effectiveness of ‘Annex III organisations’ participation, they already appear to bring ETSI closer to the functioning of CEN and CENELEC in the name of the protection of EU fundamental

values and of the essential role of ‘Annex III organisations’ for representing those societal interests which are so crucial to throughput legitimacy.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributors

Annalisa Volpato is assistant professor of European Union Law at the University of Padua and associate scholar at the Maastricht Centre for European Law (Maastricht University).

Mariolina Eliantonio is Professor of European and Comparative Administrative Law and Procedure at Maastricht University.

ORCID

Annalisa Volpato  <https://orcid.org/0000-0002-9575-2381>

Mariolina Eliantonio  <https://orcid.org/0000-0002-6736-0647>

References

- Abbott, K. W., and D. Snidal. 2001. “International Standards and International Governance.” *Journal of European Public Policy* 8 (3): 345–370. <https://doi.org/10.1080/13501760110056013>.
- Alemanno, A. 2014. “Unpacking the Principle of Openness in EU Law: Transparency, Participation and Democracy.” *European Law Review* 39 (1): 72–90.
- ANEC, ECOS, ETUC and SBS. 2022. *Document for the Ordinary Meeting of the ETSI General Assembly of 29–30 March 2022*. Sophia Antipolis: ETSI.
- Beetham, D. 2002. *The Legitimation of Power*. Houndmills: Macmillan.
- Blind, K. 2004. *The Economics of Standards: Theory, Evidence, Policy*. Cheltenham: Edward Elgar.
- Borraz, O. 2009. “Le norme: strumenti depoliticizzati dell’azione pubblica.” In *Gli strumenti per governare*, edited by P. Lascoumes, and P. Le Galles, 37–72. Milan: Mondadori.
- Büthe, T., and W. Mattli. 2003. “Setting International Standards: Technological Rationality or Primacy of Power?” *World Politics* 56 (1): 1–42. <https://doi.org/10.1353/wp.2004.0006>.
- Büthe, T., and W. Mattli. 2010. “International Standards and Standard-Setting Bodies.” In *The Oxford Handbook of Business and Government*, edited by D. Coen, W. Grant, and G. Wilson, 440–471. Oxford: Oxford University Press.
- Büthe, T., and W. Mattli. 2011. *The New Global Rulers: The Privatization of Regulation in the World Economy*. New Jersey: Princeton University Press.
- Caporaso, J., and J. Wittenbrinck. 2006. “The New Modes of Governance and Political Authority in Europe.” *Journal of European Public Policy* 13 (4): 471–480. <https://doi.org/10.1080/13501760600693846>.
- Cauffman, C., and M. Gérardy. 2020. “Competition Law as a Tool to Ensure the Legitimacy of Standard-Setting by European Standardisation Organisations?” In *The Legitimacy of Standardisation as a Regulatory Technique*, edited by M. Eliantonio, and C. Cauffman, 64–90. Cheltenham: Edward Elgar.
- CEN-CENELEC. 2021. *Guide 25*. Brussels: CEN-CENELEC.
- CEN-CENELEC. 2022. *Internal Regulations Part 1*. Brussels: CEN-CENELEC.
- CEPT (European Conference of Postal and Telecommunications Administrations). 2022. “CEPT Members, Units and Admission Year.” *CEPT*. Accessed October 4, 2022. <https://cept.org/cept-members-units-and-admission-year>.
- Council of the European Union. 1985. “Council Resolution of 7 May 1985 on a New Approach to Technical Harmonization and Standards.” OJ C 136, 4.6.1985: 1–9.
- Council of the European Union. 1989. “Resolution of 21 December 1989 on a Global Approach to Conformity Assessment.” OJ C 10, 16.1.1990: 1-2.

- Council of the European Union. 1999. "Resolution on the Role of Standardisation in Europe." OJ C 141, 19.5.2000.
- Cuccuru, P., and M. Eliantonio. 2019. "It Is Not All About Judicial Review: Internal Appeal Proceedings in the European Standardisation Process." In *Le futur du droit administratif/The Future of Administrative Law*, edited by J.-B. Auby, 475–488. Paris: LexisNexis.
- Egan, M. 1998. "Regulatory Strategies, Delegation and European Market Integration." *Journal of European Public Policy* 5 (3): 485–506. <https://doi.org/10.1080/135017698343938>.
- Egan, M. 2001. *Constructing a European Market: Standards, Regulation and Governance*. Oxford: Oxford University Press.
- Eliantonio, M., and A. Volpato. 2022. "The European System of Harmonised Standards: Legal Opinion for ECOS." Accessed November 23, 2023. <https://doi.org/10.2139/ssrn.4055292>. <https://ssrn.com/abstract=4055292>.
- ETSI (European Telecommunication Standards Institute). 2021a. *Statutes of the European Telecommunication Standards Institute*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). 2021b. *Rules of Procedure of the European Telecommunication Standards Institute. Version 45*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). 2021c. *Annual Report 2021: Standards That Shape our Future*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). 2021d. *Technical Working Procedures*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). 2021e. *Inclusiveness and the 3SI Programme. ETSI/BOARD(21)133_040r1P. 3*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). 2022. *Chair's Guide*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). 2023a. *Statutes of the European Telecommunication Standards Institute. Version 48*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). 2023b. *Rules of Procedure of the European Telecommunication Standards Institute. Version 48*. Sophia Antipolis: ETSI.
- ETSI (European Telecommunication Standards Institute). n.d. "Standards and Society: The ETSI 3SI Programme." *ETSI*. Accessed November 15, 2022. <https://www.etsi.org/images/files/Brochures/ETSI-3SI-Brochure-WEB.pdf>.
- European Commission. 1985. "Completing the Internal Market. White Paper from the Commission to the European Council." COM(85)310.
- European Commission. 2004. "Communication on Integration of Environmental Aspects into European Standardisation." COM(2004)130.
- European Commission. 2011. "A Strategic Vision for European standards: Moving Forward to Enhance and Accelerate the Sustainable Growth of the European Economy by 2020." COM (2011)311.
- European Commission. 2018. "Communication on Harmonised Standards: Enhancing Transparency and Legal Certainty for a Fully Functioning Single Market." COM(2018)764.
- European Commission. 2022a. "Communication on an EU Strategy on Standardisation - Setting Global Standards in Support of a Resilient, Green and Digital EU Single Market." COM (2022)31.
- European Commission. 2022b. "Proposal for a Regulation of the European Parliament and of the Council Amending Regulation (EU) No 1025/2012 as Regards the Decisions of European Standardisation Organisations Concerning European Standards and European Standardisation Deliverables." COM(2022)32.
- European Council. 1993. "Inter-institutional Declaration on Democracy, Transparency and Subsidiarity." Bull. EC 10-1993/118.
- European Parliament. 2010. "Resolution on the future of European Standardisation". OJ C 70 of 8.3.2012: 56-76.
- EXPRESS Panel (Expert Panel for the Review of the European Standardisation System). 2010. "Standardisation for a Competitive and Innovative Europe: A Vision for 2020." EXP 384.
- Gabel, H. L. 1987. *Product Standardization and Competitive Strategy*. New York: Elsevier Science.
- Gabel, H. L. 1991. *Competitive Strategies for Product Standards: The Strategic Use of Compatibility Standards for Competitive Advantage*. New York: McGraw-Hill.
- Grindley, P. 1995. *Standards, Strategy, and Policy: Cases and Stories*. Oxford: Oxford University Press.

- Heß, Ph, and K. Blind. 2019. “Company Perceptions of the Relationship Between EU Legislation and Standardisation and the Voluntariness of Harmonised European Standards.” *EURAS Proceedings*, 185–201.
- Kallestrup, M. 2017. “Stakeholder Participation in European Standardization: A Mapping and an Assessment of Three Categories of Regulation.” *Legal Issues of Economic Integration* 44 (4): 381–394. <https://doi.org/10.54648/LEIE2017021>.
- Kanevskaia, O. 2020. “The Law and Practice of Global ICT Standardization.” Doctoral Thesis, Tilburg University. Accessed November 23, 2023: <https://research.tilburguniversity.edu/en/publications/the-law-and-practice-of-global-ict-standardization>.
- Keller, O. 1992. *Publications Universitaires Européennes: L'élimination des entraves techniques dans la Communauté européenne*. Brussels: Peter Lang.
- Lindgren, K.-O., and T. Persson. 2010. “Input and Output Legitimacy: Synergy or Trade-off? Empirical Evidence from an EU Survey.” *Journal of European Public Policy* 17 (4): 449–467. <https://doi.org/10.1080/13501761003673591>.
- Matutes, C., and P. Regibeau. 1996. “A Selective Review of the Economics of Standardization. Entry Deterrence, Technological Progress and International Competition.” *European Journal of Political Economy* 12 (2): 183–209. [https://doi.org/10.1016/0176-2680\(95\)00013-5](https://doi.org/10.1016/0176-2680(95)00013-5).
- Pelkmans, J. 1987. “The New Approach to Technical Harmonization and Standardisation.” *Journal of Common Market Studies* 25 (3): 249–269. <https://doi.org/10.1111/j.1468-5965.1987.tb00294.x>.
- Powell, F. E. 1947. *Some Aspects of Standardization and Economic Theory*. Washington: Catholic University of America.
- Scharpf, F. 1999. *Governing in Europe: Effective and Democratic?* Oxford: Oxford University Press.
- Schepel, H. 2005. *The Constitution of Private Governance: Product Standards in the Regulation of Integrating Markets*. London: Hart Publishing.
- Schmidt, V. A. 2013. “Democracy and Legitimacy in the European Union Revisited: Input, Output and ‘Throughput’.” *Political Studies* 61 (1): 2–22. <https://doi.org/10.1111/j.1467-9248.2012.00962.x>.
- Schmidt, S. K., and R. Werle. 1998. *Coordinating Technology: Studies in the International Standardization of Telecommunications*. Cambridge, MA: MIT Press.
- Temple, S. 2024. “In a Competitive Market it is the Market that Determines the Legitimacy of a Standard.” (on file with the author).
- Zerrilli, F. M. 2023. “Anthropology and Soft law.” In *Research Handbook on Soft Law*, edited by M. Eliantonio E. Korkea-aho, and U. Morth, 71–86. Cheltenham: Edward Elgar.

Annexes

Annex I – list of interviews

- Interview 1: representative of ETUC, 16/02/2021.
 Interview 2: representative of ECOS, 26/02/2021.
 Interview 3: representative of SBS, 26/02/2021.
 Interview 4: representative of ANEC, 01/03/2021.
 Interview 5: 3SI Advocate, 17/01/2023.
 Interview 6: representative of ECOS, 25/01/2023.
 Interview 7: representative of ANEC, 25/01/2023.
 Interview 8: representative of ETUC, 26/02/2023.
 Interview 9: representative of ETSI, 02/02/2023.
 Interview 10: representative of SBS, 03/02/2023.

Annex II – list of questions for interviewees

Questions for the interviews of ‘Annex III organisations’

1. Is your organisation member of ETSI? Under which category and status?
2. Does it regularly take part in the work of ETSI technical bodies? Do you plan to increase your presence in the coming years?

3. Is the right of information established in Article 13 ETSI Rules of Procedure systematically put into place? Do you believe it has effectively improved the position of 'Annex III organisations'?
4. How do you assess the establishment of the 3SI Advocate? What has been your experience so far?
5. How is the rule of consensus put in place in ETSI technical bodies? How is the existence of a 'sustained opposition to substantial issues' determined?
6. What is your current weight in the Weighted Individual Voting? Does the Weighted Individual Voting take place in matters of your interest?
7. When the vote takes place with Weighted National Voting, how do you comment via a NSO during the Public Enquiry?
8. When the vote takes place with Weighted National Voting, are you or your national members involved as part of national delegations?
9. What hurdles does effective participation of 'Annex III organisations' face at the national level?
10. How do you assess the amendment of the Standardisation Regulation recently approved?
11. How would you assess the measures taken by ETSI to comply with the amendment?

Questions for the interview to the 3SI Advocate

1. How do you assess the establishment of the 3SI Advocate? What has been your experience so far?
2. Is the right of information established in Article 13 ETSI Rules of Procedure systematically put into place? Do you believe it has effectively improved the position of 'Annex III organisations'?
3. What hurdles does effective participation of 'Annex III organisations' face in the activities of ETSI and at the national level?
4. Do you have contacts with the national organisations, or is there a network of national equivalents of the 3SI Advocate at the national level?
5. How do you assess the amendment of the Standardisation Regulation recently approved?
6. How would you assess the measures taken by ETSI to comply with the amendment?

Questions for the interview of ETSI representatives

1. What is the role of 'Annex III organisations' in ETSI? Under which category and status do they participate?
2. Do they regularly take part in the work of ETSI technical bodies? What percentage of ETSI activities is relevant for their purposes?
3. Is the right of information established in Article 13 ETSI Rules of Procedure systematically put into place? Do you believe it has effectively improved the position of 'Annex III organisations'?
4. How do you assess the establishment of the 3SI Advocate? What has been your experience so far?
5. How is the rule of consensus put in place in ETSI technical bodies? How is the existence of a 'sustained opposition to substantial issues' determined?
6. What is the current weight of 'Annex III organisations' in the Weighted Individual Voting? Does the Weighted Individual Voting take place in matters of their interest?
7. When the vote takes place with Weighted National Voting, how are 'Annex III organisations' involved via a NSO during the Public Enquiry?
8. When the vote takes place with Weighted National Voting, are 'Annex III organisations' involved as part of national delegations?
9. How do you assess the amendment of the Standardisation Regulation recently approved?
10. What are the measures to be taken by ETSI to comply with the amendment?
11. How could effective participation of 'Annex III organisations' be improved in your view?