

TRADE UNIONS PARTICIPATION IN EUROPEAN STANDARDISATION : TRANSLATING REGULATION ?

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Abstract: This paper explores the political implications of the growing influence of transnational standards on labour by studying the role of trade unions in setting European technical specifications. Standardisation is part of the infrastructure of globalisation providing cross-border non-governmental coordination mechanisms that formally respect state sovereignty. Since the adoption of the New Approach in 1985, standards developed by the European standardisation bodies (ESBs) have been important tools for creating an internal market. The impacts of “voluntary” standards on the health and safety of workers (e.g., standards for protective equipment, machine safety, ergonomics) and on the organisation of labour (e.g., management system standards) call for a preliminary investigation of the trade unions’ role in the definition of transnational standards. Moreover, the growing influence of private labour standards has reinforced the need to address enduring question about their impact on traditional state-based labour regulations. Are private labour standard a complement or a substitute to traditional labour regulations? As the literature on private authority suggests, private-based regulations do not exist in an institutional vacuum; this situation points to the need for an analysis of the relationship among state agencies, corporations, and civil society actors within those private arrangements. By relying on heterodox political economy approaches and by drawing on the concept of translation developed by actor-network theory, this paper assess trade unions’ involvement within ESBs and explore whether private labour standards tend to complement or replace traditional state regulations. Our results suggest that the translation concept offers a more fine-tuned analysis of the interplay between private and state-based regulations.

INTRODUCTION

This paper explores the political implications of the growing influence of transnational standards on labour by studying the role of trade unions in the setting of the technical specifications governing globalisation. In Europe, the entry into force of the ‘new approach’ to technical harmonisation and standardisation in 1985 instigated a completely new regulatory technique and gave private European standards a major role in harmonising the technical specifications of goods and services traded on the internal market. Transnational standards refer here to voluntary technical specifications explicitly documented, published and sold as

tools used in the organisation of production and exchange of goods and services. Although not explicitly aimed at regulating labour, technical specifications impact the organisation of production within and across firms, thereby affecting workers. As the increased usage of standards affects a wide range of issues, such as environmental management, psychological tests, social responsibility, or postal services, the quantitative and qualitative expansion of international and European standardisation has reinforced enduring questions related to their legitimacy and impact on society as a whole (Boström, 2006; Graz and Nölke, 2008; Hallström, 2004; Hauert, 2010; Ruwet, 2009; Werle and Iversen, 2006).

Studies on labour regulation never fail to underline the expansion of private regulation of labour standards across sectors and areas (Block, et al., 2001; Elliott and Freeman, 2003; Haufler, 2001; Lipschutz, 2004; O'Rourke, 2003; Tallontire, 2007) A distinct feature of these initiatives is their reliance on voluntary rather than mandatory compliance, on incentives rather than sanctions, and on private rather than public actors for their definition, implementation, and monitoring (Hassel, 2008). The relationships between private labour standards and traditional regulations have been controversial. Some argue that private initiatives can complement traditional state-based regulations or present an alternative in the case of regulatory deadlocks. Increased pressure from consumer activists and the related reputational risks for brands would sustain the adoption of private labour standards that can—“under certain conditions”—improve labour regulations (Locke, et al., 2013; O'Rourke, 2003). Others view private labour standards as undermining traditional state regulations (C. de Gramont and Lara Flores, 2010; Lipschutz, 2004), suggesting that they do not address fundamental power asymmetries between work and capital and tend to reduce trade unions to mere interest groups, among other issues.

Although such studies draw attention to particular brands, industry sectors, or standards explicitly aimed at regulating labour, they largely ignore the impact of so-called technical specifications on workers. Even though not explicitly aimed at regulating labour, European standards and technical specifications shape working environment, production processes and qualification, thus affecting workers and employment conditions. Technical specifications generally matter as labour standard and thus call for a preliminary investigation of the role of trade union in transnational standardisation arenas. Moreover, the debate on the complementary or undermining effects of private labour standards on traditional regulation often relies on a dichotomised view of the state and market and thus fail to analyse more specifically how the distinct practices of standardisation involves changing patterns of authority beyond state and market power.

This paper relies on heterodox political economy approaches and draws from the concept of “translation” developed by actor-network theory (ANT) scholars (Latour, 2005 ; Callon, 1986) to study the participation of trade unions in the European standardisation bodies¹. It argues that the concept of translation offers a more fine-tuned understanding of their participation and representation in standard-setting activities. Our findings suggest that the dilemma of trade unions’ involvement between legitimising the privatisation of labour standards and fostering progressive labour regulations is closely related to the object of standardisation. The data presented in this paper are drawn from interviews with trade union representatives active in the field of standardisation as well as printed and Internet materials published by the institutions to which the interviewees belong and by specialised press.

The two first sections of the paper explores the relevance of the case of standards and trade unions’ involvement. The third section reviews the literature on private labour standards and

¹ The three European standardisation bodies are the Comité Européen de Normalisation (CEN), the Comité Européen de Normalisation Electrotechnique (CENELEC), and the European Telecommunications Standards Institute (ETSI).

the fourth one presents our theoretical framework. Subsequent sections presents and discusses our findings on the involvement of trade unions in European standardisation.

WHY INTERNATIONAL AND REGIONAL STANDARDISATION MATTER...

Standardisation is part of the infrastructure of globalisation providing cross-border non-governmental coordination mechanisms. The establishment of the World Trade Organisation's (WTO) Technical Barriers to Trade (TBT) Agreement and the revision of the Sanitary and Phytosanitary Measures (SPS) Agreement in 1995 as well as the plurilateral Agreement on Government Procurement (GPA) established a formal devolution of power to international standard-setting organisations. Unlike the loose provisions relating to the technical regulations of the old GATT, the TBT and SPS agreements—like some provisions of the General Agreement on Trade and Services (GATS) and GPA—give international standards a major role in harmonising the technical specifications of goods and services traded on the global market. State regulations in this domain must comply with “legitimate objectives”. With regard to goods, such concerns are related to health, safety, and environmental issues. Thus, the goal of removing “unnecessary” barriers to trade should be pursued insofar as possible by substituting international standards for domestic standards.

Developments also clearly take place at the regional level, especially in Europe as the European Union is in the forefront of international standardisation. In 1985, Council Resolution 85/C 136/01 on a ‘new approach’ to technical harmonisation and standardisation instigated a completely new regulatory technique. The new approach provides a framework for the harmonisation of EU public law only for the general and essential requirements of goods and services traded on the European market, particularly in the fields of health, environment, safety, and consumer protection. Depending on the sectors affected, technical specifications, performance criteria, and quality requirements are either based on mutual recognition of national standards or delegated to European standard-setting bodies² (Egan, 2001).

The European Commission (EC) was well aware that the emergence of an increasingly dense and extensive European standardisation complex with global reach could also support the 2000 Lisbon Agenda. Services were a core feature of the plan “to become the most competitive and dynamic knowledge-based economy in the world”. Faced with the faster development of service standards at the national than at the European level³ and the potential creation of barriers to intra-EU trade in services, the Commission initiated a reform of the European standardisation system, known as the “standardisation package.”⁴ One of its key objectives was to establish a better inclusion of service standards in the European standardisation regulatory framework. This was largely achieved by the entry into force in 2013 of the new regulation on European standardisation (1025/2012) extending the New Approach to services and constraining European NSBs to notify services standardisation activities thus enabling to transfer their further development at the European level (Graz and Hauert, 2014). Moreover,

² The three European standardisation bodies are: the CEN, the Comité Européen de Normalisation Electrotechnique (CENELEC) and the European Telecommunications Standards Institute (ETSI). The ETSI differs significantly from CEN and CENELEC in that it accepts corporate as well as national members. For further analysis of the European context, see: Egan 2001; Schoechle, 2009.

³ See for instance COM 2011(311) Final: “Progress in the development of European standards for services has, however, been slow and recent years have seen the rapid growth in service standards at the national rather than the European level, (453 new national standards in 2005-2009, as opposed to only 24 European).”

⁴ In particular, the standardisation package integrates Directive 98/34/CE of the European Parliament and of the Council regarding the “procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services” (22 June 1998) and the Decision 1673/2006/CE of the European Parliament and of the Council on the financing of European standardisation (24 October 2006).

the new regulation reinforced the support granted to European stakeholders representing consumers, trade unions, environmental NGOs and SMEs in the European standardisation bodies. Most notably, the article 5 encourage European standards-setting bodies to facilitate “an appropriate representation and effective participation” of such stakeholders and more particularly of “the European stakeholder organisations receiving Union financing in accordance with this Regulation“.

It is here worth precisising that even though participation in the main European standardisation bodies is open to all interested parties through the so-called model of « national delegation »⁵ where a national body holds the voting rights and nominate the experts within the international or regional standardisation bodies (such as ISO and CEN), standardisation remains characterized by an important democratic deficit. As the “access to standardisation” study commissioned in 2007 by the Enterprise and Industry Directorate General of the European Commission demonstrates: “(...) consumers’, environmental and trade unions’ interests are only marginally represented in many countries” (p. 10). Prior to the adoption of the 1025/2012 Regulation, the democratic deficit has been acknowledged by the Parliament and European Commission and dealt with by dedicated means to increase the representation of weakest stakeholders; for instance, the publicly funded ANEC, ‘the European consumer voice in standardisation’, was created in 1995 to represent the interest of the “European” consumers and a similar organisation in the environmental field emerged a few years latter – i.e. the European environmental citizens organization for standardisation (ECOS). But a formal basis defining the extent, modalities and material conditions of their participation in standardisation committee, as well as in standards-related EC activities, was largely absent. As such, the new regulation has granted the so-called « Annex III organisations »⁶ a more formal access to the elaboration of the Annual European Union standardisation work programme, to Commission’s draft of standardisation requests to be addressed to European standardisation bodies as well as to the « technical discussions » taking place within the European standardisation bodies. This regulation seems thus broadly echoing the growing political relevance of technical specifications for a wide range of actors, including trade unions.

...AS LABOUR STANDARDS !

The growing influence of European and international standards affect workers and labour relations in various way and are thus worth exploring as labour standards. First of all, international and European standards clearly impact upon occupational health and safety (OHS), for instance by defining the physical properties and design of personal protective equipment, by defining ergonomic requirements for machine or by designing safety devices. As underlined by Fressoz (2014), safety standards are not only providing safer workplace, they also epitomize a political project aimed at stabilizing industrial capitalism by protecting citizens form hazardous production technique as well as aimed at producing responsible workers – once scientific knowledge and engineers had secured the machine, research of further accident’s causes became directed towards workers behaviour. This highlights the extent to which technical artefacts (such as standards) and social configuration are entangled and brings us to a second element making technical specification relevant as labour standard.

⁵ By contrast with the national delegation model, ASTM International or the ETSI at the European level follow a so-called model of direct participation, where companies have direct access to the standard-setting activities with international claims.

⁶ The criteria for an organization to be eligible for EU financing are described in the Annex III of the 1025/2012 Regulation ; it follows that organizations receiving such financing are currently described as Annex III organizations.

Our second dimension refers to the so-called “hidden lives of standards” in the organisation of production and the way it deeply affects workers: “standards themselves are a means of capturing labour—whether physical techniques or ‘knowledge’ work—and they provide a medium for redistributing the responsibility for this work among groups of workers, between industry sector, or between producers and consumers” (Slaton and Abbate, 2003:96). Slaton and Abbate highlight for example how the standardisation of building materials, which were previously fabricated individually and on the building site, reduced the need for skilled workers on construction sites and led to a redistribution of technical expertise among building material manufacturers and construction workers. It is also worth noting that the standardisation of building blocks gave impetus to new industrial activities thus affecting future fields of employment. A similar evidence of the “hidden lives of standards” is also provided by the use of machine for the production of interchangeable (i.e. standardized) parts of muskets that implied a redistribution of skills among workers in order for the new production system to be workable in all its details and “tended to concentrate control over the production process in the hands of designing engineers and to reduce the influence of manufacturing artisans over the final product” (MacLennan, 2003:260).

Last but not least, in the light of the multifaceted influence of technical specifications on workers and employment conditions, the formal devolution of power to standard-setting bodies reinforces enduring questions about the legitimacy of international and European standards and the role of trade union in standardisation processes. To sum up, the relevance of technical specifications and international standards for workers not only pertains to their significance for occupation health and safety, but also to their impact on workers' qualifications, industrial relations and strategies as well as to the institutional environment that establishes a formal devolution of power to non-state actors such as standard-setting organisations. While the latter point is precisely the focus of the next two sections, it is here worth summarizing that the direct and “hidden” impacts of standards enable us to highlight that technical specifications and international standards are also labour standards.

LITERATURE

International standards are an object of enquiry closely related to globalisation studies highlighting the role of non-state actors and the emergence of private authority and less conventional forms of regulation. The literature on the rise of non-state actors, private authority, and less conventional forms of regulation has mushroomed over the last decade (Cutler, et al., 1999; Djelic and Sahlin-Andersson, 2006; Graz and Nölke, 2008; Hall and Bierstecker, 2002; Ponte et al., 2011). Not surprisingly, the expansion of “self-regulation” (Haufler, 2001), “soft regulation” (Tsogas, 2009), “outsourced regulation” (O'Rourke, 2003), “codes” (Barrientos and Smith, 2007; Koçer and Fransen, 2009; Rodriguez-Garavito, 2005) and “standards” (Giovannucci and Ponte, 2005; Locke, et al., 2007) in regard to labour has also attracted considerable attention. These studies generally underline the perils and potentials associated with the rise of non-state actors in the regulation of labour, yet they disagree on whether private labour standards will empower workers and supplement established public regulation or lead to the privatisation of labour regulation. Mid-range views of the emancipatory ability of private labour standards are offered through analysis of their impact on the distinct but related themes of enabling and protective rights or by highlighting how country specific features affect the effectiveness.

Proponents argue that private labour standards have the possibility to be an effective means for addressing poor working conditions (Haufler, 2001; Locke, et al., 2007; O'Rourke, 2003, 2006). Yet traditional labour regulations are ill suited to fulfil such tasks in a global production era. While formally respecting state sovereignty, private and voluntary labour

standards can supplement national legislation, collective bargaining, and international organisations, such as the International Labour Organization (ILO). They are valuable in providing an alternative means in front of a repressive government or in case of governmental regulatory deadlocks (Hassel, 2008). Consumers' and NGOs' pressure on brands regarding poor working conditions along the supply chain can lead brand firms to adopt private labour standards. The question of their effectiveness thus becomes central. Through a comparative assessment of several private labour standards⁷, O'Rourke identified specific conditions governing their effectiveness (2003, 2006), including 'legitimacy' through balanced representation of all stakeholders, 'rigor' with regard to monitoring technique and ILO conventions, 'accountability' and 'complementarity' to state regulations. Indeed, studying Nike's code of conduct, Locke et al. (2007) suggested that code efficiency is also affected by country and factory characteristics and by the kind of relationship between brands and particular suppliers (see also Locke et al., 2013). Proponents are inclined to observe a convergence of private labour standards around the ILO's core labour standards⁸, which in turn sustain the idea that private labour standards represent building blocks that sustain traditional labour regulations.

The distinction between enabling rights and protective rights, or process rights and technical standards, points to the question of workers' empowerment and thus places power asymmetries at the centre of the analysis (Barrientos and Smith, 2007; Koçer and Fransen, 2009; Rodriguez-Garavito, 2005). Enabling rights relate to the ILO's previously mentioned core labour standards whereas protective or technical standards relate—among others—to minimum wages, working hours, and health and safety conditions. This distinction is significant as "(...) sustainable improvements in protective rights in global factories crucially depend on the promotion of enabling rights" (Rodriguez-Garavito, 2005:206). Here, the impact of private labour standards is thematically specific. Private labour standards can supplement traditional labour regulations in the area of protective rights, but they "cannot challenge the basic power distribution created by national law" (Koçer and Fransen, 2009:254). Assessing the impact of the ETI, Barrientos and Smith provided further evidence of this thematic specificity, which "reflect[s] a deeper disjuncture between a compliance approach to codes that focuses on technical outcome standards and a process approach that focuses on the empowerment of workers to claim their rights" (2007:727). The former approach is emblematic of corporate views while the latter represents views of the civil society. This disjuncture underscores that the presence of countervailing power is crucial in the standard-setting process.

Opponents have also focused the analysis on power asymmetries, viewing workers as a crucial countervailing power (C. de Gramont and Lara Flores, 2010; Diceanu and O'Brien, 2007; Lipschutz, 2004). However, they primarily see private labour regulations as a case of "selective regulation" defined as "a system of interstate regulation which entails elaborate mechanisms and enforcement procedure for corporate rights and weak or non-existent mechanisms for social rights" (Diceanu and O'Brien, 2007:45). This results in the situation that private labour standards, "if successful on their own, only serve to entrench the arrangements that first gave rise to the conditions they are intended to remedy" (Lipschutz, 2004:198). Thus, Lipschutz argued that "the basis for effective labour law lies *within* the states and activism must focus on improving legal, political, and social conditions for workers in the host countries rather than on trying to affect corporate behaviour chiefly through consumer pressure" (2004:198). The Mexican horticulture case provides evidence of the

⁷ Among others, Social Accountability International (SAI), Fair Labor Association (FLA), Ethical Trade Initiative (ETI), and Worker Rights Consortium (WRC).

⁸ These are: Freedom of association and right to collective bargaining, nonuse of child labor as well as forced labor, non-discrimination.

contradiction between consumers' demand from abroad and local workers' well-being (C. de Gramont and Lara Flores, 2010). Technological changes introduced to maintain access to the US market requiring compliance with stricter food safety standards, ultimately led to job precarisation as well as increased unhealthy working conditions for Mexican workers. In summary, opponents denounce the reliance on market mechanisms for empowering workers while participation in such arrangements entails numerous perils, such as legitimising the privatisation of labour regulations and reducing workers' voice to a mere interest group among NGOs and consumer organisations.

Although existing studies have drawn attention to particular brands, industry sectors, and standards explicitly aimed at regulating labour, they have largely ignored the impact of the technical specifications developed within the International Organization for Standardisation (ISO) and the European standard-setting bodies. As background information on standardisation make clear, technical specifications generally matter as labour standard and thus call for a preliminary investigation of the role of trade union in transnational standardisation arenas. It is also worth noting that to date, investigation of changes introduced by the 1025/2012 Regulation on European standardisation and their impact on trade unions participation in European standard-setting activities is missing. Last but not least, the debate on the complementary or undermining effects of private labour standards on traditional regulation often relies on a dichotomised view of the state and market and thus fail to analyse more specifically how the distinct practices of standardisation involves changing patterns of authority beyond state and market power. As some political scientists and legal scholars have pointed out, the analysis of standardisation requires moving beyond the dichotomies underpinning such conceptual framework: "Standards hover between state and the market; standards largely collapse the distinction between legal and social norms; standards are very rarely either wholly public or wholly private, and can be both intensely local and irreducibly global. (...) standards can be seen as links between these spheres and institutions." (Schepel, 2005:4). These shortcomings prompt us to further elaborate on the "hybrid authority" of transnational standards (Graz, 2006) and on the potential dynamics enabling the entanglement of different spheres and institutions through standard-setting activities.

THE HYBRID AUTHORITY OF STANDARDS: A TRANSLATION APPROACH

In order to study the role and participation of trade unions in European standardisation, our analytical framework relies on international relations/international political economy (IPE) literature on new forms of power in global governance and draws from the concept of "translation" developed by actor-network theory (ANT) scholars (Latour, 2005 ; Callon, 1986). While IPE shed lights on the structural patterns underpinning hybrid forms of authority at the global level, the translation concept offers a more fine-tuned understanding of the micro-foundation on which authority relies by identifying devices "doing the work of structuring" (Holifield, 2009:648).

In the field of international political economy (IPE), Graz (2006) convincingly argues that international standards are a form of "transnational hybrid authority" encroaching upon on a mix of public and private concerns and actors and involving a wide range of territorialised and de-territorialised compliance mechanisms for their recognition. Trade unions and workers may look to standards to ensure safer workplace (e.g., standards on machine safety or maximum noise pollution) or obtain quality guarantees on the wage goods they purchase, while entrepreneurs, merchants, and financiers will equate standards with risk reduction, technological progress, and strategic competitive behaviour. The recognition of international standards may simultaneously rely on the territorial competence of the state, through formal devolution of power or by referencing them into law or public procurement policies, and on

the exogenous logic of transnational capitalism at best epitomized by worldwide certification practices. The transnational hybrid authority of international standards has some resemblance with the tripartite standards regime conceptualised by Busch and Loconto (2010). It provides a comprehensive yet differentiated picture of the wide range of actors involved in setting standards, the width of issues concerned and the deterritorialisation of sovereignty conveyed by the multiple systems of certification and accreditation worldwide. As underlined by Loconto and Busch, standards, certifications and accreditations provide a basis for self-governance as they offer together “a device ‘to abstract’, that is to transport, transform and displace an action into a formal calculative space (i.e a techno-economical network or tripartite standard regime)” (Loconto and Busch, 2010:527). By studying standards as “devices to abstract”, Loconto and Busch enable to underline that a critical source of non-state power stems from the ability of regulatory arrangements to entangle specific technical devices, such as standards, and specific social configurations. That’s precisely where the “translation” concept becomes useful for the analysis of non-state authority in the global political economy.

The concept of the “translation” has been developed by actor-network theory (ANT) scholars to explain how the knowledge developed in the containment of the laboratory remains embedded in the wider society (Callon, 1986, Latour 1987). It describes the processes by which the technosciences reduce, manipulate and transform the world and simultaneously work to the construction of an environment that fits with (Sismondo, 2008). It provides a conceptual and methodological tool to explore the processes that “establish relationships of equivalence between ideas, objects, and materials that are otherwise different.” (Best & Walters, 2013:333). The concept of translation has already been applied to governance studies, for instance in the field of food safety standards to highlight how regulatory networks are formed by powerful actors as well as to explore alternative ways through which such networks can occur (Busch and Juska, 1997; Higgins, 2006; Stuart, 2010). It has also been used to study the legitimization processes of sustainability standards by revealing how an organisation can establish its leadership through various enrolment mechanisms (Loconto and Fouilleux, 2014).

The translation describes how various entities, human and non-human, are held together through the creation of networks intended to achieve specific outcomes (Higgins, 2006). In other words, “(...) it is through mechanisms of translation that my interests and projects might become useful to yours, and through them that the disparate bits and pieces that make up a network, including interested human agents, pieces of equipment, animals, minerals and energy, are brought together in a more or less functioning assembly” (Best & Walters, 2013:333). The process of network formation implies several overlapping dimensions such as the problematization, the interessement and enrolment of allies (Callon, 1986). For example, The “problematization” occurs when a group of actors defines an issue as problematic and attempts to become “indispensable to those whose support it seeks” by establishing a relation between their activities, interests and problems and the group’s agenda and proposed solution (Callon, 1986). “Interessement” is then the process by which “technical devices are deployed in order to impose roles and identities upon other actors previously defined during the problematization phase” (Higgins, 2006:54). If successfully negotiated, interessement leads to the “enrolment” of actors that agree to take on specific and interrelated roles stabilizing relationship between various entities (Stuart, 2010). It is worth noting that the success of a translation is rarely absolute as controversies may undermine established relationships and sustain the establishment of new meanings and connections between the problems under discussion and other problems thus leading to the exploration of other options and potential technical solutions (Callon et al, 2011:28-32).

To sum up, the translation enables “to reveal the politics of seemingly apolitical activities” (Loconto and Fouilleux, 2014:169) by highlighting the entanglement of technical artefacts and social configurations. It suggests that for transnational standards to provide some forms of ordering, they have to establish relation of equivalence between the various activities and interests of those defining them as well as intended to use them, so that these otherwise different entities are assembled in a relation of reciprocal interests. By conceiving international and transnational standards as the result of the work of various experts “to translate the interests of a wide group of actors so that they work together or in agreement” (Sismondo, 2008:16), this paper argue that the contribution of trade unions to non-conventional forms of authority relate to their participation and representation in such translation networks. To provide evidence to this argument, we will thus explore the problematization establishing relations between trade union and standards and observe mechanisms deployed to enrol them accordingly. It is against this analytical background that we now turn to study the role of trade unions in establishing the authority of European standards.

TRADE UNIONS INVOLVEMENT IN EUROPEAN STANDARDISATION

Trade unions’ involvement in European standardisation reflects the broader context in which technical specification have become crucial tools in the organization of the internal market. The entanglement of machine and safety concerns in European standards has provided an important driver for trade unions’ involvement. The emergence of the new approach and its application to the machinery sector led the emergence of dedicated bodies to represent workers’ voice in the standardisation process. In fact, the Machine Directive required that “Member States shall ensure that appropriate measures are taken to enable the social partners to have an influence at national level on the process of preparing and monitoring the harmonized standards” (art. 7.4)⁹. As such, some specific bodies were established at the request of trade unions and often in collaboration with public authorities, public accident insurance, and research institutes active in the field of OHS. Most benefit from public funding. Some have a tripartite organisational structure, like the German Commission for Occupational Health and Safety and Standardisation (KAN, established in 1994)¹⁰, while others have equi-representational board representing employees and employers, like Eurogip in France (established in 1991). Next to these organisations, trade unions, such as LO in Sweden or the French General Confederation of Labour— through the Association for the Information and Defense of Wage Earner Consumer (CGT-Indécosa)— are also taking part to Euroepan and international standard-setting activities. At the European level, the adoption of the machinery directive in 1989 has also been an important driver for trade union participation, a move partly anticipated by the European Trade Union Confederation’s (ETUC) creation of the European Trade Union Technical Bureau for Health and Safety in 1988¹¹, whose aim is to support “trade union representatives working in the field of health and safety at the workplace, and in particular those involved in the work of technical harmonization at community level and in European standardisation bodies”¹².

Despite the creation of dedicated bodies, trade unions remains largely under-represented in the technical committees (TC) drafting European standards. As a German trade unionist

⁹ Directive 2006/42/CE, previously art 5.3, Directive 98/37 CE as well as 89/392/CEE.

¹⁰ Ulrich Bamberg, Head of the Employees’ Liaison Office, KAN, interview with the author, Bonn, 26 April 2010.

¹¹ The Health and Safety Department of the European Trade Union Institute (ETUI) since 2005.

¹² See <http://www.etui.org/fr/Themes/Sante-et-securite/Normalisation-et-securite-des-machines-en-anglais/Standardisation/Knowledge-base-for-an-active-ETUI/The-ETUI-interacting-with-CEN> (accessed on 05.06.2015).

emphasised, “Standardisation is characterized by a paradox of ‘large minorities.’ The two biggest groups concerned (370 million consumers, including 165 million salaried employees, in the EU) are in the minority on standardisation committees... if represented at all” (Bamberg, 2004:13). All interviewees in the current study highlighted the challenges facing workers’ representation. The lack of temporal, financial, and cognitive resources, including English as the universal working language of standardisation, is commonly cited. Christèle Hubert, also underscored human and organisational factors, citing the need for diplomatic skills and the importance of “being passionate, because participation in standardisation is not an easy task.”¹⁷ Participation in standardisation can be very frustrating, because next to the fact that a trade union representative is usually a minor player on TCs and thus “does not have the satisfaction of having everything he wanted in the standard—he has also no internal recognition as the activity is not displayed as a priority.”¹⁸ As standardisation is not a priority of trade unions, participation often results from individual decisions made by people in a hierarchical position that enables them to do so. Stefano Boy, research officer in standardisation at ETUI, also pointed to the lack of awareness of trade unions regarding technical standards. He regrets that trade unions often see employers as the main target when in fact machine constructors are very important in designing machinery that integrates health and safety concerns¹⁹. To sum up, trade unions face significant difficulties to integrate standardisation in their activities, thus highlighting that the establishment of relationships between standards and workers by trade unions is far from granted.

Notwithstanding, our observations suggest that trade unions approach the role of standards for workers mainly in relation to traditional regulation. Trade unions’ involvement highlights the ambiguous relation between traditional labour regulations and transnational standards. Due to the machinery directive, their participation within TCs related to ergonomics and machinery is viewed as a complement to European public regulations. However, as stated in a Resolution of the European trade union confederation (ETUC), trade unions are generally opposed “to highly political move to increasingly use standardisation in the internal market to replace legislation to by-pass difficult legislative processes”²⁰. Our interviewees are also underlining the privatisation thread and insist that the law should form the basis of the standardisation work: “Here is the existing law, what can the standard add to that?”²¹. As the national secretary of Indécosa-CGT stated, standardisation may represent an attempt for a “parallel re-codification of the labour code.”²² In his view, “the aim is not to fight standardisation as such, but to fight what could affect the labour codes and mislead the role of standardisation in any other role, that is in replacement to government regulation under the guise of voluntarism.”²³ In fact, our interviewees often pointed to worker representatives’ dual tasks—namely, a defensive task and a more offensive one. The former aims to prevent private arrangements from replacing labour laws while the latter aims to promote private arrangements that complement traditional labour regulations.

Participation of countervailing powers appears crucial for defining the relationships between traditional labour regulations and private arrangements. Interestingly, the societal topics are more likely to generate a defensive approach than physical standards. This defensive position

¹⁷ Christèle Hubert, In charge of ‘Standardisation’ Actions, Eurogip, interview with the author, Paris, 20 April 2010.

¹⁸ Christèle Hubert, In charge of ‘Standardisation’ Actions, Eurogip, interview with the author, Paris, 20 April 2010.

¹⁹ Stefano Boy, Research Officer in standardisation, ETUI, interview with the author, Brussels, 23 April 2010.

²⁰ ETUC Resolution on European standardisation, June 2013. Available at <http://www.etuc.org/documents/etuc-resolution-european-standardisation#.VXkx62CQtGg>, accessed on 05.06.2015.

²¹ Arnaud Faucon, National Secretary, CGT-Indécosa, interview with the author, Paris, 20 April 2010.

²² Arnaud Faucon, National Secretary, CGT-Indécosa, interview with the author, Paris, 20 April 2010.

²³ Arnaud Faucon, National Secretary, CGT-Indécosa, interview with the author, Paris, 20 April 2010.

was illustrated by the CGT-Indécosa with the case of service standard for call centres. This organization refused the inclusion of “informative annexes” in the standards, which would have contained indications regarding the organisation of work (e.g., maternity leave). Pointing to the OHS management standard, the KAN indicated that it participated in to defeating this initiative within ISO, arguing that the ILO was the competent body for defining such rules. Even though the ISO 45001 management system standard on OHS is under development at the ISO level, a preliminary draft has already been refused and the International trade union confederation as well as ILO currently reiterate their serious reservations concerning this work²⁴. Regarding CSR, another interviewee pointed to the fact that “our leaders are divided on whether or not to participate in the development of a standard with a more political content, and ultimately something diluted. Is it going to be effective and useful? At the level of our hierarchy, it is considered as a big thing... and we risk compromising... because it affects many more topics of organisation...”²⁵. ETUI also raised questions about CSR: “I know that in some countries, trade unions are involved in the CSR. They try to work on ISO standards and all that, but we have never really investigated this matter because what is the result of standardisation in this area, where are we going? For us, it is also a problem of ignorance, because once an ISO standard on management is published, the problem is that employers take standards as if they were the law, but not only the employers, even sometimes national authorities!”²⁶. To sum up, it seems that the broader the scope of the standard, the greater the danger that it will encroach upon traditional labour regulations. In this view, the extension of the new approach to services and simultaneous improvement of the inclusiveness of European standardisation is not mundane.

The new European regulation on standardisation (1025/2012) tries to align and enrol the interests of a wide range of actors in European standardisation activities, including trade unions. While trade unions remains well aware of the privatization thread associated to standards, the new regulation further recognizes them as legitimate stakeholders in technical committees and in the European Commission’s ‘committee on standards’²⁷ and provides them with funding possibilities to participate in standardisation activities. It is here worth noting that following the adoption of the 1025/2012 Regulation and EC publication of a call for proposal to identify European organisations representing social interests in European standardisation, the ETUC successfully submitted a project to represent worker’s interest in European standardisation related to services and industrial advancement²⁸. Without the EC’s funding of ETUC standardisation project, it is likely that trade unions representation would still be limited to the involvement of ETUI in technical committees related to machine, ergonomics and personal protective equipment. Moreover, by supporting stakeholder’s organisations at the European level, the regulation takes into account trade unions under-representation at national level and the corresponding need for representation at European level if they do not want hard-won points at home to be lost in the drive for a national position to promote at the regional international standardisation level. In the same time, by granting an

²⁴ For ITUC and ILO position, see for instance <http://www.ituc-csi.org/iso-is-failing-the-standard-test?lang=fr> ,accessed on 05.06.2015. For an overview of the current development of ISO 45001, see http://isotc.iso.org/livelink/livelink/fetch/-15561164/15561166/15561283/PC283_2015_N162_-_Trinidad%2C_Communique_on_the_3rd_meeting.pdf?nodeid=17013895&vernum=-2 accessed on 05.06.2015.

²⁵ Christèle Hubert, In charge of ‘Standardisation’ Actions, Eurogip, interview with the author, Paris, 20 April 2010.

²⁶ Stefano Boy, Research Officer in standardisation, ETUI, interview with the author, Brussels, 23 April 2010.

²⁷ The committee on standards, composed of EU member states with annex III organisations as observers, approves standardisation requests elaborated by the Commission prior to their communication to European standardisation bodies.

²⁸ For further description of the ETUC standardisation project, see <http://www.etuc.org/issue/standardisation> , accessed on 05.06.2015.

observer status to annex III organisations, such as the ETUC, the regulation preserves the national delegation model and the decision-making power of national standardisation bodies over the content of standards and the functioning of European standardisation organisations. Last but not least, the provisions made to increase European standardisation inclusiveness perceived since long ago as a “political precondition for the acceptability and further development of European standardisation »²⁹ also offers a mean for legitimizing the extension of the new approach to services. Even though the new regulation appears to align various interests, the proactive or defensive task of trade unions in standardisation committee reminds us that the relationship between standards and workers are ambiguous and may be contested at any moment.

Our observations highlights that next to the relationship between private labour standards and traditional regulations, another contentious issue is the technical expertise necessary to cope with standard-setting activities. Standards epitomizes scientific management principle and rely on a sharp distinction between work conception and execution (i.e. engineers defining complex machinery in the “bureau of standards”³⁰ so as to enable low skilled workers to perform simple tasks). In other words, standard-writing activities rely on the engineering knowledge rather than on workers knowledge and experiences. But understanding how the “real work” is performed is crucial for preventing workplace risks because “between what the organization requires and what is actually done, there is a gap that workers fill in mobilizing all their intelligence to cope with the unexpected” (Rey and de Gastines, 2009: 19). So, in order to sustain the entry of workers’ knowledge in standardisation arenas, trade unions developed a method to produce their own scientific expertise: the feedback method³¹. In Europe, all interviewees discussed the importance of this method, which is a research method centred on real work analysis carried out in workplaces with the direct involvement of workers using equipment. By collecting the contribution of users of work equipment and by reconstructing and understanding how real work is performed under different operating conditions, the feedback method identifies most critical aspects related to equipment, operating and maintenance procedures, training programmes, or inspection strategies that have an impact on health and safety. As such, this method provides workers representatives with scientific evidence of great value for defining, revising or improving technical standards. In this view, the feedback method shed lights on the expertise of workers, thus contesting what is usually considered as the relevant expertise for standardisation and enabling workers to influence standardisation processes taking place at the European or international level.

To resume, by adopting an approach drawing from the concept of translation, this paper highlights how the new regulation on European standardisation tries to align the interests of various actors in order to enrol them. While trade unions are still underrepresented actors in European standardisation, it is worth recognizing that to effectively fulfil their dual role in standardisation committee, i.e. proactive or defensive, participation is required. In this connection, our results demonstrate that the impacts of international and European standards on traditional labour regulations are not straightforward and that their complementary or undermining nature is also in part negotiated during their elaboration within standard-setting bodies. More generally, it appears that trade union participation in European standardisation enables to translate technical specifications into societal concerns (for instance regarding the relation between standards and legislation or potential encroachment of service standards upon labour laws) as well as to translate societal issues into technical specifications (for instance through the feedback method).

²⁹ Commission communication on « Standardisation in the European Economy », COM (91) 521 final Brussels, 16 December 1991.

³⁰ This was the original name of the current American National Institute for Standards and Technology (NIST).

³¹ It is worth mentioning that the method has been published in a scientific journal; see Strambi et al., 2012.

CONCLUSIONS

Trade unions are under-represented actors in the standard-setting process. Although the adoption of the Machinery Directive gave impetus to their involvement, numerous obstacles to their participation remain. Our results provide evidence that the impacts of international standards on traditional labour regulations are not straightforward. Interviews have shown that the complementary or undermining nature of international standards is also negotiated within the standard-setting bodies. As such, the participation of countervailing power within the technical committee in charge of standardisation is crucial. Trade unions' defensive or proactive position subsequently unveils the hybrid authority of international standards, highlighting the shift of regulatory power toward arenas that simultaneously relate to the private sphere of economic activities governed by market constraints as well as the public sphere of political action directed to general interest.

Our results suggest that the object of standardisation impacts differently upon the inherent tension in trade unions' participation in standardisation. Whereas societal objects of standardisation are more prone to encroach upon traditional regulations, physical standards are perceived as a valuable tool sustaining traditional regulations. This may in turn reflect the fact that trade union participation in physical standards occurs primarily within a field in which employees, employers, and state interest converge: the reduction of accident and associated costs in the workplace. Although safety standards relate to 'protective rights', it is worth noting that trade unions' access to standard-setting arenas is an issue of 'enabling rights': the right to collective bargaining with regard to the technical specifications governing globalization.

This paper has highlighted the growing influence of so-called voluntary technical standards on workers and has underscored the role of trade unions as a significant countervailing power. International standards can offer a promising avenue for studying the role of trade unions in the globalisation process. Trade unions' involvement in standardisation address productive concerns that move beyond traditional distributive concerns (Hannah and Bueno Fischer, 2002, p. 100). In this regard, it remains to be seen how far trade unions will use technological issues to undermine 'selective regulation' and promote workers' rights.

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