

The European Network of National Authorities and of National Standardization Bodies in the Field of Public Procurement

Challenges for Public Authorities and NSB's in referencing standards in public procurement.

- *Fourth joint online meeting.*
 - *May 20th 2021 10.30 to 12.30*

Programme



- 10.30** **Welcome to network members.**
- 10.35** **Short status on the challenges in article 42.3.b-d for public authorities.**
- 10.45** **Article 42.3 and referencing of European Technical Assessments (ETA's) in technical specifications**
- 11.15** **Referencing of European harmonised standards in public procurement**
- 11.45** **New and relevant standards developed in public procurement**
- 11.55** **Good examples in integrating article 42.3 in Public procurement**
- 12.10** **Any other Business**

~~85~~ 88 representatives following the network
from ~~21~~ 22 countries 20th May 2021



- Representatives from ~~17~~ 18 central public procurement authorities as well as from 19 NSB's (*National standardisation bodies*)

+ Observers

Welcome to **new** participants from

National public procurement authorities in:

- **The Czech Republic, The Ministry of Industry and trade**

Observer:

- **EOTA – European Organisation for Technical Assessment**
The General Secretary
- **Hitec Road**
The CEO

NSB's from:

- **No new NSB's this time. Still 19.**



Network participants

Country	National Public proc. Rep.	NSB representative
Austria	YES	YES
Belgium	YES	YES
Croatia	YES	YES
Cyprus	YES	YES
Czech Republic	YES	no
Denmark	YES	YES
England	no	YES
Estonia	no	YES
Finland	YES	YES
Germany	YES	YES
Iceland	YES	YES
Latvia	YES	YES
Lithuania	YES	YES
Luxembourg	no	YES
Malta	YES	no
Norway	YES	YES
Poland	YES	YES
Romania	YES	YES
Slovakia	YES	no
Spain	YES	YES
Sweden	YES	YES
Switzerland	no	YES

New representatives (green) and existing representatives (blue)

Presenters

Welcome to today's presenters:

ETA-Denmark

Mr. Thomas Bruun, Managing director

As himself

Mr. Kåre Groes, Legal Advisor, working at the Danish Energy Agency.

CENCENELEC

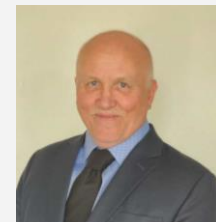
Ms. Christina Thorngreen, Project manager

DanSense

Mr. Søren Jensen, Director, DanSense

Practicalities when meeting in Zoom

- Keep the microphone on **MUTE** when not speaking
- Use “**hands up**” function if more people have questions at the same time.
- **If connection is getting weak**, please turn off video.
- Presentations will be sent out after the meeting.



Programme May 20th



10.30 **Welcome to network members and status.**

10.35 **Short status on core challenges in article 42.3.b-d for public authorities.**

Søren Jensen, DanSense

Mission for this network

- **Further professionalize and simplify public procurement through increased referencing of standards in European Public Procurement.**

(Based on the Public procurement Directive [2014/24/EU](#))

Meaning

- Increase knowledge on how to use of standards in public procurement in general, Art 42.3.
- Demonstrate simple and new ways of referencing standards.
- Incorporate relevant topics like e.g., sustainable procurement and accessibility.



And:

- Offer specific and detailed training in how to reference standards in a simple and documentable way.
- Help in increasing national focus on referencing standards in public procurement.



Legal background for referencing standards

Directive 2014/24/EU of the European Parliament and of the council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC **explicitly allows contracting authorities to reference standards in technical specifications in the procurement process**

- Article 42 “Technical specification”

42.3

- “...Without prejudice to mandatory national technical rules, to the extent that they are compatible with Union law, **the technical specifications shall be formulated in one of the following ways**”

42.3.(a) in terms of performance or functional requirements, including environmental characteristics, provided that the parameters are sufficiently precise to allow tenderers to determine the subject-matter of the contract and to allow contracting authorities to award the contract;



**The good
old way of
doing
things
throughout
Europe!**



Legal background for referencing standards

- **42.3(b)** “*by reference to technical specifications and, in order of preference, to national standards transposing European standards, European Technical Assessments, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when any of those do not exist - national standards, national technical calculations or national technical specifications relating to the design, calculation and execution of the works and use of the supplies; each reference shall be accompanied by the words ‘or equivalent’;*”
- **42.3(c)** *in terms of performance or functional requirements as referred to in point (a), with reference to the technical specifications referred to in point (b) as a means of presuming conformity with such performance or functional requirements*
- **42.3(d)** *by reference to the technical specifications referred to in point (b) for certain characteristics, and by reference to the performance or functional requirements referred to in point (a) for other characteristics.*

If you don't understand standards you cannot use (b), (c) or (d)

What is a standard?



**This list of
standards is
exhaustive**

If not mentioned, then
not included.

Art 42.3(b): Order of preference

In order of preference:

- A:** National standards transposing European standards
- B:** European Technical Assessments
- C:** Common technical specifications
- D:** International standards
- E:** Other technical reference systems established by the European standardisation bodies,

or if the above does not exist

- F:** National standards
- G:** National Technical approvals
- H:** National Technical specifications

Each reference accompanied by the words “**or equivalent**”.



Core challenges

Article 42.3

Standards within recognised standardisation organisations



International standardisation

- ISO
- IEC
- ITU





European standardisation

- CEN
- CENELEC
- ETSI





National standardisation bodies

e.g.:



Other standards mentioned in the **order of preference** above:

In B above): European Technical Assessments for **construction products**



In C above): Common technical specifications for the **ICT area**. (Official Journal of EU)

An analysis in **six countries** show amongst others that:

- Standards are in general **not known to most contracting authorities**.
- When learning about standards **55% of contracting authorities are self-taught** in referencing standards.



Not knowing standards affects article 42.3.b-d,
and related articles affected by lack of knowledge of 42.3.b-d

Not being able to reference standards reduces possibilities in e.g.:



Article 42.3 include actions in....

Article 43 “Labels”

- Related e.g., to **transparency, documentation and proof of conformity**

Article 44 “Test reports, certification and other means of proof”

- Related to e.g., **documentation, proof of conformity, measurement and transparency.**

Article 60 “Means of Proof”

- Related to e.g., **third party documentation** in a standardized way.

Article 62 “Quality assurance standards and environmental management standards”

- Related to e.g., **correct use and documentation of certificates, better assessing of “other evidence”, and requirements setting.**

Why is it so important to reference standards?



Standards

- They ensure a **common understanding** of the product, service, or construction works.
- Contain **specific and described** requirements (first and basic, to be added to)
- Are primarily European or International so they may **increase cross-border trade**.
- Can open for **more innovative bids**.
- Can **provide better documentation** of delivered product / service (Art.44)
- Can **document sustainable procurement**

**Focusing sustainability
more today**

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- 10.45** **Article 42.3 and referencing of European Technical Assessments (ETA's) in technical specifications**

Mr. Thomas Bruun. Managing director at ETA-Denmark.

- What is an ETA, and how should we reference them in public procurement?
- Could ETA's be beneficial for sustainable development?

ETA's

Article 42.3

2014/14/EU Art 42.3(b): [Order of preference](#)

In order of preference:

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Each reference accompanied by the words “**or equivalent**”.



Referencing standards

Article 42.3.b

Order of preference

In **Order of preference** (B), European Technical Assessments (ETA's) are referenced right after European standards (EN).

- **If an ETA exists**, it should be referenced prior to an international conflicting standard and other lower ranked standards.

For environmental experts.

This is a brilliant way to re-introduce used construction products to the market.

- **Thomas Bruun's presentation**

Managing director at ETA' Denmark



How can ETA's be used in public procurement

Summarizing

- In **Order of preference** (B), European Technical Assessments (ETA's) are referenced right after European standards (EN).
- ETAs are specifications solely related to the **Construction Products Regulation** (CPR).
- In **public procurement**, ETA's can be referenced in the technical specifications based on the EAD's as basis for needs and requirements, **if it is ensured that**:
 - The basic procurement principles on **transparency, non-discrimination** and **equal treatment** is considered.
 - That "**or equivalent**" proof of documentation is accepted.
- ETA is an important tool for **reintroducing building products**, increasing potentials for circular economy.
- National ETA organisations are organized in Europe in the **European Organisation for technical assessment** "**EOTA**".

Referencing ETAs as examples in this guide

First sector specific guide for contracting authorities in referencing standards and environmental requirement in public procurement



- **Focusing:**

- Standardisation aspects,
- Environmental aspects,
- Circular economy

in

Building renovation and demolition projects. Useful for new construction projects too.

Click the guide to read the preview

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- 11.15** **Referencing of European harmonised standards in public procurement**

Mr. Kåre Groes, Legal advisor working at The Danish Energy Agency, presenting today as private person.

- How and why should we reference European harmonized standards in public procurement.

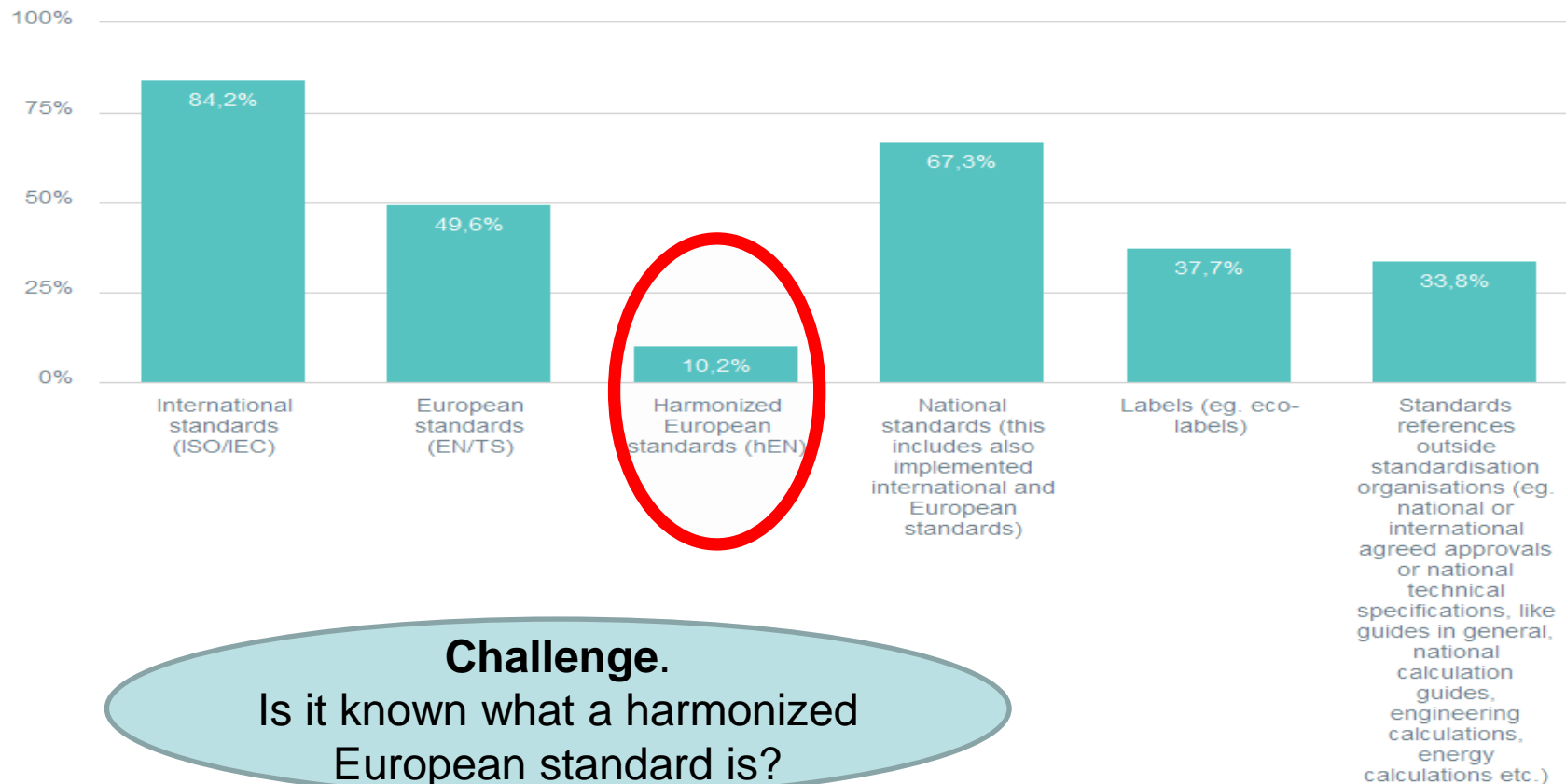
Introduction to European harmonised standards



An analysis in 2019 amongst others, clearly indicate that general knowledge to harmonised standards is low in public procurement.

Click the guide to find the report

Public sector: Do you know if any of the following types of standards have been referenced as part of procurement documents?



Kåre Groes presentation

Overview of different applications of standards

	National legislation	Public tender	Private contract
Does art. 34 TFEU apply to non-harmonised standards referred?	Yes for national and non-harmonised EN standards, DVGW	Yes, procurement directive consideration 1	No, Sapod Audic Modif – if regarding certification in national legislation
Who is responsible for art. 34 violations stemming from a standard?	NSB's for national standards, DVGW. EN standards?	EC for hENs Member state for other standards	No responsibility Modif as above
May CPR hENs be referred?	Yes, but only annex ZA, G vs. Comm	Yes, but only annex ZA, G vs. Comm	Yes, entire standard, Elliott case
May other non-CPR hEN's be referred?	Yes but only for presumption of conf.	Yes but only for presumption of conf.	Yes
May non-harm. EN's be referred?	Yes	Yes, but similar must be accepted	Yes
May requirements be made to hEN's about ie environment?	Yes, but only in relation to annex ZA	Yes, but only in relation to annex ZA	Yes

Any Questions



Using Harmonized standard in public procurement

Summarizing

- The code and title of Harmonized standards are cited in the ***Official journal of the European Union*** under the relevant directive/regulation.
- Compliance with harmonized standards remains voluntary, although the use of these standards to gain presumption of conformity may prove **the most cost-efficient, easiest and quickest** way to meet legal requirements in a tender.
- Harmonized standards may exist in all kinds of European standards within e.g., products, services, systems, performance, and methods.
- In technical specifications they are to be referenced in the order of preference in Article 42.3 complying with the code of the standard.

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 Ms. Christina Thorngreen, Project manager. CENCENELEC



- Christinas Presentation

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- 11.55** **Good examples in integrating article 42.3 in Public procurement**
 - Mr. Søren Jensen.** Managing director DanSense
 - **A new climate agenda**, and ways to reference Green House Gasses (GHG) in public procurement.
 - **Sustainable building renovation** and requirements in technical specifications.

Example 1

A new global climate agenda.

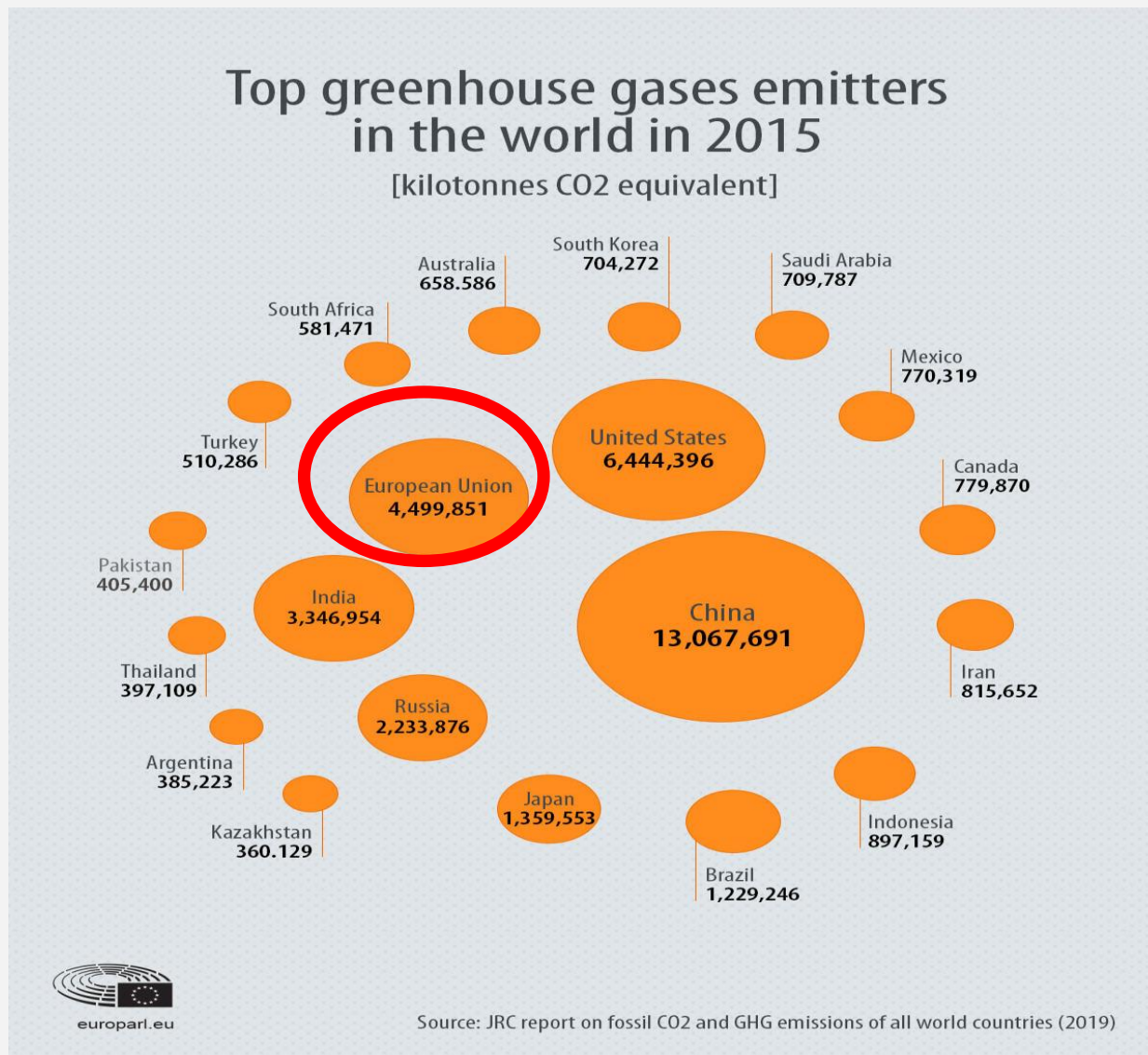


EU to become climate neutral by 2050 (maybe sooner)

- The Green deal and new climate laws.
- Referencing Green House Gasses (GHG) in public procurement.

Example 1

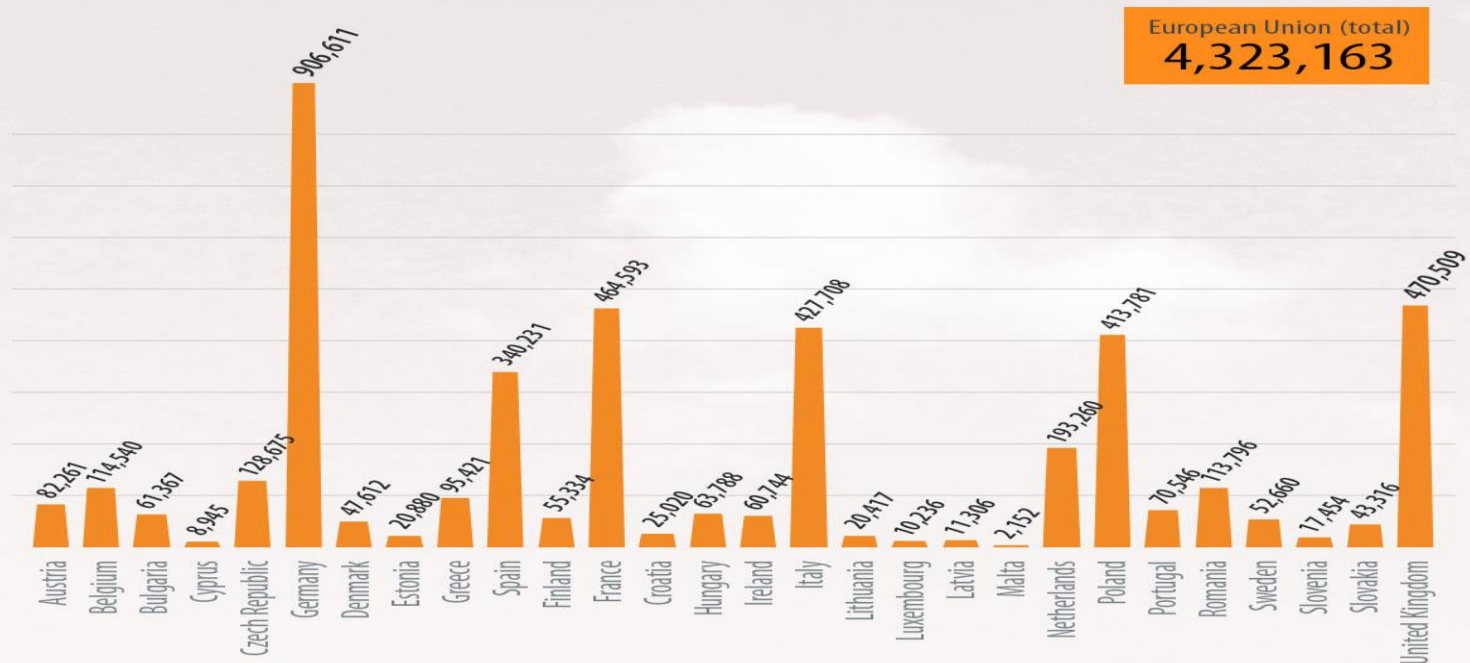
Setting requirements to GHG's in public procurement



The Green deal and emission of GHG

Total greenhouse gases emissions* per EU country in 2017

[kilotonnes CO₂ equivalent**]



* All sectors excluding land use, land-use change and forestry (LULUCF)

** CO₂, N₂O in CO₂ equivalent, CH₄ in CO₂ equivalent, HFC in CO₂ equivalent, PFC in CO₂ equivalent, SF₆ in CO₂ equivalent, NF₃ in CO₂ equivalent

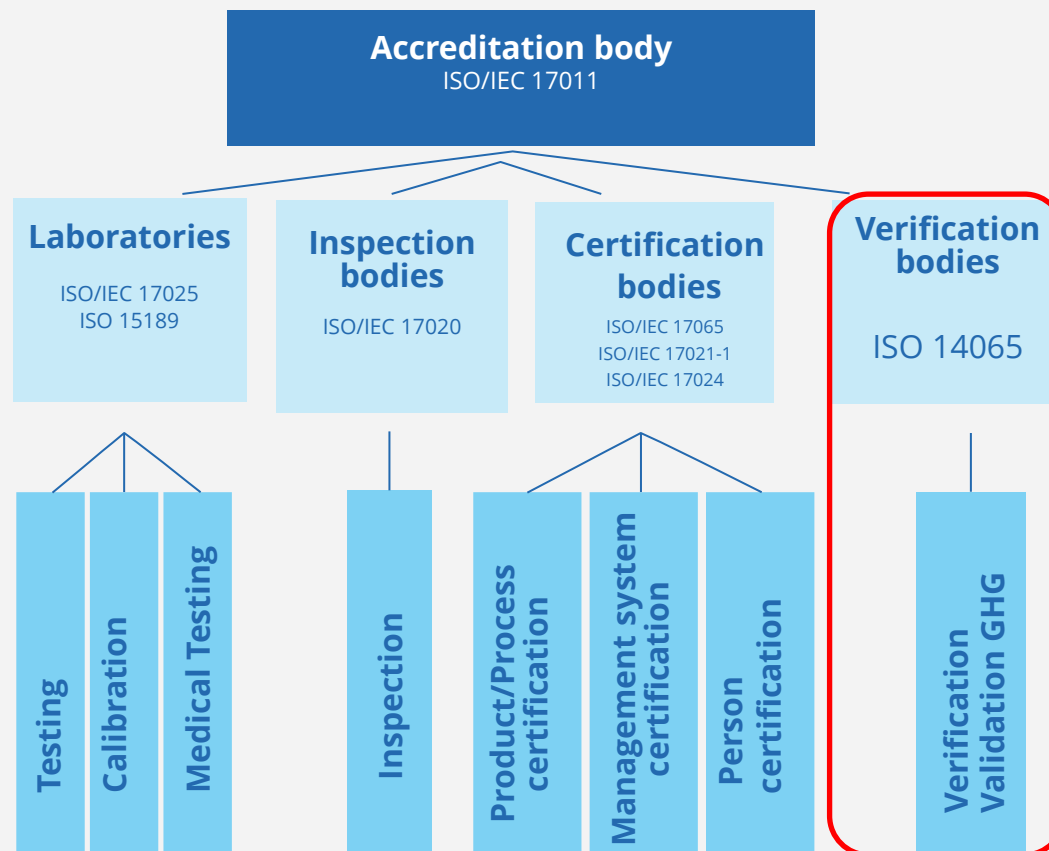
What is a greenhouse gas? (GHG)

Vienna Convention (1985), Montreal Protocol (1987), UNFCCC convention (1992), Kyoto protocol (1997), Doha amendment (2007), Paris Agreement (2015), Kigali amendment (2017)

- **CH₄:** Methane
- **CO₂:** Carbon dioxide
- **CFCs:** Chlorofluorocarbons
- **Halons:** Compounds of carbon with bromine and other halogens
- **HCFCs:** Hydro chlorofluorocarbons
- **HFCs:** Hydrofluorocarbons
- **HFEs:** Fluorinated ethers and alcohols
- **NF₃:** Nitrogen trifluoride
- **N₂O:** Nitrous oxide
- **PFCs:** Perfluorocarbons
- **SF₆:** Sulphur hexafluoride

Together named as
GHG's and
measured as
CO₂ equivalents

International standards structure ensuring proof of conformity with test reports and certificates



Green House Gasses - "GHG"

Setting requirements in public procurement **with standards**.

- **EN ISO 14064-1 Greenhouse gasses – Part 1:** Specifications with guidance at the **organization level** for quantification and reporting of greenhouse gas emissions and removals.
- **EN ISO 14064-2 Greenhouse gasses – Part 2:** Specification with guidance at the **project level** for quantification, monitoring and reporting of greenhouse gas emission reductions or removal enhancements.
- **EN ISO 14067 Greenhouse gasses:** Carbon footprint of products (CFP)
– Requirements and guidelines for quantification.

Referencing GHG in public procurement

- **EN ISO 14064-1** Organizational GHG
- **EN ISO 14064-2** on quantification, monitoring and reporting of GHG
- **EN ISO 14067** on inventory of CFP (carbon footprint)

Verification
bodies ISO
14065

Verification
or
validation
of GHG

+ for Verificators/validators

- **ISO 14066:2011** Competencies on GHG
- **EN ISO 14064-3:2019** on activities to verify or validate in GHG

Green House Gasses - "GHG"

Setting requirements in technical specifications

- **Example:**
- **EN ISO 14064-2 Greenhouse gasses – Part 2:** Specification with guidance at the **project level** for quantification, monitoring and reporting of greenhouse gas emission reductions or removal enhancements.

In a public tender on new cars, it is possible to chose either the **award criteria** on “cost” or “best price-quality ratio” as greenhouse gas emissions can be capitalized with reference to the standard in relation to life cycle costs as well as on price/quality ratio.

Alternatively, it is possible to set **minimum requirements** based on the standard and ensuring proof of conformity through third party verification or validation bodies.

Example 2: Sustainable building renovation

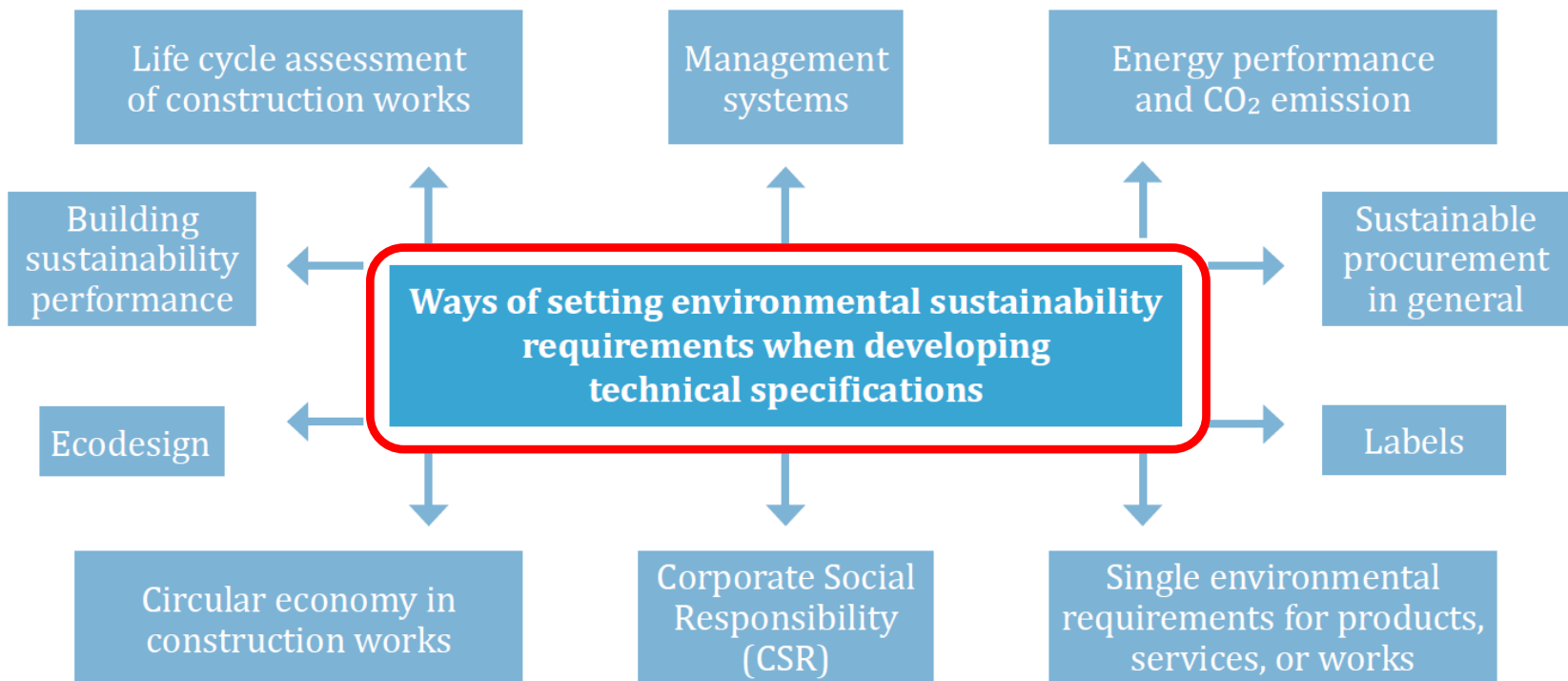


Click the guide to read the preview

- Buildings account for approximately **40 %** of the energy consumption and produces more than **1/3 of global GHG**.
- For **new buildings** many steps have been taken through **legislation** as well as **volunteer** solutions (e.g., DGNB or Swan certificates). The Swan also include requirements for major renovations.
- For **renovation of existing buildings**, which is the major part of the building sector, this guide is the only one going into details on considerations to do before renovating or demolishing sustainable.

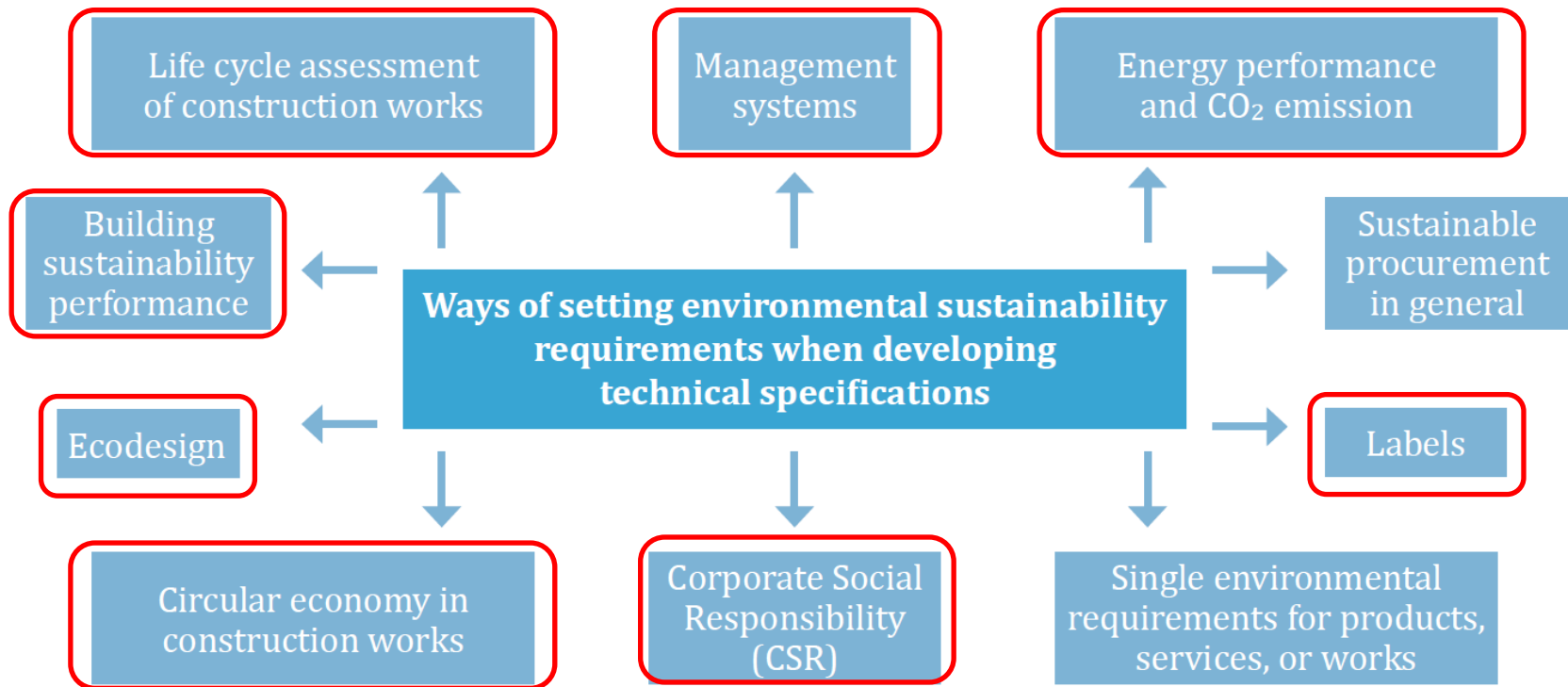
Sustainable building renovation

Ways of setting **environmental and climate** requirements in technical specifications



Sustainable building renovation

Ways of setting **environmental** requirements in technical specifications where **standards** can be referenced as help.



Sustainable building renovation

Setting requirements in technical specifications

- **Example:**
 - **The municipality of Lejre** in Denmark, wanted in 2013 to renovate three very different buildings located at the same property as a “state of the art” danish sustainable renovation project .
 - The buildings contained a kindergarten, an outdoor swim-Center and an indoor Sports-Center.
 - It was decided to carry out:
 - Sustainable building renovation
 - Energy renovation including sustainable energy production
 - At the same time renovating foundational building damages and improving work environment for users.

Sustainable building renovation

Sustainable improvements requested:

- Photo voltaic solar power integrated in constructions.
- Basic heating from thermal power.
- Replacing windows and doors with new low energy alternatives.
- Installing a rainwater tank for collecting water for flushing toilets.
- Ensuring continual Legionella control of heated water.
- New ventilation.
- New and reduced energy consuming lighting and change of electric hardware like refrigerators to less energy consuming types.
- Insulation of sealings and pipes in the Kindergarten.
- Remote observation of energy consumption from all systems.
- Plus, total reduction in need of external energy supplied by 80 %. (*71 % achieved*)

Sustainable building renovation

Setting requirements in technical specifications

- The tender was published as a **restricted procedure** with five bidders invited to send bids.

Further Environmental aspects:

- Besides numerous environmental aspects addressed like e.g., PVC-free cabling, FSC or PEFC labelled timber, eco-labelled sealants, paints and adhesives, several standards were referenced in the technical specifications.

Sustainable building renovation

Setting requirements in technical specifications

- Standards referenced:
 - **ISO 14001** on environmental management,
 - **ISO 9001** on quality management,
 - **IEC 62109**, safety on power converters,
 - **VDE-AR-N 4105:2011** (German standard for network integration of decentralized power generation)
 - **EN 13244** Plastic piping systems for buried and above-ground pressure systems for water for general purposes (piping for thermal heating)
 - **EN 1102:1987** Installations in building – Calculation of installation spaces for pipelines.
 - **EN 1991-1-4:2007** Eurocode 1: Actions on structures part 1-4: General actions – Wind actions (for ensuring correct construction of solar power plants)

This was in 2013. Today this list would be much longer.

Relevant standards in the construction sector

When setting requirements in technical specifications

Examples on new and interesting ways of using standards for further professionalising and simplifying public tenders in the **Construction sector**:

- The **ISO 14060** series on GHG
- **ETA**'s on reintroducing building materials to the market
- The **ISO 14040** and **ISO 14044** on Life Cycle Assessments (LCA)
- **ISO 21931-2** Sustainability in buildings and civil engineering works.

And don't forget:

- **Eurocode** standards EN 1990-1999 on **the design** of buildings and other civil engineering works and construction products

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Any other business

Next meeting

More meetings than a year? Maybe 4?

Plane right now: January, May, October

Proposed next meeting: **September 30th 2021**.

- **Decision:** No objections to proposed next meeting

Any other business

- **UNE (Daniel), showed a link to a new kind of training in the use of standards in a game.**
 - **Link:** <https://www.une.org/participa-en-normalizacion/formacion-en-normalizacion/juegoeltrenperdido>
- **Do we need or 4 annual meetings?**
 - As an idea four could be possible, but maybe shorter, and with more specific agendas.
 - DanSense will send out an evaluation scheme where ideas can be added.
- **It was discussed how to better increase the use of standards**
 - UNE, Spain, proposed some kind of R&D established.
 - SIS, Sweden, proposed to try to invite Vendor systems to introduce at next meetin
 - Søren proposed some volunteer sub-groups established



Any other business

- **Good experiences to present for next meeting**
 - Who wish to bring in good experiences or planned initiatives ?
- **Other topics or challenges to discuss.**
 - National implementation and use of standards



Any other business

1 year celebration

- An Evaluation is always good

Evaluation and new ideas for the network.

Webinars: Art. 42.3: Network for public contractors on referencing of standards and green requirements in public procurement.	Date: May 20th 2021
Name:	Organisation:
E-mail:	Send to sj@dansense.dk



Did the content on the network live up to your expectations?

5	4	3	2	1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How was the academic level?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Any other business

1 year celebration

New topics

Which of the following topics might be most relevant to you at your next network meeting?

1. **Good national experiences** in the use of standards in public procurement
2. **Innovation** through better use of standards.
3. **Latest news from the EC**, on green public procurement
4. **National implementation** on referencing of standards and green requirements in public procurement.
5. **EU's Green deal** and consequences for technical specifications.
6. **EOTA** and European use of ETA's.
7. **Labels** and broader perspectives through the use of standards

1	2	3	4	5	6	7
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Do you have suggestions for new topics to address in the network?

-



Training - What is needed nationally?

DanSense can offer:

First national meetings (core stakeholders)

- Setting up **first national meeting** with DanSense for discussing specific needs.
 - *(1–2-hour meeting)*

Train the trainer.

- A few selected persons from each country trained for starting own national training.
 - *(5 days training of trainers in Denmark)*

First national workshops/webinars

- Together with a national stakeholder having first national training in how to reference standards in public procurement.
 - *(One day workshops or 2x3 hours webinars)*

Tailor made training

- In specific articles in the directive relating to Article 42, like e.g.; Art. 43, 44, 60, 62, or in actual technical specifications under development and with the need for adding sustainability requirements and standards.

National sector specific workshop/webinar on sustainable building renovation

- *(One day workshops or 2x3 hours webinars in sustainable)*

Train the Trainer

In Denmark.

From Sep. 27- Oct. 1. 2021

Participants. Max. 15-16. and max 3 from each country



Content:

- Training and use of Art. 42 and all related art.
- Specific training in how to reference environmental-, climate-, accessibility-, CSR-, and work environment requirements for trainers.
- Introduction to circular economy and Industrial symbiosis.
- Physical excursions to/meetings with stakeholders practically using the above.

Price: 10.000 Euro/person including all costs for the stay.

Presentation of DanSense

DanSense. Consulting engineers.

We specialise in:

Public Procurement and purchasing including

- Environmental requirements.
- Referencing of standards.
- Sustainable and circular procurement.

Environmental Aspects and impacts

- Sustainable development (Africa project)
- Management systems, ISO 14001 etc.
- Specific environmental aspects.



Søren Jensen: MSc. Env. Mgm. “Master in Environmental Management”. Owner of DanSense. Experience: 33 years from the public and private sector and in a fund.

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