



L I V E F R O M B R U S S E L S

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CONSUMER AFFAIRS

□ **HOTREC MBS methodology: a modern tool for fire safety in hotels in Europe!**

As explained in *Live from Brussels N°43* and *N°45*, HOTREC has been working, since the end of 2008, on a flexible instrument, aimed at increasing fire safety in hotels across Europe. A Working Party composed of experts from various HOTREC national associations was in charge of developing this new tool.

After more than a year of work, the final version of this instrument is now ready. Its title is “*Guidelines to fire safety in European hotels - Hotel Fire Safety MBS (Management, Building and Systems) Methodology*”. It is a practical and flexible tool bringing hotel fire safety into a set of hands-on advices, which any hotelier can easily understand and follow. This document is intended to be used, on a voluntary basis, in support of national/regional and local regulations and standards.

The methodology is the outcome of a long and difficult process which included, in an open and transparent dialogue, representatives of the European Commission, European Parliament, tour operators & travel agents, insurance industry, consumers, other interested parties and the European hospitality industry. This fruitful dialogue enabled to enrich the methodology with stakeholders’ own experiences with fire safety.

As agreed during the HOTREC General Assembly held in Barcelona in November 2009, this methodology is made available to all HOTREC national associations, which will decide how to make the best use of it and how to disseminate it to their members. The methodology is also made available to all interested stakeholders.

So far, some HOTREC national associations from six EU countries (Austria, Denmark, Germany, France, Sweden and the UK) already announced their intention to make use of the MBS methodology and have started reflecting on its incorporation into their own existing fire safety instruments. This methodology could also be looked at carefully by public authorities and bring them to review their rules, moving from a prescriptive towards a risk assessment approach.

The issue of fire safety in hotels in Europe was at a standstill for the last 25 years, as the EU could not agree on any update of its 1986 Recommendation on the matter. HOTREC is, therefore, very proud to make available its new MBS methodology, which constitutes a major breakthrough and a great success for HOTREC! The English version is accessible on the [HOTREC website](#). This achievement by HOTREC is a clear demonstration of the industry’s commitment to provide safe services to its guests.

□ **Package travel Directive: revision underway with a new consultation!**

More than two years after a first consultation on the existing package travel Directive (see *Live from Brussels N°41* and *N°42*), the European Commission finally launched officially the revision process of the Directive. After having hired a consultancy to carry-out an impact assessment for an upcoming legislative proposal (see *Live from Brussels N°48*), the European Commission has launched on 26 November 2009 a new and very detailed consultation on the matter.

The European Commission has identified six priority areas for the revision of the Directive:

- “*The scope of the package travel Directive;*
- *Information to be provided to the consumer;*
- *Liability for substandard services and assistance for consumers;*
- *Contract Changes;*
- *Insolvency;*
- *Travel Protection Label.*”

The consultation consisted of 5 distinct questionnaires addressed to the various groups of stakeholders (public authorities, trade associations, enterprises, consumer organisations and individuals) and was open until 7 February 2010. It is available on the Commission [website](#).

The revision of the package travel Directive is of high importance for the hospitality industry. First of all, as providers of a service included in a package, hoteliers are submitted to certain obligations and can be sued – in case of improper performance - by the organiser of the package. Furthermore, hoteliers are also considered as tour organisers when they offer, in combination with the hotel room, other tourist services not ancillary to accommodation (e.g. a golf course, spa treatments, tickets for the opera, etc.). In such case, hoteliers are directly liable to the consumers for improper performance of the contract, must provide specific pre-contractual information to consumers and, in addition, have to participate in a guarantee fund.

HOTREC already met with the consultancy in charge of carrying-out the impact assessment and replied in detail to this new consultation.

HEALTH AND FOOD

❑ **Food labelling: over 500 amendments tabled in the European Parliament!**

On 2 December 2009, MEP Renate Sommer (Germany, EPP) presented in the ENVI Committee (Environment, Public Health and Food Safety) of the European Parliament her new draft report on the Commission proposal for a Regulation on food information to consumers ([COM\(2008\) 40 final](#)). As stressed in previous issues of *Live from Brussels*, this proposed Regulation is of major concern to the hospitality sector because, if adopted as it stands, it would require restaurants, cafés, caterers, etc. serving “non-prepacked food” to provide, for each item on their menus, the same information that has to be displayed on the labels of prepacked foods sold in shops.

The [draft report](#) of MEP Sommer consists of 201 amendments, which suggest substantial modifications to the Commission proposal.

As regards the issue of “non-prepacked food”, the Rapporteur takes the view that it should be largely excluded from the scope of the Regulation. In other words, the indication of the full list of ingredients, the net quantity of the food, the nutrition declaration, etc. should not be mandatory.

In relation to allergens, the Rapporteur proposes that information be made available to customers orally and/or by means of material displayed on the premises; in addition, customers have to be warned that the possibility of allergens cross-contamination can not be excluded for non-prepacked food.

The members of the ENVI Committee had until 9 December 2009 to table their amendments to the Sommer draft report. They tabled over 300. The Committee is expected to vote on the draft report and related amendments in March 2010. The adoption of the first-reading legislative opinion by the EP in plenary session should take place in May or June 2010.

In parallel, the examination of the proposal has progressed in the Council of the EU. However, the experts of the national governments are far from reaching an agreement on the text, since many issues are still open. The work, therefore, continues under the Spanish Presidency of the EU (January – June 2010).

HOTREC welcomed as an important step in the right direction the Sommer draft report, as it largely excludes non-prepacked food from the scope of the Regulation. The Rapporteur rightly acknowledges that food served by caterers, restaurants, etc. is not a standardised product and, therefore, can not be subject to the labelling requirements applicable to prepacked-food.

However, HOTREC has some doubts about the solution proposed in the draft report with regard to the sensitive issue of allergens and non-prepacked food. For a restaurant, informing properly the customers - as suggested by the Rapporteur - “during the sales talk” or “by means of material displayed on the premises” would necessarily imply a full analysis of all the dishes offered, in relation to the potential presence of any ingredient listed in Annex II.

The list of allergens (Annex II) is very long, includes some very complex denominations, which make them difficult to identify, as well as ingredients that are used in most recipes. Therefore, the risk of cross-contamination (i.e. the risk that a dish may accidentally contain traces of allergenic ingredients used for the preparation of other dishes) is unfortunately unavoidable in restaurants, where chefs have to simultaneously prepare various dishes containing several allergens commonly used (eggs, fish, milk, nuts, etc.).

As a result, contrary to its objective, this Regulation could lead to give consumers the false impression that they can be fully protected from allergens. Furthermore, the text does not address the extent and conditions of the potential liability of operators serving meals; national legislation will continue to apply.

For all these reasons, HOTREC continues to believe that non-prepacked food should be completely excluded from the scope of the Regulation and that the decision, whether and how to adopt rules concerning allergens in case of non-prepacked food, should be left to Member States. They are better placed than the EU institutions to address the issue of non-prepacked food, as culinary traditions and diets vary greatly from country to country.

HOTREC met with several MEPs to explain the position of the hospitality industry and was very pleased to see that some of them tabled amendments which take properly into account the specificities of the sector.

□ EU action on food prices in Europe

On 28 October 2009, the European Commission issued a Communication on “A better functioning of the food supply chain in Europe” ([COM\(2009\) 591 final](#)). The Communication is a follow-up to the Commission report on “Food prices in Europe” of December 2008 (see *Live from Brussels N°45*). The 2008 report identified a better functioning of the food supply chain (agricultural sector, food processing industry and distribution) as a key element to avoid

asymmetries in price transmissions and to ensure that “*downwards movements in commodity prices are transmitted to consumers without delay*”.

Over the last years, food price trends have indeed raised concerns amongst EU policy makers, as sharp declines in agricultural commodity prices did not fully translate into lower food prices for consumers. To address this problem and improve the functioning of the food supply chain, the Communication suggests actions at EU and national level:

- To eliminate unfair contractual practices between businesses along the chain and to closely monitor potential competition issues in sectors of the chain;
- To increase price transparency along the food supply chain by further developing the [European food prices monitoring tool](#) and by strengthening food retail price comparison services in Member States; and
- To remove obstacles and end practices which hinder the integration of the internal market for food products. (For example, the Commission intends to “*review selected environmental standards and origin labelling schemes that may impede cross-border trade [...]*”).

The Commission notes that “*significant imbalances*” in contractual relations between actors in the food supply chain have been identified and plans to investigate how farmers’ bargaining position can be strengthened vis-à-vis larger buyers “*be they producers, wholesalers, retailers*”.

In 2010, the Commission intends to issue a report on the advancement of the actions proposed as well as a Communication on the monitoring of the European retail market.

HOTREC continues to follow with interest this issue and further developments at EU level, as the European hospitality industry is an important player in the food chain and a major “end-user” of food and agricultural products. Sharp variations in prices of agricultural and food products can indeed have a significant impact on the competitiveness of the industry.

□ **Member States satisfied with the EU food hygiene regulation**

On 13 October 2009, the Council of the EU adopted [Conclusions](#) on the Commission report of July 2009 on the application of the EU hygiene Regulations, including Regulation 852/2004 on the hygiene of foodstuffs (see *Live from Brussels N°48*).

In its Conclusions, the Council “*confirms its general satisfaction with the hygiene legislation and sees no need for a fundamental overhaul*”. However, EU Member States take note of the difficulties identified in the report as regards the application of the Regulation, in particular the implementation of HACCP by micro-businesses, and call on the Commission “*to provide guidance on how to make use of the existing possibility for flexibility and to investigate if further flexibility could be introduced, especially for small businesses.*”

The Conclusions also confirm that the Council blocked the adoption of the Commission proposal (March 2007) to exempt micro-enterprises from the application of HACCP procedures, given the predominant view among Member States that Regulation 852/2004, together with the Commission relevant guidance document, already allows for sufficient flexibility in the application of HACCP principles.

For years, HOTREC and its Member Associations have been advocating special arrangements in relation to micro-businesses and HACCP procedures. For this reason, HOTREC welcomes the Council Conclusions only as far as they call on the Commission “to investigate if further flexibility could be introduced”.

HOTREC regrets that the Council blocked the Commission proposal to exempt micro-businesses from the application of HACCP procedures. The EU missed a good opportunity to reduce unnecessary administrative burdens for small businesses.

□ **EU countries invited to ban smoking in all public places by 2012**

On 30 November 2009, the Council of the EU adopted a Recommendation on smoke-free environments. The measure (a non-binding instrument) is the outcome of the initiative launched by the European Commission (DG SANCO) in 2007 to achieve “A Europe free from tobacco smoke” (see *Live from Brussels N°45*).

The text adopted by the Council (with the abstention of Austria, Czech Republic and Slovakia) is almost identical to the draft put forward by the Commission in June 2009 (see *Live from Brussels N°47*). It calls on EU Member States to comply with their legal obligations stemming from the Framework Convention on Tobacco Control (FCTC), the “anti-tobacco” Treaty of the WHO, ratified by the European Community and 26 Member States.

As recommended by Art. 8 of the FCTC, Member States are invited to adopt national legislation banning smoking in all indoor public spaces and workplaces, without any exception, by 2012 at the latest.

The broad definition of “indoor places”, together with the indication that legislation may cover “outdoor or quasi-outdoor” public places “where appropriate”, could bring Member States to extend the scope of their legislation and ban smoking even in partially enclosed spaces, such as patios or terraces.

In parallel to this “smoke-free” initiative, the Commission has been working also on a possible action against smoking at the workplace, under the aegis of DG Employment and Social Affairs. A “first-stage consultation” of the European social partners on this issue was launched in December 2008 and the “second stage consultation” was expected to take place at the end of 2009, but it has not been announced yet. It will be up to the new Barroso Commission to decide on the next steps.

HOTREC continues to believe that the issue of smoking in public and workplaces is best tackled at national level, where local conditions and specificities can be better taken into account. In accordance with the principle of subsidiarity, Member States should be allowed to decide on the most appropriate manner for them to comply with their obligations under the WHO FCTC.

Furthermore, HOTREC considers that the initiative by DG Employment for a possible EU action against tobacco smoke at the workplace would not only be contrary to the principle of subsidiarity, but also result in a duplication of measures in contradiction with the principle of “better regulation”.

□ **Council invites to do more to reduce alcohol-related harm**

On 1 December 2009, the Council of the EU, under the aegis of the Swedish Presidency, adopted Conclusions on alcohol policy and health. The [Conclusions](#) recall the commitments made by the Member States and the Commission with the adoption in 2006 of the EU alcohol strategy and call on them to increase their efforts to reduce alcohol-related harm (see also *Live from Brussels N°48*).

Amongst others, the Council invites Member States to “*consider the role of pricing policy, such as regulation on happy hours, special taxes on mixed drinks and drinks for free offers, as an effective tool, [...], in the toolbox to reduce alcohol related-harm and evaluate its impact*”. In addition, Member States and the Commission are encouraged to “*engage actors in the alcohol beverage chain to work proactively in enforcing regulatory measures so that their products are produced, distributed and marketed in responsible manner*”.

The Commission is invited by the Council to report in two years on the outcome of its work, as well as on the activities of the Member States to reduce alcohol-related harm.

HOTREC noted that the Council Conclusions stress that Member States have the main responsibility for alcohol policy, reiterating that there are different cultural habits related to alcohol consumption in the various Member States.

As highlighted in its Guidance document (see article below), HOTREC is of the opinion that rather than new rules, reducing alcohol-abuse related harm requires the full respect and proper enforcement of legislation already in place, as well as a true commitment of all parts of society (families, educational institutions, law enforcement agencies, businesses, societal NGOs, etc.).

□ **European Alcohol and Health Forum**

On 12 November 2009, the European Alcohol and Health Forum held its 5th plenary meeting. The Forum brings together 65 organisations (European-wide associations and their members) that are willing to take self-binding and verifiable actions aimed at reducing alcohol-related harm. Members of the Forum, include representatives of economic operators (alcohol producers, retailers, hospitality, etc.), consumers, medical professions and health NGOs.

At the November 2009 plenary meeting, the participants were updated on the activities of the Forum and its “bodies”:

- Ongoing discussions within the Science Group of the Forum on topics for future analysis (e.g. alcohol at the workplace and / or accessibility of alcohol);
- Outcome of the “Mapping exercises” carried out in the context of the Task Force on Marketing Communication on the issues of: self-regulation of marketing of alcohol; social marketing and targeting youth.

The next plenary meeting of the Forum will take place on 11 March 2010, while the Open Forum (session open to non-members) is scheduled on 22 April 2010.

Further information on the Alcohol Forum, including the summary report of the 5th plenary meeting, is available on the DG SANCO [website](#).

HOTREC is a member of the Forum since 2008, together with the British Beer and Pub Association, the Finnish Hospitality Association and the Swedish Hotel and Restaurant Association. Details on the commitments by HOTREC and its members can be found on the HOTREC [website](#).

□ **HOTREC Guidance document on responsible drinking**

On the occasion of its 60th General Assembly in Barcelona (5-6 November 2009), HOTREC adopted a Guidance document on the hospitality sector and responsible drinking.

The Guidance document clearly states that the European hospitality industry accepts its responsibility in combating alcohol abuses and is committed to responsible serving within the legal framework at national level. The objective of the document is to provide guidance to national hospitality associations on how to fulfil and - where appropriate - strengthen this commitment.

At the same time, the Guidance document reiterates the HOTREC opinion that a one-size-fits-all solution at European level is not appropriate, as no single approach to alcohol policy can succeed uniformly in every Member State, since drinking patterns and traditions vary from country to country.

The Guidance document, which was circulated to all the members of the Alcohol Forum, is available on the HOTREC [website](#).

CLASSIFICATION

□ **New HOTREC position paper on hotel classification**

On 5 November 2009, HOTREC adopted a [new position paper](#) on European and international classification, which updates the document adopted in 2005. The main efforts undertaken by HOTREC in relation to classification since 2004 are going in two directions.

On the one hand, HOTREC is striving at making the different national/regional classification systems more transparent. The website www.hotelstars.org is providing information on the meaning of the stars in the different European countries.

On the other hand, HOTREC member associations have undertaken since 2004 to bring the various classification systems closer together, using a bottom-up approach, in full respect of the principle of subsidiarity. Their benchmarking exercise has resulted in the development of 21 HOTREC principles for the setting-up and/or review of national/regional hotel classification systems. These principles are widely followed in the countries whose associations belong to HOTREC. These 21 principles allow classification systems to get closer and closer to one another, without any brutal disruption of the existing schemes, which would be to the detriment of the consumers as well as of the industry.

As yet a follow-up to this benchmarking exercise, some HOTREC members are harmonising their hotel classification systems and criteria (see separate article on the Hotelstars Union).

The benchmarking activities were launched in response to the call in the Directive on services in the internal market for more transparency in relation to hotel classification as well to the demand of consumers, some hotel chains and several hotel review/booking sites.

As far as approximation or harmonisation of the existing systems is concerned, HOTREC member associations will continue to oppose any attempt by the public authorities or the standardisation bodies at European or international level to impose a European-wide or world-wide classification system.

□ **The founding of the “Hotelstars Union” to lead to harmonised hotel stars in Europe**

On 14 December 2009, an important step was taken towards harmonised hotel stars in Europe: the hotel associations from Austria, the Czech Republic, Germany, Hungary, the Netherlands, Sweden and Switzerland created the “Hotelstars Union”. Under the patronage of HOTREC, the founding members of the “Hotelstars Union” are introducing a common classification system in their respective countries from January 2010 on, with the objective to provide hotel guests with more transparent and reliable information.

Austria, Germany, the Czech Republic and Sweden are already applying the new common criteria, when categorising hotels. Hungary also intends to start in 2010 after having finalised the proper legal framework. In accordance with its classification revision sequence of 5 years, Switzerland will adopt the common criteria in 2011. The Netherlands will work along the same time scale.

The common system of the “Hotelstars Union” is based on a total of 270 single criteria; a combination of minimum criteria per category and facultative criteria are to be met to collect a required amount of points, depending on the category. These criteria are developed on the basis of representative guest surveys and, therefore, match the expectations and requirements of the guests. Accordingly, the catalogue of criteria, valid from 2010 on, puts emphasis on the areas of quality management, wellness and sleeping comfort. The hotel stars of the partnership founded in Prague will also increasingly integrate a linking function between the real hotel product and its virtual image on the internet. A step in this direction is already taken with the criteria regarding the informative value of hotel websites and an invitation to provide hotel reviews.

Further information and the catalogue of criteria are available on the website of the “Hotelstars Union” www.hotelstars.eu including links to the national associations participating. An overview of classification systems in Europe can be found on the HOTREC website www.hotelstars.org.

The set-up of the “Hotelstars Union” is the direct result of the benchmarking activities on classification undertaken by the HOTREC associations over the last years (see the article above on the HOTREC position paper on classification). These benchmarking activities were launched in response to the call in the Directive on services in the internal market for more transparency in relation to hotel classification as well to the demand of consumers, some hotel chains and several hotel review/booking sites.

VAT

□ VAT changes in the Member States

As reported in the previous issues of *Live from Brussels*, the VAT rates saga at European level in relation to the hospitality industry is finally over! [Directive 2009/47/EC](#) – which amended the [VAT Directive 2006/112/EC](#) – gives the option to all Member States to apply a reduced VAT rate not only to accommodation, but also to restaurant services, including all types of beverages.

France was the first country to reduce the VAT rate for restaurant services (excluding alcoholic beverages) from 19,5% to 5,5% as from 1 July 2009. This brings the VAT rate for restaurants to the same level as for hotel services.

In Belgium, the VAT rate for meals served in restaurants was reduced from 21% to 12% as from 1 January 2010. The standard VAT rate of 21% for all kinds of beverages served in restaurants remains. Hotel services continue to benefit from a reduced rate of 6%.

In line with its promises, the German government finally lowered the VAT rate for hotel rooms from 19% to 7% as from 1 January 2010. This brings the German hotel market on an equal footing with the accommodation industries in the neighbouring countries, where a reduced VAT rate to hotel services has been applied for a long time (except in Denmark, where hospitality services are still subject to a 25% VAT rate, the highest in Europe). Due to budgetary constraints, a similar VAT decrease for restaurant services was finally not adopted.

From 1 January 2010, the standard VAT rate (applicable both to hotel and restaurant services) in the UK increased back from 15% to 17,5%. Indeed, in December 2008 the government had temporarily reduced for one year the standard VAT rate, in response to the economic crisis.

On 1 January 2010, an increase in VAT rates from 9% to 10% with regard to the reduced rate (applicable to hotels) and from 19% to 20% with regard to the standard rate (applicable to restaurants) took place in the Czech Republic. In Estonia, the restaurant sector has to live with an increase of the standard VAT rate from 18% to 20% since 1 January 2010, while the reduced rate applicable to accommodation services remains unchanged at 9%.

There are further positive and negative changes announced with regard to the level of VAT rates for 2010:

In Finland, the government intends to make use of the new option given by Directive 2009/47/EC and apply a reduced VAT rate of 13% to restaurant services as from 1 July 2010. On the other hand, hotels will face an increase of the reduced VAT rate from 8% to 9%.

In Spain, the reduced VAT rate applicable to hotel and restaurant services is expected to increase from 7% to 8% as from July 2010.

HOTREC is pleased that countries are starting making use of the new option, introduced in June 2009, to apply a reduced VAT rate not only to accommodation but also to restaurant services.

□ **Place of taxation of supply of services**

As reported in *Live from Brussels N°42*, the Council adopted new rules with regard to the place of supply of services ([Directive 2008/8/EC](#)). The new rules entered into force on 1 January 2010.

Until the end of 2009, services supplied to taxable persons (business to business transactions) as well as to non-taxable persons (business to consumer transactions) were taxed at the place where the supplier had established his business, or had a fixed establishment from which the service was supplied.

Under the new general rules in place, services supplied to taxable persons shall be taxed at the place where the recipient has established his business. However, services supplied to non-taxable persons continue to be taxed at the place where the supplier is located.

The new rules provide for specific solutions for hotel and restaurant services:

“The place of supply of services connected with immovable property, including... the provision of accommodation in the hotel sector or in sectors with a similar function... shall be the place where the immovable property is located.”

“The place of supply of restaurant and catering services... shall be the place where the services are physically carried out.”

The new rules had to be implemented by the Member States by 1 January 2010. The Directorate General for Taxation in the European Commission dedicated a [special page](#) on its website to explain the most important features of the new rules.

For hotels and restaurants, there is no change to the previous situation. Nonetheless, the new rules have an impact on some cross-border catering operations: for example, if a caterer prepares a meal for a party (e.g. wedding) being held in another country, then the VAT rate of the country where the party is taking place will apply and not the VAT rate of the country where the caterer has his establishment.

INTERNAL MARKET

□ **Services Directive: remaining uncertainties over national transpositions and their impact on authorisation schemes**

Directive [2006/123/EC](#) on services in the internal market (usually simply called the services Directive) was adopted on 12 December 2006. The Directive is relevant to the hospitality industry as it:

- Lays down rules to facilitate cross-border business and to reinforce the freedom of establishment in another Member State;
- Calls for more transparency in information to be provided to consumers in relation to services offered, with a direct reference to tourism and the hotel business;
- Calls upon the Commission and the Member States to encourage providers and professional organisations to draw-up quality charters;

- Favours the development of voluntary European standards with the aim of facilitating compatibility between services;
- Prohibits authorisation schemes for the provision of services with few exceptions.

Regarding the last point, article 9 of the services Directive forbids to make access to or exercise of a service activity subject to an authorisation scheme, unless three cumulative conditions are met:

- The absence of discrimination;
- The scheme is justified by an overriding reason relating to the public interest; and
- The objective cannot be attained with less restrictive measures (e.g. ex-post inspections would not be effective).

Any authorisation scheme (e.g. licenses for serving alcohol in establishments open to the public) must, therefore, meet cumulatively the three criteria or be eliminated by national transposition measures.

As part of the transposition of the Directive, "points of single contact" have been set up in each Member State and allow service providers to complete their administrative formalities electronically when they want to do business across Europe. A full list of these single points of contacts is available on the [website](#) of DG Internal Market of the European Commission. Moreover, countries such as Austria, Belgium, Denmark, Germany, Poland, Spain and the UK have created a specific website to follow the latest developments in the transposition of the Directive.

The services Directive was due to be transposed into national law by 27 December 2009. Besides the transposition measures, Member States were to submit to the Commission, by the same date, specific reports containing, among others, information on the compatibility of their national authorisation schemes with article 9 of the Directive.

Shortly after the December deadline, the European Commission announced that several countries are late: six countries will not be able to fully transpose the Directive before mid 2010, while 8 other countries will complete their transposition within the next six months.

As any service provider, the hospitality industry is concerned with this important Directive. It will allow hoteliers and restaurateurs, who wish to provide services or establish their businesses in another Member State, to benefit from lighter administrative procedures. Moreover, HOTREC National Associations should follow the transposition measures that may affect, among others, the procedures relating to the granting of licenses for serving alcohol in establishments open to the public. HOTREC has also been contacted by officials from DG Internal Market who expressed a clear interest in knowing how the services Directive will affect the hospitality industry.

❑ **Internal market for health services: a Council political agreement still not in sight**

The European Parliament and the Council are currently debating a Commission proposal for a Directive on the application of patients' rights in cross-border healthcare ([COM\(2008\) 414](#)), issued on 2 July 2008.

As health services were expressly excluded from the services Directive ([2006/123/EC](#)), a specific Directive was needed to ensure that EU patients can move freely within the EU to obtain healthcare treatments. The Commission proposal, therefore, provides that a patient will be entitled to the same benefits when he/she goes cross-border for healthcare as if he/she had stayed in his/her home country. However, the proposal does not provide any right to reimbursement for a treatment in another EU country, if such treatment is not reimbursed in the home country.

Following a positive vote in first reading in the European Parliament in April 2009 (see *Live from Brussels N°46*), the Council was expected to reach a political agreement on 1 December 2009, thus paving the way for a common position on the text adopted by the European Parliament. However, the persistent opposition of a few countries to the last compromise proposed by the Swedish Presidency of the EU, especially on issues such as the reimbursement of cost with regard to non-contractual healthcare providers (private healthcare providers not covered by social security schemes), prevented the Council from moving forward. Little progress can be expected on the issue in the next six months, as Spain, which took over the rotating presidency of the Council meetings, is among the fierce opponents to the last compromise tabled.

HOTREC regrets that the Council was not yet able to reach a political agreement on the proposed Directive on patients' rights in cross-border healthcare. The hospitality industry hopes that Spain will nonetheless pursue the work achieved so far, and work on a viable compromise to unlock the situation. This proposed Directive is awaited by the hospitality industry in a number of Member States with high quality health services, as it could provide further opportunities for health tourism. Such prospects would particularly be welcome in the current hostile economic climate.

PAYMENT SERVICES

□ SEPA direct debit scheme now officially launched!

Almost two years after the official launch of the first instrument of the Single European Payment Area (harmonized processing of cross-border credit transfer – see *Live from Brussels N°42*), the second big step towards SEPA's achievement is completed. The official launch of the SEPA direct debit scheme on 2 November 2009 indeed allows for the first time in Europe the setting-up of cross border direct debit orders.

This important milestone was nevertheless cautiously welcomed by many SEPA users. Some business and consumer organisations, such as EuroCommerce or BEUC, reminded, for instance, that the SEPA direct debit scheme is far from complete and that some serious issues, such as its pricing, are not yet solved. In particular, they expressed fears that the SEPA direct debit scheme could be used to impose higher interchange fees for direct debit than under the current situation. Moreover, this would set-up a dangerous precedent for the next instrument to be launched soon: the SEPA card framework.

This SEPA card framework will be implemented by the end of 2010 and will enable European customers to use “general purpose” cards (defined as all guaranteed payments - credit/debit - and cash withdrawals cards) to make payments and cash withdrawals in Euros throughout the SEPA, with the same ease and convenience as they do in their home country.

Easy, cheap and transparent payment systems are crucial for the hospitality industry, as every hospitality enterprise has to deal with a multitude of transactions on a daily basis. HOTREC and its Member Associations welcome the launch of the SEPA direct debit scheme as a vital step towards the achievement of SEPA. Nevertheless, HOTREC fully shares the worries expressed by EuroCommerce on the risks involved with these new products. Concerns over the fair and transparent pricing must be lifted rapidly to allow a quick and successful achievement of the Single European Payment Area.

Given the proximity of views between the hospitality industry and other users of payment systems, HOTREC will soon join the End Users Committee (EUC), a group of stakeholders representing end-users of payment systems, which includes EuroCommerce, UEAPME, EMOTA, GDV (insurers), FAEP (European publishers), BEUC (European consumers) and EACT (European treasurers association). The EUC is the main interlocutor with the European Payment Council, which develops the payment schemes and frameworks necessary to realise the Single European Payment Area.

STANDARDS

□ HOTREC adopts updated position paper on standardisation

At its 60th General Assembly (Barcelona, 5-6 November 2009), HOTREC adopted an updated [position paper](#) on the development of standards at European and international level. The paper confirms that HOTREC and its National Associations are not against standards “*per se*” but oppose top-down approaches, whereby formal standards in relation to hospitality services are developed at European and international level at the own-initiatives of public authorities and / or standardisation bodies.

HOTREC is of the clear opinion that standardisation should remain fully market-driven; initiatives should come from the industry and be based on commercial considerations as well as on proper business impact assessments.

Furthermore, the need for standardisation of services, in particular hospitality services, is not as obvious as it is for industrial goods. Heterogeneity is a main competitive feature of the hospitality industry.

HOTREC has already circulated the updated position paper to the European Commission (DG Enterprise) and to the Technical Management Board of ISO. HOTREC will continue to disseminate the updated document to key stakeholders to make sure that the views of the European hospitality sector on standardisation are properly taken into account.

□ CEN to develop standards on “Beauty, spa and wellbeing services”?

HOTREC recently learned that, in December 2009, the National Standards Authority of Ireland (NSAI) had submitted to CEN (European Committee for Standardisation) a proposal for the creation of a CEN Project Committee on “Beauty, spa and wellbeing services”.

The objective is to develop European standards for the management and quality of beauty, spa and wellbeing services. The scope would include spas and beauty salons in hotels.

Standardisation would deal with issues such as staff management, quality assurance, maintenance of equipment, hygiene, customer services, storage of material, waste disposal, etc.

The members of the CEN Technical Board (i.e. all the national standardisation bodies members of CEN) have until 10 March 2010 to decide whether or not they accept the proposal and are ready to participate in the work.

HOTREC does not see the need for European standards in relation to beauty, spa and wellbeing services provided within hotels. As reiterated in its recently updated position paper, HOTREC considers that no standard should be developed for services provided by the hospitality industry, unless it specifically requests so.

The quality of the services provided to guests, including beauty, spa and wellbeing services, is an element on which hotels compete. Such services should not be standardised.

Furthermore, CEN activities in this field would inevitably result in an unnecessary duplication of the work currently carried out within ISO TC 228, where a Working Group is already developing standards on health tourism services, including wellness spa.

□ ISO TC 228 plenary meeting in Brazil

The 5th annual plenary meeting of ISO Technical Committee (TC) 228 on “*Tourism and related services*” will take place on 23 April 2010 in Brazil.

The draft agenda includes an update on the standardisation activities of the various working groups active within [TC 228](#):

- WG 1: Recreational diving services;
- WG 2: Health tourism services (projects on medical spas, wellness spas and thalassotherapy services);
- WG 3: Tourist information and reception services at tourist information offices;
- WG 4: Golf services;
- WG 5: Beach services;
- WG 6: Natural protected areas;
- WG 7: Adventure tourism.

It is not clear whether the revision of the TC 228 Business Plan will also feature on the agenda of the meeting. The current version of the Business Plan, which includes “accommodation and catering services”, is valid until 2010.

HOTREC, which has a Liaison status, with no voting right, within TC 228, has been advocating since years that hospitality services should be left out of the scope of TC 228. As a matter of fact, there is presently no support from the vast majority of the European hospitality industry for the development of ISO standards covering accommodation and catering services.

HOTREC considers that the development of standards in relation to the hospitality sector should remain fully market-driven: initiatives should come from the industry and be based on commercial considerations as well as on proper business impact assessments.

SOCIAL DIALOGUE

□ Future Communication on the European sectoral social dialogue

On 17 December 2009, the European Commission presented at the Liaison Forum the draft outline of the future Communication on the European sectoral social dialogue. The Commission invited social partners to submit comments on the draft outline by mid-January 2010. The Communication should be adopted by the new Commission around mid-March 2010.

In the draft outline, the Commission highlights the importance of the European social dialogue as a key pillar of the European social model. It emphasizes the role of the Commission to facilitate, support and promote the European sectoral social dialogue.

Moreover, the draft outline addresses the consultation and negotiation dimensions of the European sectoral social dialogue. It stresses that *“European social partners will be more and more consulted by the Commission’s services responsible for the sectoral European policies”*. The Commission also points out that *“the statutes of the European organisations must clearly enable them to discuss and negotiate social issues on behalf of their affiliate members”*.

In its [reply to the draft outline](#), HOTREC stresses, amongst others, that it is essential that the sectoral social partners be consulted on all developments at Community level having social implications. On the “negotiation dimension”, HOTREC points out that it does not have the mandate to negotiate social issues on behalf of its affiliate members.

HOTREC fully agrees with the Commission on the need to strengthen the European social partners administrative capacity. HOTREC is also of the opinion that the Commission should simplify and facilitate the procedures to access the social dialogue budget heading. Only in this way will social partners be able to fully use the EU funding instruments.

□ Sector councils on employment and skills

In the course of 2008, Directorate General Employment, Social Affairs and Equal Opportunities of the European Commission launched a large project entitled *“comprehensive sectoral analysis of emerging competences and economic activities in the European Union”* (see *Live from Brussels N°45*). Its objective is to improve the capacity to anticipate and match labour and market skill needs in the EU.

As part of this initiative, the Commission recently published a series of [18 sector-based studies](#) - among which a study on the hospitality industry - that look at emerging and future skill needs up to 2020. The results of these studies stress the need to develop a closer collaboration between all stakeholders active in skills anticipation, which includes sector representatives as well as education and training systems.

Furthermore, at the beginning of 2009, the Commission had launched a study to analyse the feasibility and possibility of establishing *“sectoral councils on employment and skills at EU level”*.

On 7 and 8 December 2009, the European Commission organised, in cooperation with the European Parliament, the European Economic and Social Committee and the Committee of the Regions, a forum on “*Sectors’ New Skills for New Jobs*”. The first objective of the forum was to present, promote and discuss the 18 sector-based studies. The second objective of the forum was to present the first results of the feasibility study, carried out by the ECORYS consultancy, on the establishment of sectoral councils on employment and skills.

According to these results, such councils:

- Need to be directly linked to the sector;
- Need to be based on achievable objectives;
- Should cover both initial and continuing education and training;
- Should involve all relevant stakeholders; including social partners;
- Should be based on a sector initiative; but
- Require financial and technical support (initial role for the EU).

The final version of this study should be published soon.

A report prepared by ten independent experts at the request of the Commission, entitled “[New Skills for New Jobs: Action now](#)”, was released on 4 February 2010. It provides concrete recommendations focusing on 4 priorities:

- Provide the right incentives to upgrade and better use skills;
- Bring the worlds of education, training and work closer together;
- Develop the right mix of skills; and
- Better anticipate future skill needs.

HOTREC was present at the forum held on 7 and 8 December 2009 and carefully followed the presentation on the key findings on the feasibility of the setting-up of sector councils on employment and skills at European level. However, it is still not clear how the European Commission will proceed next. HOTREC would like to be better informed about the future role of the European social partners in these councils. The link between the skill councils and the sectoral social dialogue committees should be clarified.

SOCIAL AFFAIRS

□ Parental leave – agreement reached in Council

As reported in the previous issues of *Live from Brussels*, on 18 June 2009, the European Social Partners (BUSINESSEUROPE, UEAPME, CEEP and ETUC) formally adopted an [agreement on Parental Leave](#) revising their agreement of 1995, which had been incorporated into Directive [96/34/EC](#). At the EPSCO (Employment, Social Policy, Health and Consumer Affairs) Council held on 30 November and 1 December 2009, the Ministers reached a political agreement (still to be formally confirmed) on a [draft directive implementing the revised agreement](#).

The revised agreement lays down minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents. It applies to all workers, men and women, who have an employment contract or employment relationship as defined by law, collective agreements and/or practice into force.

The revised agreement includes, amongst others, the following provisions:

- The length of the right to parental leave is extended from 3 to 4 months;
- At least one of the four months of the parental leave should be provided on a non-transferable basis;
- The right to parental leave is maintained until the child is 8 years old;
- Flexible working arrangements can be requested upon return to work;
- Member States and/or social partners are being asked to establish notice periods to be given by the worker to the employer when exercising the right to parental leave, specifying the beginning and the end of the period of leave;
- Member States may decide whether the parental leave is granted on a full-time or part-time basis, in a piecemeal way or in the form of a time-credit system; and
- All matters regarding income, in relation to this agreement, remain of the competence of Member States and/or social partners according to national law, collective agreements and/or practice.

As soon as the political agreement will be confirmed, the Directive implementing the revised framework agreement on parental leave should be published in the Official Journal of the European Union.

HOTREC took note of this agreement adopted by the European Social Partners. However, HOTREC would have appreciated being better informed during the negotiation process.

❑ **Social protection of self-employed workers and assisting spouses – agreement reached in Council**

As reported in the previous issues of *Live from Brussels*, in October 2008, the European Commission presented a package of documents on work life-balance. The package contains, amongst others, a Commission proposal ([COM \(2008\) 636 final](#)) for a Directive, aiming at replacing Directive [86/613/EEC](#), on the application of the principle of equal treatment between men and women engaged in a self-employed capacity. This legislative proposal is currently being dealt with by the European Parliament and the Council under the co-decision procedure.

The Commission proposal introduces, amongst others, the following provisions:

- *Social protection for assisting spouses:* Assisting spouses - who often work in the activities of the self-employed worker without enjoying their corresponding rights - must, at their request, benefit from at least an equal level of protection as self-employed workers. The decision to join or not the social security scheme is to be taken by the assisting spouses, Member States are only required to make this choice possible;
- *Maternity leave for self-employed workers and assisting spouses:* Member States, shall take all the necessary measures to ensure that both female self-employed workers and assisting spouses can, at their request, be entitled to the same period of maternity leave as provided for in Directive [92/85/EEC](#) (14 weeks). Member States shall also take the necessary measures to ensure that they receive an “adequate allowance” during their maternity leave.

The European Parliament requested, in its legislative resolution, ([T6-0364/2009](#)), adopted on 6 May 2009, that membership of social security schemes covering sickness, invalidity and old age be made mandatory for assisting spouses. The EP also called on the Member States to take the necessary measures to ensure that female self-employed workers and assisting spouses are entitled to a period of maternity leave of their choice, provided that the total length of the leave does not exceed 14 weeks.

On 1 December 2009, the Council reached an agreement on the legislative proposal. “Life-partners”, which were previously included in the concept of “assisting spouses”, are now mentioned specifically:

- *Social protection*: assisting spouses and life partners of self-employed workers shall benefit from a social protection in accordance with national law. It is up to the Member States to decide whether this social protection should be implemented on a mandatory or voluntary basis.
- *Maternity benefits*: self-employed women, assisting spouses and life-partners of self-employed workers, may, in accordance with national law, be granted an adequate maternity allowance enabling them to interrupt their occupational activity for at least 14 weeks. It is up to the Member States to decide whether the maternity allowance is granted on a mandatory or voluntary basis.

The text agreed by the Council should be submitted to the European Parliament at the beginning of March for a second reading.

HOTREC supports measures aiming at strengthening the social protection of self-employed workers, assisting spouses and life-partners of self-employed workers. Nevertheless, HOTREC is of the opinion that these issues are better dealt with at national level.

□ **Maternity leave – back to Parliament!**

As reported in the previous issues of *Live from Brussels*, in October 2008, the European Commission issued a package of documents on work-life balance. The package contains, amongst others, a Commission proposal ([COM \(2008\) 637 final](#)) for a Directive, amending Directive [92/85/EEC](#), on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. This legislative proposal is currently being dealt with by the European Parliament and the Council under the co-decision procedure.

The Commission suggests, amongst others, to extend the minimum period of maternity leave to 18 weeks (14 under the current directive), 6 of which would have to be taken after the birth. Maternity allowance should be 100% of the full monthly salary, though this provision is not made mandatory. A first (parliamentary) report on the proposal for a Directive was referred back to Committee by the plenary session of the European Parliament in May 2009.

As a result, the Commission proposal is being discussed again in the Committee on Women’s Rights and Gender Equality (FEMM) in first reading under the co-decision procedure. MEP Edite Estrela (Portugal, S&D) has been re-appointed Rapporteur for this dossier. In her second draft report, Mrs. Estrela proposes, once again, that maternity leave be extended from 14 to 20

weeks. The worker would be paid 100% of her salary for the first six weeks of the leave period, and not less than 85% for the rest.

The rapporteur also wants to introduce a new provision on paid “paternity leave” for a period of 2 weeks for fathers whose life-partners has recently given birth.

The Committee vote is scheduled for 23 February 2010 and the plenary vote for the month of March.

In the Council, some Member States are reluctant to approve the proposed extension of maternity leave and the inclusion of paid paternity leave.

HOTREC supports measures on work-life balance and protection of working women who are pregnant, have recently given birth or are breastfeeding. Nevertheless, HOTREC is of the opinion that an excessive regulation in this area will add financial costs and additional burdens on SMEs. The compulsory extension of maternity leave to 18 or 20 weeks would entail additional burdens in the majority of the Member States, where the maternity leave is currently shorter. HOTREC shares the opinion of BUSINESSEUROPE, according to which extra rules in the field of maternity protection might discourage employers from recruiting young women and could have a negative impact on women’s employment possibilities.

□ Discrimination beyond the workplace – slow progress

As reported in *Live from Brussels N°47*, on 2 July 2008, the European Commission issued a proposal for a Council Directive ([COM\(2008\) 426 final](#)), which provides for protection against discrimination on the grounds of age, disability, sexual orientation and religion or belief beyond the workplace.

The proposal for a Directive establishes the prohibition of discrimination, as regards both the public and the private sector, in relation to social protection, social advantages, education and access to and supply of goods and other services, which are available to the public, including housing.

As far as the equal treatment of persons with disabilities is concerned, measures to enable them to access services will have to be taken by anticipation. Such measures may include appropriate modifications or adjustments. However, “*such measures should not impose a disproportionate burden, nor require fundamental alteration ... of services in question ...*”.

On 2 April 2009, the European Parliament adopted a non-binding opinion on the proposal ([T6-0211/2009](#)). The discussions of the national experts preparing the work of the Council concentrated on the provisions aimed at protecting persons with disabilities from discrimination. However, no agreement could be reached amongst the Member States under the Czech and Swedish Presidencies of the EU. The text needs to be approved by unanimity in the Council.

The Spanish Presidency hopes to reach a political agreement on the proposed Directive, at the Employment, Social Policy and Consumers Affairs Council to be held on 7 and 8 June 2010.

HOTREC fully shares the concerns of the European institutions in relation to the protection of persons with disabilities, but is of the opinion that this issue is better dealt with at national level, where existing national legislations already offer a comprehensive framework to combat the

various forms of discrimination. Moreover, HOTREC is of the opinion that the proposal is formulated in a very general manner leaving many issues (what is a disproportionate burden? what is a fundamental alteration?) open to different interpretations. Over 99% of the hospitality industry is composed of SMEs: legal certainty and minimum bureaucracy are crucial for the survival of these companies.

ENVIRONMENT

□ Sustainable consumption and production

As announced in *Live from Brussels N°43* and *N°46*, the Commission launched in 2008 a “Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan”. In recent months, the following texts were adopted:

- [Directive 2009/125/EC](#) of 21 October 2009 “*establishing a framework for the setting of ecodesign requirements for energy-related products*”

This Directive, which is a recast of Directive 2005/32/EC, is a framework Directive. This means that the Directive itself only lays down the conditions for “implementing measures”, which set binding ecodesign requirements for each group of energy-related products, i. e. products which use, generate, transfer energy as well as products which contribute to significant energy savings during use, including windows, insulation materials or some water-using products such as shower heads or taps. Products complying with the “implementing measures” bear the “CE marking”. So far, “implementing measures” have already been adopted in relation to refrigerators, freezers, televisions and lighting products. Grills, ovens, room air conditioners, washing machines, dishwashers as well as other water using equipments, such as shower heads or taps, are also being considered.
- [Regulation 66/2010](#) of 25 November 2009 “*on the EU Ecolabel*”

This Regulation, which replaces Regulation 1980/2000, establishes a voluntary ecolabel award scheme. The Directive sets up a procedure for the establishment of EU Ecolabel criteria for each product group.

A Commission Decision of 9 July 2009, replacing the [Commission Decision 2003/287/EC](#), establishes “*ecological criteria for the award of the Community eco-label for tourist accommodation service*”. Establishments, which are awarded the Ecolabel on the basis of an application evaluated in accordance with the criteria, are allowed to display the Ecolabel logo.
- [Regulation 1221/2009](#) of 25 November 2009 “*on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)*”

This Regulation, which replaces Regulation 761/2001, provides an instrument for the establishment and implementation by organisations (company, corporation, firm, enterprise, authority or institution) of environmental management systems as well as the systematic, objective and periodic evaluation of the performance of such systems. Organisations have to apply for EMAS registration with the Competent Body in their Member State. The completion of the full registration process allows organisations to display the EMAS logo.

The development of ecodesign requirements for energy-related products is to be watched carefully by the European hospitality industry, as such requirements cover many products which

equip hotels, restaurants and cafés or are part of their infrastructure. It is important that these developments, to be welcome from the environment point of view, do not cause extra costs for enterprises and do not reduce the quality of the services provided to the guests.

So far, only some 300 hospitality establishments have applied for the EU Ecolabel. This limited number can be explained by the multitude of existing ecolabels at national and regional level.

Lists of organisations having registered under EMAS are available for the different countries. So far over 4000 organisations registered. The EMAS scheme is open for hospitality establishments.

□ **Energy performance of buildings – agreement reached between Council and Parliament**

The building sector - residential and commercial buildings - is the largest user of energy and CO₂ emitter in the EU and is responsible for about 40% of the EU's total final energy consumption and CO₂ emissions.

On 17 November 2009, the European Parliament and the Council reached an informal agreement on the legislative proposal revising Directive [2002/91/EC](#) on the Energy Performance of Buildings (EPBD). The text strengthens and extends the scope of the current legislation (see *Live from Brussels N°42* and *N°46*).

The key elements of the revised legislation are the following:

- **Nearly zero energy buildings:** All new buildings will have to be nearly zero energy buildings as of 1 January 2021 with public authorities having to fulfil this standard as of 1 January 2019.

According to the new definition introduced by the draft Directive “`nearly zero energy building´ means a building that has a very high energy performance [as determined by the Directive]. The nearly zero or very low amount of energy should to a very significant extent be covered by energy from renewable sources, including renewable energy produced on-site or nearby”.

- **Existing buildings:** Existing buildings, regardless of their size, will have to comply with minimum energy performance requirements when they undergo major renovation if technically, functionally and economically feasible. Major renovation is defined as costing at least 20% of the buildings value or covering 25% of the building surface. These requirements will also apply when building elements (e.g. roof, wall etc.), with a significant impact on the energy performance of the building, are retrofitted or replaced or technical building systems (e.g. air conditioning, heating systems etc.) are installed or replaced.

Member States are responsible for setting the minimum energy performance requirements.

- **Energy performance certificates:** Member States are required to establish a certification system to measure the energy performance of buildings. These certificates will have to be made available when buildings are constructed, sold or rented out. Moreover, buildings occupied by public authorities with a total floor of 500m² or buildings which are

frequently visited by the public - such as shops, restaurants, hotels - will have to visibly display energy performance certificates.

- **Inspection of heating and air conditioning systems:** Member States shall lay down the necessary measures to establish a regular inspection of heating and air-conditioning systems.
- **Financial incentives and market barriers:** recognising the importance of providing appropriate financial and other instruments for the implementation of the energy performance of buildings legislation, the proposed Directive calls for action at national and EU level in relation to financial instruments.
- **Exemptions:** a long list of exemptions to the draft Directive was also agreed upon. It includes, amongst others, *“buildings officially protected as part of a designated environment or because of their special architectural or historic merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance”*.

The compromise text agreed on 17 November has to be formally approved by the Council before the Parliament gives its final endorsement in early 2010.

This Directive will apply to hospitality establishments. It is, therefore, essential that the Member Associations review the practical implications for establishments in their countries. Amongst others, the impact of the abolition of the threshold of 1000m² for existing buildings should be carefully assessed.

TRAVEL RELATED ISSUES

□ Air passengers' rights reinforced by the European Court of Justice

On 19 November 2009, the European Court of Justice (ECJ) delivered a [judgement](#) in the joined cases C-402/07 and C-432/07, reinforcing air passengers' rights in the European Union ([Regulation 261/2004](#)).

So far, only passengers, whose flights are cancelled or who are denied to board, because of overbooking, are entitled to a financial compensation from the airline. These passengers receive a flat rate compensation of between 250 EUR and 600 EUR when they suffer a delay longer than 3 hours, even if they are re-routed.

In the current judgement, the ECJ found that there is no justification for treating passengers whose flight is delayed any differently when they reach their final destination three hours or more after the scheduled arrival time.

Therefore, passengers, whose flights are not cancelled, but are delayed by more than 3 hours, are now not only entitled to a special assistance (e.g. meals and refreshments), but also to a financial compensation like passengers whose flights are cancelled or who are denied boarding due to overbooking.

The European Commission also launched a [consultation](#) on the evaluation of the current legislation concerning air passengers' rights end of 2009. The consultation covers, inter alia, the questions of:

- Handling of luggage;
- Harmonisation of complaint handling procedures;
- Harmonisation of e-booking and check-in procedures; and
- The no-show policy of airlines.

Based on the results of this consultation, open until 1 March 2010, the European Commission may consider revising the current rules on air passengers' rights.

Passenger transport, as well as the hospitality industry, is part of the tourism chain. Therefore it is important for the hospitality industry to keep an eye on developments in relation to passenger transport.

□ **Train passengers' rights Regulation and similar acts in the pipeline**

On 3 December 2009, the Regulation on train passengers' rights ([1371/2007](#)) entered into force in the Member States of the EU. This act is the second major legislation in the field of passenger rights, following the Regulation on air passengers' rights ([261/2004](#)), which already entered into force in 2004.

The current Regulation establishes rules as regards:

- The information to be provided by railway undertakings, the conclusion of transport contracts, the issuing of tickets;
- The liability of railway undertakings;
- The obligations of railway undertakings to passengers in case of delay;
- The protection of, and assistance to disabled persons; and
- The definition and monitoring of service quality standards.

In relation to this last point, minimum standards are specified in Annex III of the Regulation and include the requirement of conducting customer satisfaction surveys as well as the implementation of complaint handling mechanisms.

Similar legislative acts dealing with the rights of passengers in [bus and coach transport](#), as well as of passengers travelling on [sea and inland waterway transport](#) are being discussed in second reading between the Council and the European Parliament. The adoption of these Regulations can be expected for 2010.

Passenger transport, as well as the hospitality industry, is part of the tourism chain. Therefore it is important for the hospitality industry to keep an eye on developments in relation to passenger transport.

INSTITUTIONS

□ **Lisbon Treaty in force at last!**

After the Irish and Polish ratification of the Lisbon Treaty in October 2009, the Czech President's signature of the ratification bill was the last remaining obstacle to the coming into force of the new Lisbon Treaty. The Czech Republic finally ratified it in November 2009. Therefore, the Lisbon Treaty entered into force on 1 December 2009.

The new treaty reforms the functioning of the EU institutions, extends the power of the European Parliament, which will be able to co-decide on almost all political aspects with the Council (except taxation, foreign policy matters and some aspects of social policy), and increases the role of national parliaments as watchdogs in the defence of the subsidiarity principle.

Beyond the improved powers for the European Parliament and the extension of the areas where qualified majority applies in the Council, the Lisbon Treaty is particularly relevant for the hospitality industry as it contains a new competence for the EU in the field of tourism: it will allow the EU to adopt measures to support the tourism policy of Member States. HOTREC, therefore, welcomes the coming into force of the Lisbon Treaty. Close contacts will be established with the new Commissioner in charge of Tourism, Mr. Antonio Tajani, in order to evaluate how this new competence can be used in the near future.

□ **A new European Commission**

Following the designation by the Member States of their candidates for the new Commission, the re-elected President of the European Commission, Mr. Barroso, presented on 27 November 2009 his new designated team and the proposed allocation of the portfolios and supporting services.

The designated Commissioners underwent public hearings before the European Parliament and its Committees. After these hearings, the new college of Commissioners was approved by a formal vote of the European Parliament gathered in plenary session on 9 February 2010.

The full list of appointed Commissioners is available on the Commission [website](#). Of particular importance for the hospitality industry are the Commissioners in charge of:

- Employment, Social Affairs and Inclusion (Mr. László Andor, Hungary). For example, the revision of the working time Directive will come under his portfolio;
- Health and Consumer Policy (Mr. John Dalli, Malta). For example, the Commission proposal on food labelling comes under his portfolio;
- Industry and Entrepreneurship, including Tourism (Mr. Antonio Tajani, Italy). For example, the drafting of the new Communication on "A new framework for the tourism policy in the EU" comes under his portfolio;
- Internal Market and Services (Mr. Michel Barnier, France). For example, copyright legislation comes under his portfolio;
- Justice, Fundamental Rights and Citizenship (Ms. Viviane Reding, Luxembourg). For example, the revision of the Package Travel Directive comes under her portfolio.

Now that the new college of Commissioners was approved by the European Parliament, HOTREC hopes to establish productive working relationships with the Commissioners who are holding the key portfolios for the hospitality industry.

□ **HOTREC contributes to the new EU 2020 strategy**

The European Commission released on 24 November 2009 a consultation paper on its future EU 2020 strategy, which is intended to replace the Lisbon Strategy. In this paper, the Commission considers that the current crisis should be “*the point of entry into a new sustainable social market economy, a smarter, greener economy*”, where growth will result from innovation, knowledge, and from using resources better.

The Commission considers that the key drivers of the EU 2020 strategy should focus on three priorities:

- Creating value by basing growth on knowledge and connecting the potential of education, research and of the digital economy;
- Empowering people in inclusive societies, fostering creativity and innovation and the development of entrepreneurship; and
- Creating a competitive, connected and greener economy, through an increased productivity with a lower and more efficient consumption of non-renewable energy and resources.

This paper was open for comments until 15 January 2010. It will be used as a basis for the preparation of a formal proposal for the EU 2020 strategy to be presented to the European Council before spring 2010. The EU's Heads of State and government could then adopt the strategy at their next meeting.

HOTREC [commented](#) the consultation paper of the Commission on the EU 2020 strategy. HOTREC generally supported the position adopted by Business Europe, but complemented it with some important sector-specific elements. HOTREC considered in particular that:

- *The new EU 2020 strategy should fully recognise the potential of tourism for increased growth and employment in the EU;*
- *The integration of a specific tourism competence in the Lisbon Treaty should be fully taken into account;*
- *“Better regulation”, “simplification” and “burdens reduction” should be basic and key components of the EU 2020 strategy: legislators must take into account the specificities of an industry mainly consisting of small enterprises and provide oxygen to the sector!*
- *The EU 2020 strategy should maintain flexicurity as a top priority and should also focus on how to foster training and life-long learning.*
- *The transition to a low-carbon economy should be facilitated for SMEs through the use of various incentives (direct subsidies, special interest loans, etc.).*

TOURISM

❑ Study on the “Competitiveness of the EU tourism industry”

The study on the “[Competitiveness of the EU Tourism Industry](#)” carried out by the ECORYS & IDEA consultancy on behalf of the European Commission was officially presented at the European Tourism Forum (ETF) held on 8 and 9 October 2009 in Brussels.

The ECORYS study identifies the following core challenges faced by the tourism industry:

- Reinforce the EU tourism industry as a high quality service sector;
- Better position the EU as the N°1 tourism destination in the world;
- Make the tourism industry part of the knowledge economy;
- Develop EU tourism in a sustainable manner;
- Increase the value generated from available resources; and
- Ensure sufficient “oxygen” for tourism businesses.

It also identifies the actions that are needed, in five major fields, to help the industry tackle these challenges:

- Support tourism demand;
- Stimulate innovation and entrepreneurship;
- Combine available resources more efficiently;
- Ensure that development of tourism is sustainable; and
- Provide “oxygen” to the industry.

At the 60th HOTREC General Assembly held on 5-6 November 2009 in Barcelona, Mr. Pedro Ortún Silván, Director in charge of Tourism in DG Enterprise and Industry of the European Commission, called on a more “forward looking cooperation” from the hospitality sector and invited the sector to give feedback on the results of the ECORYS study.

[HOTREC comments](#) on the study were sent to DG Enterprise on 15 December 2009.

HOTREC sees the action entitled “Provide ‘oxygen’ to the industry” as the top priority. To ensure that tourism businesses receive “sufficient oxygen”, HOTREC considers essential that the Commission as well as the other EU institutions properly enforce their “better legislation” commitment.

HOTREC considers the “support of tourism demand” as the other main priority. A lot could be done in terms of promoting Europe in order to stimulate tourism demand from emerging markets (e.g. India, China, etc.). This promotion should of course be combined with efforts to facilitate access to Europe (in relation to e.g. visa requirements and formalities).

❑ A new framework for a European tourism policy soon?

The Lisbon Treaty, which entered into force on 1 December 2009, strengthens the EU competence in the area of tourism (see article on the Lisbon Treaty above). Tourism is now one of the areas for which “*The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States*”.

In view of this new competence provided by the Lisbon Treaty, the Commission will adopt, possibly before summer 2010, a Communication on “*A new framework for a European tourism policy*”.

According to the discussion document recently issued by DG Enterprise and Industry -Tourism Unit “*the future Communication will outline the measures to be undertaken by the Commission, in close cooperation with the Member States and their regions, with the industry and with other actors of the tourism sector, as well as the measures to be undertaken by all those actors themselves*”.

The discussion document proposes a series of measures to be undertaken within 3 fields of action:

- Stimulate the competitiveness of the tourism sector in Europe;
- Develop sustainable tourism in Europe; and
- Promote the “Destination Europe” in the main third countries.

A first exchange of views on the working document took place within the Tourism Sustainability Group and the Tourism Advisory Committee on 11 and 12 February 2010 respectively. All European tourism stakeholders are invited to comment before 3 March.

The Commission will base its Communication on the results of:

- The consultation just referred to;
- The outcome of a High-Level Conference to be held in Madrid on 14-15 April 2010, with the participation of the Presidents and CEOs of the major European tourism associations; and
- The outcome of an informal meeting of the Ministers in charge of tourism, to be held in Madrid on 15 April 2010.

The Commission hopes to adopt its Communication in July 2010.

On the other hand, the Spanish EU Council Presidency intends to promote the creation of a multiannual budgetary framework for EU actions in the field of tourism. On 27 January 2010, Joan Mesquida, State Secretary for Tourism, stressed at the Parliamentary Committee of Transport and Tourism that this was an objective of the trio of Presidencies (Spain, Belgium and Hungary).

HOTREC will send its comments on the discussion document. HOTREC considers essential that the policy be accompanied by a “budgetary framework”.

STATISTICS

❑ Some data on the performance of the European tourism industry

The current financial crisis and economic turmoil continues to hit the hospitality industry hard all over the world. The figures of the January 2010 issue of the UNWTO (World Tourism Organisation) [World Tourism Barometer](#) show that the recession in the second part of 2009 is perseverating, however at a lower pace than in the first months of the year 2009. According to

the UNWTO, international tourist arrivals to Europe declined by 5,6% in 2009 compared to 2008. Worldwide, a 4,3% setback in tourist arrivals was noted. Of all worldwide regions, Europe performed the second worst, after the Middle East.

After a considerable drop in international tourism arrivals in Europe and the world during the first half of 2009, with rates of -9,8% and -8,4% respectively, the second half of the year was showing a much more moderate decrease of 2,4% and 0,7% respectively. While international tourist arrivals worldwide were already showing a plus of 1,4 to 2,1% for the months of October to December 2009, compared to the same period of 2008, tourist arrivals to Europe continued to decline by 1,6 to 0,4%.

With regard to the prospects for 2010, the experts of the UNWTO are rather optimistic. According to them, tourist arrivals will increase again in 2010. An increase in tourist arrivals of 3 to 4% is predicted for the world, while forecasts for Europe are more moderate with an expected increase of 1 to 3%.

Mr. Rifai, Secretary-General of UNWTO, stressed in the press release accompanying the latest issue of the World Tourism Barometer that *“Although we expect growth to return in 2010, a premature withdrawal of the stimulus measures and the temptation to impose extra taxes may jeopardise the pace of rebound in tourism”*.

A study by Deloitte, accompanying the World Tourism Barometer, shows that Europe performed quite well in terms of occupancy rates in 2009 (-4,6 percentage points), compared to the other regions of the world (-5,4 to -8,8 percentage points). On the other hand, the European hotel industry suffered from the highest price decline during the last year (-17,1% in USD), confronting Europe with the biggest drop in view of the RevPAR (-22,8% in USD).

According to the Deloitte study, London was the only city in Europe showing an increase in the occupancy rate by 0,4 percentage points last year, compared to 2008. Bratislava, Budapest and Geneva were the cities facing the biggest drop in occupancy by 17,2, 10,3 and 9,4 percentage points respectively.

□ **Commission to submit the draft EU Regulation on tourism statistics soon**

As reported in *Live from Brussels N°44* and *N°46*, Eurostat, the statistical office of the EU, is preparing a Commission proposal for a new Regulation on tourism statistics, which shall replace Directive 97/57/EC on the same subject matter.

The new draft Regulation is now undergoing the internal consultation procedure within the European Commission. Eurostat hopes that the Commission will be able to submit the new draft Regulation to the European Parliament and the Council around March 2010. The Regulation will have to be adopted according to the ordinary legislative procedure (called co-decision procedure under the previous Treaty).

The main new features of this draft proposal, compared to the current Directive, should be:

- A general threshold for data collection of 10 bedplaces;
- Net occupancy rate of bedrooms at national and regional level on an annual and monthly basis (voluntary with regard to establishments having less than 25 rooms);

- Classification of data by type of locality (according to the population density and maritime/non-maritime);
- Classification of data by size class of hotels (on a voluntary basis);
- Data on short trips (at least 1 night);
- Same-day visit expenditure with data on expenditure in restaurants.

In relation to this last point, “delegated acts” will be developed by a Task Force of Eurostat with the participation of the national statistical institutions. Delegated acts will also address some aspects of data transmission and quality reporting.

HOTREC is following the developments on the new Regulation closely. HOTREC had put forward its wishes with regard to the update of the EU legislation on tourism statistics and hopes that the new text will meet its expectations, at least partly.

□ **Automated data collection and reporting in accommodation statistics coming soon?**

Eurostat plans to launch a European project on automated statistical data collection and reporting in accommodation statistics.

The inspiration for this European project came from systems already applied in Spain and Finland. With the help of these data collection systems, time spent by hoteliers on statistical data reporting will be reduced significantly, as the required statistical data are automatically transferred from the management system of the hotel to the national statistical offices. In both Spain and Finland, the systems are more and more taken up by hoteliers.

The European project aims at:

- Reducing response burden of establishments (basically 2-3 mouse clicks instead of handling data manually on a paper questionnaire or in an electronic file);
- Improving the timeliness of the data; and
- Enhancing the comparability and the quality of the data collected.

The project is intended to be launched in the first half of 2010. The wide use of such a system should be possible within about 3 years, according to Eurostat estimations.

This project by Eurostat seems to be, at first sight, a promising one for European hoteliers, as it is aiming at reducing administrative burdens in the field of statistical reporting. However, HOTREC would need to look into this project in more detail. Eurostat expressed its intention to have HOTREC involved.

□ **Tourism Satellite Accounts**

In January 2008, Eurostat launched a project in relation to Tourism Satellite Accounts (TSA). TSAs aim at giving statistical information on tourism in a macro-economic dimension, showing the contribution and the performance of tourism in a broader economic context.

The Eurostat project aimed at helping countries, which have not done so yet, to set-up a TSA and at making information available via the TSAs from different countries more comparable. This almost 2-year project on TSAs in Europe ended in September 2009.

This project allowed a very first basic comparison of some TSA figures: it showed the differences between some countries e.g. in the share of tourism gross value added in the total GDP (9% in Cyprus, less than 2% in Lithuania) and in the share of the tourism industry in total employment (12% in Spain, over 1% in Poland). The longer term objective would be to enable such comparisons on a wider basis.

At a meeting with the National Statistical Institutions in December 2009, Eurostat proposed, as a next step, that these national bodies transmit very basic TSA figures (e.g. total inbound tourism expenditure, internal tourism consumption, number of hours worked) on a voluntary basis to Eurostat every year. Later on, the scope of the data transmission shall be widened to more detailed TSA figures (e.g. expenditure on accommodation services).

HOTREC is following closely the developments in relation to Tourism Satellite Accounts, and welcomes the initiative of Eurostat to collect and compare TSA data of the Member States.

□ Recent Eurostat publications

Eurostat, the EU statistical office, has recently released the following publication relating to tourism:

- [More than 9 million persons employed in the hotels and restaurants sector](#), Statistics in Focus 101/2009
- [17% of full-time employees are low-wage earners](#), Statistics in Focus 3/2010
- [Eurostat Regional yearbook 2009](#) (Chapter 10 on tourism)

HOTREC GENERAL ACTIVITIES

□ Last and next General Assemblies

The 60th HOTREC General Assembly took place on 5-6 November 2009 in Barcelona. At the General Assembly, representatives from 39 associations from 24 countries discussed the latest developments in relation to a wide range of issues including: taxation, food labelling, alcohol policy, fire safety, copyright, hotel review sites, hotel classification, standardisation, social affairs, etc.

Delegates reported on the impact of the economic crisis on the industry as well as on the outlook for the year 2010. Most countries reported still very negative trends, with no improvement in sight. Given this persistent hostile economic climate, Mr. Kent Nyström, President of HOTREC, renewed the call of the hospitality industry on EU decision-makers for a shift in EU policies to hasten the recovery: pro-business measures, better regulation and the reduction of administrative burdens should be higher on the EU agenda.

The next General Assembly will take place in Brussels on 22-23 April 2010.

The full press release issued after the Barcelona General Assembly can be accessed on the [HOTREC website](#).

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