



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

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VAT

□ **Member States soon allowed to apply a reduced VAT rate to restaurants**

As reported in *Live from Brussels N°45*, the positions of the EU Member States governments with regard to the option of applying a reduced VAT rate to restaurant services came closer, following the European Council meeting held in December 2008. This measure had been included in the EU recovery plan, approved at the same meeting.

On 10 March 2009, the Council of Finance Ministers (ECOFIN) reached a political agreement on the July 2008 Commission proposal (COM(2008) 428 final).

Before the Council reached this political agreement, the European Parliament had adopted on 19 February 2009 a resolution ([PA_TA\(2009\)0072](#)), supporting the Commission proposal and the inclusion of restaurant services into the list of goods and services, to which Member States may choose to apply a reduced VAT rate (Annex III of the VAT Directive 2006/112/EC). MEPs, however, rejected with a slight majority an amendment to the Commission proposal, requesting that alcoholic beverages accompanying a meal also benefit from the reduced VAT rate. MEP Astrid Lulling (EPP-ED, Luxemburg) explained her proposal as follows: “*Our group wants to leave the choice of applying a single reduced rate for the catering trade to Member States which opt for a reduced rate. This is not possible with the text of the Commission’s proposal because this text imposes the application of different rates depending on whether the service at your local restaurant does or does not include a glass of beer or wine. How can anyone understand that?*”

In their meetings in April, the Committee of Permanent Representatives of the Member States (COREPER) came to a final agreement on the reduced VAT rate issue, setting the details of the political agreement reached by ECOFIN. The ECOFIN Council is expected to take its final formal decision, without further debate on 5 May 2009. According to the latest information, Member States will have the possibility to apply a reduced VAT rate to restaurant services, including alcoholic beverages.

Following the political agreement of 10 March, the French restaurateurs already reached an agreement with their government to lower the VAT rate on restaurant services from currently 19,6% to 5,5%. According to the press release by the French government, this measure should enter into force on 1 July 2009. The restaurant industry in France, on the other hand, is committing to translate the benefits of the VAT reduction into a reduction of prices, better conditions for employees and renovation investments.

In the Czech Republic, the government put forward a proposal to the parliament to lower the VAT rate for restaurant services from 19% to 9%. In Belgium, discussions are also ongoing on the issue.

HOTREC has been advocating for years the option for all Member States to apply reduced VAT rates to restaurant services (11 Member States currently apply a reduced VAT rate to restaurants). HOTREC therefore applauds the political agreement reached by the 27 Finance Ministers of the EU to give to all Member States the option to apply reduced VAT rates to restaurant services. The fact that several countries have already agreed on or are considering lowering the VAT rate for restaurant services shows, that this option corresponds to a true demand.

The issue of alcoholic beverages in the context of reduced VAT rates is very important for the hospitality industry, and especially for the restaurants in Italy, Luxemburg, Portugal and Spain. In such countries, the reduced VAT rate applied to the meal also covers alcoholic beverages. Should the standard rate have to be applied for such drinks, hundreds of thousands of establishments in these four countries would be forced to increase prices, which, in these times of economic downturn, might have serious implications on their businesses.

Therefore, HOTREC expresses its hope that alcoholic beverages served in restaurants will also be eligible for the reduced VAT rate and that the new rules will come into force as soon as possible.

FOOD AND HEALTH

□ Food labelling: the European Parliament postpones the voting

As explained in the previous issues of *Live from Brussels*, the European Parliament and the Council of the European Union are currently examining a Commission proposal (January 2008) to revise EU rules on food labelling (COM(2008) 40 final). The proposed regulation is of major interest for the hospitality industry as it applies to all stages of the food chain and covers all food, including “non-prepacked food”, which in the EU jargon encompasses meals prepared by restaurants / pubs / cafés and similar.

The members of the responsible EP Committee (ENVI) were to meet on 16 March 2009 to further discuss the amendments tabled. However, due to their high number (overall over 1000), the Rapporteur, MEP Renate Sommer (Germany, EPP), officially proposed to postpone the discussions and the voting until after the EP election in June 2009.

The request of MEP Sommer was endorsed by the ENVI Committee. In practice, this means that the Parliament will resume its work on the proposal in the next term (beginning of September 2009). If re-elected, MEP Renate Sommer will most likely be in charge of the dossier again. Under EP rules of procedures, the Rapporteur will have to present a new draft report in the ENVI Committee, taking into account as many of the tabled amendments as possible. A new deadline shall then be set for amendments to this new draft.

In parallel, the examination of the proposal continues within the Council Working Party on Foodstuffs (Labelling), bringing together experts of the national governments.

The postponement decided by the Parliament will imply a delay of at least six months in the adoption of the legislation. Under the so-called EU co-decision procedure, the proposed regulation has to be adopted jointly by the Parliament and the Council.

HOTREC fully agrees with MEP Sommer that the Commission proposal, as it stands, “should never become law” and that more time is needed to deal properly with the issue.

HOTREC is extremely concerned about the impact that the proposed regulation could have on the activities of European hospitality businesses serving “non-prepacked food”. The structure and content of the Commission proposal clearly show that it was conceived to apply to prepacked food and not to “non-prepacked food”. It would be simply impossible for traditional restaurants to provide the information that the Commission proposal requests. For practical reasons, it is unrealistic to foresee the application of the complex and detailed EU

requirements (Article 9 and Article 10) to “non-prepacked food” served locally by restaurants, pubs and similar, the vast majority of which employ less than 10 persons.

The impossibility relates also to the provision of allergens information, because of the risk of cross-contamination in kitchens of traditional restaurants/pubs/cafés with limited working areas: potential allergens such as cereals, eggs, fish, milk, nuts, etc. (as well as the products derived therefrom) are very common in most restaurant dishes. Other allergens, which are described with chemical terms, will be extremely difficult to identify by cooks, who do not necessarily have the knowledge of such terms. In addition, in principle, any food can trigger allergies or intolerances in sensitive persons. The liability risk for restaurateurs would be unbearable.

It would be impossible for restaurants to comply with the requirements set out by the proposal. Moreover, it would impose very heavy burdens and costs on all establishments, especially on the smallest. The Commission proposal, as it stands, would jeopardise the survival of small caterers. Staying in business would only be possible by cutting on the variety of dishes offered; using “ready-made” and prepacked ingredients instead of fresh products; “standardising” menus, dishes and raising prices for consumers.

HOTREC therefore urges the European Parliament and the Council to review thoroughly the proposal, taking into account the specificities of the hospitality industry. This is all the more urgent as the global economic slowdown is already having a negative impact on the business activities and employment.

□ **Quality of European agricultural products**

In October 2008, the European Commission (DG Agriculture and Rural Development) launched, with a Green Paper (COM(2008) 641 final), a consultation on how to improve EU rules to protect and promote the quality of European agricultural products (see *Live from Brussels N°44*). Stakeholders (farmers, traders, food manufacturers, retailers, etc.) were invited to reply to specific questions on issues such as:

- Production requirements and marketing standards of agricultural products;
- EU quality schemes (geographical indications, organic farming, traditional specialties guaranteed, etc.) as well as private and national certification schemes.

In February 2009, the Commission published a summary report of the replies received from stakeholders. The main findings of the consultation express support for:

- A simplification of marketing standards of agricultural products;
- Clarification and harmonisation of geographical indication schemes;
- Compulsory indication of the place of farming (where justified on a sector-by-sector approach);
- Improvement in the operation of private and national certification schemes.

The Commission is now preparing a Communication on the quality of European agricultural products to be issued in May 2009. The Communication will lay down the “strategic orientation” of the Commission before the possible adoption of legislative proposals in 2010.

The replies to the Green Paper consultation and a summary report can be found at: http://ec.europa.eu/agriculture/quality/policy/index_en.htm

Quality agricultural products are essential to ensure the good health of consumers and to maintain the quality and reputation of European cooking. However, new EU schemes / marketing standards / logos and certifications may impact the prices for the users. As an important “end-user” of such products, the hospitality industry has to follow closely the debate and possible legislative developments on this issue.

□ **EP resolution on food prices in Europe**

The issue of food prices continues to be on the agenda of European policy makers. In response to a recent Commission Communication (see *Live from Brussels N°45*), the European Parliament adopted a non-legislative resolution on food prices in Europe on 26 March 2009 ([TA-PROV\(2009\)0191](#)).

The resolution, based on an own-initiative report by MEP Batzeli (Greece, PES), expresses the concerns of the Parliament for the recent high food price-volatility and the growing gap between consumer and producer prices. According to MEPs, this growing gap is caused mainly by market distortions along the food supply chain. In particular, the Parliament takes the view that the high level of concentration in the food processing and retail sectors has a negative impact on the price transmission mechanism along the supply chain to the detriment of European farmers and consumers.

The Parliament considers that the EU should guarantee at the same time reasonable food prices for consumers and a decent income for farmers. It calls on the Commission to act accordingly. The resolution endorses the Commission decision to propose an EU market-monitoring system to register price trends and input costs across the supply chain. Furthermore, it invites Member States and the Commission to undertake detailed research on price transmission and margins along the food supply chain.

In a [press release](#) issued before the vote of the resolution, EuroCommerce (retail and wholesale sector) expressed regrets for the “unbalanced approach” of the report. Although EuroCommerce shares the concerns of MEPs with regard to volatile prices, it considers that the solutions suggested go in the wrong direction. Among others, EuroCommerce stresses that “*By limiting the supply chain to farmers and retailers, it [the report] makes incorrect assumptions: retailers almost never buy directly from farmers. It therefore neglects a complex and powerful processing chain as well as ignoring the dominant position of brand manufacturers, who are able to force products onto shelves at any price – any price, indeed they care to impose!*”.

HOTREC continues to follow with interest this issue and possible 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.

□ European Alcohol and Health Forum

On 11 March 2009, the European Alcohol and Health Forum held its 4th plenary meeting. The Forum was launched by the European Commission (DG SANCO) in June 2007 in the framework of the EU strategy “to support Member States in reducing alcohol related harm”. The Forum brings together stakeholders willing to take self-binding and “verifiable” actions (so-called “commitments”) aiming at reducing alcohol related harm at European level (see *Live from Brussels N°42, N°43 and N°44*).

Members of the Forum are over 50 organisations representing industry (alcohol producers, retailers, hospitality, advertisers, publishers, etc.), consumers, NGOs, health campaigners and the medical profession.

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

- Activities of the Task Forces on Marketing Communication and on Youth-specific aspects of alcohol. A concrete outcome of the Task Forces is the proposal, endorsed by the Commission, to establish a “Clearing House”. The idea is to create an online database (linked to the EU Health portal) to collect data across Europe on existing campaigns and initiatives (beyond the commitments made within the Forum), in relation to young people and alcohol issues (e.g. responsible drinking, drink & driving, etc.);
- Results of a [study](#) carried out by the consultancy RAND Europe (at the request of the Commission) on the link between affordability of alcohol and harmful consumption. The study examines issues such as affordability, price, taxation, cross-border consumption, impact of EU and national law and suggests policy recommendations. The research finds that there is positive relationship between affordability, alcohol consumption and related harm. It also notes that there is a growing trend towards off-trade (shops) consumption (where alcohol is more affordable) by comparison to on-trade (pubs, restaurants, etc.) consumption;
- Results of a study by the “Science Group” of the Forum on the impact of marketing communication on the volume of alcohol consumption. The research (a peer review of several existing studies) concludes that there is “*consistent evidence to demonstrate an impact of advertising on the uptake of drinking... and increased consumption*”.

An open session of the Alcohol Forum (open to non-members and the media) took place on 30 April 2009. The next plenary session of the Forum will take place on 12 November 2009.

Further information on the European Alcohol Forum can be found at:

http://ec.europa.eu/health/ph_determinants/life_style/alcohol/Forum/alcohol_forum_en.htm

HOTREC joined the Forum at the beginning of 2008 and committed itself to raising awareness among its Member Associations on the activities of the Forum and to encourage them to be directly involved. A special focus is given on responsible drinking and the enforcement of age limits for serving and selling alcoholic beverages.

So far, amongst the HOTREC Members, the British Beer and Pub Association, the Finnish Hospitality Association and the Swedish Hotel and Restaurant Association have joined the Alcohol Forum.

Details on the commitments by HOTREC and its members as well as the reports on their implementation can be found in the “Commitments database” of DG SANCO:

- *HOTREC: “[Raising awareness of National Associations / Call for actions](#)”*
- *BBPA: “[Enforcement of Age limits for selling and serving alcoholic drinks](#)”*
- *FHA: “[Enforce age limits for serving and selling alcoholic beverages](#)”*
- *SHR: “[Actions for responsible serving of alcohol](#)”*

□ **Commission initiatives against smoking still awaited**

As reported in *Live from Brussels N°43* and *N°45*, the European Commission is working on two possible initiatives against smoking:

- One led by DG SANCO (Health and Consumer Protection), focusing on smoking in public places; and
- Another led by DG EMPL (Employment and Social Affairs), focusing on smoking at the workplace.

DG SANCO is working on a draft proposal for a Recommendation (non-binding measure) on smoke-free environments, intended to assist Member States in implementing comprehensive smoke-free laws in line with the guidelines of the “anti-tobacco” Treaty of the WHO. The adoption of the proposal has already been postponed several times (initially due by the end of 2008, it was then expected during the spring 2009). Problems seem to have appeared during “inter-services” consultation.

In parallel, DG EMPL launched in December 2008 a “*first-stage consultation*” of the social partners concerning possible action to protect workers from the health risks arising from passive smoking at the workplace. The legal basis for EU action in this field is Article 137 of the Treaty (health and safety at work). Various options were presented to the social partners in the consultation:

- Binding legislation (e.g. a directive banning smoking at the workplace);
- Non-binding measures (e.g. guidelines, best practices, etc.); or
- A combination of binding and non-binding initiatives.

The first phase of the consultation is now completed but DG EMPL has not yet decided “*how to move forward*”. In a recent reply (March 2009) to a parliamentary question by an Austrian MEP, Health Commissioner Vassiliou pointed out that “*It will be to the next Commission to consider the possible follow-up*”. If the Commission considers that the outcome of this “*first-stage consultation*” calls for EU action, it will launch the “*second-stage consultation*” on the content of such action.

As already stated in its replies to the Commission Green Paper “Towards a Europe free from tobacco smoke” (May 2007) and reiterated in its answer to the first-stage consultation of the social partners (January 2009), HOTREC is of the strong opinion that any intervention at EU level in relation to smoking is not only superfluous but would also interfere in an

inappropriate manner with national legislation and/or with voluntary initiatives taken at national level.

CONSUMER AFFAIRS

❑ **Consumer rights Directive: a long battle in sight**

As explained in *Live from Brussels N°44*, the Commission released in October 2008 a proposal for a Directive on consumer rights (COM(2008) 614/3 final). The aim of this Directive is to review, simplify and improve the coherence of the consumer contract regulatory framework through the incorporation into one set of rules of four existing Directives:

- The unfair contract terms Directive (93/13/EEC);
- The distance selling Directive (97/7/EC);
- The consumer sales and guarantees Directive (99/44/EC); and
- The doorstep selling Directive (85/577/EC).

This draft Directive intends to regulate all contracts for sales of services and goods from business-to-consumer. It provides general consumer rights applicable to all service contracts and, in addition, regulates distance contracts and unfair contract terms. In particular, the text issued by the Commission contains “black” and “grey” lists of unfair contract terms (respectively contract terms always considered unfair and contract terms presumed unfair), proposes to ban pre-ticked opt-in boxes in contracts. It also upholds the exemption to the right of withdrawal as well as the right to written confirmation of information granted in relation to accommodation contracts by the current distance selling Directive. Furthermore, the Commission proposal departs from the traditional approach of minimum harmonisation used in the past and opts for maximum harmonisation, meaning that Member States would not be allowed anymore to adopt more stringent rules than those in the proposal.

The text is currently being discussed in both the European Parliament and the Council under the co-decision procedure. In the Council, the item is still being discussed in the working party by the political experts of the Member States’ permanent representations. Member States apparently discuss the possibility to scrap the exemption to the right to a written confirmation of information for accommodation contracts, thus limiting the exemptions benefiting our sector to the sole right of withdrawal.

In the European Parliament, MEP McCarthy (UK, PES) was designated Rapporteur for the IMCO Committee (the leading committee). However, the coordinators of the IMCO Committee decided to opt for an unusual procedure: no shadow Rapporteur was appointed, but a small working group of MEPs was instead created to work jointly with the Rapporteur. This working group of MEPs already announced that there will not be enough time left in the current EP’s term to even produce a draft report for the Committee. Therefore, they decided to draft a working document in order to provide guidelines for the work to be carried out in the next parliamentary term. An oral question with debate is also tabled in the last EP plenary of the term in May 2009. Moreover, many key MEPs already announced their readiness to fight with the Council until the conciliation, if necessary, to obtain a worthwhile Directive. Many fear, in particular, that maximum harmonisation may lead to a decrease of consumer protection in the few Member States where the standards are higher than what is provided by the Commission proposal.

HOTREC and its National Associations already welcomed the Commission proposal to maintain the exemptions to the right of withdrawal and to the written confirmation of information for distance contracts for the provision of accommodation, catering or leisure services. HOTREC had been fighting intensively at the time of adoption of the distance selling Directive in 1997 to obtain these exemptions. Given the specific nature of hotel room contracts and the highly perishable nature of the services provided by the hospitality industry, such derogations are essential for HOTREC and its National Associations.

HOTREC will keep a close eye on the matter, as consumer organisations have announced their will to fight against these derogations for accommodation contracts. HOTREC will, therefore, remain vigilant, so as to ensure that the Commission proposal is not altered during the debates in the Council and the EP.

□ **Collective redress: HOTREC reply to the Green Paper**

The Commission is currently examining the problems consumers face in obtaining effective redress when the cost of taking legal action is likely to outweigh the amount of compensation claimed. In the Commission's view, collective redress (class actions) could be an effective mean of tackling this issue.

Following previous consultations and workshops (see *Live from Brussels N°42 and N°43*), the European Commission released on 27 November 2008 a Green Paper on Consumer Collective Redress (COM(2008) 794 final), in which it proposed 4 policy options:

- Option 1 - No EC action. However, the Green Paper almost rules this option out;
- Option 2 - Cooperation between Member States: either a Directive or a Recommendation would be adopted to set-up collective redress systems in every Member State and to allow consumers to use the systems available in other Member States;
- Option 3 - Mix of policy tools: it would consist in improving existing Alternative Dispute Resolution (ADR) mechanisms, establishing a collective ADR accessible to consumers from other Member States, extending the scope of the national small claim procedures and encouraging businesses where mass problems are reported (e.g. the tourism sector) to develop self-regulatory measures;
- Option 4 - Judicial collective redress procedure: it would imply the creation in every Member State of a collective redress judicial mechanism.

To assess the respective merits of each option, the Green Paper was accompanied by a consultation, to which HOTREC replied. The consultation was open until the 1st March 2009.

In its reply to the consultation, HOTREC stressed that any EU initiative on the matter should respect the principle of subsidiarity and should not indirectly push towards judicial collective redress over ADR. HOTREC and its National Associations called for option 1, as most collective redress schemes already in place in the EU are too recent to be assessed exhaustively. More time is necessary to obtain more reliable data on these mechanisms. In case option 1 would not be retained, HOTREC considers option 2 as a second best possibility, while option 4 (pan-European judicial collective redress) should be ruled out. Non-binding instruments should also be favoured by the European Commission, in order to fully respect the principle of subsidiarity.

Furthermore, as already stressed in a previous consultation, HOTREC considers that specific attention should be paid to the defendant's reputation, when no illegal behaviours were previously identified. In case the EU would opt for imposing judicial collective redress procedure, HOTREC will pay a specific attention to the system put in place, so as to ensure that unmeritorious claims are effectively discouraged and opt-out mechanisms are ruled out.

SOCIAL AFFAIRS

□ Working Time Directive - back to square 1!

As reported in *Live from Brussels N°45*, on 17 December 2008, the European Parliament massively rejected the main points of the Council common position on a proposal for a Directive modifying Directive 2003/88/EC, concerning certain aspects of the organisation of working time.

The two main points of dispute between the Parliament and the Council have been and continue to be:

- **Opt-out clause:** The current EU Directive limits working time to 48 hours per week. In its common position, the Council chose to keep the possibility for Member States to allow opt-outs from the general principle of 48 hours weekly working time. For workers agreeing an opt-out clause, the maximum working hours per week would have been 60 or 65 hours under certain conditions. On the contrary, MEPs wanted to put an end to the opt-out;
- **On-call time:** In its common position, the Council suggested that the inactive part of the on-call time should not be considered as working time unless otherwise decided by national law, collective agreement or agreement between social partners. On the contrary, the Parliament wanted any form of on-call time (including inactive on-call time) to be counted as working time.

Three Conciliation Committee meetings brought together the 2 institutions in March and April 2009. In spite of the Czech Presidency's efforts to reconcile the positions of the Council and of the Parliament, no agreement could be reached.

As a result, the current Directive 2003/88/EC remains in force. Member States are allowed to opt-out from the general principle of 48 hours per week with a maximum limit of 78 hours. At present 15 Member States allow total or sectoral opt-outs from the maximum 48 hours weekly working time.

The European Commission could, however, issue a new proposal and initiate again the legislative process.

HOTREC is of the opinion that the opt-out clause should be maintained, as it allows companies to deal with temporary fluctuations in demand and also benefits workers who want to supplement their income, especially in the current economic crisis. Flexible working-time arrangements are crucial for the hospitality industry.

□ **Directive on European Works Council adopted**

As reported in *Live from Brussels N°45*, in July 2008 the European Commission adopted a proposal (COM(2008) 419) to replace Directive 94/45/EC on the establishment of a European Works Council (EWC) or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

In December 2008, the European Parliament adopted, in first reading, its position on the EWC proposal. The text approved by the EP plenary, and previously agreed with the Council, included the suggestions put forward by the European social partners (BUSINESSEUROPE, ETUC, UEAPME and CEEP) in relation to more precise definitions of the terms “consultation” and “information”. The “transnational” nature of matters was clarified to now encompass decisions taken in one Member State only, but that may potentially affect the workers in another Member State.

In April 2009, the Council formally adopted the revised Directive on European Works Councils.

According to the database of EWC agreements, www.ewcdb.eu, some 18 chains in the hospitality sector have Works Councils.

□ **Work-life balance package**

As reported in *Live from Brussels N° 44*, in October 2008 the European Commission presented a package of documents on work-life balance. The package contains 2 legislative proposals and a Communication. The legislative proposals are being dealt by the European Parliament and the Council, under the co-decision procedure.

The legislative proposal (COM (2008) 637) amending Council 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, suggested extending maternity leave to 18 weeks (14 weeks under the current Directive). The EP Committee on Women’s Rights and Gender Equality (FEMM) requested extending maternity leave to 20 weeks.

On maternity allowance, the Commission’s original proposal provided for the principle of 100% of the full monthly salary, though this provision was not made mandatory. The FEMM Committee adopted an amendment requesting the compulsory payment of the full salary of at least 6 weeks after childbirth. For the remainder of the period, the FEMM Committee suggested that women should be paid at least 85% of the last monthly salary.

MEPs also adopted an amendment extending the prohibition of dismissal from 6 months to 12 months, following the end of maternity leave: any dismissal in the following 12 months would have to be justified in writing and not linked to maternity.

Furthermore, the FEMM Committee approved a new provision requesting Member States to take the necessary measures to introduce a 2 weeks-paternity leave for workers whose life-partner has recently given birth.

The legislative proposal (COM(2008) 636) aiming at replacing Directive 86/613/EEC on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, suggested extending the right of maternity leave to female self-employed workers and assisting spouses, at their request. The FEMM Committee stressed that the leave could be as long as the leave for employees. With regard to assisting spouses, the Commission proposed that they should be allowed social security insurance coverage, at their request. However, the FEMM Committee requested to make this affiliation compulsory.

HOTREC supports measures on work-life balance and protection of working women who are pregnant, have recently give birth or are breastfeeding. Nevertheless, HOTREC is of the opinion that an excessive regulation in this area will only add financial costs and additional burden to SMEs. The compulsory extension of maternity leave to 20 weeks would entail additional burdens in the majority of the Member States where currently the maternity leave is shorter than 20 weeks. The initial aim of the proposal to protect pregnant workers by extending the terms of maternity leave could cause the opposite intended effect, as small business (99% in the hospitality sector) would encounter many difficulties in hiring young women. This is why 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.

HOTREC will carefully monitor the development of the legislative process in the next months.

❑ **Discrimination beyond the workplace**

As reported in *Live from Brussels N°42* and *N°43*, on 2 July 2008, the European Commission adopted a proposal for a 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. 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 ...*”.

According to the proposal, it shall be for the provider of the service to prove, in the case of a claim, that there has been no breach of the prohibition of discrimination.

On 2 April 2009, the European Parliament adopted a non-binding opinion on the proposal. The text is now to be approved by unanimity in the Council.

The European Parliament suggested some extensions of the concept of discrimination, for example, discrimination on the grounds that a person is accompanied by a recognised guide dog.

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 for 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.

PAYMENT SERVICES

□ MasterCard and Commission compromise - reduced fees

Following the European Commission's decision in December 2007 that MasterCard's Multilateral Interchange Fees (MIF) were violating EU's antitrust rules (see *Live from Brussels N°42*), MasterCard introduced a new card scheme in June 2008, followed in October 2008 by an increase of the fees to merchant acquirers for both MasterCard credit and Maestro debit cards across Europe. The Commission therefore scrutinized the new card scheme to ensure that MasterCard fully complied with its December 2007 decision.

This enquiry led MasterCard to adopt yet again a new methodology, on which the European Commission agreed, for its MIF for cross border transactions. This new methodology will be implemented from July 2009 onwards. According to the new scheme, cross border MIF on credit transactions will decrease to 0,3% (from a current range of 0,8% to 1,9%). Moreover, charges on debit transactions will also be cut down to 0,2%, instead of the current range of 0,4% to 0,75%. Finally, MasterCard also undertook to adopt new measures to enhance the transparency of its schemes. For instance, merchants will now be offered 'unblended rates', meaning that they will be offered and invoiced distinct rates according to the type of card that is used in transactions.

HOTREC and its Member Associations are discontent over the compromise reached between the Commission and MasterCard. The announced decrease of the October 2008 fees is good news. However, the details of this compromise are disappointing. As stated by EuroCommerce, "the decision to allow MasterCard to continue charging retailers and consumers a percentage fee on each card transaction is wholly unjustified and ill-conceived." Moreover, the setting of different rates for credit and debit cards does not reflect the market reality, as "both types of transaction require the same processing" and therefore generate the same cost. HOTREC will continue to work in close cooperation with EuroCommerce on the matter.

□ New competition proceedings against VISA

Following the opening in March 2008 of a formal antitrust proceeding against VISA (see *Live from Brussels N°42*), the European Commission announced on 6 April 2009 that it had sent them a Statement of Objection (SO). This SO concerns all multilateral interchange fees set directly by VISA for transactions with consumer payment cards.

According to the Commission, the MIF charged by VISA harm competition between acquiring banks and inflate the cost of payment card acceptance for merchants. Such MIF are, therefore, violating EU competition rules. The Commission nonetheless recalls that MIF are not illegal *per se*, providing that they benefit consumers by contributing to technical or economical progress; a condition that could not be demonstrated by VISA so far. This SO is in direct line with the previous Commission decision from 19 December 2007 (see *Live from Brussels N°42*), which ruled that MasterCard MIF were not complying with EU competition rules.

Furthermore, the Commission SO also concerns other specific rules, such as the “honour all cards” rule which forces merchants, if they accept a brand of card, to accept all such cards, whatever the interchange fees. Following this SO, VISA is now required to reply in writing to the Commission on all the issues addressed in the SO, and may require an oral hearing. The Commission will then decide whether VISA’s replies are deemed satisfactory, or whether a ruling will be necessary to ensure compliance with EU antitrust rules.

HOTREC welcomes the Commission’s Statement of Objections as a step in the right direction in line with the Commission’s previous MasterCard decision of December 2007. HOTREC is of the clear opinion that MIF harm competition between acquiring banks and constitute a hidden tax on transactions made by payment cards. In particular, HOTREC echoes EuroCommerce’s satisfaction to see the “honour all cards” rule included in the Commission SO. Such rule does not allow merchants who accept one card to refuse other cards of the same brand, even if the latter imply much higher fees. HOTREC will continue to work in close cooperation with EuroCommerce on the matter.

COPYRIGHT

□ Copyright term extension: a 70 years compromise in sight!

As explained in *Live from Brussels N°44*, the Commission proposal to extend the term of copyright protection from 50 years to 95 years for European music performers and record producers (COM(2008) 464/3 final) is currently being discussed both in the European Parliament and in the Council. According to the Commission, the aim of this proposal is to ensure that music performers still receive royalties in the late years of their life for the music they performed in their youth. In addition, the proposed extension for record producers will allow them to compensate for the decline of their revenues from the CD market.

In the Council, discussions have been fierce. The Czech Presidency of the EU proposed, as a compromise, to reduce the copyright term extension for performers and record producers to 70 years (instead of the 95 years proposed by the Commission) in order to break a blocking minority within the Council. Most Member States seemed ready to accept this compromise and the United Kingdom withdrew its opposition. However, in a decisive meeting on 3 April, a short blocking minority of Member States was confirmed, precluding the Czech Presidency of the EU from obtaining any agreement neither within the Council nor with the Rapporteur of the European Parliament.

In the European Parliament, following the positive vote on 12 February of the JURI (Legal Affairs) Committee on the Commission proposal, the EP plenary was expected to adopt its final position in March 2009. However, strong disagreements emerged between the political groups and the vote in the plenary was postponed. On 23 April 2009, the EP plenary finally

adopted its opinion on the matter. The text adopted waters down the initial Commission proposal in an effort to accommodate the Council and to break the blocking minority. The EP opinion aligns itself with numerous points of the Czech compromise and in particular with the proposal to reduce the term extension for performers and record producers to 70 years (instead of 95). Moreover, the EP introduced an amendment to require the Commission to come-up by 2010 with an impact assessment on the need for a similar extension for performers and producers in the audiovisual sector.

The Council now has to adopt a common position on the EP opinion. If the Member States endorses it, the proposal will be definitely adopted. But if the Council disagrees with part or all of it, a second reading will be necessary.

As an important right-user, the hospitality industry is very concerned about this proposal. HOTREC firmly believes that an extension of the copyright term will inevitably increase the huge amount of fees already being paid by the hospitality industry, while doing little to improve concretely the situation of artists. HOTREC is of the clear opinion that right users should not be asked to compensate losses of revenues incurred by record producers for their failure to adapt their business models to a new market environment. HOTREC, therefore, welcomes the blocking minority in the Council and the courageous stance adopted so far by some Member States. HOTREC is now working on new initiatives with other right users members of the Copyright Users Platform (CUP).

STANDARDS

□ ISO TC 228 plenary meeting in Turkey

As announced in *Live from Brussels N°43* and *N°45*, the ISO Technical Committee 228 on “Tourism and related services” held its 4th plenary meeting on 20-21 April 2009 in Cappadocia, Turkey. The busy agenda included updates on ongoing standardisation activities (e.g. medical and wellness spa services, golf and beach services) as well as presentations in relation to the following items of particular interest to HOTREC:

- The outcome of the vote by correspondence launched by the ISO Central Secretariat on the review of standard EN ISO 18513:2003 on the terminology of hotels and other types of accommodation was on the agenda “for information purposes” only (see *Live from Brussels N°44*). However, to the general surprise and despite the very clear outcome of the vote by correspondence (18 votes for confirmation; 8 for revision; 2 for withdrawal and 10 for abstention), the participants were requested by the ISO Central Secretariat to vote again on the issue. The end result was the confirmation of the standard without any modification, ratifying the results of the vote by correspondence;
- Another item on the agenda was the proposal presented by Serbia to develop a standard on the “Management of safety and security in the tourism industry” (see *Live from Brussels N°45*). However, at the meeting, the Serbian delegate announced the intention to withdraw the proposal, taking into account the sustained opposition expressed by several representatives of the European tourism industry (including HOTREC). Instead, Serbia will submit a proposal for a new project dealing only with the management of safety and security regarding archaeological sites and the cultural heritage;

- Similarly, in view of the opposition expressed by some delegations (including HOTREC) and the provision of the Business Plan (until 2010) which requests TC 228 members “*to work only on those areas where there is a known support among the stakeholders*”, Turkey announced that it would postpone until next year its proposal on “environmentally friendly accommodation”.

At the closure of the meeting, Spain expressed interest and support for the Turkish initiative and declared the intention to propose in 2010 the setting-up of a new working group to develop standards on accommodation (and not limited to sustainable aspects as proposed by Turkey).

The next plenary meetings of ISO TC 228 will take place in Brazil in April 2010 and Italy in 2011 (tbc).

HOTREC, which attended the ISO meeting, welcomed the decision by the Serbian and Turkish delegations to withdraw their projects. Before the meeting, HOTREC had written to the members of TC 228 urging them not to support the Serbian and Turkish proposals. HOTREC, which is not against standards “per se”, firmly believes that standardisation should remain fully market-driven and standards should be developed only with the wide support of the industry concerned.

HOTREC also welcomed the adoption of the resolution confirming the standard on hotel terminology without modifications. However, HOTREC questions the democratic legitimacy of the request by the ISO Central Secretariat to vote again on a Resolution adopted by correspondence. This only confirms, if need be, the lack of transparency of ISO rules.

HOTREC, which has a Liaison status (with no voting right) within TC 228, has been advocating since years that hospitality services should be out of the scope of the standardisation works. 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.

□ CEN feasibility projects for services standardisation

As explained in previous issues of *Live from Brussels*, in 2005 the European Commission gave CEN (European Committee for Standardisation) a mandate to develop a standardisation work programme to support the development of the internal market for services. On the basis of this mandate, CEN worked over the period 2007/2008 on a number of projects (so-called “feasibility studies”) to assess the opportunity of standardisation activities in relation to certain services. Some of these 11 projects concerned topics of interest to the hospitality industry:

- “*Accessibility services in transport and tourism*” (project leader AFNOR, France): conditions and need for the development of harmonised criteria to define the accessibility (for people with disabilities) of transport and tourist sites and facilities, including hotels and restaurants services;
- “*Horizontal aspects of services provision*” (CHESSS¹ project – led by BSI, United Kingdom): a generic, rather than sector-specific approach to services standardisation,

¹ CEN Horizontal European Service Standardization Strategy

with focus on aspects such as safety in delivery of services, assessment of customer satisfaction, etc.

The national standardisation bodies in charge of the studies completed their work in 2008 but the results have not been made available yet. At the beginning of 2009, CEN formally submitted a final “global” report to the Commission, including the findings and recommendations on the way forward in relation to each project. A summary of the CEN final “global” report will be made available only after its formal approval by the Commission. After the formal Commission “green light” and depending on the Commission position on CEN recommendations, new standardisation projects (e.g. standards or other “deliverables” such as guidelines, workshop agreements, etc.) could be launched by CEN in the coming years in the priority areas identified by the studies.

As explained in the letters sent by HOTREC to the project leaders of the above mentioned studies, there is presently no support from the European hospitality industry for standardisation activities at EU level in relation to these areas.

As made clear on many occasions, HOTREC reiterates that it does not support a top-down approach for the development of standards covering services provided by hospitality businesses. HOTREC firmly believes that the standardisation process should remain fully market-driven; initiatives should come from the industry/users, and shall be based on commercial considerations as well as on sound business impact assessments.

□ **Reflection process on the revision of the European standardisation system**

Following its Communication of March 2008 (COM(2008) 133 final) on standards and innovation (see *Live from Brussels N°42*), the European Commission (DG Enterprise and Industry) is conducting a broad “reflection process” on how to reform the European standardisation system. The following initiatives are part of this process:

- [EXPRESS Panel](#): this group, composed of experts in standardisation (from European and national standardisation bodies, public authorities, stakeholders, etc.), has been set up by DG Enterprise in January 2009 with the task to deliver a report containing strategic recommendations on how to move towards a more integrated system. The report by EXPRESS is expected by October 2009;
- Study on the “[Evaluation of actions for the promotion of craft and SME interest in the European standardisation area](#)” by the firm GHK Technopolis. This report, presented in March 2009, evaluates the work of NORMAPME and makes recommendations for improving the operation and the impact of the activities carried out for the support of SMEs in standardisation;
- Study on “[Access to Standardisation](#)”: on 27 April 2009 the Commission presented the results of a study - worth 200 000 EUR for a period of 15 month - conducted by the Dutch consultancy EIM Business & Policy Research (see *Live from Brussels N°42*). The aim of the initiative was to investigate the conditions (and problems) regarding the access by stakeholders to the standardisation process across the EU, compare national situations and make recommendations to facilitate their access and participation. The research identifies a number of gaps and makes 13

recommendations addressed to the Commission, the Member States and the standards organisations to enhance the system, with regard to issues such as:

- The organisational structure and business model of national standards organisations;
- The relationship between standards organisations and EU institutions, the procedures for the development and distribution for standards; and
- The representation and support of SMEs in standardisation.

The findings and recommendations of these initiatives will feed the reflection that the Commission is carrying out, with a view to reforming and streamlining the European standardisation system. Legislative proposals could be issued in spring 2010.

HOTREC welcomed the launch of the studies and the reflection process as a positive and constructive step in the right direction. HOTREC, which is not against standards “per se”, considers a transparent and facilitated access to the standardisation process as essential. As a matter of fact, HOTREC and many of its Member Associations have been encountering several difficulties over the last years in relation to the working procedures of the standardisation bodies at all levels: national, European and international. HOTREC will continue to follow very closely the current debate on the reform and role of the European standardisation system to make sure that the voice of the European hospitality industry is duly taken into account.

HOTEL REVIEW SITES

□ Positive dialogue between hotel review sites and HOTREC

As reported in *Live from Brussels N°42*, HOTREC opened a constructive dialogue with hotel review sites in October 2007, proposing to them 10 principles relating to their functioning.

For the hotel industry, advantages of review sites outweigh the risks involved. They add new dimensions to the transparency of the offer and allow for a more comprehensive hotel search, according to the individual needs of the traveller. On occasions, however, hotels have difficulties with their treatment on such sites. This is why HOTREC endeavoured to collaborate with review sites.

Further to the feedback received and to the seminar on hotel review sites held in connection with the last HOTREC General Assembly in November 2008, HOTREC proposed a refinement of the 10 principles. Some review sites have accepted to complete a self-assessment of their compliance with these refined 10 principles.

These first self-assessments, together with the revised HOTREC position paper and the related press release, are available on the HOTREC website under: www.hotelreviewsites.hotrec.eu.

TRAVEL RELATED ISSUES

□ Agreement on new Community Visa Code reached

As reported in *Live from Brussels N°39* and *N°40*, since 2006 the European institutions have been negotiating a draft Regulation on a Community code on visas. The European Commission had proposed, among others, to collect biometric identifiers from travellers and to increase the visa fee from 35 to 60 EUR (this measure is already in place).

On 2 April 2009, the European Parliament, after lengthy discussions, agreed in first reading on a compromise negotiated with the Council of Ministers on the new visa rules, the main elements of which are as follows:

- The visa fee is 60 EUR (to be revised regularly);
- The fee for children between 6 and 12 years of age will be 35 EUR (which may be waived by Member States);
- Visa fees shall be waived for certain categories of people (e.g. school pupils, students on educational trips, children under the age of 6 years);
- Visa fees may be waived for young people under the age of 25 years participating in seminars, conferences, sports or cultural events, etc.;
- Biometric data (electronic photograph and fingerprints) will be taken from all applicants above the age of 12 years;
- Additional service fees may be charged (e.g. for the collection of biometric data);
- The travel insurance coverage will have to be at least 30.000 EUR.

In order to avoid disproportionate efforts to be undertaken by travellers for the application for a visa, Member States shall endeavour to conclude arrangements on representation with other Member States that have consulates in the country/region/area of the applicant.

Member States may cooperate with commercial intermediaries (e.g. travel agencies) for the lodging of applications. However, because of the requirement for the collection of biometric identifiers, the applicants will have to appear in person at the consulates when they apply the first time for a visa.

The new rules set specific timeframes for the handling of visa applications (decision should be taken within 15 days as a rule) and to use harmonised procedures, making visa applications less complicated.

The decision of the European Parliament still has to be officially confirmed by the Council. The new rules shall apply in about 7 months following their publication in the Official Journal of the EU.

Although the initial Commission proposal of 2006 was somehow softened during the negotiations between the Council and the European Parliament, HOTREC nonetheless regrets that travelling to Europe will become more burdensome for some travellers, who may eventually renounce from their trip.

INTERNAL MARKET

□ Internal market for health services: good news for health tourism?

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

Given the fact that health services were specifically excluded from the Service 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 would 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.

The draft Directive has now received a positive vote in 1st reading in the European Parliament on 23 April 2009. The European Parliament indeed adopted in plenary a supportive report, which slightly amends the Commission proposal. In particular, MEPs introduced a possibility for Member States to require a prior authorisation for reimbursement of cross border healthcare if the financial balance of the Member State's social security system could be seriously undermined. The Council is now expected to adopt its common position on the text adopted by the European Parliament.

HOTREC welcomes the adoption of the EP report on patients' rights in cross-border healthcare. This report is a first step towards a more integrated health service market within the EU, which could provide further opportunities for health tourism in a number of Member States with high quality infrastructures.

SMEs POLICY

□ MEPs want to make the Small Business Act binding

Following the adoption by the Commission of its "Small Business Act" (SBA) for Europe (COM(2008) 394 final), and by the Competitiveness Council of its conclusions on the matter, in June and December 2008 respectively (see *Live from Brussels N°43* and *N°45*), the European Parliament adopted on 10 March 2009 a resolution on the matter (P6_TA(2009)0100).

This resolution, while fully backing the SBA, calls in particular on the Commission to turn the "Think Small First" principle contained in the SBA, and which is branded as the truly innovative part of the SBA, into "a binding rule, in a form to be determined, in order to ensure that it is properly applied in all future Community legislation". The European Parliament resolution itself is a non binding instrument that cannot require the Commission to act, even though it will force the Commission to take position on the matter.

As over 99% of the hospitality industry is composed of SMEs, HOTREC welcomes the European Parliament's resolution on the SBA, which echoes the HOTREC call for the adoption of binding mechanisms aimed at ensuring that the principles contained in the SBA

will be implemented effectively. *HOTREC stresses that the lack of binding mechanisms for the application of the “Think Small First” principle or for the inclusion of “SME test” in all impact studies conducted by the Commission are important shortcomings.*

□ **The EP adopts its opinion on the European Private Company Statute**

As explained in *Live from Brussels N°43* and *N°44*, the Commission released on 25 June 2008 a proposal for a Regulation on the Statute for a European private company (COM(2008) 396/3 final). The proposal for a new European private company statute (Societas Privata Europaea - SPE), as tabled by the Commission, offers several advantages from a SME-friendly point of view, in particular in terms of minimum capital requirement (1€), location of the registered office, internal organisation and registration formalities.

Following the adoption on 19 January 2009 by the Legal Affairs (JURI) Committee of its report on the matter (see *Live from Brussels N°45*), the EP adopted in plenary on 10 March 2009 its opinion on the Commission proposal, in which it proposes to impose additional requirements for the formation of a SPE, such as:

- The need for a company to have a “cross-border” component in order to qualify as a SPE;
- The need for a company either to provide a solvency certificate or to fulfil the requirement of a minimum capital of €8,000;
- Specific rules on employee participation: each SPE should apply the conditions on employee participation laid down by the national law of the Member State of registration. Specific rules are also provided in the event of a company transfer, in order to avoid any circumvention of workers’ rights.

The same requirements are currently being discussed in the Council, where unanimity will be needed to reach an agreement. While the EP is only consulted, its opinion is nonetheless likely to influence the debate in the Council, which is now expected to reach an agreement by the end of the Czech Presidency of the EU.

As SMEs represent over 99% of the hospitality industry, HOTREC and its Member Associations welcome the initial Commission proposal which can be of great help for the hospitality industry. However, following the adoption of the EP opinion, HOTREC fears that the Council will be further encouraged to water-down the initial Commission proposal, making the SPE less attractive for the vast majority of SMEs.

□ **A new Commission proposal to fight payment delays!**

The Commission considers late payments to SMEs as a serious problem which hampers the development of businesses and is also responsible for bankruptcies of viable companies in certain cases. Therefore, and in order to fulfil a commitment included in its Small Business Act for Europe, the Commission released on 8 April 2009, a proposal for a Directive on combating late payments in commercial transactions (COM(2009) 126/4).

The draft Directive proposes to amend existing Directive 2000/35/EC on terms of payments, in order to ensure a decrease in the number of late payments in the EU. According to the

existing Directive 2000/35, creditors are entitled to claim interests for late payments. A payment is considered late when it is still due:

- After the date specified in the contract for the payment; or
- 30 days after the invoice was received; or
- 30 days after the provision of the good or service.

The Commission proposal suggests amending the existing Directive as follows:

- Creditors would be entitled to receive, in addition to the interests for late payments, a compensation for internal recovery costs;
- Public authorities will be obliged to pay invoices within 30 days. Past this period, creditors will be entitled to receive in addition to the interests for late payments and the compensation for recovery costs, a lump-sum compensation of 5% of the amount due;
- The possibility for Member States to exclude claims for interests of less than 5€ is removed;
- Rules on grossly unfair contracts are tightened.

This proposal will now be examined by the Council and the European Parliament under the co-decision procedure.

HOTREC and its Member Associations welcome the Commission's proposal as a step in the right direction that may be of great help for many small hospitality establishments having contractual relationships with public authorities. However, HOTREC regrets that:

- *The scope of the Commission proposal exclude Business to Consumer contractual relationships;*
- *No maximum date for making payment is set up in the proposal, when public authorities exceed the 30 days period;*
- *The proposal does not contain any obligation for public authorities to pay compensations, but only allow companies to claim them. There is therefore a great risk that small hospitality businesses will not use such possibility by fear of losing the contract or not to obtain new contracts with public authorities.*

ENVIRONMENT

□ Energy Performance of Buildings (EPBD)

As announced in *Live from Brussels N°42*, the European Commission issued in November 2008 a new proposal (COM(2008) 780 final) replacing Directive 2002/91/EC on the energy performance of buildings. According to this new proposal, energy efficiency requirements shall be applicable to all (new and existing) buildings regardless of their size: the threshold of 1000 m² to meet the minimum energy performance requirements is abolished.

On 23 April 2008, the European Parliament adopted its first-reading opinion on the proposal. The most important additional points are as follows.

- MEPs call on Member States to “ensure that all new buildings are at least net zero energy buildings by 31 December 2016 at the latest”. According to the definition

introduced by the Parliament “*net zero energy building means a building where, as a result of the very high level of energy efficiency of the building, the overall annual primary energy consumption is equal to or less than the energy production from renewable energy sources on site*”. In practice, this means that in the view of the EP, from 2017 all new buildings should produce as much energy as they consume on-site (e.g. via solar panels or heat pumps);

- MEPs also urge Member States to fix the “*minimum percentages of [existing] buildings which shall be, by 2015 and by 2020 respectively net zero energy buildings*”;
- Renovation of existing buildings: MEPs voted to upgrade the building minimum energy performance requirements whenever it undergoes major renovation defined as costing at least 20% of the building’s value or covering 25% of the building surface: the requirements also apply when building components (e.g. windows) and technical building systems (e.g. boilers, air conditioning, etc.) are replaced.

Following the EP vote, it is now to the Council of Ministers to express their views on the legislative proposal, under the EU co-decision procedure.

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. HOTREC fully supports measures that intend to reduce the amount of CO₂ emissions and promote energy savings. Nevertheless, HOTREC is of the opinion that, the abolition of the threshold of 1000 m² for new and existing buildings that undergo major renovation, can be financially burdensome for small companies that are already suffering from the economic and financial crisis.

□ Sustainable production and consumption high on EU agenda

As reported in *Live from Brussels N°43*, the European Commission issued on 16 July 2008, an Action Plan (COM(2008) 397 final) containing an integrated package of measures to boost sustainable consumption, production and industrial policy. The objective is to improve product environmental and energy performances, to help consumers making more ecological choices and to support the market through ‘green’ government procurement. The action plan contains 3 legislative proposals, which have been examined by the European Parliament in first reading, under the co-decision procedure:

- Proposal (COM(2008) 401 final) for a revision of the Ecolabel Regulation 1980/2000/EC:

The proposal legislation revisits the current Community Ecolabel award scheme. Voluntary eco-labelling will be extended to cover a wider range of products and services such as food (only processed food products) and drinks. However, the EP does not favour the extension of the Ecolabel to foods and drinks;

With regard to the tourist accommodation and campsite services, a new Commission Decision replacing Decision 2003/287/EC, establishing the ecological criteria for the award of the Community Ecolabel, will be issued at the end of May.

- Proposal (COM(2008) 399 final) for the revision of the Ecodesign Directive 2005/32/EC:

The Ecodesign Directive establishes minimum environment requirements for the placing on the market of energy-using appliances (e.g. heating and water heating

equipment, ventilation and air conditioning, etc.). The revised Directive should also cover products that do not consume energy during use but have an indirect impact on energy consumption (e.g. water-using devices, windows, etc.);

- Proposal (COM(2008) 402 final) for the revision of the EMAS Regulation 761/2001/EC:

The objective is to simplify the participation in the EU voluntary eco-management and audit scheme and to make it less costly. The Parliament voted, on 2 April 2009, for a lighter and more accessible EMAS.

HOTREC fully supports actions aimed at achieving a more energy-efficient and sustainable production and consumption. However, with regard to the award of the community Ecolabel for tourist accommodation, HOTREC has always defended that the European Ecolabel scheme should have been developed as an umbrella, under which national and regional ecolabels, fulfilling a certain number and type of criteria, would be automatically recognised as EU ecolabels.

STATISTICS

□ Draft regulation on tourism statistics – state of play

As reported in *Live from Brussels N°44*, Eurostat is preparing the Commission proposal for a new Regulation on Tourism Statistics. A first draft of this proposal was referred back by the Commission to Eurostat for further refinement. Eurostat consulted the national statistical offices in writing on some suggestions for modifications between December 2008 and January 2009. Following this written consultation, a meeting between Eurostat and the representatives of the national statistical offices was held on 13 March 2009 to discuss some outstanding points.

Contrary to its original proposal, Eurostat suggested to make the breakdown of capacity and occupancy data according to size classes of small, medium-sized and large establishments optional. It was further proposed by Eurostat to collect data on occupancy of bedrooms only from establishments having at least 25 bedrooms, whereas the general data collection threshold is 10 bedplaces.

At their meeting on 13 March 2009, the representatives of the national statistical offices of the Member States agreed to follow Eurostat's proposals. The collection of occupancy data from establishments with less than 25 bedrooms should be optional; according to Eurostat, Member States have reported difficulties and reluctance, especially from smaller establishments, with regard to the collection of occupancy data. Furthermore, many small hotels do not dispose of an integrated information management system, making data collection possible.

In the coming weeks further questions (e.g. same-day visits) will still have to be clarified with the Member States, before the draft text is submitted for adoption by the Commission. It is therefore unlikely that discussions on the new draft regulation in the framework of the co-decision procedure will start in the European Parliament and the Council before autumn.

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 respond to its expectations, at least partly.

□ Recent Eurostat publications

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

- [Slight decrease in nights spent in hotels in 2008](#), Statistics in Focus 13/2009;
- [Passenger air transport – monthly partial data for 2008](#), Data in Focus 10/2009.

TOURISM

□ Tourism Unit activities

The DG Enterprise Tourism Unit has recently launched a series of new activities, among which:

- A study on the “*Competitiveness of EU tourism industry*” has been commissioned to the consultancy ECORYS. According to a short introductory paper by the consultancy, the study “*should assess the ability of EU tourism firms to achieve sustained success versus non-EU competitors*”. A first report should be submitted to the Commission in the course of June and the final outcome of the study is expected for September 2009;
- The Tourism Unit has also launched a call for tenders for a study on “*Tourism exchanges in Europe: Enhancing employment, extending the seasonality spread, strengthening European citizenship and improving regional/local economies through the development of social tourism*”. The main objectives of this preparatory phase of the so-called CALYPSO project are to:
 - Catalogue the main good practices as means of encouraging tourism activity particularly during the off-peak season;
 - Identify the existing measures at European and national level allowing the exchanges of persons in specific target groups;
 - Examine the difficulties related to such exchanges; and
 - Propose new mechanisms for such exchanges.

The preparatory phase should be accompanied in 2010 by the setting-up of a CALYPSO web portal, which will list all stakeholders (supply/demand) interested in providing services/organising groups as part of the scheme.

- The Tourism Unit is also working on an action plan, which should bring together all its activities, currently developed under various budget lines.

All these activities are being reviewed within the “Tourism Sustainability Group”, in which HOTREC is represented by its CEO. HOTREC hopes that Mr. Pedro Ortun, Director in DG Enterprise and in charge, among others, of the Tourism Unit, will be able to attend and address its 60th General Assembly in Barcelona on the issues mentioned above.

ECONOMIC AND FINANCIAL CRISIS

□ Eurobarometer survey on tourism

In February 2009, the European Commission conducted a survey on the attitudes of Europeans towards tourism. Over 27.000 citizens were interviewed in the 27 countries of the EU. The results were published on 20 March 2009.

The most important outcomes of this survey for the hospitality industry with regard to the economic crisis are as follows:

34,6% of the respondents said that the changes in the cost of living will have an impact on their holiday plans. Another 33,9% said that such changes will have no impact on their holiday plans. 24,9% replied that there was no change in the cost of living for them.

Replying to the question, where people would make savings on their holiday budget, 15,1% replied on accommodation, while 23% replied on the timing of the holidays (meaning opting for low seasons). 22,8% would save on expenditure in restaurants and cafés, when being on holiday.

With regard to the prospects for 2009, results in the survey are rather optimistic: only 19,1% of respondents said they are not planning any holiday trips at all, while in 2008 27,7% have not travelled at all. Among those who did not go on holiday in 2008, 41,3% mentioned financial reasons. Among those, who are planning a holiday in 2009, 79,1% said having the financial resources for their planned holiday, either without difficulties (41,1%) or under the condition of making extra savings (38%).

The detailed results of the survey are available in the tourism section of the European Commission's website, under the link: http://ec.europa.eu/enterprise/tourism/index_en.htm

□ UNWTO activities in relation to the crisis

As reported in *Live from Brussels N°45*, the United Nations World Tourism Organisation's (UNWTO) newly created Tourism Resilience Committee held its first meeting in January 2009. A second meeting of this committee was organised during the International Travel and Trade Show (ITB) held in Berlin on 13 March 2009. At the meeting, participants stressed the importance of not imposing new taxation burdens on the tourism industry. Many destinations worldwide presented examples of stimulus packages, which include tax reductions for tourism businesses.

During the ITB, the UNWTO also introduced a framework for a roadmap for recovery, which will be developed in the coming months and presented in October to their general assembly. The main components of the roadmap will be Resilience, Stimulus and Green Economy. The outline of the roadmap can be found under the following link: http://www.unwto.org/pdf/brochure_TRC_roadmap.pdf

The crisis was also discussed at a seminar preceding the meeting of the UNWTO Commission for Europe, held in Baku on 25-26 March 2009.

At the above mentioned UNWTO seminar on “the Effects of the Economic Crisis on European Tourism”, HOTREC was represented by its President, Mr. Kent Nyström. He summarised how the crisis was affecting the European hospitality industry and gave a brief overview of actions taken in Europe in response to the crisis. HOTREC is an affiliated member of UNWTO.

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