

Live FROM BRUSSELS

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TAXATION

- *The VAT saga goes on... back to square 1... or worse, to square 0!*

As explained in *Live from Brussels N° 38* and *N° 40*, Directive 2006/18/EC provided that “by 30 June 2007 at the latest the Commission shall present to the European Parliament and the Council an overall assessment report on the impact of reduced rates applying to locally supplied services, including restaurant services, notably in terms of job creation, economic growth and the proper functioning of the internal market, based on a study carried out by an independent economic think-tank.”

On 5 July 2007, the European Commission released a package of VAT rates-related documents. With this package, the Commission intends to re-launch a broad debate on VAT rates. In one of these documents, a Communication “on VAT rates other than standard VAT rates”, the Commission nonetheless already gives some indications on what the future VAT rate regime could look like. It could allow for 2 types of reduced rates:

- **A very low reduced rate (0-5%)** for products of first necessity, serving the basic needs of citizens such as food;
- **A second reduced rate (10-12%)** for other purposes, which are not basic needs, but felt as deserving preferential treatment for other reasons (e.g. cultural and educational reasons, public transport, employment, energy and environment, etc). The Communication raises the question whether this second rate should also be applied to the complete housing sector, restaurant services, childrens' clothes and baby nappies.
- [The Communication is, in principle, only dealing with reduced rates. Indirectly it nonetheless also deals with the standard rate: all categories of goods and services not eligible for the 2 reduced rates will necessarily be subject to the **standard rate**.]

The current system of VAT rates was adopted in 1992. These arrangements were, in principle, transitional, but still apply. Under this system, Member States are required to have a single standard rate (not lower than 15%) and may also apply one or two reduced rates (not lower than 5% with, however, some exceptions).

The current system gives Member States the option to apply a reduced VAT rate to accommodation services. Currently, 21 out of 27 Member States apply a reduced rate of less than 15% to hotels.

As far as restaurant services are concerned, the principle is the standard rate. However, the system introduced in 1992 provided that “*Member States which at 1 January 1991 applied a reduced rate to restaurant services..., may continue to apply such a rate to such supplies*”. Furthermore, 4 of the 12 new countries negotiated in their accession treaties the possibility to apply until 31 December 2007 a reduced rate to restaurant services: Cyprus, Hungary, Poland and Slovenia. Currently, 11 Member States out of 27 apply a reduced rate of less than 15% to restaurants.

Where does the approach suggested in the Commission Communication leave the hospitality industry?

The documents issued on 5 July 2007 require a detailed analysis. A first reading leads unfortunately to the following conclusions:

- *Restaurants could be subject to the intermediate rate, but not necessarily;*
- *Hotels, which are not mentioned as candidates for reduced rates, could be subject to the standard rate.*

Under the worst scenario, which the Communication does not exclude, both hotel and restaurant services would be subject to standard rates in all Member States.

This is the exact opposite of what HOTREC has always been advocating: the application of the lowest possible VAT rates to both hotels and restaurants in all Member States. HOTREC and its Member Associations intend to continue to defend fiercely this solution.

□ *Excise duties on alcoholic beverages*

As explained in *Live from Brussels N°39* and *N°40*, the European Parliament and the Council of Ministers are discussing, since 2006, a Commission proposal (COM (2006) 486 final) for increasing the minimum excise duties on alcohol and alcoholic beverages to take account of inflation since 1992 (date of adoption of the Directive setting the minima currently in force).

A first version of the report by the European Parliament's Economic and Monetary Affairs Committee, suggesting repealing the whole 1992 Directive, was rejected by the EP plenary session in May. The same Committee then proposed to limit the increase to 4,5%, reflecting inflation since the enlargement in 2004. This new solution was also rejected by the EP plenary in July. Instead, the Parliament invited the Commission to withdraw its proposal. Now it is up to the Council of Ministers for Finance (ECOFIN), to make a decision: in taxation matters the Parliament's position is only advisory and in no way binding. But the ECOFIN Council must decide unanimously.

The Ministers for Finance will probably not take any decision before the Commission publishes the study they asked for in November 2006. The Council then invited "*the Commission to carry out a comprehensive study of the taxation of alcohol and alcoholic beverages, including trends in competitive positions and on levels of taxes and prices, and to present the results of that study during the first half of 2007, with a view to facilitating further Council decision-making as regards alcohol taxation*".

HOTREC will continue to follow the developments on this issue as excise duties influence directly the price of drinks served.

□ ***ECJ ruling on deposits received by hotels – not subject to VAT***

On 18 July 2007, in its judgement in the case C-277/05, the European Court of Justice ruled that “*a sum paid as a deposit, in the context of a contract relating to the supply of hotel services which is subject to VAT, is to be regarded, where the client exercises the cancellation option available to him and that sum is retained by the hotelier, as a fixed cancellation charge paid as compensation for the loss suffered as a result of client default and which has no direct connection with the supply of any service for consideration and, as such, is not subject to that tax*”.

The question had been raised by the French Conseil d’Etat, further to lower courts’ decisions that “*where a deposit is retained by the company in the event of cancellation by the client, it constitutes the remuneration for the supply of a service consisting in client reception formalities, opening a booking file for the client and entering into an undertaking to reserve accommodation for him*”, and therefore is subject to VAT.

HOTREC welcomes the judgement of the European Court of Justice.

EUROPEAN HOSPITALITY QUALITY

□ ***EHQ – HOTREC’s umbrella quality scheme at EU level***

On 31 August 2007, HOTREC officially launched the European Hospitality Quality scheme (EHQ).

The EHQ scheme is an umbrella quality scheme, developed and managed by HOTREC, to be used as a reference model at European level for national/regional quality schemes, as far as they cover hospitality establishments and their activities. This new scheme is not intended to replace the numerous existing schemes at national/regional level but it proposes a system for evaluating them.

The EHQ logo is in the process of registration as a colour, complex, collective Community trademark, with protection extended to Switzerland, Norway, the Former Yugoslav Republic of Macedonia, Liechtenstein and Monaco.

On the same day, HOTREC also announced the accreditation of the Swiss quality label under the EHQ scheme. The “Quality Label for Swiss Tourism” is thus the first national scheme to be accredited under EHQ. Enterprises entitled to bear the Swiss “Q” are now entitled to use additionally the EHQ label for advertising purposes.

With the launch of the European Hospitality Quality scheme, HOTREC demonstrates its commitment to facilitate the benchmarking and comparison of existing quality management schemes in Europe, using a bottom-up approach and in full respect of the principle of subsidiarity.

HEALTH

□ *Launch of the Alcohol and Health Forum*

As announced in *Live from Brussels N°40*, the European Commission launched the Alcohol and Health Forum on 7 June 2007, using the EU Platform on Diet Physical Activity and Health as a model. As indicated in its founding Charter, the objective of the Alcohol Forum is to provide a common platform at EU level for all interested stakeholders (economic operators and NGOs) who are willing to “*devote time and resources to adopt meaningful actions to prevent alcohol related harm*”. EU Member States, EU institutions, the World Health Organisation and the International Organisation of Vine and Wine will participate as “Observers”.

The Forum is to meet twice a year and to be chaired by the Commission’s Directorate General for Health and Consumer Protection (DG SANCO).

Members of the Forum have to subscribe to its founding Charter and bind themselves:

- to submit written commitments (in the form of concrete action plans with deadlines) aimed at reducing alcohol related harm;
- to monitor the implementation of the submitted action plans; and
- to evaluate the performance of their commitments.

The European Commission stressed that the “*participation for the sake of participation will not be possible as members will need to report on what they have done and their achievements*”.

At the signing ceremony of the Forum Charter, Mr. Kyprianou, Commissioner for Health and Consumer Protection, pointed out that alcohol abuse related harms could only be tackled effectively if the issue is “*high not only on the public health agenda but also on the agenda of all stakeholders*”. The Commissioner explained that he is expecting economic operators to take on their part of the work and assume their responsibility: “*media, advertisers, retailers, owners of pubs/bars and restaurants play an extremely important role in changing attitudes and behaviours especially among young people*”.

The first meeting of the Alcohol Forum will be held on 17 October 2007 in Brussels.

The text of the Charter establishing the Alcohol Forum can be found at:

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

HOTREC and its national associations share the concerns of public authorities at all levels in relation to alcohol abuse related harms. HOTREC members have since long been involved at national level in various campaigns against drunk driving and alcohol abuse.

HOTREC considers that the Alcohol Forum should be a platform for the dissemination of best practices within the EU, functioning with simple procedures to facilitate the participation of all stakeholders without creating additional bureaucratic burdens.

With its experience of the EU Diet Platform, HOTREC has concerns in relation to the “commitments process” proposed by the Alcohol Forum. The procedure may work for European Federations having few big corporate members but it appears hardly workable for an umbrella organisation representing such a wide and diverse sector as the hospitality industry, with over 90% of its enterprises employing less than 10 people. Nevertheless, HOTREC and its national associations will thoroughly discuss in presence of Mr. Robert Madelin, Director General of DG SANCO, the opportunity of joining the Alcohol Forum at their General Assembly on 28 September 2007.

□ ***EP Resolution on an EU Alcohol Strategy***

As announced in *Live from Brussels N°40*, the European Parliament adopted on 5 September 2007 a Resolution on the “EU Alcohol Strategy” proposed by the Commission in October 2006 (COM(2006)625final). The Resolution is based on a report drafted by MEP Foglietta (Italy).

Paragraph 11 of the Resolution is particularly relevant to the hospitality industry. The European Parliament calls on the Commission and Member States “*with the involvement of relevant NGOs and economic operators in the context of the European Alcohol and Health Forum [...]*” to adopt a number of measures, amongst which:

- ii) “*to limit the access to and availability of alcoholic drinks for young people [...] by intensifying controls on sellers and distributors, such as restaurants and bars, supermarkets and retailers*”;
- iii) “*to involve retailers and the catering industry in identifying and implementing concrete measures to prevent the selling and serving of alcohol and alcohol pops to minors*”;
- v) “*to draw up guidelines, to be implemented at national level, setting an age limit for purchasing, selling and serving alcoholic drinks*”;
- vii) “*to provide more possibilities to know and verify the blood alcohol content also through [...] the widespread availability of breath-analysers, especially in discos, pubs and stadiums [...]*” .

In paragraph 32, the Parliament invites all stakeholders to promote “*within the European Alcohol and Health Forum, the implementation of concrete actions and programmes to tackle alcohol related harm [...]*”.

The full text of the EP Resolution can be downloaded at:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0377+0+DOC+XML+V0//EN&language=EN>

HOTREC welcomed the EP Resolution as it acknowledges that “drinking habits and traditions vary between different parts of the EU” and that “political measures at national or EU level can never be a substitute for the responsibility for moderate and limited alcohol consumption, which ultimately lies with the individual and the family”. Furthermore, HOTREC supports the EP’s call on the European Commission and the Member States to address the risks related to alcohol abuse among young people with, amongst others, the launch of education campaigns. It confirms

HOTREC's view that "education" is key: public authorities at all levels have a major role to play in this respect.

□ ***EP own initiative report on the Green Paper "Towards a Europe free from tobacco smoke"***

Further to the consultation process launched by the Commission Green Paper "Towards an Europe free from tobacco smoke: policy options at EU level" on 30 January 2007 (COM(2007) 27 final) (see *Live from Brussels N°40*), the European Parliament is preparing a Resolution on the topic.

On 12 September 2007, the Committee on Environment, Public Health and Food Safety (ENVI) voted the report prepared by MEP Florenz (Germany). This report, the official text of which is not yet available:

- calls on the Commission to:
 - designate environmental tobacco smoke as a class 1 carcinogen as soon as possible;
 - propose measures for not allowing cigarette machines to be placed where they are accessible to young people;
- calls on Member States to:
 - introduce, within two years, an unrestricted smoking ban in all enclosed workplaces, including catering establishments, and in all public buildings and transport in the EU.

It is worth noting that in his draft report, Mr. Florenz originally called on the European Commission to propose such a ban from 2008. However, the MEPs in the ENVI Committee, finally decided that the issue comes under the Member States' responsibility.

The final adoption of the text by the Parliament is expected in the Strasbourg plenary session of October 2007.

Since years, the member associations of HOTREC have been sharing the concerns of the European and national authorities in relation to the health damages caused by active and passive smoking, with regard to both its employees and its consumers.

However, they consider that smoking rules should closely reflect the attitudes and demands of society vis-à-vis smoking and evolve in parallel with these. Therefore, as stated in HOTREC's reply to the Green Paper, in view of the recent multi-fold developments in all EU countries relating to the smoking/non-smoking issue, HOTREC is of the strong opinion that any intervention at EU level is not only superfluous but would also intervene in an inappropriate manner with national legislation and/or voluntary initiatives taken at national level.

□ ***New Eurobarometer on “Attitudes of Europeans towards Tobacco”***

On 22 May 2007, on the occasion of the “World No Tobacco Day”, the European Commission issued a new Eurobarometer survey on the “Attitudes of Europeans towards tobacco” (field work October-November 2006; publication May 2007). The Eurobarometer addresses a number of issues in relation to smoking: level of tobacco consumption, level of exposure to tobacco smoke, attitudes towards smoke free policies, etc.

Some chapters/sections are particularly relevant to the hospitality industry, such as:

- Chapter 3, section 2.1 “*Exposures to tobacco smoke in indoor workplaces or offices*”, p. 25;
- Chapter 4, section 2 “*Smoke-free public places*” p. 30;
- Chapter 4, section 5 “*Smoke-free restaurants*” p. 35;
- Chapter 4, section 6 “*Smoke-free bars and pubs*”, p. 37

According to the Eurobarometer “*most Europeans declare support for smoke-free policies*”. However, it is interesting to note that “*the highest level of support (88%) is for smoke-free offices and indoor workplaces as well as for indoor public spaces (metro, airport, shops, etc.) while the lowest support level (62%) is for smoke-free bars and pubs*”. The survey also shows that: “*citizens in countries where comprehensive smoke-free policies have already been introduced, such as Ireland, Sweden and Italy, are most in favour of them*”. Moreover, “*the majority of smokers themselves favour smoke-free restaurants, offices and other indoor workplaces and indoor public spaces*”. With regard to the issue of exposure to tobacco smoke, the Eurobarometer concludes that “*the largest group of EU citizens who say they are exposed to tobacco smoke on a daily basis work in restaurants, pubs and bars - 7 out of 10 of these respondents state that they are exposed on a daily basis*”.

The text of the special Eurobarometer on tobacco can be downloaded at:

http://ec.europa.eu/health/ph_publication/eurobarometers_en.htm

□ ***European Commission White Paper on Nutrition***

The Commission finally issued its White Paper entitled “*A strategy for Europe on Nutrition, Overweight and Obesity related health issues*” on 30 May 2007 (COM(2007) 279 final) (see *Live from Brussels N°40*).

The White Paper – “a non-legislative document proposing for actions” - establishes an EU strategy on nutrition to fight obesity. According to the Commission, the levels of overweight and obesity have been rising dramatically over the last three decades in the EU population, in particular among children and people “in low socio-economic groups”.

In order to counter successfully this worsening trend, the White Paper proposes actions in different policy areas (internal market, common agricultural policy, transportation, urban planning, research, etc.) and at various levels (national, regional and European). A “partnership approach” is deemed crucial to deliver an effective response to the problems related to overweight and obesity.

In this respect, the Commission intends to pursue and develop the activities of the EU Platform for Action on Diet. The Diet Platform, which was launched in March 2005 and gathers stakeholders committed to put in place voluntary actions to combat obesity, is considered by the Commission as “a key tool in implementing its nutrition strategy”. Member States are encouraged to set up similar *fora* at national level, using the EU Platform as a model. In view of improving the liaison with national governments and the exchange of best practices at EU level, the Commission also plans to set up a “High Level Group”, which will focus on nutrition and related issues.

Opting for a “partnership” and voluntary approach, the White Paper stresses the importance of the “private actors” for successfully reversing the trend towards obesity. According to the Commission, the “food industry (from producers to retailers)” has a major role to play in developing healthy choices for consumers (foodstuffs reformulation) and in keeping consumers informed (marketing and advertising).

In 2010 the Commission will evaluate the results of its strategy and “to which extent actors across the EU are contributing to the achievement of the objectives”. In particular, the 2010 review will assess the effect of the self-regulatory measures taken by the industry and determine whether it is necessary to adopt different strategies.

The text of the White Paper can be found at:

http://ec.europa.eu/health/ph_determinants/life_style/nutrition/keydocs_nutrition_en.htm

HOTREC, which shares the concerns of public authorities in relation to the rising levels of obesity, in particular amongst children, welcomes the White Paper as it acknowledges that “the individual is ultimately responsible for his lifestyle and that of his children”. Furthermore, the White Paper confirms HOTREC’s views that diets and eating habits vary greatly across Member States and that it is therefore essential that actions are taken “at regional and local levels as these are closer to EU citizens”.

However, HOTREC has reservations with regard to the strengthening of the monitoring process in relation to the Diet Platform and more generally to other initiatives mentioned in the White Paper. Via apparently “voluntary” commitments, the Commission is indirectly binding enterprises to act in line with its own approach!

□ ***EU Platform on Diet, Nutrition and Physical activities “Beyond 2007”***

The EU Diet Platform, created in March 2005 (see *Live from Brussels N°32 and 34*), continues its activities under the aegis of the Commission Directorate General for Health and Consumer Protection (DG SANCO). Since then, the membership of the Platform has widened and its structures and procedures need to be re-assessed. The Commission recently issued a document “Beyond 2007” on which a first discussion was held at the last plenary session of the Platform on 20 September 2007. The aim is to simplify the “commitment and monitoring” procedures.

HOTREC reiterates its reservations with regard to the “commitments and monitoring process” proposed by the EU Diet Platform. The procedure may work for European Federations having few big corporate members but it appears hardly workable for an umbrella organisation representing such a wide and diverse sector as the hospitality industry, with over 90% of its enterprises employing less than 10 people.

HOTREC considers that the EU Diet Platform should be a platform for the dissemination of best practices within the EU, functioning with simple procedures to facilitate the participation of all stakeholders without creating additional bureaucratic burdens.

□ ***Hygiene of foodstuffs and micro-enterprises***

As reported in *Live from Brussels N°40*, on 6 March 2007, the European Commission (DG Enterprise) issued a proposal to amend Regulation 852/2004 on the hygiene of foodstuffs in order to exempt micro-enterprises, including restaurants and bars, from the obligation to “*put in place, implement and maintain a permanent procedure or procedures based on the HACCP [Hazard Analysis and Critical Control Points requirements] principles*”.

In accordance with the EU legislative process, the Commission proposal is now being reviewed by the Council and the European Parliament. As far as the Parliament is concerned, the works have been delayed, as the dossier has been transferred from the (initially responsible) Committee on Transport and Tourism to the Committee on the Environment, Public Health and Food Safety (ENVI Committee). MEP Horst Schnellhardt (Germany) has recently been appointed “rapporteur” for this dossier and is expected to present its draft report to the ENVI Committee soon.

HOTREC, which asked for the exemption of micro-enterprises from the strict application of HACCP obligations at the time of discussion of Regulation 852/2004, welcomes the European Commission’s proposal as it could greatly contribute to reducing too heavy administrative burdens for very small businesses without lowering hygiene standards. HOTREC will continue to follow closely this dossier to ensure that the interests of the hospitality establishments as well as of their guests are taken into full consideration.

□ ***Revision of EU rules on general food labelling and nutrition labelling***

The European Commission is to present a legislative proposal to review the existing rules on general food labelling and nutrition labelling, by the end of 2007. According to the Commission, there is a need for a new type of legislation, capable to adapt to a continuously changing market and capable to meet consumer’s needs without being burdensome for the industry.

Once approved by the Commission, the proposal will be sent to the Council of Ministers and the European Parliament for adoption under the EU co-decision procedure.

HOTREC will monitor carefully the developments on the matter to make sure that the new regulation will not add burdens on restaurateurs!

TOURISM

□ ***EP own initiative report on tourism***

On 19 June 2007, MEP Costa (Italy) released the draft of a European Parliament report on “*a renewed EU tourism policy: towards a stronger partnership for European Tourism*”- (Provisional 2006/2129 (INI)) in response to the Commission’s Communication bearing the same title of March 2006 (*see Live from Brussels N° 37 and N°40*).

The draft report encompasses 8 sections:

- Tourism and EU visa policy;
- Statistics;
- Harmonisation of quality standards for hotel accommodation in Europe;
- Labels;
- Consumer protection;
- Accessible tourism;
- Passengers’ rights; and
- Promotion of destinations.

Inter alia, it “*considers advisable and possible to establish a common ground, common criteria for the customer in order that he/she be able to ascertain, at the moment he/she decides to travel abroad, that a hotel has one or more stars, and to understand the reason behind such classification, in order to facilitate his/her choice*” and calls on “*the Commission to establish a methodology for creating such minimum standards on safety and quality of accommodation services; stresses that such a methodology could include the introduction of an EC mark for accommodation that would encompass pan-European common criteria providing consumers with an assurance as to the minimum level of quality to be expected whatever EU country he/she visits*”.

MEPs, members of the TRAN Committee, had until end of August to submit amendments to the draft report. These amendments should be discussed and voted on 8 and 9 October. A vote in plenary session of the European Parliament is scheduled for November.

In relation to the draft report HOTREC mainly regrets

- ***the focus on the hotel industry:*** as if transparency of information for consumers were only a concern in relation to the hospitality industry;
- ***the confusion in the terminology used:*** transparency in relation to the use of the words “quality”, “standards”, “classification”, “label”, “EC mark” is missing throughout this draft report; and
- ***much more importantly, that no attention is being paid to the voluntary, industry and bottom-up approach adopted by HOTREC in the recent years in relation to quality management and classification via its initiatives to set up***

a European Hospitality Quality scheme as well as to facilitate access to information on “What do hotel stars mean?” and to benchmarking the classification schemes in the different European countries.

HOTREC met with MEP Costa and discussed possible amendments with him. HOTREC member associations will also send comments on the draft report to the MEPs, members of the TRAN Committee.

Although this report is an “own initiative” exercise by the European Parliament, i.e. not linked directly to the legislative procedure, it could lead in the long-term to legislative proposals by the Commission.

□ ***Commission’s “Agenda for a sustainable and competitive European tourism”***

*As reported in *Live from Brussels N°40*, the European Commission launched in April 2007 a two-month long consultation relating to the report issued in February 2007 by the Tourism Sustainability Group. The aim of this consultation was to assist in the preparation of a Commission Communication on an “Agenda for a sustainable and competitive European tourism”.*

The Commission intends to release the Communication just before the European Tourism Forum to be held in Portugal on 26 October 2007. A first discussion of the Agenda with the industry should take place during the Forum.

In its reply to the consultation HOTREC stressed, as it did on several occasions already, that “sustainability” should also include commitments by the Commission:

- *Not to propose unnecessary regulation (which includes the commitment of proper impact assessment of all measures likely to impact tourism);*
- *Not to seek to impose standards when those can be elaborated through voluntary self-regulation;*
- *To work to cut red tape and modernise existing regulation; and*
- *To coordinate the Community actions affecting tourism.*

HOTREC and its member associations are already working on closer, industry-based, benchmarking, bottom-up approaches to the common issues they are facing. Therefore they do not favour any Community action in relation to:

- *Standards not initiated by the industry itself;*
- *Certification schemes not related to standards initiated by the industry itself and which benefit mainly the certifiers;*
- *Classification schemes, which should be left to the responsibility of the industry and of national/regional authorities;*
- *The setting-up of networks to organise the exchange of best practices: HOTREC is opposed to the setting-up of any Platform in the field of tourism, based on the model of the Nutrition and Alcohol Forum: much too burdensome for the concrete results to be expected! Since years, national associations have been usefully exchanging best practices within their European umbrella organisation.*

□ ***European Tourism Forum***

The 6th European Tourism Forum is to take place in Algarve, Portugal on 26 October 2007. The main Forum theme will be “Sustainable Management of Tourism Destinations” and three panels will discuss the following topics:

- Management and Conservation of the Natural and Cultural Heritage;
- Management of Resources and Waste;
- Job Creation through Sustainable Management.

A “political session” will take place in the late morning, with the participation of Commissioner Günther Verheugen, MEP Paolo Costa and Ministers in charge of tourism. The Forum will allow for a first exchange of views on the Commission’s Communication on an “*Agenda for a sustainable and competitive European Tourism*”, which will be released just before the European Tourism Forum.

For further information, the official program and the registration, please visit the following website: <http://www.etfportugal2007.pt/>

□ ***Tourism statistics***

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

- EU remains a major player in international travel in 2005, *Statistics in Focus, N85/2007*;
- Inbound and outbound tourism in Europe; *Statistics in Focus, N52/2007*;
- Summer tourism trends in 2006, *Data in Focus N8/2007*;
- Tourism in Europe: first results for 2006, *Data in Focus N6/2007*

The publications can be downloaded in English, German, and French from Eurostat’s website:

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1073,46587259&_dad=portal&_schema=PORTAL&p_product_code=KS-SF-07-085 (EU remains a major player in international travel in 2005)

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1073,46587259&_dad=portal&_schema=PORTAL&p_product_code=KS-SF-07-052 (Inbound and outbound tourism in Europe)

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1073,46587259&_dad=portal&_schema=PORTAL&p_product_code=KS-QA-07-008 (Summer tourism trends in 2006)

http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1073,46587259&_dad=portal&_schema=PORTAL&p_product_code=KS-QA-07-006 (Tourism in Europe: first results for 2006)

STANDARDISATION

□ *Business Plan of ISO TC/228 approved: the saga goes on!*

As explained in various issues of *Live from Brussels* (N°32, 33, 38, 39 and 40), ISO established in 2005 the Technical Committee 228 (TC 228) to develop standards for tourism and related services, including hospitality activities. However, since the first plenary meeting (Tunis, March 2006) the national standardisation bodies (NSBs), members of the Committee, had been unable to find a consensus on its scope: exclusion/inclusion of hospitality services?

After a special Task Force meeting on the TC's scope (Madrid, June 2006) and a negative vote by correspondence by the NSBs (September 2006) on the proposal by the Madrid Task Force to exclude hospitality services, the issue was still not solved. It should have been put back on the agenda of the second TC 228 plenary meeting in Bangkok in February 2007. However, shortly before that meeting, the ISO Technical Management Board (TMB) decided unilaterally (Resolution 14/2007) to confirm the original scope suggested for TC 228, including catering and accommodation services. This TMB Resolution also requested "*that the initial Business Plan covering the period until 2010 comprises only those work items where there is a known support amongst the stakeholders*".

At the meeting in Bangkok (February 2007), no further debate on the scope issue was allowed, notwithstanding the request by industry stakeholders for its inclusion on the agenda, which was supported by a number of national delegations.

Between February 2007 and September 2007, various versions of the TC 228 Business Plan were circulated. On 6 September 2007, the Secretariat of ISO/TC/228 announced the approval of the final version of the Business Plan by the NSBs via a vote by correspondence. The Business Plan confirms a wide-ranging scope for TC 228, including hospitality services. The only limitation is that introduced by the Resolution 14/2007: "*the initial Business Plan covering the period until 2010 comprises only those work items where there is a known support amongst the stakeholders*".

The results of the vote by correspondence can be summarised as follow:

Out of 46 permanent members (P-members) of TC 228 with voting rights:

- 19 P-members approved the Business Plan (out of which the NSBs of 4 European countries: Bulgaria, Ireland, Spain and the UK – although the hospitality industry in Ireland and the UK has asked their NSBs to vote otherwise);
- 14 P-members did not take part in the ballot at all (out of which the NSBs of 2 European countries: Italy and Malta);
- 9 P-members voted against (out of which the NSBs of 7 European countries: Austria, Czech Republic, Denmark, Finland, The Netherlands, Sweden and Switzerland);
- 4 P-members abstained (out of which the NSBs of 3 European countries: France, Germany and Portugal).

In summary, only 19 P-members out of 46 approved the Business Plan. However, according to ISO rules, only votes “in favour (19) and against (9)” are taken into account. Therefore, the Business Plan was adopted and will be submitted to the TMB by September 2007.

To add to this “Kafka-en” story, the vote on the Business Plan took place whereas the minutes of the plenary meeting of TC 228, held in Bangkok on 26-27 February, were not yet available. One can wonder on what the P-members, which did not attend the Bangkok meeting, based their vote!

The next TC 228 plenary meeting will take place in Marbella, Spain, on 25-26 February 2008 (to be confirmed).

HOTREC, which has a liaison status within ISO/TC/228 with no voting rights, submitted comments on the various drafts of the Business Plan. Once again the ISO TC/228 Secretariat has neglected the suggestions of the European hospitality industry, in particular:

- *a permanent exclusion of catering and accommodation services from the scope of TC 228;*
- *or, as a minimum, a clear mention in the text that no standards will be developed against the will of a significant part of the industry concerned; and*
- *the development, before any work gets started, of a proper impact assessment, including an analysis of the costs/benefits for the industry.*

HOTREC considered the democratic-deficit in the work of ISO/TC 228 too blatant to support the Business Plan but will continue to monitor closely the activities of TC 228 to make sure that work starts only on those “work items where there is a « known support » from the stakeholders”.

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□ *Hotel rooms and neighbouring rights*

As explained in *Live from Brussels N°40*, on 22 September 2006 the Spanish *Tribunal Supremo* lodged a request for a preliminary ruling before the European Court of Justice (ECJ) in relation to neighbouring rights (Case 395/06 *EGEDA v Al Rima*). The *Tribunal Supremo* requested from the ECJ a clarification as to whether hotels have to pay neighbouring rights fees (in this case to phonogram producers and producers of first fixations of films) for “*the installation in hotel rooms of TV sets to which a terrestrial or satellite television signal is sent by cable*”.

However, following the ECJ’s ruling in the Case C-306/05 *SGAE v Rafael Hoteles SA* of 7th December 2006 (see *Live from Brussels N°40*), the Spanish *Tribunal Supremo* decided to withdraw its request for a preliminary ruling in the *EGEDA v Al Rima* Case, considering having obtained the necessary clarification.

On 31 May 2007, the *Tribunal Supremo* issued its opinion. The ECJ’s decision of December 2006 in the Case 306/05, *SGAE v Rafael Hoteles*, led the Supreme Court to interpret the concept of communication to the public in a similar manner in article 3.1

and 3.2 of Directive 2001/29. According to the Spanish judges if a TV retransmission to hotel rooms constitutes an act of communication to the public under Art. 3(1) (which protects authors' rights), it also constitutes an act of communication to the public under Art. 3(2), which protects the holders of related rights.

In addition, the Spanish Supreme Court clearly reiterated the supremacy of European law over national legislation: national jurisprudence can and must be changed in order to put the interpretation of the national legislation in line with EU law.

The European hospitality industry is disappointed with this Spanish judgement. Although it has no direct effect in other EU countries, this judgement will nonetheless influence future developments.

CONSUMER AFFAIRS

□ Consultation on the revision of the Package Travel Directive

On 26 July 2007, the Commission issued a Working Document on the Package Travel Directive of 1990. With this Working Document, the Commission launches a consultation on specific issues relating to package travel.

The document acknowledges that the travel sector has evolved considerably since the adoption of the Package Travel Directive in 1990. The development of the internet, the “revolutionary” entry of low cost carriers, the increasing trend for consumers to put together their own holiday components from different organisers instead of opting for pre-arranged packages (so called *dynamic packaging*), are some key factors that call for a thorough review of the Directive.

For this reason the Commission seeks the views of stakeholders on the following issues:

- Scope of Directive and definitions (what should be considered a “package”? Which definitions/notions should be clarified: “inclusive price”; “organiser”; retailer”; “consumer”?);
- Pre-contractual information/information requirements and variation in price;
- Withdrawal from the contract by consumer and right to compensation;
- Liability of organisers: (is there a need to clarify the notion of “damages”?)
- Consumer complaints;
- Security for insolvency.

In the light of the comments expressed in response to this consultation, the Commission will consider the need for a reform of the Package Travel Directive.

Stakeholders are invited to reply to the questions raised by the Working Document by 1 October 2007 and a summary of the responses will be published on the Commission's website after the consultation period has ended.

The Commission Working Document on the Package Travel Directive can be found at:

http://ec.europa.eu/consumers/cons_int/safe_shop/pack_trav/comm_wd_20072007_en.pdf

HOTREC and its member associations welcome the consultation process launched by the Working Document and will send their views to DG SANCO. HOTREC considers it crucial that the revision does not add burdens on hoteliers.

□ ***Commission proposal to replace the Timeshare Directive 94/47/EC***

On 7 June 2007 the European Commission put forward a proposal to review the current Timeshare Directive (94/47/EC).

The new legislative proposal issued on June 2007 aims at extending the scope of the current rules to cover:

- Short-term contracts: contracts of more than one year will now be covered. (In addition the right of withdrawal is extended to 14 days and it is harmonised across the EU);
- Movable property: timeshare on property such as canal boats, cruise ships and caravans;
- Long-term holiday products: such as “discount holiday clubs” where a consumer usually buys via a website “the right to obtain discounts or other benefits on accommodation in isolation or together with other services [flights, car rentals]”;
- Resale of timeshare products;
- Exchange of timeshare products.

The proposed Directive (COM(2007) 303 final), in accordance to EU rules under the codecision process, will now have to be examined and approved by the Council and the European Parliament.

The text of the proposal for a new Timeshare Directive can be found at:

http://ec.europa.eu/consumers/cons_int/safe_shop/timeshare/index_en.htm

HOTREC will monitor closely the legislative process to make sure that the scope of the new directive will not cover multi-annual reservations of hotel rooms.

□ ***Rome I Regulation on cross-border contractual disputes***

As reported in *Live from Brussels N°40*, in December 2005 the European Commission put forward a proposal (COM(2005) 650 final) to revise and include into a new EU Regulation (so called Rome I Regulation) the rules laid down by the Rome Convention (1980) on the laws applicable to contractual obligations (cross-border disputes).

According to the Rome Convention, as well as to the new Commission proposal, the law which applies in cross-border consumer contract disputes, in principle, is the law

of the country where the consumer resides. However, this rule does not apply in case of a contract for the supply of services “*where the services are to be supplied to the consumer exclusively in a country other than that in which he has his residence*”. In other terms, in case of a contractual dispute between a consumer located in country A and a hotelier/restaurateur located in country B, the law will be that of the location of the hotel or restaurant.

Following the EU legislative procedure, the Commission’s proposal is currently being discussed by the Council of Ministers and the European Parliament. As far as the Parliament is concerned, the rapporteur in charge of the dossier in the Legal Affairs Committee upheld the exemption to the general principle but a number of MEPs submitted amendments to the draft report proposing to delete this exemption.

The vote on the draft report and related amendments, initially scheduled for 11 June 2007, has been postponed until 19 November 2007. At Council level, the works are also progressing slowly, as the Member States have been unable so far to find an agreement on the consumer contract issue.

HOTREC and its Member Associations are of the strong opinion that contracts concerning hotel and restaurant services enjoyed abroad by the consumer should continue to be governed by the law of the country where the hotel or the restaurant is located, as it is the law of the country of consumption: the services are fully consumed in the hotel or in the restaurant.

HOTREC considers that this is all the more essential as over 90% of hospitality establishments in Europe are very small enterprises (functioning with less than 10 people). A change of the applicable law, as suggested by some amendments by MEPs, would imply for them to have to deal with the legal systems of all their guests’ countries. In addition, the consumption at the place of the service provider facilitates immediate complaints and immediate resolutions of any possible conflicts. In the interest of both parties, the consumer should not be encouraged to postpone a dispute until he/she returns to his/her residence under the argument that the law of his/her country of residence will apply in any case.

HOTREC will continue to follow the issue closely to make sure that hospitality entrepreneurs can continue to operate in a legal environment allowing them to run and to develop their businesses efficiently, thereby providing more jobs and growth to the economy.

□ ***Traditional pints of beer will not disappear!***

On 11 September 2007, the European Commission announced a proposal (COM(2007) 510 final) to indefinitely allow the use of supplementary indications next to metric units within the EU (e.g. pint of beer and milk – and miles and feet on road). A Directive of 1980 was requesting that the use of “Imperial” units of measurements be ended by 2009.

However, in response to a Commission’s consultation, stakeholders unanimously recommended to indefinitely allow the United Kingdom and Ireland to keep their

units of measurements. The Commission accepted this suggestion as “*experience showed that these usages are local, without any impact to the internal market, and do not affect cross-border trade*”.

Günter Vehreughen, Vice President of the European Commission, commented: “*There is no good reason why these imperial measures should not continue to be used and we've decided to enshrine this fact in EU law. We can all drink to that!*”

The full text of the Commission proposal can be found at the following link:
http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0510en01.pdf

HOTREC welcomes this Commission proposal as hospitality customers in the United Kingdom and Ireland should continue to enjoy their pints of beers. HOTREC and its Member Associations firmly believe that EU legislation should always respect local traditions and usages insofar they do not really alter “the smooth functioning” of the EU single market.

ENVIRONMENT

□ *Green Paper on adaptation to climate change*

The issue of climate change is very high on the agenda of the EU institutions. Following its proposal for a comprehensive package of measures establishing an EU strategy to combat climate change, issued in January 2007 (see *Live from Brussels N°40*), the European Commission published a Green Paper on 29 June 2007 (COM(2007) 354 final) on “Adapting to climate change in Europe – options for EU action”. The Green Paper examines the likely impacts of climate change in Europe and the case for actions. It also suggests policy responses at EU level. According to the Commission, Europe urgently needs to take adaptation measures “*to lessen the adverse impacts of current and future global warming on people, the economy, and the environment*”. Adapting to climate change is deemed an essential complement to reducing greenhouse emissions.

According to data quoted by the Commission Staff Working Document annexed to the Green Paper (SEC(2007)849), climate change will not spare Europe. In Southern and South-East Europe “*tourism resorts could become too hot for summer holidays and tourism may shift to spring and autumn*”. In parallel, radical changes in tourism in the Alps are forecasted: “*the steady decline of ice and snow cover will gradually reduce the possibility of skiing holidays [...]. Summer tourism could become more attractive but it is unlikely to compensate for the losses of the skiing industry*”.

The Commission invites interested parties to present their views on the issues raised by the Green Paper via a web-based public consultation, open until 30 November 2007. The responses will be taken into account in the development of a Communication on the adaptation to climate change, to be issued by the Commission at the end of 2008.

The text of the Green Paper and its annex can be found by clicking on the following link:

http://ec.europa.eu/environment/climat/adaptation/index_en.htm

HOTREC and its national associations share the concerns of the EU Institutions in relation to climate change, in particular with regard to its possible impact on the tourism sector. This topic will be looked at during the “3E” seminar, Environment, Energy, water, waste and Enterprise, which HOTREC is organising on 27 September 2007.

SOCIAL AFFAIRS

□ *Sanctions against employers – New Directive?*

On 16 May 2007, the European Commission published a proposal for a Directive providing for sanctions against employers of third-country nationals staying illegally in the EU (COM (2007)249). The aim of the proposed Directive is to ensure that all Member States introduce similar penalties for employers (all persons, including legal persons, for and under the direction of whom a third country-national exercises remunerated activities) employing third country nationals who do not have the right to be resident in the EU.

The new text would require from employers to:

- ask for the production by third-country nationals of a residence permit or another authorisation for stay for the period of the employment;
- copy or record the content of the residence permit or other authorisation for stay before employment begins;
- keep for at least the duration of the employment the copies or records available for inspection by the competent authorities of the Member States;
- notify (in the case of business activities or legal persons) the competent authorities of both the start and the termination of employment.

The sanctions proposed in the draft Directive range from financial penalties to the permanent closure of establishments. Furthermore, the infringement of the prohibition of employment of third-country nationals staying illegally in the EU should also constitute a criminal offence in some specified cases, i.e. if the infringement continues or is repeated.

The draft Directive will have to be discussed and approved by both the European Parliament and the Council.

As almost all Member States already put in place effective measures relating to the employment of third country nationals, HOTREC does not see the need for legislation at Community level. Better enforcement of current national regulations could achieve the results envisaged by the Commission.

□ ***Reconciliation of professional, family and private life – second stage consultation***

On 30 May 2007, the European Commission launched the second stage of the consultation on the reconciliation of professional, family and private life.

In its consultation document, the Commission suggests several possible legislative measures at European level, such as new types of leave (paternity leave, adoption leave, leave to care for dependent family members), and improvement in the conditions (e.g. duration, payment) of maternity and parental leaves.

According to the procedure set up by the EU Treaty for the social dialogue at European level, the social partners are now to decide whether they are ready to undertake negotiations on the topics proposed by the Commission. If the social partners decide not to enter into negotiations, the Commission will consider submitting proposals according to the classical legislative procedure.

In its reply to this second stage of the consultation, HOTREC reiterated the view that no further legislation is necessary at European level. In many parts of the document, the Commission admits that most Member States already go well beyond of what is provided for in the current European legislation (and this was also confirmed by our members). Therefore, in full respect to the principle of subsidiarity, HOTREC does not see the justification for bringing forward new legislative measures at EU level in this field.

□ ***Commission Communication on Flexicurity***

On 27 June 2007, the European Commission adopted a Communication entitled “*Towards common principles of Flexicurity: More and better jobs through flexibility and security*” (COM(2007) 359 final). Flexicurity combines flexibility in contractual arrangements – to allow companies and employees to better cope with change – with the provision of security for workers to stay in their job, or to be able to find a new one quickly. One of the main aims of the approach is to offer employment security instead of job security.

The Communication identifies four components, which are necessary for an efficient flexicurity policy:

- flexible and reliable contractual arrangements;
- comprehensive lifelong learning strategies;
- effective active labour market policies;
- modern social security systems.

The Commission suggests 8 “common principles of flexicurity”:

- flexible and reliable contractual arrangements;
- balance between rights and responsibilities for all labour market participants;
- adaptation to specific labour markets and industrial relations;
- reduction of the division between insiders and outsiders on the labour market;
- promotion of internal (within the enterprise) and external (from one company to another) flexicurity;

- support of gender equality;
- need for a climate of trust between social partners, public authorities and other stakeholders;
- fair distribution of costs and benefits.

The debate on this Communication could result in the adoption by the European Council by the end of 2007 of common principles of flexicurity. On the basis of these principles, each Member State will develop its own tailor made flexicurity policy, suited to the characteristics of its labour market.

Trade Unions have already criticised the document, as they fear, that the new approach will make it easier for employers to hire and fire.

As flexibility in working arrangements is key for the hospitality industry, HOTREC and its members association will follow closely the discussions on flexicurity at both European and national levels.

EUROZONE

□ *Malta and Cyprus join the Eurozone from 2008*

On 10 July 2007, the Council of Ministers for Finance (ECOFIN) formally decided to allow Malta and Cyprus to join the Eurozone as of 1 January 2008. It also set the fixed and irrevocable exchange rates for their national currencies in relation to the €. The Maltese lira exchange rate is set at 0.4293 lira for 1 €, the rate for the Cyprus pound at 0.585274 pound for 1 €.

It means that from 2008, 15 out of the 27 EU Member States will use the € as their currency: Austria, Belgium, Cyprus, Germany, Greece, Finland, France, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovenia and Spain.

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