



## Accessibility Act - Trialogues Position of the European hospitality industry

### I. Summary

#### PREAMBLE:

The hospitality industry values the importance of accessible tourism and the need for people with special needs. The sector is already well in the process across Europe of more and more adapting its offer to persons with specific needs. However, HOTREC considers, that for such a highly fragmented industry like the hospitality industry, a one-size-fits-all European approach is too far reaching and does not take into account the specific national circumstances with regard to the numerous small enterprises of the sector, as well as the many existing national regulations and standards which flourished over the past years.

#### HOTREC DEMAND:

Therefore, HOTREC demands not to include tourism and hospitality services in the scope of the European Accessibility Act as subsidiarity should prevail for the following reasons:

- The **economic situation and thus compliance capacity of hospitality enterprises strongly vary** from one Member State to the other, making a European one-size fits all approach not workable, therefore putting competitiveness of small enterprises uselessly at risk, also considering that they contribute to over 25% of value added and turnover in the sector;
- Small hospitality companies are proportionally the biggest contributors to the EU economy compared with small enterprises of other sectors; therefore HOTREC considers that Member States are best placed to act, taking into consideration their economic situation, existing legislation on accessibility and engagement with the relevant stakeholders;
- Last but not least, **national laws together with standards already require a high level of compliance** together with the compliance capacity of small enterprises in terms of costs, which shall discourage the EU legislator to add another layer to a sector already strongly regulated and well engaged in accessibility at national level.
- Article 195 of the TFEU excludes harmonisation of national laws regarding tourism.

Therefore, the European hospitality industry considers that the national approach should be exclusively privileged regarding specific aspects of tourism services, especially as the hospitality sector is covered by the proposal via the general e-commerce aspect.

## II. Introduction

As the umbrella trade association of hotels, restaurants and cafes in Europe, HOTREC brings together 40 national associations in 29 European countries. The sector represents 1.8 million enterprises and provides jobs for more than 10 million people in Europe. Small and medium sized enterprises, as well as micro-sized ones, play a crucial role and contribute significantly to Europe's economy. The sector has been among the very few ones being capable of creating new jobs during the financial and economic crisis (2,5 million jobs over the last decade).

The hospitality industry values the importance of accessible tourism and the need for people with special needs. The sector is already well in the process across Europe of more and more adapting its offer to persons with specific needs (e.g. HOTREC contributed at European level to the project [APPTOURYOU](#) enhancing accessibility). Alteration has been mainly carried out following the line of existing national requirements as well as through measures which are often based on effective cooperation with disabled organisations at national level allowing for a continuous adaptation of the sector to accessibility requirements.

### 1. a. General observations

The hospitality sector considers that the current proposal voted in the European Parliament plenary, is unbalanced regarding the economic structure and the bearing capacity of the various types of enterprises in the sectors of the proposed scope.

#### **Huge proportion of both small and micro enterprises**

While EU Member States and also some standardisation bodies have developed **numerous regulations at national level to develop accessible tourism**, HOTREC considers that the inclusion of tourism and hospitality services in the European Accessibility Act would endanger a sector dominated by small enterprises, which are already highly committed to accessibility at national level, although not always sufficiently supported by fiscal incentives and EU funding.

Regarding the **structure of the sectors covered** by the scope, the hospitality / tourism industry, and its small enterprises (employing between 10 and 49 people) would have to bear the heaviest implications when complying with the requirements. **Small enterprises make up 25% of all turnover and value added in the hospitality sector**, which is significantly higher compared to other services covered by the scope. According to Eurostat, **enterprises employing between 10 and 19 people, make-up around 1/8 of the hospitality sector's turnover and value added**, while another 1/8 can be accounted to enterprises employing between 20 and 50 people. In the other sectors it is rather the medium-sized and big companies dominating, which are better equipped both in terms of resources and knowledge for mandatory adaptations in the given timeframe and dimension. This is not the case for the much more fragmented hospitality and tourism sector, which makes the current text endangering the future of a sector already highly regulated and key for the competitiveness of Europe in global tourism.

These hospitality enterprises, operating usually with very small margins also face **increased (unfair) competition from the still widely unregulated so-called 'collaborative' economy**, where capacity offered to tourists already sometimes exceeds the capacity offered by the regulated industry. Economic pressure is already huge on the hospitality sector to be able to persist in these market conditions, additional European layers of obligations (as mentioned, besides the already existing European ones) would further jeopardise

the response capacity of the sector.

Still regarding the scope, it has to be noted, that **several products and services forming a huge part of the needs of daily life of people are not included in the scope** of the legislation, while the much less frequently used hospitality and accommodation services are proposed to be part of the scope of the current European Directive.

HOTREC considers, that **subsidiarity should prevail** with regard to accessibility legislation for tourism and hospitality services. The **economic bearing capacity of small hospitality enterprises varies hugely** among the different Member States for mainly economic reasons. Moreover, the gap to be closed between existing national requirements and the proposed definite European requirements might be different across Europe, which gap should be mainly closed by small enterprises. This may lead to serious troubles when not being able to fulfil the requirements in the given Europe- wide applicable timeframe. Thus, a national approach would be more appropriate to take the specificities of the hospitality industry into account. Compared to a single European solution, the principle of subsidiarity can better consider the different national markets when assessing by which time and to what extent the adaptations can be proportionally and realistically achieved.

It shall be considered as well, that the elaboration of an **international standard at the International Standardisation Organisation (ISO) on the accessibility of tourism** providing for a real holistic approach, including among many other parts of the tourism service chain also hospitality establishments, will further back the harmonisation of accessibility requirements in the tourism sector. The work here, to which the European hospitality industry is actively contributing, is led by the United Nations World Tourism Organisation (UNWTO).

Having regard to **Article 195 of the Treaty on the Functioning of the European Union**, which **excludes harmonisation of national laws regarding tourism**, HOTREC also doubts whether and how much there is room for harmonisation of legislation in the EU in relation to tourism services.

#### 1. b. General recommendation

Taken all above considerations into account, and also having regard to the specific structure of the hospitality industry being to a significant part composed of small enterprises, **HOTREC demands to the Council and the European Parliament not to include tourism and hospitality services from the scope of the current Directive**, and allow for the subsidiarity principle to prevail. The e-commerce aspect is already covering some activities of the industry's activities.

#### 2. Specific remarks mainly related to the text of the European Parliament

HOTREC also proposes some specific recommendations, in case, despite the above arguments, it would be considered unavoidable to include tourism and hospitality services in the scope of this future legislation.

Regarding the **built environment**, the current proposal based on the European Parliament plenary vote does specify in Article 3.10 that the built environment shall only be adapted in case of new infrastructure, or substantial renovations to existing infrastructure in the case of the listed services therein. Recital 23 also mentions that accessibility requirements **should only be applicable when constructing new infrastructure** or when undertaking substantial renovations. Furthermore, it also refers to the protection of national treasures possessing artistic, historic and archaeological value. All such reference is missing in the current main text regarding accommodation establishments, several of which are operated by small enterprises and

often enjoy the status of protected buildings.

HOTREC considers, that **the issue of the built environment, where besides the protection of buildings also safety issues (e.g. evacuation of people) may arise, should not be dealt with at European level** and that again the subsidiarity principle shall prevail.

Still on the built environment, HOTREC considers that it is not workable at European level to require 2 rooms to be made accessible for a small hotel of 21 rooms. Having regard also to the exclusion from the scope of micro- enterprises, which usually operate accommodation establishments of less than 20 rooms, HOTREC would propose 1 room to be made accessible from 21 rooms on.

**Compliance with other accessibility requirements** for hospitality services are currently covered mainly in Section V of Annex I (partly in parallel with new Section VIIIa), together with significantly different scale and type of service providers as foreseen in the Commission proposal, like air, bus coach, rail and waterborne passenger transport services. This sudden inclusion of tourism services in the list of such requirements makes the relevance of the chapter for tourism services unrealistic, especially as most requirements were intended for services far away from the newly included tourism / hospitality services, like smart ticketing, passenger information services.

Regarding **article 11 (information provision on accessibility)**, for the majority of small enterprises in the hospitality sector, external expertise would be required to assess the accessibility of their various services and to provide the information thereof, which knowledge and expertise is less likely to be present in small enterprises. It also needs to be taken into account, that hospitality services are often tailor-made to the individual requirements of the guests, thus it would need to be clear that such information provision would be required regarding the main services.

Making the **websites and online applications** accessible would also require considerable resources, therefore alternative solutions, like the use of available assistive technologies by consumers with disabilities shall be strongly considered as an alternative solution, thus reducing compliance burdens of enterprises. The requirement of the new section VIIIa of Annex I, to make electronic identification, security and payment methods needed for the provision of the service perceivable, operable and robust without undermining the security and privacy of the user would impose huge burdens for small accommodation establishments, e.g. when adapting their booking facilities on their websites. Again, available assistive technologies and the direct contact with the hotel could be alternatives to overcome such burdens more easily.

Regarding **Article 12**, the **assessment to be carried out by non-micro enterprises** to evaluate whether compliance would impose disproportionate burdens, would **bear lots of uncertainties** (e.g. regarding the frequency and duration of use of the specific product or service), beyond the many costs induced. Moreover to comply with some obligations, the establishment may have to reduce e.g. its number of rooms: loss of incomes must be compensated by benefits from modifications. Thus, the calculation of the “Return of investment” concerning cost of compliance and benefits for consumers is often not possible. Moreover, besides the criteria of Article 12 (3)a the size, resources and nature of the economic operators, also the **economic performance should be included as a criteria**, providing for a more complete assessment of the situation of the enterprise. Thus, especially for small enterprises, the preparation of such an assessment is very difficult and might be very costly, especially when expecting an instable result at the end, taking the uncertainties of various factors mentioned above into account. The **proposal of the Council’s General Approach shows in the good direction** already (proposed Annex IV) when providing benchmarks for elements to be considered when making such assessment, however the uncertainty around future predictions on possible use of the service and thus the return of investment remains.

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