



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

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Main EU developments over the last 3 months of interest to the hotel, restaurant and café sector

HOTREC represents the hotel, restaurant and café industry at European level. The sector counts 1,7 million businesses, with almost 92% of them being micro enterprises employing less than 10 people. The micro and small enterprises (having less than 50 employees) represent more than 99,5% of businesses and make up 62% of value added. The industry provides some 9,5 million jobs in the EU alone. HOTREC brings together 39 National Associations representing the interest of the industry in 23 different European countries.

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TOURISM

□ Follow-up of Communication on Tourism

During the last European Tourism Forum held on 18-19 November 2010 in Malta, the European Commission presented its [Implementation Plan](#) on the Communication on Tourism, to which HOTREC had responded widely (*see Live from Brussels N°51*). Such a plan outlines the most important tasks to be performed and identifies the key players for every action envisaged in the Communication. It also proposes a timeframe for carrying out those actions.

In the light of these tasks, the Commission (DG Enterprise) invited all stakeholders to send their contributions and share their experiences that in their opinion could be useful in the implementation process.

So far, the Commission has requested the collaboration of HOTREC on the following issues in particular:

- **CALYPSO Programme.** This initiative, launched in 2008, proposes a mechanism for voluntary tourism exchanges between Member States in the low season, in particular for specific disadvantaged target groups (seniors, youths, people with disability and families with low income). A “call for proposals” was already launched to facilitate the setting up of networks between public authorities from various Member States. The next step will be a “call for tenders” which will be launched in 2011 to assess feasibility, design and implementation of a web-based platform facilitating exchanges between demand and supply.
- **Quality.** The Commission intends to launch an umbrella scheme, recognising what is already in place at national or regional level and setting up a list of voluntary common quality-related criteria.
- **ICT Platform.** This action is aimed at facilitating the adaptation of the tourism sector and its businesses to market developments in new information technologies.

In the next months, the Commission will hold a series of workshops, bilateral meetings and specific consultations with stakeholders according to the particular actions, to tap the way forward accordingly.

The Hungarian Presidency of the EU will organise a conference on Tourism on 12 May 2011 in Budapest.

In the European Parliament, the MEP Rapporteur Carlo Fidanza (EPP, Italy), Member of the TRAN (Transport & Tourism) Committee, continues his drafting of an own-initiative report on the Communication. The draft report should normally be ready by the end of February and the committee vote is provisionally scheduled for 12 April 2011.

HOTREC is in regular contact with DG Enterprise and Rapporteur Fidanza and will continue its collaboration in the next months, with a clear message of ensuring the full inclusion of SMEs interests in the implementation of the actions envisaged in the Communication. The recognition of bottom-up approach experiences promoted by the private sector and the overall objective of boosting the competitiveness of the European hospitality industry must also be granted.

TAXATION

□ Commission's consultation on the future of VAT

On 2 December 2010, the European Commission issued a Green Paper, launching a [public consultation on the future of VAT](#) in the EU, which prepares a comprehensive reform of the European VAT regime.

A complete revision of the current EU VAT system has been envisaged by the European Commission for a long time already. Based on the outcome of this public consultation, the Commission will issue a Communication at the end of 2011, outlining the main priority areas in which further action at EU level would be appropriate.

The Green Paper is tackling a wide range of issues in relation to VAT. The most important ones from the tourism and hospitality industry point of view are the following:

▪ VAT rates:

The Commission repeats the findings of an earlier study of the think-tank Copenhagen Economics, stating that, from the point of view of maximising economic efficiency, a single VAT rate to all goods and services would be ideal. In the consultation document, the question of the need and the extent of reduced rates is raised, mentioning the possibility of abolishing reduced rates or, at least, to have a very short list of goods and services eligible to them.

▪ VAT exemptions:

The Commission is asking whether current VAT exemptions should be kept. The example of passenger transport services is mentioned explicitly. In case passenger transport would come under the scope of VAT, travelling may become more expensive, having a negative effect on tourist flows.

Another area of exemptions, which is questioned in the consultation, is the supply of services by non-profit organisations. A study is currently being carried out by Copenhagen Economics on the current provisions on VAT exemptions for services in the public interest.

▪ VAT deductions:

The Green Paper is stating that restrictions on the right to deduct are necessary where goods and services are also used for non-business purposes. Future measures could thus influence current national rules on the right to deduct the VAT of e.g. accommodation and/or restaurant expenditure.

Other issues of high relevance to the hospitality industry, tackled by the consultation, are related to the reduction of administrative burdens, in relation to which several possible measures are outlined in the Green Paper.

The deadline for commenting on the consultation on VAT is the 31st of May 2011.

HOTREC will submit its reply to the consultation. The issue of reduced VAT rates is especially crucial for the hospitality industry, as currently all Member States may apply such a rate to both accommodation and restaurant services. Almost all Member States (24 out of 27) apply a reduced rate to hotel services, while the majority also applies such a rate to restaurant services. Applying the standard rate in the future, instead of the reduced rate, could imply a rapid rise in prices in the tourism industry, which is generating directly 5 and 5,2%, and indirectly 10 and 12% of EU GDP and employment, respectively. This could bring considerable damages to the whole European economy.

□ **VAT – latest developments in the Member States**

Since the last issue of *Live from Brussels*, the following changes in VAT rates for hospitality services were communicated to HOTREC.

- **Bulgaria:**
The reduced VAT rate will be increased from 7 to 9% as of 1 April 2011 and will apply to all kind of hotel bookings, instead of only to bookings made by tour operators, as it is the case now. The application of a uniform rate to both individual and organised bookings of accommodation was enforced by the European Commission. In Bulgaria, the reduced VAT rate only applies to the provision of accommodation services, in view of the importance of tourism in the national economy.
- **Cyprus:**
The reduced VAT rate applied to hotel and restaurant services was increased from 5 to 8%, as of 1 January 2011.
- **Greece:**
Having regard to the importance of tourism in the country, the government decided to apply the lower reduced VAT rate of 6,5% to accommodation services as of 1 January 2011, instead of the higher rate of 13%, which will continue to apply to restaurant services.
- **Latvia:**
The reduced VAT rate applied to accommodation services was increased as from the beginning of the year from 10 to 12%. Restaurant services remain subject to the standard rate, which was increased from 21 to 22%.
- **Lithuania:**
The government decided to apply a reduced VAT rate of 9% to accommodation services, instead of the standard rate of 21% as from 1 January 2011. However, this reduction appears to be provisional until the end of 2011, when the government will re-assess the impacts of this VAT reduction.
- **Poland:**
The reduced VAT rate, applied inter alia to hotel and restaurant services, was increased from 7 to 8% as from 1 January 2011.
- **The United Kingdom:**
The standard VAT rate was increased from 17,5 to 20% from 4 January 2011. This rate is still applicable to both accommodation and restaurant services.

Following the development in Lithuania 24 out of 27 EU Member States are applying a reduced VAT rate to accommodation services. It is only in Denmark, Slovakia and the UK that guests' hotel bills are charged with the standard rate. The majority of the Member States, namely 14 out of the 27 also applies a reduced rate to restaurant services.

HOTREC is pleased that almost all EU Member States apply a reduced VAT rate to accommodation services and that the majority of the EU Member States also apply a reduced VAT rate to restaurant services. It is important that VAT reductions in the field of hospitality services are kept for the long term, allowing the whole economy to benefit from these rates and ensuring security for economic planning for the whole tourism industry.

HEALTH AND FOOD

□ Food labelling: towards a second reading by the European Parliament

On 7 December 2010, the Council of the EU reached a first-reading political agreement on the proposed Regulation on food information to consumers ([COM\(2008\) 40 final](#)). As the position of the Council does not coincide with the one adopted by the European Parliament in first-reading in June 2010 (see *Live from Brussels N°51*), the legislative proposal, as amended by the Council, will be transmitted to the Parliament for a second reading in the first half of 2011.

The proposed Regulation is of major concern to the hospitality sector. If adopted as initially drafted by the European Commission, it would require catering establishments serving “non-prepacked food” to provide, for each item on their menus, the same information that has to be displayed on the labels of packaged foods, unless Member States were to adopt national rules to exempt “non-prepacked food” from the mandatory requirements (“opt-out” approach). The amendments suggested by the Council political agreement reverse completely the approach of the Commission. However, they do not go as far as the ones proposed by the European Parliament in first-reading.

The Council has adopted an “opt-in” rather than an “opt-out” solution. **This means that under the text proposed by the Council, the provision of the elements listed in Art. 9 and Art. 10 (name of food, list of ingredients, quantity, nutrition declaration, etc.) would not be obligatory for “non-prepacked food” unless Member States decide so, with the exception of allergens information (Art.9 § c), which would remain mandatory.** At the same time, Member States would be allowed to adopt national rules to require the provision of the elements other than allergens, as well as to regulate the “*means through which*” the information has to be made available and, “*where appropriate, their form of expression and presentation*”.

The text on which the EU Ministers have reached the political agreement has still to be formally adopted by the Council (possibly in February 2011). Then, it will be transmitted to the European Parliament for a second reading.

HOTREC welcomes as a partial step in the right direction the political agreement reached by the Council in first-reading. The “opt-in” solution adopted by the Council with regard to “non-prepacked food” is indeed an improvement compared to the original Commission proposal (“opt-out approach”).

However, HOTREC regrets that the Council did not follow the first-reading position of the European Parliament, which adopted key amendments largely excluding “non-prepacked food” from the scope of the proposal as well as from all mandatory labelling requirements.

HOTREC remains of the opinion that “non-prepacked food” should be completely excluded from the scope of the Regulation. Restaurants, cafés and similar establishments serving “non-prepacked food” should not be subject to the same labelling requirements as large food processing companies. Meals served by restaurants are not standardised products. Furthermore, even the solution of limiting mandatory information to allergens would be de facto unworkable. The list of allergens is very long and includes basic ingredients that are used in most recipes. As indicated by the European Parliament itself, the risk of cross-contamination is, unfortunately, unavoidable in restaurants, where chefs have to prepare at the same time, in the same kitchen, with limited working areas, various dishes containing commonly used ingredients, which may be potential allergens (eggs, milk, fish, nuts, cereals, etc. and their derived products.). The decision whether to adopt rules on “non-prepacked food”, including with regard to allergens, should continue to be a matter for Member States, in accordance with the principle of subsidiarity. The provision of information in relation to meals prepared and served locally should not be regulated at EU level, as it has no impact on the smooth functioning of the internal market.

For all these reasons, HOTREC will continue to advocate for a full exclusion of “non-prepacked food” from the scope of the Regulation, throughout the forthcoming European Parliament second-reading.

□ **European Alcohol and Health Forum**

On 18 November 2010, the European Alcohol and Health Forum held its 7th plenary meeting. This Forum was set up in 2007 by the European Commission as one of the key actions to implement the “EU Alcohol strategy to support Member States in reducing alcohol-related harm” ([COM\(2006\) 625 final](#)). The Forum brings together European associations (and their members) that are willing to take self-binding and verifiable actions (so-called “commitments”) to reduce alcohol-related harm. Members of the Forum include representatives of economic operators (alcohol producers, advertising agencies, retailers, hospitality, etc.), consumers, medical professions and health NGOs. The agenda of the 7th plenary meeting included:

- Procedural issues (new membership requests, resignations, timeline, etc.);
- Examples of actions to reduce drink-driving as well as presentations of initiatives on responsible selling and serving of alcohol by the hospitality sector and retailers.

Addressing the Forum, Ms. Testori Coggi, new Director General of DG SANCO (Health and Consumers), stressed that “*reducing alcohol related harm is a cross-societal challenge that public authorities cannot successfully tackle in isolation*”. The Director General emphasised that the protection of children and young people is one of the priorities of the Commission and that it is time to move from commitments to delivery, to reduce underage drinking and to achieve “*sustainable businesses and retail practices*”.

The plenary meeting was followed on 19 November by the 3rd session of the Open Alcohol Forum. One of the topics on the agenda was “*responsible selling and serving of alcohol*”. The panel included contributions from the hospitality sector (British Beer and Pub Association), retailers (ASDA), public authorities, law enforcement agencies (Swedish Police), alcohol producers (Polish Breweries) and NGOs.

The next Alcohol Forum's meeting will take place on 8 April 2011. Further information on the Forum, including the summary report of the 7th plenary meeting, is available on DG SANCO's [website](#).

HOTREC attended the plenary meeting and made a presentation outlining some of the actions taken at national level by its member associations in line with the "[HOTREC Guidance document](#) on the hotel, restaurant and café sector and responsible drinking". The intervention of HOTREC was complemented by a presentation by the Finnish Hospitality Association, which gave an overview of the activities on responsible selling and serving of alcoholic beverages in licensed premises in Finland.

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

□ **Commission consultation on bio-waste**

In December 2010, the European Commission (DG Environment) launched a stakeholder [consultation](#) on the "appropriateness of setting targets for bio-waste recycling". As reported in the previous edition of *Live from Brussels*, the issue of bio-waste management is of interest to the hospitality sector because "bio waste", as defined in Directive [2008/98/EC](#) on waste (Waste Framework Directive), includes: "... food and kitchen waste from households, restaurants, caterers and retail premises, [...]". This initiative is a follow-up to the Commission Communication on "future steps in bio-waste management in the EU" ([COM\(2010\)235 final](#)) of May 2010. The objective of the consultation is to collect views from Member States and stakeholders on the feasibility and appropriateness of setting binding EU targets for the recycling and separate collection of bio-waste at national level.

The outcome of the consultation will feed into the assessment that the Commission is currently carrying out, as foreseen in the Waste Framework Directive, to examine the opportunity of setting minimum EU requirements for "bio-waste management" by 2014.

HOTREC will continue to follow the issue as new rules and targets for separate collection and recycling of bio-waste (including food and kitchen waste) could have an impact on hospitality businesses.

□ **Commission Report on animal cloning for food production in the EU**

On 19 October 2010, the European Commission published a report on animal cloning for food production ([COM\(2010\) 585 final](#)). Animal cloning is a breeding technique that allows the asexual reproduction of animals "that have shown good productivity, low incidence of disease and the capacity to cope with the production environment". The sensitive issue, which concerns the possibility to allow the production of cloned animals for food supply and/or the import of food products derived from such animals into the European market, has been on the EU agenda over the last years (see *Live from Brussels* N°45). Already in 2008, the European Parliament adopted a Resolution calling on a total ban of cloning for food production and in 2009 the Council of the EU invited the Commission to present a report on the issue.

The report by the Commission gives an assessment of the use of cloning technology for food production, examining scientific (food safety), ethical, environmental and economic aspects, in light of the existing EU legislation. In its conclusions, the report announces that the Commission intends to propose a temporary ban of animal cloning for food production in the EU, due, in particular, to concerns on animal welfare. The suspension, which will be reviewed after 5 years, should, however, not cover the imports from third countries (e.g. USA) of food derived from the offspring of cloned animals. To this end, a legislative proposal should be presented in 2012.

In parallel, the issue of animal cloning for food production is also being addressed in the context of the revision of the “novel food” legislation (adoption of the proposed Regulation on novel foods ([COM\(2007\) 872 final](#))).

As an important player in the food chain and a major “end-user” of food products such as milk and meat, the hospitality industry follows the complex debate on the issue of animal cloning for food production. For instance, the use of food products derived from cloned animals into the European market could increase the regulatory pressure for mandatory labelling in relation to “non-prepacked foods”, including meals served by restaurants.

□ **High level Forum for a Better Functioning of the Food Supply Chain**

The issue of a better functioning of the food supply chain continues to be on the EU agenda (see *Live from Brussels N°49* and *N°51*). The European Commission has been looking at the matter since 2008, when concerns were raised about food price volatility and “asymmetries of price transmissions” along the supply chain. On 16 November 2010, the “*High Level Forum for a Better Functioning of the Food Supply Chain*” held its first meeting. The Forum, set up by the Commission in July 2010, is composed by experts from Member States, companies and associations representing agriculture, food production as well as the trade and distribution sectors. One of the Forum’s task is to assist the Commission in the implementation of the actions foreseen in the Communication “*A better functioning of the food supply chain in Europe*” ([COM\(2009\) 591 final](#)). The Forum will be supported by Working Groups dealing with issues such as business to business contractual practices and food price monitoring. The Forum, which has a two years mandate, will adopt a final report by 2012.

Further information on the Forum is available on the [website](#) of DG Enterprise and Industry.

HOTREC continues to follow with interest this matter and further developments at EU level, as the European hospitality industry is an important player in the food chain and a major “end-user” of food and agricultural products.

□ **Nutrition: EU High level Conference on overweight and obesity**

As announced in the previous issue of *Live from Brussels*, the EU Belgian Presidency and the European Commission (Health and Consumers DG) organised a two-day High level Conference on “*Monitoring and Evaluation of EU and Member States’ strategies on nutrition, overweight and obesity related health issues*”. The event, which took place on 8-9 December 2010 in Brussels, brought together policy makers and experts from Member States (Belgium, Czech Republic, Estonia, France, Hungary, Italy, the Netherlands, Portugal, Slovenia, the United Kingdom) and from various institutions (Commission, European Parliament, World Health Organisation).

At the Conference, the Commission presented its [mid-term report](#) on the implementation of the “*Strategy for Europe on nutrition, overweight and obesity*” for the period 2007-2013. In its conclusion, the report indicates that in the coming years more focus should be put on areas such as availability of healthy food and physical activity facilities in workplaces as well as on increasing the availability of healthy options via “food reformulation initiatives”. Other items on the meeting’s agenda included:

- Examples of national experiences (France, Portugal, Slovenia);
- Progress report by the World Health Organisation on the implementation of the European Charter on counteracting obesity;
- “Monitoring and evaluating” policies and actions at national and EU level;
- Public-Private partnerships (presentation of the Portuguese Platform against obesity);
- Challenges and opportunities for food offer (presentations on “Sustainable school canteens in Rome” and on the [EU FOOD project](#) aimed at promoting nutrition quality and nutritional information in restaurants).

Addressing the participants, the EU Commissioner for Health and Consumers, Mr. John Dalli, noted that the obesity rate is still on the rise in Europe and that more has to be done to promote healthy diets and physical activity for all EU citizens. In particular, the Commission is concerned by the obesity trend among children and low-socio economic groups.

Further information on the Conference, including presentations and speeches, is available on the [website](#) of DG SANCO.

HOTREC, which shares the concerns of public authorities regarding the levels of overweight and obesity, in particular amongst children, welcomes the exchange of best practices within the EU. However, as eating habits and lifestyles vary significantly with geography and cultures, it is essential that policy interventions and actions to encourage healthy diets take into account gastronomic traditions and the specificities of the different sectors at national level.

CONSUMER AFFAIRS

□ **Consumer rights Directive: IMCO report expected very soon**

As explained in recent issues of *Live from Brussels*, 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. Two of them are relevant to the hospitality industry: the distance selling Directive (97/7/EC) and the unfair contract terms Directive (93/13/EEC).

The new proposal is relevant to the hospitality industry as it intends to regulate distance contracts for the sale of services (including hospitality services) as well as the lawfulness of contract terms. Three issues are particularly relevant:

- A proposed list of unfair contract terms which are prohibited;

- A ban on pre-ticked opt-in boxes for payments in consumer contracts; and
- The existence of derogations to the right of withdrawal and to the provision and confirmation of pre-contractual information, as far as accommodation and catering service contracts sold at distance are concerned.

The text is currently being discussed in both the European Parliament and the Council under the ordinary legislative procedure. The Council reached a compromise on 24 January 2011, in which it decided to delete chapter IV and V of the proposal in order to concentrate on distance and off-premises contracts and to work on the basis of full harmonisation. **According to this compromise, hotel and restaurant contracts concluded at a distance would keep being exempted from the provisions on the right of withdrawal. However, these contracts would now be subject to the rules on the provision and confirmation of pre-contractual information on a durable medium.**

In the European Parliament, **the IMCO (Internal Market and Consumer Protection) Committee will adopt its report on 1 February 2011.** The Rapporteur, Mr. Schwab (EPP, Germany) supports the exemption to the right of withdrawal for accommodation and catering service contracts concluded at distance. However, some MEPs have tabled amendments to end this derogation, and the same situation prevails for the derogation concerning the confirmation on a durable medium of the consumer information. The outcome of the vote in the IMCO is, therefore, uncertain.

HOTREC and its National Associations welcome the Rapporteur's position to keep the exemption to the right of withdrawal for accommodation and catering service contracts concluded at distance. HOTREC also considers that the existing derogation to the confirmation of information on a durable medium should be maintained. Given the specific nature of hotel room or catering contracts, the highly perishable nature of the services provided by the hospitality industry, and the widespread use of bookings made by phone, such derogations are essential for hospitality establishments in Europe.

❑ **Fire Safety in hotels - MEPs keep calling for EU legislation**

Less than a year after the release of the final version of the HOTREC [MBS methodology](#), national hospitality associations from several EU countries (Austria, Denmark, Germany, France, Portugal, Sweden and the UK) have announced their intention to make use of it and have started promoting it to their members (see *Live from Brussels N°51*).

However, despite this encouraging start, some MEPs keep putting pressure on the European Commission, publicly requesting the adoption of EU legislation on fire safety in hotels. Thus, on 30 November 2010, during a debate in the TRAN (Transport and Tourism) Committee of the European Parliament on the recent Commission Communication on “*a new political framework for tourism in Europe*” (COM (2010)352 final), the issue of safety in hotels was mentioned, with a direct reference to the HOTREC initiative that some MEPs considered unsuccessful. These MEPs, in particular, expressed the views that this topic should be mentioned in the European Parliament report on the Commission Communication (the Rapporteur is MEP Carlo Fidanza, EPP, Italy – see above article in the heading *Tourism*).

Further to that exchange of views, MEPs Linda McAvan (S&D, UK) and Brian Simpson (S&D, UK) addressed a new parliamentary question to the European Commission, in which they asked the Commission to take regulatory actions following what they called the “failure” of the HOTREC initiative. This parliamentary question actually follows other similar questions raised in 2010 by various MEPs.

In its reply, the European Commission indicated that “According to HOTREC, seven of its Member Associations have started promoting the methodology towards their membership and more are expected to follow suit. Therefore, [...] the Commission remains committed to facilitate further take up of the methodology by the industry with a view to improving safety in hotel accommodation”. The Commission also stressed that it wants to further improve data collection on fire safety incidents in hotels before deciding on a possible regulatory action.

Shortly after this reply, a new parliamentary question requesting a legislative action was introduced by MEP David Martin (S&D, UK).

As the issue of fire safety in hotels in Europe was at a standstill for the last 25 years, the MBS methodology constitutes a major breakthrough and a great success for HOTREC. The take-up of the MBS methodology by several national hospitality associations is an encouraging trend that shows that the MBS methodology starts spreading across Europe. The result of this initiative will be the launch of a major convergence in the way fire safety is practiced in Europe and will allow increasing concretely fire safety in hospitality establishments in a more efficient way than any new regulatory initiative.

□ **Competent Court in cross-border disputes: the Alpenhof & Pammer cases**

On 7 December 2010, the European Court of Justice (ECJ) issued an important judgment in the Alpenhof (C-144/09) and Peter Pammer cases (C-585/08). Both cases concerned cross-border contractual disputes between a consumer from one country and a trader from another Member State. In both cases, the contract was concluded using electronic means and the trader made use of an internet website.

The issue at stake was to identify the competent court in such cases. Indeed, **the Brussels I Regulation (N°44/2001) “on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters”** organises a derogatory regime for consumer contracts, according to which the competent court is the one of the member state of residence of the consumer when the trader is considered to direct its activities to that member state (article 16-2). The key issue was whether a trader can be considered to direct his activities to another Member State when he uses an internet website which is accessible in that Member State.

The ECJ followed the opinion of its Advocate General and considered that the mere accessibility of a website in Member States other than that in which the trader is established is not sufficient to establish that the trader direct its activities to these Member States. Therefore, it must be determined, whether, before any contract with the consumer was concluded, there was evidences demonstrating that the trader was envisaging doing business with consumers domiciled in other Member States, including the Member State of that consumer’s domicile.

The Court then provides examples of evidences that can be used to make such assessment:

- The international nature of the activity;
- The provision of itineraries from other Member States;
- The mention of a language or a currency other than the language or currency generally used in the Member State in which the trader is established with the possibility of making and confirming the reservation in that other language;
- Mention of telephone numbers with an international code;
- Mention of an international clientele composed of customers domiciled in various Member States, etc.

The judgment of the Court and the opinion of the advocate General are available on the [ECJ's website](#).

HOTREC acknowledges the ECJ ruling, which will have important consequences. One of the consequences will be that, because of the criteria mentioned, in most contractual disputes between a hotelier and a consumer, the competent court will be the one of the country of residence of the consumer. As the Rome I Regulation (N°593/2008) “on the law applicable to contractual obligations” provides that, in case of legal disputes, the applicable law is always the law of the country where the hotel is established. It will concretely mean that the Court of the Member State of the consumer will have to apply the law of the Member State of the hotel. This scenario will certainly decrease legal security for both consumers and hotels and will be detrimental to cross-border trade in the field of tourism. HOTREC will, therefore, draw the attention of the European institutions to the matter.

□ **Alternative Dispute Resolution: new Commission initiatives**

The European Commission is considering introducing an EU-wide alternative dispute resolution (ADR) system. Such a system could allow consumers to avoid going to court when they have a dispute with a trader. In order to launch the reflection on such schemes, the European Commission released on 19 January 2011 a [consultation paper](#) on “*the use of ADR as a means to resolve disputes related to commercial transactions and practices in the European Union*”.

ADR are specific schemes that can be used by consumers to resolve disputes with traders without using the normal judicial procedure. They normally use a third party to help both parties (i.e. the consumer and the trader) find an acceptable solution to the dispute. The lack of awareness about such schemes among businesses and consumers, and the difficulties encountered to use such schemes on a cross-border basis, are two important shortcomings the European Commission intends to address with this consultation.

As part of the consultation, the European Commission asks whether:

- **Businesses should be required to inform consumers when they are part of an ADR;**
- **Adherence by the industry to an ADR scheme should be made mandatory;**
- **The use of ADR should be a mandatory step before going to Court;**
- **ADR decisions should be made binding on traders or both parties;**
- **Etc.**

The consultation is open until 15 March 2011. The results of the consultation will be used to feed a Commission legislative proposal, which is expected to be released in November 2011.

ADRs are widely used by many businesses, including hospitality establishments. This issue may be of interest to some HOTREC national associations that are directly running ADR schemes to solve disputes between consumers and some of their members.

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□ **Collective Rights management: legislation to be proposed this spring?**

As reported in *Live from Brussels N°51*, the European Commission is expected to propose a framework Directive on collective rights management. The aim of this Directive would be to enhance governance, transparency and pan European licensing for online rights management. Therefore, it would likely concentrate on the inadequacies of the current territorial licensing practices with the development of legal online distribution of copyrighted works and creative content. Another aspect would be the inclusion of binding principles of good governance and transparency for collecting societies. **According to the latest information, the Commission could release its proposal this spring. It would be preceded by a Communication on the Commission future strategy on intellectual property.**

The hospitality industry has been voicing for years concerns over the management of collecting societies and their licensing practices. The expected release of a proposal for a framework Directive on the matter is, therefore, an important development for the hospitality industry. Nevertheless, HOTREC, which is currently working on the issue with other trade associations members of the Copyright Users Platform (CUP), fears that the scope of this initiative would be restricted to the problem faced by online distribution of work protected by copyright, thus leaving aside the long standing problems faced by the hospitality industry when negotiating licenses with collecting societies for “offline” uses. HOTREC, therefore, considers that this aspect should also be covered by the upcoming Framework Directive.

HOTEL CLASSIFICATION

□ **Hotelstars Union welcomes the Baltic countries**

One year after the foundation of the common hotel classification system of the [Hotelstars Union](#) the seven founding members accepted three new countries to their “star family” at once. As of 1 January 2011, the hotel associations of the three Baltic States, Estonia, Latvia and Lithuania became full members of the Hotelstars Union and will start to introduce the common classification criteria in their respective countries as soon as possible. Under the patronage of HOTREC, they will undertake, together with the seven founding members - the hotel associations from Austria, the Czech Republic, Germany, Hungary, the Netherlands, Sweden and Switzerland - the next step towards harmonised hotelstars in Europe in order to provide hotel guests with more transparent and reliable information.

The members of the Hotelstars Union invite even more HOTREC countries to apply the common classification scheme and join the Hotelstars Union, as this initiative is explicitly open to other countries in Europe, which are also seeking to increase the quality and enhance the marketing of their hotel sector. The current 10 member countries of the Hotelstars Union already represent a market of 18,000 classified hotels and more than 150 million inhabitants.

HOTREC and the members of the Hotelstars Union will present this project to the Members of the European Parliament in a seminar co-organised with MEP Klaus-Heiner Lehne (EPP, Germany) on 1 March 2011.

The common hotel classification system is based on a total of 270 single criteria; a combination of minimum criteria per category and facultative criteria are to be met to collect the required points. These criteria have been developed on the basis of representative guest surveys and, therefore, match the expectations and requirements of the guests. Accordingly, the catalogue of criteria puts emphasis on the areas of quality management, wellness and sleeping comfort. The hotelstars of the partnership integrate also a linking function between the real hotel product and its virtual image on the internet. A step in this direction is taken with the criteria regarding the informative value of hotel websites and an invitation to provide hotel reviews on the web.

DIGITAL ISSUES

□ Intensification of dialogue between hoteliers and hotel review providers

Online reviews have become an indispensable tool for both hoteliers and their guests. However, in order to increase reliability and to realise even more mutual benefits, HOTREC intensifies its dialogue with hotel review providers. For this purpose, HOTREC released a [Working Paper](#) updating slightly its previously adopted 10 principles for hotel review sites, in order to contribute to a better development of hotel reviews for the benefit of consumers, hoteliers and review providers.

HOTREC initiated the dialogue with hotel review sites in November 2007, inviting them to discuss together along which principles such sites should operate in order to allow for reliability and transparency for the travel community. The final aim is the provision of true, clear and useful information for travellers.

In the course of this dialogue, HOTREC acknowledged that some of the existing principles like suggestions on minimum numbers of reviews, on periods of record keeping and on how to calculate averages and listings, need adjustments and should be revised in a rapidly developing web environment. However, also hotel review providers still ought to improve their business practices with regard to, inter alia, preventing manipulation, more quality input, more transparency and better indication of the official star classification.

Therefore, HOTREC has invited all review providers to discuss and assess their business practices vis-à-vis the now revised 10 principles, allowing for a transparent evaluation of their efforts by hoteliers and travellers.

□ **Proposal for benchmarks of fair practices to online travel agents**

Online distribution is getting more and more important for the hospitality industry in Europe. On the other hand, HOTREC worries about the rather sinking number of relevant online travel agents (OTAs) and obvious tendencies of narrow oligopolies with consequences for terms and conditions. Therefore, on 16 December 2010, HOTREC released a [Working Paper](#) containing 20 “Benchmarks of Fair Practices for Online Travel Agents” from the hospitality industry point of view to raise awareness and to encourage a broad professional discussion throughout the sector.

The atomistically structured hospitality markets in Europe are facing practices in the field of digital distribution that more and more hoteliers consider to be imbalanced or unfair. Hoteliers are concerned to lose more and more control on their rates, distribution channels and the hotel product itself. Therefore, the hospitality industry considers it essential to bring even basic matters of sovereignty back to mind as a consequence of emerging pressure by distribution partners.

QUALITY

□ **Scandinavian Service and Quality Award accredited under HOTREC’s European Hospitality Quality scheme**

The Scandinavian Service and Quality (SSQ) Award became another quality scheme recognized at European level by HOTREC’s European Hospitality Quality (EHQ) scheme, after the Swiss, Hungarian and German “Q”. The application of SSQ Award for this accreditation was fully supported by the Swedish Hotel and Restaurant Association. On 7 December 2010, HOTREC’s Quality Board decided unanimously to accredit SSQ Award under EHQ level 2.

Following the introduction of the common classification system of the Hotelstars Union (see article above), hotels participating in the EHQ accredited national quality programs gain additional points when determining their number of stars. Further to the current EHQ accreditation of the SSQ Award, the possibility of collecting extra points is now also open to the hotels in Sweden when it comes to the classification of their establishments.

The EHQ scheme is the European umbrella quality scheme of HOTREC, which was developed on a voluntary basis and on the initiative of the European hospitality sector itself, aiming at ensuring and improving the quality of services in the hospitality sector. Currently over 4700 establishments in Europe are entitled to display the EHQ sign.

STANDARDS

□ **CEN seminar on “Standardisation in the tourism sector”**

On 8 December 2010, the European Committee for Standardisation (CEN) held a seminar on “Standardization in the tourism sector”. The initiative was taken by CEN to exchange views among stakeholders on “*any needs and opportunities for new standardization work in the area of tourism services*”, in view of recent political developments at EU level:

- New EU competences in the field of tourism given by the Lisbon Treaty;
- Commission Communication on a new political framework for tourism (June 2010).

As well as in view of developments over the last years with regard to standardisation:

- Activities of ISO TC 228 “Tourism and related services”;
- Outcome of CEN feasibility studies (2007/2008) on services standardisation (including a study on “Accessibility in transport and tourism services”, see *Live from Brussels N°47*).

The meeting was attended by delegates from national standardisation bodies, European and national associations of the tourism industry, national tourist boards and the European Commission. Items on the agenda included:

- Overview of standardisation activities on tourism at national, European (CEN TC 329) and international level (ISO TC 228);
- Accessibility and tourism services;
- Stakeholders’ views on tourism standardisation and any further needs for standards.

The debate confirmed that standardisation of tourism services is a controversial subject and that there are diverging views among stakeholders: European tourism industry associations, standardisation bodies and representatives of consumers.

Further information on the seminar (background documents, presentations, etc.), is available on the CEN [website](#).

HOTREC was invited to participate in the Seminar to present the views of the European hospitality industry. HOTREC reiterated its position that standardisation of tourism and hospitality services should fully remain market driven and formal standards should only be developed if broadly supported by the users, including the relevant industry. HOTREC, which is not against standards “per-se”, does not support top-down approaches whereby standards for hospitality services are developed at European or international level at the initiative of the EU and/or standardisation bodies.

Furthermore, the need for standardisation of services, in particular hospitality services, is not as obvious as it is for goods. In the tourism and hospitality sectors, diversity reflects different cultures, approaches, resources as well as geographical situations. Tourists’ needs and expectations can vary and the services provided by hospitality services vary constantly to meet their demands. Heterogeneity is a key competitive feature for the hospitality industry and success is based on differentiation.

□ **Other CEN activities: halal food, services for fire safety, pest management**

The European Committee for Standardisation (CEN) has recently announced some new initiatives in relation to services standardisation. The following projects may be of interest to the hospitality sector:

- **Halal food:** CEN set up in October 2010 a Working Group (CEN/BT WG 212) to evaluate the feasibility of developing a European standard regulating the requirements for halal food (the food whose consumption is permitted for Muslims under Islamic law).

The WG agreed that such a European standard should cover all foodstuffs and not be limited to meat products. Furthermore, the project should deal with the entire food chain. The objective of the promoters would be to develop a European standard on halal food that is recognized by Muslims and whose requirements are in line with applicable legislation and can be implemented along the food chain.

- **Services for fire safety and security systems:** in November 2010, CEN approved the setting-up of a Project Committee (CEN/CLC TC 4) on services for fire safety and security systems. The Committee will work “*on the competence and quality of services in relation to the planning and design, engineering, installation, maintenance and repair of fire safety and security systems*”.
- **Pest management:** CEN created a new Project Committee (CEN/TC 404) on services of pest management companies. The objective is to develop a European Standard specifying the requirements, recommendations and basic competences for services provided by pest management companies.

Further information on these projects is available on the CEN [website](#).

□ ISO TC 228 to work on green accommodation?

On 17 January 2011, the Secretariat of ISO TC 228 circulated for voting by correspondence a proposal by the Turkish Standards Institution (TSE) to establish a Working Group (WG) to develop an ISO standard on “*Environmental Friendly Accommodation Establishments*”. The proposal, which is largely based on the [EU eco-label scheme](#) for tourist accommodation service, outlines 122 criteria in relation to the management of energy and water consumption, waste and other ecological aspects. The project had already been presented at the plenary meetings of TC 228 in 2009 and 2010. However, on those occasions the Turkish standardisation body had agreed to postpone it, acknowledging that accommodation and catering services were excluded from the scope of the Business Plan covering the period until 2010 (see *Live from Brussels N°46* and *N°50*). The deadline for voting on the proposal by the members of TC 228 is 28 February 2011.

In parallel, the activities of TC 228 are multiplying. In January 2011, TC 228 approved two proposals by the Spanish standardisation body (AENOR) to develop international standards on:

- “Industrial tourism. Service provision”;
- “Yacht Harbours. Service provision”.

Following the approval of the two projects, TC 228 now counts [9 WGs](#). Originally scheduled to take place on 8 April 2010, the 6th plenary meeting of TC 228 was recently postponed to 13 May 2011 (the date of HOTREC annual General Assembly). However, following a request by HOTREC, the TC 228 Secretariat has agreed to further postpone the meeting to Friday 20 May 2011 (Rome).

HOTREC, which has a Liaison status with no voting right within TC 228, has been advocating since years that hospitality services should be left out of the scope of TC 228. HOTREC takes the view that standardisation of hospitality services should remain fully market-driven: initiatives should not be presented nor endorsed unless broadly and unequivocally supported by the sector. This is certainly not the case for the proposal by TSE and the European hospitality industry. There is currently no demand or support from the vast majority of the European hospitality sector for the development of international standards covering its services.

Furthermore, the current Business Plan of TC 228 indicates that the Technical Committee “will not address standards development” for accommodation, catering, travel agents and tour operators “without the express support of the industries concerned”, acknowledging that “work cannot realistically proceed” in areas where cooperation by the tourism industries, represented by Liaison bodies, is withheld.

SOCIAL AFFAIRS

□ EFFAT-HOTREC Sectoral Social Dialogue

The last EFFAT-HOTREC Sectoral Social Dialogue (SSD) Plenary meeting was held on 3 December 2010 in Brussels. At this meeting, the HORECA social partners agreed on two important issues which have been in their work programme for several years:

- **Joint EFFAT-HOTREC statement on undeclared work in the European Hotel and Restaurant sector.** This [joint statement](#), discussed in previous SSD meetings, was formally signed by Mr. Harald Wiedenhofer (General Secretary, EFFAT) and Ms. Anna Torres (CEO, HOTREC) in the presence of the European Commission. It emphasises the need to alleviate fiscal burdens to limit undeclared work. Follow-up actions to this statement will be discussed in future SSD meetings.
- **Qualification and Skills Passport (QSP) in the hospitality sector.** The first phase served to establish the basis for the development of the project in four countries: Hungary, Italy, Malta and Spain. To be able to continue with the second phase of the implementation of the project, it is necessary to secure financing from the EU. The decision taken at the last SSD plenary meeting was to study the possibilities to submit an application for funding through one of the European programmes for the piloting of the project.

The EFFAT-HOTREC [work programme](#) for the year 2011 was also adopted at the last SSD plenary meeting.

The creation of a QSP for the hospitality sector has been on the agenda of the social dialogue for many years. Workers, who seek employment in another country, as well as employers seeking to hire workers from abroad, face difficulties due to a lack of transparency and comparability of qualifications and skills. The passport is expected to iron out these difficulties. Therefore, HOTREC expects that the Commission agrees to support financially the second phase of this project.

□ Working time Directive: second phase consultation of the social partners is launched

On 21 December 2010, the European Commission adopted a Communication ([COM \(2010\) 801](#)) on “Reviewing the working time Directive”. This Communication launches the second-phase consultation of the European social partners on the possible content of EU action regarding the working time rules. It is also asking EU social partners whether they are willing to enter into negotiations on all or part of the issues raised in the Communication.

This new consultation paper brings together the main results of the first stage consultation of the EU social partners, as well as the main evidence gathered from recent studies about working time trends and patterns and the Directive's economic and social impact.

The two main options for a possible review of the working time rules are:

- **A focused review.** It would consist in proposing new solutions focused on the questions of “on-call time” and “compensatory rest”.
- **A comprehensive review.** It would consist in proposing an overall set of changes, including the questions of “on-call time” and “compensatory rest”. It seeks the opinion of social partners on key themes such as:
 - greater flexibility for new working patterns;
 - work life balance for new demographic realities;
 - autonomous workers;
 - multiple contract;
 - the scope of the Directive and specific sectoral problems;
 - opt-out;
 - paid annual leave;
 - better regulation; and
 - enforcement and cooperation measures.

The specific questions on which the Commission wishes to hear the opinion of the social partners are included in the final section of the consultation paper. Social partners are requested to present their views by 28 February 2011. The accompanying documents can be found under the following [link](#).

Depending on the outcome of the consultation, the Commission will begin preparing a legislative proposal to amend the current Directive, supported by a detailed impact assessment; or may suspend its work if the social partners decide to negotiate amongst themselves on matters with a sufficiently wide scope.

HOTREC will respond to this second-phase consultation, as flexible working time arrangements and the need to adapt to new developments in the “world of work” are crucial for the hospitality sector.

□ **Latest news on the legislative proposal on seasonal workers**

As explained in the previous edition, on 13 July 2010, the European Commission presented a proposal for a Directive on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment ([COM \(2010\) 379 final](#)). The proposal is to be dealt with by the European Parliament and the Council under the ordinary procedure. The LIBE (Civil Liberties, Justice and Home Affairs) Committee will lead the discussions in the Parliament. Claude Moraes (S&D, UK) is the Rapporteur for this dossier.

The proposal aims at establishing a common procedure for entry and residence of third country seasonal workers in the EU. According to the Commission, “seasonal workers” are defined as *third-country nationals* (non-EU citizens), coming to an EU Member State for the purposes of *employment in a sector of activity dependent on the passing of the seasons* (typically in agriculture, horticulture and tourism).

Their work is regulated in one or more *fixed-term work contracts* concluded directly between the third-country national and the employer established in a Member State.

The proposal for a Directive establishes, amongst others, that:

- Seasonal workers will be issued a visa or residence permit allowing them to work for a maximum period of 6 months. Such strict limitation is aimed at ensuring that workers are employed for work that is genuinely seasonal and not for regular work;
- Employers are required to provide evidence that the seasonal worker will have appropriate accommodation during his/her stay.

At a hearing held on 25 January 2010 at the European Economic and Social Committee (EESC), some civil society organisations expressed their views on the proposal in the presence, amongst others, of the European Commission (DG Justice & Home Affairs) and the Parliament's Rapporteur, Claude Moraes. The employers' delegation generally welcome the proposal, but expressed concern about the maximum period of stay for a seasonal worker which is limited to 6 months per calendar year. In their opinion, it is essential that Member States that wish to apply more favourable provisions than those stated by the Directive are allowed to do so, i.e. in Spain and Italy the maximum stay for seasonal workers is currently of 9 months.

Questions on what exactly is meant by "*employers are required to provide evidence that the seasonal worker will have appropriate accommodation during his/her stay*" were also addressed to the Commission. In the opinion of Claude Moraes, the proposal still needs further clarification on some of its provisions.

The trade union representative did not welcome the proposal at the EESC hearing.

HOTREC will monitor the upcoming discussion in the EP on the proposed Directive on seasonal employment. HOTREC generally welcomes the proposal for a Directive as the text establishes for the first time clear rules for the admission of non-skilled third country nationals and can help to avoid the exploitation of non-skilled illegal workers. HOTREC is of the opinion that seasonal workers should be welcomed in the EU to deal with shortages in certain sectors of activity like the tourism industry.

COMPETITION

- **Revised competition rules on Horizontal Cooperation Agreements and information exchanges**

On 1 January 2011, the new EU guidelines on horizontal cooperation agreements entered into force. Horizontal cooperation agreements are agreements between competitors on a given market. **The Guidelines explain how to assess whether such agreements are forbidden by article 101 of the Treaty on the functioning of the EU.**

In addition to the basic principles used to carry-out such assessment, the guidelines contain 7 other chapters addressing widespread horizontal agreements, two of which being highly relevant to the hospitality industry:

- Exchange of information between competitors; and
- Standardisation agreements.

The chapter on information exchange between competitors (either directly, through a trade association, a third party or by means of publishing) is relevant for the hospitality industry, as competing hospitality establishments may occasionally exchange business information. Such information exchanges may constitute, under certain conditions, a violation of the EU competition rules, if they lead to reducing competition or reducing the effects of competition. **As an illustration of a prohibited information exchange, the guidelines mention the example of luxury hotels in the capital of a Member State which directly exchange information on current occupancy rates and revenues.**

The chapter on standardisation agreements is also relevant for the hospitality industry, as agreements to produce common quality standards may also constitute, under certain conditions, a violation of the EU competition rules. This chapter, therefore, provides guidance to ensure that such agreements will not be in breach of the EU competition rules.

The new guidelines are available on the [website](#) of DG Competition of the European Commission.

HOTREC welcomes the new Commission guidelines on horizontal cooperation agreements, as they will provide greater clarity about which information exchanges are allowed under the EU competition rules and how common quality standards should be developed.

INTERNAL MARKET

❑ **Cross-border healthcare Directive soon adopted: a door opener for health tourism?**

On 19 January 2011, the European Parliament adopted its 2nd reading opinion ([P7_TA\(2011\)0007](#)) on the proposal for a Directive on the application of patients' rights in cross-border healthcare ([COM\(2008\) 414](#)). This opinion reflects an agreement reached with the Council during informal trilogue meetings. This Directive is awaited since health services were expressly excluded from the services Directive ([2006/123/EC](#)), in order to ensure that EU patients can move freely within the EU to obtain healthcare treatments (see *Live from Brussels* N°46 and N°49).

According to this agreement, a patient will be entitled to the same benefits when he/she goes cross-border for healthcare as if he/she had stayed in his/her home country. However, the proposal does not provide any right to reimbursement for a treatment in another EU country, if such treatment is not reimbursed in the home country. Public authorities may require that patients seek 'prior authorisation' for treatments requiring overnight hospital stays or specialised healthcare. However, any refusal will need to be justified according to a restricted list of possible reasons, which includes certain risks to the patient or general public. Moreover, each country must establish a 'contact point' to provide information to patients considering seeking treatment abroad. Cross-border healthcare treatments will be made much-easier for patients on long waiting lists, or those unable to find specialist attention in their home country.

Following the adoption of this 2nd reading opinion by the EP, the Council is now expected to adopt without modification the new text in February 2011. The Directive would then become effective in 2013.

HOTREC welcomes the adoption of the European Parliament's 2nd reading opinion, which paves the way for the final adoption of the Directive. This Directive is awaited by the hospitality industry in a number of Member States with high quality health services, as it could provide further opportunities for health tourism.

SUSTAINABILITY

□ First meeting of the HOTREC Sustainability Task Force

At the last HOTREC General Assembly held in Budapest on 28 and 29 October 2010, HOTREC members decided to re-launch the "Sustainability Task Force", which would cover not only environment, but also social and economic aspects.

The first meeting of the Task Force will be organised on 16 February 2011 in Brussels at HOTREC premises. The Task Force will be chaired by Ms. Susanne Kraus-Winkler, Vice President of the HOTREC Executive Committee. Work will be devoted to define HOTREC priorities in the area of sustainability, as well as the working areas (energy efficiency, water supply, etc.). It will also help HOTREC preparing its position on sustainability related matters.

Several HOTREC members have already confirmed their willingness to participate in the Task Force and exchange views on the issue.

STATISTICS

□ Draft Regulation on Tourism statistics close to an agreement

On 30 March 2010, the European Commission released a draft Regulation on European Statistics on tourism ([COM\(2010\) 117 final](#)).

The proposal suggests the replacement of the current Directive 95/57/EC and includes inter alia the introduction of the net occupancy rate of rooms and also a more precise breakdown on tourist expenditure by requiring data on expenditure spent on accommodation.

The negotiations between the Council and the European Parliament are coming to an end soon. The current draft EP report suggests mentioning the importance of Tourism Satellite Accounts (TSAs) and possible future legislative steps in relation to TSAs encouraging the continuation of their development, which is also promoted by Eurostat. An additional element in the future final text could be the further breakdown of tourist expenditure, including also expenditure on restaurant services. The draft report shall be voted in the plenary meeting of 8 March.

HOTREC submitted its position to both the Council and the European Parliament, asking inter alia for the inclusion of the figure RevPAR in the future Regulation and also for a more detailed breakdown of expenditures by tourists, including expenses in restaurants. According to the current state of play of the discussions between the Council and the Parliament, information on revenues will not be included in the future text.

□ **Recent statistical publications**

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

- [Seasonal bias in tourism demand](#), Statistics in Focus 54/2010;
- [Tourism Satellite Accounts in Europe](#), 2010 edition;
- [Tourism in Europe in 2009](#), Statistics in Focus 24/2010.

PAYMENT SYSTEMS

□ **VISA commitments on MIFs made binding!**

As previously reported, VISA Europe proposed in April 2010 commitments concerning its Multilateral Interchange Fees (MIFs) for cross-border transactions with VISA debit cards. **On 8 December 2010, the European Commission finally announced that these commitments were made legally binding for 4 years.**

These commitments only concern VISA's debit card transactions and are the following:

- The maximum weighted average MIFs for debit card cross border transactions is set at 0.2% of the transaction value;
- The same maximum weighted average MIFs apply for national debit transactions in countries where MIFs are set by VISA Europe (Greece, Hungary, Iceland, Ireland, Italy, Malta, Sweden, Luxembourg and the Netherlands);
- Merchant fees will be unblended;
- All MIFs will be published.

A trustee will monitor if VISA complies with these commitments. As a consequence, the European Commission closed part of its proceedings against VISA, as far as it concerns debit card transactions. However, the investigation on VISA credit card transactions will continue.

HOTREC regrets that the Commission did not completely eliminate VISA's MIFs. Moreover, the hospitality industry fully shares the concerns expressed by EuroCommerce that:

- *The average fee levels do not correspond to any market reality;*
- *There is still no progress on commercial cards, while MIFs on such cards are much higher than those on consumer cards; and*
- *The honour all cards rule still means that retailers cannot refuse overpriced cards.*

The European hospitality industry, however, welcomes the European Commission's announcement that its investigation on VISA credit card will be pursued.

ACCOUNTING STANDARDS

□ Reform of accounting standards for leasing contracts – HOTREC takes position

On 17 August 2010, the International Accounting Standard Board (IASB) published proposals to reform the current International Financial Reporting Standard (IFRS) rules for accounting of lease contracts (IAS 17). The proposed reform would lead to the removal of the distinction between “*finance lease*” and “*operating lease*” in lease accounting. Accounting of rent and leasing transactions would follow the approach taken for the finance lease.

The “exposure draft” published by the IASB was open for comments until 15 December 2010. The IASB reviewed the comments received and published a summary. The proposed reform will be discussed further throughout 2011.

As the hotel industry is making a widespread use of leasing agreements for the use of hotel properties, HOTREC participated in the consultation organised by the IASB. HOTREC expressed the concerns of the industry about the envisaged reform, in a letter addressed to the IASB on 6 December 2010. Indeed, the proposed changes in lease accounting would negatively affect the balance sheet and financial ratios of major hotel companies. It would also increase accounting costs and create an important volatility in the results of hotel companies using lease contracts. For these reasons, HOTREC considers that this reform should be put on hold.

INSTITUTIONS

□ Commission Work Programme 2011 and the hospitality industry

On 27 October 2010, the European Commission published its official Work Programme for the year 2011 ([COM\(2010\) 623 final](#)). The Work Programme outlines the political and legislative priorities of the Commission and includes in its annexes, a list of “strategic initiatives scheduled for adoption in 2011” (Annex I). The following measures are of interest to the European hospitality sector:

- Legislative proposal on collective rights management (1st quarter 2011);
- Communication on a more integrated European standardisation system and legislative proposal on standardisation, covering inter alia the ICT sector (1st quarter 2011);
- Low-carbon economy 2050 roadmap (1st quarter 2011);
- European energy efficiency plan until 2020 (1st quarter 2011);
- White Paper on the future of transport (carry-over 2010) (1st quarter 2011);
- Legislative proposal for a common consolidated corporate tax base (1st quarter 2011);
- Legislative proposal to set up a “Registered Traveller Programme (2nd quarter 2011);
- Legislative proposal to set up an “Entry/Exit System” (2nd quarter 2011);
- Communication on the possibility of introducing an “EU ESTA – Electronic System for Travel Authorization” (2nd quarter 2011);
- (Multiannual financial Framework) Commission proposal for a new own resources decision (2nd quarter 2011);
- Directive on energy efficiency and savings (3rd quarter 2011);
- Revision of the Directive 2003/88 on working time (3rd quarter 2011);

- Communication on the future VAT strategy (4th quarter 2011);
- Legal instrument on European contract law (4th quarter 2011);
- Legislative initiative on posting of workers (4th quarter 2011);
- Follow-up to the consultation on collective redress (4th quarter 2011);
- Legislative proposal on alternative dispute resolution in the EU (4th quarter 2011).

Annex II includes “*an indicative list of possible initiatives under consideration*” for the year 2011. The following items can be relevant to the hospitality sector:

- Commission Communication on a new competences initiative;
- Commission Communication on quantification of harm in antitrust damages actions;
- (Second-phase) consultation of social partners on the protection of workers' health from risks related to exposure to environmental tobacco smoke at the workplace;
- Communication on consumer policy strategy (2014-2020);
- Proposal for a review of Directive 2006/24/EC on data retention;
- Revision of the Council Directive 90/314/EEC on package travel, package holidays and package tours;
- (First-stage and second-stage) consultation of the European social partners on reconciliation between work, family and private life;
- Communication and Report on the results of the implementation of the services Directive and its "mutual evaluation process".

Furthermore, the Work Programme 2011 lists in its Annex III a number of simplification and “administrative burden reduction” initiatives, among which:

- Revision of Council Regulation (EC) No 207/2009 on the community trademark (codified version) and trade mark Directive;
- Legislative initiative on VAT on public authorities and exemptions (2012).

Finally, the Work Programme 2011 gives also a first overview of the initiatives foreseen by the Commission for the period 2012-2014. The following items may be of interest to the hospitality sector:

- Proposal for a legal instrument on enforcement of rights of EU migrant workers in relation to the principle of free movement of workers (2012);
- Commission Communication on a new EU strategy on safety and health at work (2012);
- Proposal for a Regulation amending Regulation 1612/68 (EURES) to include an EU wide scheme for the mobility of young workers (2012);
- Communication on consumer empowerment (2012);
- Legislative proposal for the revision of Regulation 261 on air passenger rights (2012);
- Initiative on water efficiency “Blue Print to safeguard Europe’s water resources” (2012);
- (In depth) Review of Europe’ standardisation system (2013).

The Work Programme 2011 and related annexes are available in all EU official languages on the Commission’s [website](#).

HOTREC will monitor closely all proposals which may have an impact on the activities of hospitality businesses and dialogue with EU policy makers to communicate the views of its member associations on relevant issues.

HOTREC GENERAL ACTIVITIES

□ Last and next General Assemblies

On 28-29 October 2010, HOTREC held its 61st General Assembly in Budapest. At the event, representatives from 40 national associations discussed the challenges and opportunities for the European hospitality industry in the aftermath of the global economic and financial crisis. Delegates reported on hospitality business trends across Europe, highlighting that the situation is still difficult in some Member States, where recovery is not yet in sight.

At the Budapest General Assembly, Mr. Mattia Pellegrini, member of the Cabinet of European Commission Vice-President Tajani, presented the proposals of the Commission for a new political framework for European Tourism. In this context, the President of HOTREC, Mr. Kent Nyström, stressed that, “*while the European hospitality industry starts to see the light at the end of the tunnel, it is high time for the Commission to provide oxygen to the industry through the establishment of a sustainable framework for tourism businesses*”.

The 62nd HOTREC General Assembly will take place on 12-13 May 2011 in Zurich.

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