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HOTEL SAFETY

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Authors: Ms Janne Sylvest
Ms Hanna-Maija Saarinen
Mr Anders Olivarius
Ramboll Management
Nørregade 7A
DK – 1165 Copenhagen K
DENMARK

Administrator: Agneta Sturesson
Policy Department Economy and Science
DG Internal Policies
European Parliament
Rue Wiertz 60 - ATR 00L 046
B-1047 Brussels
Tel: +32-2-2831405
Fax: +32-2-2846805
E-mail: agneta.sturesson@europarl.europa.eu

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✉ Palais de l'Europe – F-67000 Strasbourg - ☎ 33/3.88.17.25.56 Fax:
33/3.88.36.92.14

E-mail: poldep-esc@europarl.europa.eu

Table of Contents

LIST OF ABBREVIATIONS	3
EXECUTIVE SUMMARY	4
1. INTRODUCTION.....	5
1.1 Objective of this study	6
1.2 Structure of the report.....	6
1.3 Methodology.....	7
2. ACTIONS UNDERTAKEN AT MEMBER STATE LEVEL AND BY THE COMMISSION FOLLOWING THE 1986 RECOMMENDATION.....	8
2.1 EU initiatives	8
2.2 Member States	10
2.2.1 Building regulations.....	12
2.2.2 Fire safety legislation.....	12
2.2.3 Workplace regulations.....	12
2.2.4 Safety of services.....	13
2.2.5 National and regional legislation.....	13
2.2.6 Conclusion.....	13
3. NEW THREATS AND RISKS.....	15
3.1 Conclusion	17
4. CONSUMER CONCERNS	18
4. 1 Conclusion	19
5. WHAT ACTIONS CAN BE TAKEN BY THE INDUSTRY?	20
5.1 Conclusion	22
6. POLICY OPTIONS AND EXISTENCE OF A LEGAL BASIS.....	23
6.1 Policy options	23
6.1.1 No action at the Community level	23
6.1.2 Updating the 1986 Council Recommendation and technical annex.....	24
6.1.3 Obligation for the Member States to submit data and statistics on accidents and injuries related to hotel safety.....	25
6.1.4 A binding legal instrument in the form of a directive or a regulation.....	26
6.1.5 Conclusion.....	30
6.2 Legal basis	31
BIBLIOGRAPHY	33

OVERVIEW OF THE INTERVIEWEES..... 35
APPENDIX 1 – QUESTIONNAIRE (HOTEL CHAINS) 39
APPENDIX 2 – QUESTIONNAIRE (CONSUMER ORGANISATIONS)..... 40
APPENDIX 3 – QUESTIONNAIRE (FIRE SAFETY OFFICIALS)..... 42
APPENDIX 4 – QUESTIONNAIRE (THE FIRE AND SECURITY SYSTEMS INDUSTRY)..... 43
APPENDIX 5 – QUESTIONNAIRE (FEDERATION OF TOUR OPERATORS) 44
APPENDIX 6 – QUESTIONNAIRE (HOTREC) 45

List of abbreviations

ANEC	The European Consumer Voice in Standardisation
BEUC	The European Consumers' Organisation
CEN	European Committee for Standardization
DG SANCO	European Commission, Directorate General for Health and Consumers
EURALARM	Association of European manufacturers and installers of fire and security systems
FTO	Federation of Tour Operators
HOTREC	Hotels, Restaurants & Cafés in Europe
IDB	European Injury Database
NACE	Nomenclature générale des activités économiques dans les Communautés Européennes
NFPA	National Fire Protection Association (USA)
TEC	The Treaty establishing the European Community
TEU	The Treaty on European Union
TLS	Tourism and Leisure Services

Executive Summary

As it is now, **no common minimum standards exist that define the safety of hotels in Europe.** The *1986 Council Recommendation on fire safety in existing hotels* provides a basis for creating common minimum standards for fire safety in European hotels, but a number of stakeholders have raised concerns about its limited effect on hotel safety in Europe. Moreover, the Recommendation only deals with fire safety and leaves out for example such safety questions as pool safety, food safety (hygiene), and carbon monoxide safety. While the 1986 Council Recommendation has to some extent been implemented in all EU Member States, **differences exist between Member States for instance as to whether the provisions apply to all hotels, or only to new or newly renovated establishments.** On the EU level, the 1986 Council Recommendation was followed in 2003 by a Commission report on the safety of services, which concludes that **there is a need for systematic data collection on service related injuries and accidents** before further measures can be taken.

The different risks and threats that the consumers may experience in European hotels have not changed since the adoption of the 1986 Recommendation. Technological developments and increasing awareness of the risks have however decreased the probability of accidents and injuries. **Fire is still seen as the biggest risk**, as it can potentially lead to a high number of casualties. Pool safety is considered to be important, but due to the lack of statistics, it could not be identified to what extent this is a problem on a European level. Gastric illnesses are relatively numerous, but they tend to be regarded by stakeholders as a minor problem because they rarely lead to casualties.

It can be concluded that the stakeholders interviewed for the purpose of this study agree on the fact that the hotel safety in Europe can be improved. This includes for example improvements in safety management, staff training and emergency procedures, as well as in enforcement of the existing legislation. The stakeholders' opinions differ however as to how this should be done and whether the measures should be binding or not. **The consumer organisations believe that the 1986 Recommendation should be replaced by a directive, which would apply to all hotels**, irrespective of size and age. For the hotel industry, securing hotel safety is first and foremost **a matter of confronting the existing risks and threats to consumers at the local level.** The majority of the hotel industry representatives interviewed consider that **more attention should be given to the training of hotel management and staff**, instead of introducing binding Community legislation on hotel safety.

A number of **policy options** could be identified. Whereas the majority of the hotel industry representatives and fire safety officials interviewed consider that the field of hotel safety is sufficiently regulated as it is, other stakeholders, such as the Federation of Tour Operators, propose that **the 1986 Council Recommendation should be updated.** Some stakeholders consider that updating the Council Recommendation is not enough, and that a **binding instrument in the form of a directive is needed.** Another policy option would be to **impose an obligation for the Member States to submit data and statistics** on accidents and injuries related to hotel safety. When it comes to the existence of a **legal basis for Community action**, the conclusions are on a more general level because the extent of a possible legal act has not been specified. For example, Articles 94, 95 and 96 of the Treaty provide a potential legal basis, but the scope of the legal act will be decisive in this respect. The scope would have to be determined in accordance with the principles of subsidiarity and proportionality. The opinions of the stakeholders differ as to whether a legal act on hotel safety would be in accordance with the principle of subsidiarity.

1. Introduction

The hotel industry is a force to reckon within the European labour market and service sector. In 2006, approximately 265,000 hotels offered 13.9 million bed places across the EU. 1.75 billion overnight stays were recorded in European hotels and almost 1.8 million people were employed in the industry, of which 1.4 million on a full-time basis.¹ 60% of all people employed were women (1,071,000).

Given the sheer number of people who either visit or work in a hotel in Europe, the safety of the hotel constitutes an area of high importance to both consumers and hotel owners. Essentially, consumers want to be sure that they can expect no unnecessary injury or harm when staying in a hotel within the EU. Indeed, since the safety of hotel personnel is widely covered by Community and national safety at work and work environment legislation, whereas hotel guests are not legally defined as a coherent entity to protect and support, this report mainly considers hotel safety **as the health and physical integrity of hotel guests — that is, consumers**. However, the safety of hotel staff will also be dealt with, especially to the extent that safety at work legislation has an effect on the safety of consumers.

It should be noted from the start that hotel safety can be broken down into two broad categories: safety and security. In this study, safety questions are seen as elements related to the services provided, meaning for example that the hotel as a construction is safe, and that the food served is safe to eat. Security, on the other hand, is related to threats imposed by people, rather than by physical surroundings. This is also why security is a dynamic element, meaning that it depends on the person posing a security threat, and it cannot often be foreseen. This study focuses on safety questions, which is the scope set by the European Parliament when requesting this study.

Safety - as defined above - can be further divided into two main categories: fire safety, and all other aspects of hotel safety, including food and swimming pool safety. Understandably, the two categories are interlinked and the distinction is mainly practical, inasmuch as fire safety has often been accorded special attention both in the Member States and at Community level. In this study all the aspects of hotel safety will be dealt with, but to the extent that they are identified as a risk by the stakeholders interviewed and the limited amount of statistics available. (Chapter 3 discusses risks and threats to consumers in the hotel sector.)

The European Parliament has considered that the point of departure for a study of the state of European hotel safety should be the Council Recommendation of 22 December 1986 on fire safety in existing hotels² (hereinafter “the 1986 Recommendation”). The Recommendation proposes for the Member States to take action to ensure that hotels are subject to provisions that are based on principles and guidelines included in the Recommendation, such as safe escape routes, stability of the building, installed and functioning warning systems, and suitable instruction and training provided for the staff. These guidelines are intended to safeguard consumers in existing hotels with at least 20 beds.

¹ Source: Eurostat, <http://ec.europa.eu/eurostat>. Industry, trade and services: Tourism. Hotels are for the purpose of this study defined according to NACE groups 55.1 (which comprises hotels and motels) and 55.2 (youth hostels, holiday homes, bungalows, cottages, and cabins without housekeeping) which correspond to the Eurostat tourism statistics taxonomy, groups A100 (comprising hotels, motels, roadside inns, boarding houses, bed & breakfast, and farmhouse accommodation) and B040 (youth hostels, holiday homes, tourist dormitories, group accommodation, and halls of residence for students). Eurostat employs the NACE codes in some places and its own taxonomy in others.

² Council Recommendation of 22 December 1986 on fire safety in existing hotels, 86/666/EEC, OJ L 384, 31.12.1986, pp. 60–68.

The Recommendation includes furthermore technical guidelines which deal mainly with the construction of hotel buildings. Finally, the Member States are recommended to inspect hotels periodically.³

1.1 Objective of this study

The objective of this study is to give an overview of the situation in the European Union concerning hotel safety. While there is no legal framework at Community level that defines safety standards for hotels, some stakeholders have called for an updated and more binding instrument to replace the 1986 Council Recommendation on fire safety in existing hotels. The following questions will be covered in this study:

1. What actions have been undertaken at Member State level and by the Commission following the Recommendation of 1986?
2. What new threats and risks have emerged in this area since 1986?
3. What are the consumer concerns and what policy options are available to remedy them?
4. What actions can be taken by the industry?
5. Is there a legal basis for Community action?

1.2 Structure of the report

The report is structured sequentially in accordance with the five questions that it addresses. This gives a three-part overall structure: first, the factual accounts of national and EU hotel safety initiatives as well as major threats and risks in the area are presented; second, we provide an assessment of the stakeholders' views on the subject matter; and finally, the possibilities for future Community action are considered.

Specifically, the report is organised as follows:

Chapter 2 surveys the **actions** that have been taken by the EU Institutions in the area of hotel safety as well as the **Community legislation** having a direct bearing on the subject. Subsequently the vast body of **national** and **regional legislation** that covers all aspects of hotel safety throughout the EU is broken down into distinct categories for the purpose of clarifying how different Member States have seen fit to regulate the safety of guests and personnel in hotels.

Chapter 3 enumerates the **threats** and **risks** in European hotels and considers whether there has been a development in the nature of these threats and risks since the 1986 Recommendation.

Chapter 4 takes the point of view of the **European consumer** and explores whether the consumers see a need for change in the way hotel safety issues are regulated today.

Chapter 5 answers the question: what can be done by the **European hotel industry** in the area of health, safety, and security?

Chapter 6 wraps up the report by presenting a number of possible **policy options** that the Community might pursue and by outlining the advantages and disadvantages of each option. Finally, the existence of a legal basis for Community intervention is investigated.

³ Council Recommendation of 22 December 1986 on fire safety in existing hotels, 86/666/EEC, OJ L 384, 31.12.1986,

1.3 Methodology

A range of methods and tools were employed in order to retrieve the data that the study is based on.

Past initiatives and relevant EU legislation were identified and gathered by way of extensive desk research and consultation with the European Commission, DG Health and Consumer protection. For the purpose of retrieving and grouping national hotel safety legislation, we contacted hotel associations in all 27 Member States, fire safety officials in 21 Member States, and state agencies or ministries that manage hotel safety or fire safety in six Member States.⁴ All these organisations were queried about the various laws, codes, and guidelines that govern hotel safety or hotel fire safety in their respective countries. The high number of contacts ensured that a comprehensive picture of the national legislative practices could be formed.

Threats and risks in the hotel sector were established in consultation with the aforementioned national hotel associations and fire safety officials. Further information about the threats and risks emerged in telephone interviews with the EU Fire Safety Network⁵, EURALARM (the Association of European manufacturers and installers of fire and security systems), the Federation of Tour Operators UK, HOTREC (Hotels, Restaurants, and Cafés in Europe), and two of the largest hotel chains in Europe, InterContinental Hotels Group and Rezidor Hotel Group.

The consumer concerns were conveyed in a telephone interview with ANEC (the European Association for Co-ordination of Consumer Representation in Standardisation⁶) and written interviews with two national consumer associations.⁷

The hotel industry's possibilities for handling hotel safety issues were discussed particularly with the aforementioned hotel chains, HOTREC, EURALARM, the Federation of Tour Operators, and the EU Fire Safety Network.

Finally, possible policy options were proposed by consumer associations, trade associations, the EU Fire Safety Network, the Federation of Tour Operators, and hotel chains alike.

⁴ For a full list, please see Overview of the interviewees.

⁵ The members of the EU Fire Safety Network are fire safety authorities from 23 Member States and Norway.

⁶ BEUC, the European Consumers' Organisation, declined the invitation to participate in the study because they have not dealt with the issue of hotel safety in several years.

⁷ The two organisations are: the Finnish Consumers' Association and Asociatia pentru Protectia Consumatorilor din Romania. The Irish and Portuguese organisations were also contacted without success. These particular associations were picked in order to maximise the geographical representation.

2. Actions undertaken at Member State level and by the Commission following the 1986 Recommendation

In this chapter, the actions that the EU institutions have taken in relation to hotel safety since the 1986 Council Recommendation on fire safety in existing hotels are outlined. The Community actions will be followed by a presentation of the Community legislation that, while not having hotel safety as its primary subject, has an influence on the safety of consumers and personnel in European hotels.

Moreover, it will be described how the Member States have chosen to address hotel safety in general and hotel fire safety in particular in their legislation. Five cross-cutting trends are recognised in the national legislative practices.

2.1 EU initiatives

The safety of European hotels as a distinct topic has not received much attention at Community level and the little output from the EU Institutions that exists regarding hotel safety mainly addresses the particular issue of hotel fire safety.

The 1986 Council Recommendation on fire safety in existing hotels⁸ specifies a number of technical guidelines, intended to safeguard consumers in existing hotels with room for at least 20 guests. The guidelines stipulate what measures should be taken to prevent and contain fires and save lives in European hotels. The following fire safety measures are suggested:

- Safe escape routes: The free passage of persons in the event of fire is secured.
- Solid building construction: The hotel will remain stable for at least as long as it takes to evacuate all occupants.
- Safe materials: Constraint on the use of highly flammable materials in surface coverings retards the outbreak of fires.
- Safe technical appliances.
- Functional alarm systems: All occupants must be able to hear the alarm in case of fire.
- Safety instructions: Each room displays a plan of the escape routes and emergency procedures.
- Functional emergency fire-fighting equipment.
- Training: Hotel staff is provided with suitable emergency instruction.

The Recommendation and the guidelines it puts forward have been adopted by the national legislatures in all Member States, though not consistently (see below).

Since the 1986 Recommendation, hotel safety in general, including fire safety, has mainly been considered alongside other safety and security issues within the broader context of safety of services. As envisioned in Article 20 of the General Product Safety Directive,⁹ a Commission report on the safety of services for consumers was put forward in 2003.¹⁰ The report surveys the risks and threats which confront consumers in major service sectors such as transport, health, and tourism.

⁸ Council Recommendation of 22 December 1986 on fire safety in existing hotels, 86/666/EEC, OJ L 384, 31.12.1986, pp. 60–68.

⁹ Directive 2001/95/EC of 3 December 2001 on General Product Safety, OJ L 11, 15.01.2002, pp. 4–17.

¹⁰ Report from the Commission to the European Parliament and the Council on the safety of services for consumers, COM(2003) 313, 6.6.2003.

It is proposed that further Community initiatives to reduce said risks are adjourned, pending detailed description of the threats facing consumers in different service sectors today, the like of which is currently not available. The report further suggests that steps are taken to ensure systematic data collection on service related accidents across the EU.

Council Resolution of 1 December 2003 on safety of services for consumers¹¹ instructs the Commission to continue its efforts to establish whether the area of service safety demands more thorough Community intervention and further requests that particular attention is paid to the collection of service related data.

The Commission responded with a 2005 study on Methodology for systematic collection of statistics in relation to safety of services.¹² The report considered how to improve the knowledge base on Tourism and Leisure Service (TLS) related accidents so as to facilitate whatever policy initiatives might subsequently be adopted at EU level, e.g. measures to prevent TLS accidents occurring in European hotels. The analyses showed that increasing the stockpile of data on accidents deriving from tourism and leisure services will require a multilevel effort, involving service suppliers, Member States, and the EU for the collection and storing of fatal as well as non-fatal accident data. Specifically, it is suggested that:

- European consumers should have access to a one-stop internet gateway with relevant TLS statistics.
- Each Member State should generate accident data from each TLS sector.
- A European database should be set up to record detailed descriptions of all fatal TLS-related accidents.
- The Member States should maintain databases of non-fatal TLS accidents.
- In the long run, it should be the responsibility of each individual service provider, e.g. a hotel owner, to provide information on all accidents occurring within his or her premises.

Recently the Commission has gone some way towards meeting the recommendations of the study with a proposal for a regulation to increase the production of statistics concerning public health and health and safety at work in Europe.¹³ The regulation, which has yet to be adopted, instructs each Member State to collect a number of health and accident statistics, including data on population health status, health care, and accidents at work. The data are to be submitted to the Commission (EUROSTAT) which, in its turn, is responsible for preparing the manuals and guidelines that the Member States require to carry out the data collection. National statistics will be organised and published by EUROSTAT. With particular relevance for the tourism and leisure services, the regulation shall cover also the reporting of accidents related to consumer safety.

The following EU legislation has an effect on hotel safety standards. Again, the target of the legislation is mainly, though not exclusively, fire safety:

- The Construction Products Directive
- The Low-voltage Directive
- The Directive on minimum safety and health requirements for the workplace

¹¹ OJ C 299, 10.12.2003, pp. 1-2.

¹² Consumer Risk Limited: Methodology for systematic collection of statistics in relation to safety of services, 9.3.2005. Commissioned by the European Commission, DG SANCO.

¹³ Proposal for a Regulation of the European Parliament and of the Council on Community statistics on public health and health and safety at work, COM (2007) 46 final, 7.2.2007.

The Construction Products Directive¹⁴ specifies six essential requirements for construction works, one of which explicitly addresses the fire resistance of individual construction works. It is required that new construction works are designed in such a way that in the event of fire the building will remain standing in a clearly defined period of time, internal and external spread of fire will be limited, occupants can leave the building, and the safety of fire fighters is considered. Subsequent to the adoption of the Construction Products Directive, a large number of standards on the fire resistance of construction products have been put forward by the European Committee for Standardization (CEN). *Inter alia*, the standards secure safe and functional smoke detectors, alarm systems, and fire fighting equipment.¹⁵

The safety of electrical installations in hotels is affected by the Directive on the harmonisation of laws of the Member States relating to electrical equipment designed for use within certain voltage limits¹⁶, the so-called Low-voltage Directive. In essence, the Low-voltage Directive certifies that only such electrical equipment that is of no danger to the safety of persons and property is placed on the market. Likewise, the Directive on the approximation of the laws of the Member States relating to lifts¹⁷ states that no lifts which endanger the health and safety of people may be traded within the Community. The directive specifies minimum safety requirements for the various component parts of lifts, including electrical installations.¹⁸

A Directive on minimum safety and health requirements for the workplace¹⁹ has been adopted within the framework of the Directive on introduction of measures to encourage improvements in the safety and health of workers at work.²⁰ The Directive introduces certain articles that are relevant for the safety of hotels, including provisions for the safety of electrical equipment and the availability and functionality of fire-fighting equipment. The Directive thus ensures a basic level of fire protection and, together with the Low-voltage Directive, protection against unsafe electrical installations in all workplaces, including hotels.

2.2 Member States

Given the lack of Community legislation on the safety of hotels, Member States have opted for a variety of different approaches to the task of securing the safety of visitors in European hotels.²¹ Below, the different ways in which the 1986 Recommendation has been implemented in the Member States are presented.

¹⁴ Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products, OJ L 40, 11.02.1989, pp. 12-26.

¹⁵ Commission communication in the framework of the implementation of the Council Directive 89/106/EEC on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products. OJ C 290, 4.12.2007, pp. 15-42.

¹⁶ Council Directive of 19 February 1973 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits 73/23/EEC, OJ L 77, 26.03.1973, pp. 29-33.

¹⁷ European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts, OJ L 213, 07.09.1995, pp. 1-31.

¹⁸ According to Annex II of the Low-voltage Directive, the electrical components of lifts are not covered by its provisions.

¹⁹ Council Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace, OJ L 393, 30.12.1989, pp. 1-12.

²⁰ Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, OJ L 183, 29.06.1989, pp. 1-8.

²¹ Where not stated otherwise, the information concerning national legislation in the EU Member States is based on interviews with and documents received from hotel associations, fire safety officials, and state agencies or ministries that manage hotel safety or fire safety.

Moreover, it is shown how virtually all national legislation that affects hotel safety issues can be grouped in five categories that cut across national borders: building regulations, fire regulations, fire safety legislation, workplace regulations, safety of services and national and regional legislation.²² Each of the five categories highlights one essential aspect of the safety legislation that may or may not be present in the legislative framework of the individual Member States.

First of all, the 1986 Recommendation has not been transposed into national legislation in any consistent way. A 2001 Commission report surveyed the application of the Recommendation in the Member States.²³ The main conclusion to emerge from the study was that whereas all Member States have incorporated the Recommendation into their legal framework in one form or another, some countries have chosen to apply it to new construction works only.²⁴

Furthermore, a 2000 report issued by the Federation of Tour Operators (UK)²⁵ found that European hotel managers showed a very low level of awareness about the existence and contents of the 1986 Recommendation.²⁶ Whereas awareness of EU-level principles and guidelines is obviously not a prerequisite for compliance with national legislation, the report also pointed to deficiencies in the manner in which the Recommendation is enforced in different Member States and stressed that less than half of the hotels surveyed provided their staff with suitable emergency training as envisioned in article 2.8 of the Recommendation.²⁷ However, these conclusions are partly contradicted by a 1996 study²⁸ which concludes the following: “The requirements of the Recommendation have, in nearly all cases, been adopted as national provisions and can therefore be regarded as minimum criteria which have been met and surpassed in most cases.”²⁹

Finally, the technical guidelines contained in the 1986 Recommendation do not rest on a firm legal basis in every EU Member State. In Ireland, for instance, the Recommendation is incorporated by way of a non-binding, albeit detailed, guide to hotel fire safety.³⁰

Given the disagreement over the application and scope of the 1986 Recommendation, it is revealing to see how hotel safety in general and hotel fire safety in particular is actually regulated in the Member States. Even though the exact collection of legal acts that govern hotel safety varies from one country to another, some trends are discernable across the Member States.

²² The categories were identified on the basis of the stakeholder consultations and the investigation of legal texts.

²³ Report from the Commission on application of the Council Recommendation of 22 December 1986 on fire safety in existing hotels (86/666/EEC), COM(2001) 348, 27.6.2001.

²⁴ Report from the Commission on application of the Council Recommendation of 22 December 1986 on fire safety in existing hotels (86/666/EEC), COM(2001) 348, 27.6.2001, p. 8.

²⁵ European Hotel Fire Safety: An Analysis of the Implementation and Impact of the 1986 EC Recommendations on Fire Safety in Existing Hotels, by Stewart Kidd.

²⁶ European Hotel Fire Safety: An Analysis of the Implementation and Impact of the 1986 EC Recommendations on Fire Safety in Existing Hotels, by Stewart Kidd, p. 28.

²⁷ European Hotel Fire Safety: An Analysis of the Implementation and Impact of the 1986 EC Recommendations on Fire Safety in Existing Hotels, by Stewart Kidd, pp. 29-30.

²⁸ APAVE: Etude sur la sécurité incendie dans les hôtels et les établissements d’hébergement de la Communauté européenne, 1996. Quoted in COM(2001) 348, p. 6. The study was available to interested parties upon demand. No further information on the study could be found.

²⁹ Quoted in COM(2001) 348, p. 6.

³⁰ Department of the Environment (1989): Guide to Fire Precautions in Existing Hotels, Guesthouses and Similar Premises.

2.2.1 Building regulations

Construction laws and building regulations exist in all Member States. Whether or not the laws make explicit reference to hotels, they generally stipulate minimum fire safety precautions that the design and material of all new construction works must conform to. Such precautions generally concern the accessibility of escape routes and there are often specific requirements regarding minimum number and placement of such items as smoke detectors, fire alarm systems, and extinguishing installations. In some cases, the regulations go even further and also consider other aspects of hotel safety. For instance, the UK and Spain have detailed technical building regulations that, *inter alia*, make explicit instructions on how to limit the risk of falls to the users of buildings.

Thus, the scope and level of detail of national building regulations vary to some degree. While it is unclear whether the divergence is a reaction to different risks in the Member States or the upshot of distinctive national legislative practices, the building regulations are specific enough that a very basic level of hotel fire safety may be said to exist across the EU, although the level of protection that a fully implemented 1986 Recommendation would bring about is far from met by the building regulations alone. Naturally, the overall influence of construction law on hotel fire safety is mainly *ex ante*, as it is in the planning phase of new construction works that the regulations first come into effect. In Cyprus, for instance, building activity may not begin before the plans have been certified by the local fire department.

2.2.2 Fire safety legislation

A number of Member States, e.g. Belgium, Denmark, France, Hungary, Italy, and Luxembourg, have hotel fire safety style legislation in place that prescribes, in line with the 1986 Recommendation, the presence of emergency procedures and equipment as well as functional alarm systems in hotels. Some also give detailed requirements regarding, *inter alia*, the safety of electrical installations, marking of escape routes, and structural features such as the degree of flammability of walls and floors. There is some divergence as to the scope of the fire safety regulations. Whereas French fire safety orders are particularly prescriptive for hotels with room for 200 guests or more, Italian law draws a distinction between hotels that can accommodate as many as 25 guests and those that are more capacious.

In other Member States, where the general emergency planning and procedures for hotel owners are covered by laws that do not have fire protection as their primary subject, hotels are encouraged to apply interpretative technical guidelines concerning fire safety. This is the case in Sweden and Austria.

2.2.3 Workplace regulations

Following the Directive on minimum safety and health requirements for the workplace (see above), the Member States have laws that confer on the employer the responsibility for many aspects of the health and safety of the employees while at work. Where the employer is a hotel manager or owner, these laws will have an indirect, positive effect on the overall safety in the hotel. As is the case with the Directive, however, the areas where hotel personnel and visitors benefit from such safety at work legislation are chiefly fire safety and safety of electrical installations since most other hotel safety issues, e.g. swimming pool accidents, rarely constitute a major threat to hotel personnel.

Ireland and the UK provide an exception to this picture; here the respective safety at work acts instruct the employer to guard the health and safety on any persons whom she does not employ as far as they are affected by her activities. It is clear that the health and safety of hotel guests may be jeopardised by other hazards than fires or substandard electrical appliances.

2.2.4 Safety of services

While product safety laws are common across the EU, including regulations to transpose the Construction Products Directive and its associated product standards, there are markedly fewer national statutes concerning safety of services. Only a few Member States, among which are France, Latvia, Lithuania, Hungary, Sweden, and Spain, have adopted laws that forbid the public selling of services that are dangerous. In some cases the specific service safety requirements are integrated into national product safety laws (Latvia, Lithuania, and Sweden). Yet in a few Member States, the safety of services is treated on an equal footing with product safety. For instance, the French consumer code states that services and products should be as safe as can legitimately be expected and specifies penalties for non-compliance with the code. Hungary and Spain also belong to this latter category.

The suggestion that no unsafe services whatsoever may be provided is related to a very comprehensive concept of hotel safety; in principle, any personal injury incurred within the premises of a hotel might confer liability on the hotel owner. In practice, however, the clauses will rarely be interpreted to such level of detail.

2.2.5 National and regional legislation

It differs considerably from country to country where the hotels have to look for relevant legislation regarding the safety of their operations. In most countries construction and fire safety laws are issued by the central government. In Member States with a federalist constitutional structure, such as Germany and Austria, regional governments are authorised to issue, for example, building construction acts. In Spain, regional tourism codes exist alongside and overrule the national code, but the former mostly complement and extend the latter.

There is no clear indication that the existence of an intermediate authority with powers to regulate in matters of importance to the hotel industry improves or worsens the safety in the hotels as compared to countries where national laws are directly effective at the local level. Yet, the total amount of hotel safety regulations which hotel owners must comply with seems to be more substantial in the federal style Member States than the others.

2.2.6 Conclusion

While the 1986 Recommendation on fire safety in existing hotels has been implemented in all Member States in one form or another, there is no binding legislation, i.e. directives or regulations, concerning hotel safety at Community level. The Commission has undertaken studies to identify the need for such legislation in the areas of service safety and statistics on TLS related accidents. With respect to the latter, a regulation has been proposed that will require Member States to collect data on accidents related to consumer safety. Yet the question remains if there is a basis for the Community to take further action in the area of hotel safety.

A look at the Member State legislation reveals that safety issues in the hotel sector are regulated in a variety of different ways around Europe. Most countries have building regulations, fire safety laws, and workplace regulations in place that all have a regulatory effect on some aspects of the safety of hotels. It must be noted, however, that the number of conditions and technical specifications covering fire safety far exceeds that of any other hotel safety issue in all Member States.

A few countries have also adopted legislation that ensures the safety of services in a general sense. Finally, the federal style Member States where local authorities hold considerable sway over the content and scope of hotel safety regulations can be distinguished from Member States where the central authorities issue laws that apply uniformly to the entire country.

It is clear that the issue of hotel safety has not been neglected in the Member States. Some countries address the subject more directly than others and, if the highest level of safety in any Member State is taken as a point of reference, specific lacks can be observed in the legislative framework in a number of Member States, particularly where the 1986 Recommendation has not been applied in accordance with its purpose. Yet when the current standards are compared to those envisioned in the 1986 Recommendation, the different types and levels of national legislation actually combine to produce a relatively high level of safety across the EU.

It must still be remembered that what seems to work well on paper might not work out as intended in practice, particularly if the enforcement mechanism is flawed. The adequacy of existing Member State safety legislation is an empirical question that is dealt with in more detail in chapters four and five of this report.

3. New threats and risks

The different services provided by the hotel industry are as varied as the hotel industry itself. In addition to accommodation, services can include restaurants, leisure activities, such as pools, gym, spas and playgrounds, as well as meeting facilities and kitchen facilities, to name a few. This is also why the threats and risks associated with hotel stays vary considerably from one Member State to another and particularly from one hotel to another.

On the basis of interviews with the hotel industry, consumer organisations and fire safety officials, as well as reports such as the *Study on safety and liability issues relating to package travel*³¹ and a limited number of statistics³², it has however been possible to identify a number of main threats and risks associated with hotel stays. On a more general level, the threats and risks can be divided into two main categories: safety risks, and security threats.³³ Whereas security threats are dynamic, ie. they depend on the people that pose a threat to security, and cannot thus always be foreseen, safety risks are more static and could usually be identified by conducting a risk assessment.

On the one hand, the safety risks include fire safety (fire, suffocation etc.) and carbon monoxide safety, which are relatively rare, but can result in a large-scale disaster if they occur. On the other hand, safety risks cover health and safety questions in general, including swimming pool safety (drowning, diving boards, water chutes, slippery floors); leisure area safety; poor lighting leading to for example falls; balconies; lifts; and illnesses, particularly gastric illnesses related to poor hygiene. These accidents may be more common than fires and carbon monoxide poisoning, but their potential consequences are generally smaller in scale.³⁴

The general picture received from the interviews and reports is that no major changes have occurred in the threats and risks since 1986. The current risks and threats mentioned by the consumer organisations, hotel industry, fire safety officials and other interviewees cover the risks presented above. It is however relevant to acknowledge that the nature of the risks has evolved over time. On a wider scale, the hotel industry now faces threats ranging from pandemics to terrorism and natural disasters. The hotel industry experiences an expectation for the industry to take care of such threats, despite the fact that most of these threats are due to their dynamic nature out of the control of the industry and not necessarily regulated through national or European legislation.³⁵

On a more narrow scale, the hotel industry acknowledges fire as the main risk in hotels, whatever the legislation, the building features, the quality of the management or the equipment used. The industry considers that upgrades in the fire safety legislation of the EU Member States during the past 20 years have led to reduced risks in the area of fire safety. Moreover, scientific developments, new equipment and improved engineering solutions to fire safety have contributed to upgrading fire safety in hotels and decreasing the number of accidents and risks of fire.³⁶

³¹ Civic Consulting: Study on safety and liability issues relating to package travel, January 2008. Commissioned by the European Parliament, Committee on Internal Market and Consumer Protection.

³² Based on statistics from UK HolidayTravelWatch, collected for the Study on safety and liability issues relating to package travel, January 2008; and Office of the Deputy Prime Minister; Fire Statistics, United Kingdom, 2003.

³³ For a definition of security, please see Chapter 1.

³⁴ This list should however not be seen as exhaustive, as the risks and threats vary considerably from one Member State to another and from one hotel to another.

³⁵ Interview with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

³⁶ Interviews with Alexis Waravka, HOTREC, 16.9.2008; and John Ludlow & Jon Arrenberg, InterContinental Hotels Group, 20.10.2008.

According to the fire safety officials, however, the threat posed by fires in hotels has grown. The increase in inflammable material, such as plastic, in the interior of the hotels renders the threat to fire safety more pronounced.³⁷

The findings can be seen against the statistics on hotel fires in the UK, which show that the number of fires in hotels, boarding houses, hostels etc. in the UK increased between 1993 and 1999 from 1,900 to 2,700 fires, decreasing again until 2003 to 2,200 fires yearly. These fires have however resulted in fatal casualties at very few occasions.³⁸

At the same time as the demand for smoke detectors has grown in Europe, spurred by a boom in construction work and construction regulations that mandate a high level of fire protection, the fire and security systems industry has recognised problems caused by lack of standardisation in fire alarm systems. As an example, the alarm tones differ from one Member State to another. Furthermore, the smoke detectors and other detection devices are, according to the fire and security systems industry, only fully effective when they are integrated with alarm systems.³⁹

With regard to swimming pool safety, the hotel industry reports improvements during the past 20 years due to upgrades in Member State legislation as well as the new CEN standards on the design and operation of swimming pools. The standard specifies safety requirements for the operation of classified pools, and it is directed at those concerned with the operation and management of classified swimming pools, providing guidance about the risks for staff and users and identifying the precautions that are needed in order to keep the public swimming pools safe.⁴⁰ This view is shared by the Federation of Tour Operators, according to which the members of FTO merely report 10-12 incidents of drowning yearly, including both EU and non-EU destinations. FTO considers this to be a result of the attention that has been given to pool safety, particularly in hotels that are used by the member organisations of FTO. These numbers can however not be compared with other similar statistics in order to verify their relevance, as the quality and number of drowning statistics is very low.⁴¹

Finally, the hotel industry considers that the existing risks of food intoxication have decreased notably due to the existing legislation at European⁴² and national levels on hygiene of foodstuffs.⁴³ This is supported by FTO, according to which food safety is not an issue in the EU and there are relatively few major risks in this regard. In general, food safety is however an important problem for FTO as about 55-60% of the value and number of claims reported by the members of FTO are related to illness. This number covers however again both EU and non-EU destinations.⁴⁴

Overall, the hotel industry is experiencing a strong focus on risk prevention, which is driven by the market and insurance companies. This reflects on the one hand the expectation that hotels take care of the wider scale threats, such as terrorism and natural disasters, and on the other hand the growth that has been seen in the “compensation culture”.

³⁷ Interview with Björn Albinson, EU Fire Safety Network, 8.9.2008.

³⁸ Office of the Deputy Prime Minister; Fire Statistics, United Kingdom, 2003.

³⁹ Interview with Bert van Langeveld, EURALARM, 25.9.2008.

⁴⁰ EN 15288-1:2008: Swimming pools – Part 1: Safety requirements for design; and EN 15288-2:2008: Swimming pools – Part 2: Safety requirements for operation.

⁴¹ Interview with Andrew Cooper, The Federation of Tour Operators, 13.10.2008.

⁴² Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs.

⁴³ Interview with Alexis Waravka, HOTREC, 16.9.2008.

⁴⁴ Interview with Andrew Cooper, The Federation of Tour Operators, 13.10.2008.

Instead of approaching hotel management with complaints, the clients are now more aware of their rights to compensation.⁴⁵

A general problem faced when reporting on the change of nature in risks and threats in relation to European hotels is that there is very little systematic information on accidents and injuries that have occurred in European hotels. The problem is the same for most of the European service industry. As the Commission concluded in its 2003 report on the safety of services for consumers⁴⁶, it is difficult to conduct an analysis of the factual situation, because the availability and specificity of statistics differs from one Member State to another. The European Injury Database (IDB) collects accident and injury data from selected emergency departments in EU Member State hospitals, but the data concerning injuries and accidents in hotels does not cover the whole EU, nor is it very specific.⁴⁷ This is why it has not been possible in connection with this study to substantiate the qualitative data collected in the interviews with relevant quantitative data. The European Commission, DG SANCO, has recently commissioned a project on collection of data and recommendations concerning hotel safety. The results of this project should be instrumental in providing an updated view on the development of risks and threats in European hotels.

3.1 Conclusion

Serious risks and threats to the safety of visitors in European hotels remain and fire is acknowledged as the main risk to the visitors. It appears that technological achievements and the concerted effort of hotel industry, consumer organisations, fire safety officials, and national authorities have succeeded in diminishing the number of accidents resulting from fires, drowning, and food intoxication in European hotels. However, these and other risks will never be totally eradicated. Whether or not the existing European and national safety legislation is sufficient to ensure the continued abatement of risks and threats in the hotel sector is a question that will be dealt with in the following chapters.

⁴⁵ Interview with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

⁴⁶ Report from the Commission to the European Parliament and the Council on the safety of services for consumers, COM(2003) 313, 6.6.2003.

⁴⁷ See: <https://webgate.ec.europa.eu/idb>.

4. Consumer concerns

The consumer organisations interviewed for this study are interestingly concentrating mostly on the issue of fire safety and carbon monoxide safety in European hotels. For example, ANEC acknowledges the importance of swimming pool safety, leisure area safety, bad lighting and slippery floors. Yet ANEC does not deal with these questions in detail because they consider fire safety and carbon monoxides as the two most important issues relating to hotel safety in Europe.⁴⁸

The view of the consumer organisations on the European level is that the 1986 Recommendation on fire safety has not improved the general situation on fire safety and thus a clear minimum safety standard across Europe has not been achieved. Differences remain in the level of legislation between Member States, leading to differences between safety levels in hotels. One of the main concerns of the consumer organisations is that the 1986 Recommendation does not apply to establishments with less than 20 guests, such as bed & breakfasts. This concern is shared by FTO⁴⁹ and the fire and security systems industry, according to which small hotels and pensions are as much or even more exposed to the major risks and threats than the bigger hotels. Unlike bigger hotel chains, individual hotels rarely initiate their own safety programmes. This is why it is all the more important that the legislation is in order also for the smaller hotels, and that the legislation is being enforced in an appropriate manner.⁵⁰ Whereas it has been argued that the smaller hotels cannot apply the guidelines of the Recommendation due to economic or architectural reasons, the UK provides a good opposite example, because the fire safety legislation has since 1970s been applied to all establishments with more than six beds.⁵¹

Due to the fact that the size of hotels and other establishments in Europe is statistically defined in the same way as the size of any company, that is, according to the number of employees instead of number of beds, it has not been possible to retrieve information concerning the share of hotels in Europe that are not covered by the Recommendation.⁵² This information would be very relevant when considering the future of the Recommendation.

Another concern of the consumer organisations is that many Member States have chosen only to apply the Recommendation to new or newly renovated hotels rather than existing ones. This observation is verified by the 2001 Report from the Commission on the application of the 1986 Recommendation.⁵³ The above-mentioned problems lead to uncertainty among the European consumers who should, according to consumer organisations, expect the safety standards to be equivalent regardless of the size of the establishment, its age and country of residence.

Some differences were identified between the European consumer organisation, ANEC, and some of the national consumer organisations in the individual EU Member States. The national consumer organisations interviewed for the purpose of this study were satisfied with the national legislation in the field of hotel safety. In Finland, the only reported consumer concerns with regard to hotel safety are related to thefts occurring in hotels, and problems

⁴⁸ The consumer organisations interviewed for this question were ANEC, the Finnish Consumers' Association and Asociația pentru Protecția Consumatorilor din România. Unless otherwise indicated, this chapter is based on those interviews.

⁴⁹ Interview with Andrew Cooper, The Federation of Tour Operators, 13.10.2008.

⁵⁰ Interview with Bert van Langeveld, EURALARM, 25.9.2008.

⁵¹ Interview with John Ludlow & Jon Arrenberg, InterContinental Hotels Group, 20.10.2008.

⁵² HOTREC is also using the statistics provided by Eurostat and could not provide the contractor with data on the hotel size according to number of beds. E-mail from Alexis Waravka, HOTREC, 21.10.2008.

⁵³ Report from the Commission on application of the Council Recommendation of 22 December 1986 on fire safety in existing hotels (86/666/EEC). COM (2001) 348 final, 27.6.2001, p. 8.

experienced by people with allergies because of the use of carpet coverings in flooring and the extensive use of chemicals in cleaning.⁵⁴ In Romania, the only frequently identified safety risk in relation to hotel safety is food poisoning. The level of consumer protection in Romanian hotels is deemed to be high from the point of view of legislation, but problems are encountered with the enforcement and also with the monitoring of the enforcement of legislation. The consumer organisation directs criticism towards the state authorities dealing with the issue of hotel safety. According to the consumer organisation the state authorities are often understaffed or lack financial motivation to improve the enforcement measures.⁵⁵

In addition to the ways in which the Recommendation has been incorporated into national legislation, improvements are needed in the enforcement of the existing legislation with regard to staff training, emergency planning and safety management procedures. Furthermore, some consumer organisations consider that the local monitoring mechanisms should be improved. This view is partly shared by the hotel industry which sees staff training and inspections as key issues that have to be worked on permanently. However, the hotels want to retain the responsibility for ensuring that training is carried out regularly and accurately with the hotel managers. The training could be encouraged by public authorities, but on the national level instead of on the European level. Concerning the way inspections are carried out, the hotel industry disagrees with the consumer organisations, and considers that inspections should be the responsibility of local and national authorities to ensure that a certain level of consistency is achieved.⁵⁶

These considerations lead the consumer organisations to propose that the existing Council Recommendation, including the annexed guidelines, should be revised and changed into a directive. The flexibility of a directive would allow room for the different characteristics of the Member States' hotel industries, while still providing a strict and transparent minimum level of safety known to the consumers.

The increase in the number of elderly people in Europe and the increased focus on equal treatment for disabled people are also issues that should be taken into account in a new directive, according to the consumer organisations. This is not only important for the constructional aspects of the hotels but also when it comes to the training of staff with regard to disability awareness and the planning of emergency evaluation procedures, where the needs of persons with disabilities require special attention. This policy option will be discussed in chapter 6.

4. 1 Conclusion

The national and European consumer organisations have different perspectives on what constitutes the major safety risks to hotel guests. Yet they agree that the 1986 Recommendation on fire safety in existing hotels has not achieved its objective, partly owing to sporadic and inadequate implementation: in a number of countries existing hotels with less than 20 beds are entirely exempted from the provisions in the Recommendation, even though these exact establishments are demonstrably more exposed to fires and other safety risks than bigger, newer hotels. The consumer organisations also identify outstanding problems in relation to enforcement of the existing rules and local monitoring of hotel safety measures. The consumer organisations interviewed for this study collectively declare their support for a directive on hotel safety. According to the organisations, this would create a clear minimum safety level in all European hotels for the benefit of consumers.

⁵⁴ Interview with Paula Pessi, the Finnish Consumers' Association, 14.10.2008.

⁵⁵ Interview with Costel Stanciu, Asociatia pentru Protectia Consumatorilor din Romania, 6.10.2008.

⁵⁶ Interview with Alexis Waravka, HOTREC, 16.9.2008.

5. What actions can be taken by the industry?

For the hotel industry, securing hotel safety is in the first place a matter of confronting the existing risks and threats to consumers at the local level. Generally, it is the responsibility of the hotel manager to see that his hotel is operated in full compliance with existing legislation. Furthermore, managers are also subject to regular hotel inspections that are carried out by fire authorities in every Member State.⁵⁷

To assist their franchises in their efforts to secure the safety of visitors, many international hotel chains have developed their own methodologies and initiatives for hotel safety. One interesting example is Rezidor Group's TRIC=S agenda (Threat assessment, Risk evaluation, Incident response and Crisis management equals Safety). As part of the agenda, hotel managers should engage their community, including other hotels, to find out if the local threat level is lower or higher than the industry average and how the threats are best dealt with in that particular area.⁵⁸ ACCOR Group's BTH (Building Technical Human) method is another example of such a safety agenda. Likewise, InterContinental Hotels Group issue a large amount of technical safety standards that their franchises are expected to meet.⁵⁹ At the same time, the bigger hotel chains express some concern regarding the safety in mid-size hotel chains that have neither the means nor the incentives for implementing their own extensive safety agendas.⁶⁰ These hotels have as their basic guidelines the existing national safety legislation, which, when including the provisions of the 1986 Recommendation, and when enforced adequately, provide a basis for hotel safety. When this is however not the case, the situation can be considered problematic.

Whereas hotel chains are uniquely positioned to develop and implement advanced safety strategies, hotels with more than 10 employees, of which most are associated with a group, only account for a small share of all the hotels. 92% of all European hotels have, according to the association of hotels, cafés and restaurants in Europe, HOTREC, less than 10 employees.⁶¹ One way of getting around this problem is that instead of a hotel chain, the safety measures required from a hotel are put forward by the tour operators or travel agencies using the hotel in question. This is for example the case for the hotels used by the Federation of Tour Operators, which has developed a "Preferred code of practice – health and safety". This code of practice includes measures that the hotels have to take with regard to for example fire safety, food hygiene, pool safety, general safety, incident investigation and natural disasters.⁶²

There is wide disagreement as to the overall ability and financial capacity of independent hotels to comply with existing legislation. According to HOTREC, hotel managers or external fire safety experts carry out frequent risk assessments of the hotels.⁶³ Moreover, a predominant part of the hotel industry and the fire safety officials point out that local hotel managers are indeed best suited to secure the safety of their premises, insofar as risks vary from region to region and country to country and fire brigades are substantially more visible

⁵⁷ Interview with Alexis Waravka and Marguerite Sequaris, HOTREC, 12.9.2008.

⁵⁸ Interview with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

⁵⁹ Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008.

⁶⁰ Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008.

⁶¹ Interview with Alexis Waravka, HOTREC, 16.9.2008.

⁶² Federation of Tour Operators: Preferred Code of Practice – Health and Safety. CD-Rom publication by FTO, 2007.

⁶³ Interview with Alexis Waravka and Marguerite Sequaris, HOTREC, 12.9.2008.

at the local level in some Member States than in others.⁶⁴ According to the Rezidor Hotel Group, knowledge of the circumstances facing particular hotels, their clientele and exposure to fire and other risks is the key to advancing the safety of European hotel guests. The employees should be engaged on the local level by making them understand that hotel safety is important, and that the employees can take care of it.⁶⁵ Consequently, the way to deal with safety issues in the hotels would be precisely to encourage hotel staff to engage in risk evaluation and locally adapted preventive measures in collaboration with fire brigades and municipal authorities, as proposed by HOTREC and the EU Fire Safety Network.⁶⁶

On the other hand, there is a case to be made that small, independent hotels are more exposed to fires and other hazards than larger ones since they are not covered by the hotel chains' safety agendas and are often exempted from national legislation that makes allowances for substandard safety measures in small establishments, as is the case with the 1986 Recommendation on fire safety in existing hotels.⁶⁷ According to the fire systems industry and British tour operators, as well as a minority of European hoteliers, one way to rectify this critical state of affairs would be to introduce new legislation and make sure it is observed.⁶⁸ Whether that would undermine the efforts of individual hotel managers depends on the framing of the safety risks. Knowing the local context, it is argued, can certainly be of help when preparing for certain peripheral risks such as wild fires. But building fire is a static and well-defined risk that ought to be dealt with homogeneously in all Member States.⁶⁹

Beyond the question of whether knowledge of peculiar circumstances is a prerequisite for handling risks and threats effectively, there is a different, but equally contested topic: are small, independent hotels financially capable of implementing the various provisions that further hotel safety regulation would bring about? HOTREC envisions that more extensive European safety legislation, such as a directive on hotel safety, would force many small hotels out of business across the EU as they are already overwhelmed by the amount of national rules they must observe.⁷⁰ The InterContinental Hotels Group, however, holds the complete opposite view, stressing that third party experts, such as brokers or insurance companies, may be employed in situations where hotel managers find themselves incapable of comprehending the word of the law and implementing it in a cost-effective manner.⁷¹

Irrespective of financial capacities and the nature of risks, there is agreement on a number of ways in which hotels can ensure their safety and security.

Firstly, staff training is a crucial issue.⁷² To the extent that the training programmes and drills may incorporate local authorities and fire fighters, this should be promoted.⁷³ For example The Rezidor Group is currently contributing to the development of a charter on hotel fire safety along with two major hotel chains within the framework of HOTREC.

⁶⁴ Interviews with Alexis Waravka and Marguerite Sequaris, HOTREC, 12.9.2008, and Björn Albinson, The European Fire Safety Network, 03.09.2008.

⁶⁵ Interview with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

⁶⁶ Interviews with Alexis Waravka, HOTREC, 16.9.2008, and Björn Albinson, The European Fire Safety Network, 03.09.2008.

⁶⁷ Interview with Bert van Langeveld, EURALARM, 24.09.2008. The 1986 Recommendation separates hotels with 20 bed places or less from the bigger ones.

⁶⁸ Interviews with Bert van Langeveld, EURALARM, 24.09.2008; Andrew Cooper, The Federation of Tour Operators, 13.10.2008; and John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008. See more on this subject in Chapter 6 on policy options.

⁶⁹ Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008.

⁷⁰ Interview with Alexis Waravka and Marguerite Sequaris, HOTREC, 12.9.2008.

⁷¹ Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008.

⁷² Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008.

⁷³ Interview with Alexis Waravka, HOTREC, 16.9.2008.

This charter, when adopted, would provide the local hotel owner with a practical, affordable toolbox for identifying specific risks faced by the hotel, and what can be done to mitigate those risks. Rezidor is of the opinion that getting one hotel to sign up for this programme will also make other hotels sign up, due to competition and the wish for not lagging behind the competitors.⁷⁴

Secondly, a lot can be achieved through the sharing of best practices between hotels. Knowledge sharing is most efficient within the larger hotel chains⁷⁵, but for the independent hotel owners, convening at all levels can greatly advance their understanding of the risks they face and tools that are available to reduce or contain said risks.⁷⁶ Moreover, hotel safety is directly related to business: one unsafe hotel can have a negative impact on a whole region of otherwise safe establishments. Thus there is a common interest in the hotel industry to maintain good relations in order to keep all destinations as safe as possible.⁷⁷

5.1 Conclusion

Since the adoption of the 1986 Recommendation most of the larger hotel chains have developed safety methodologies that, though varying in their scope, all make demands on their affiliated hotels to the effect that they observe national safety regulation and assess the risks in their area. Many European hotels are however not affiliated with a hotel chain and/or have a size that exempts them from national hotel safety regulations, based on the 1986 Recommendation. A key question, therefore, is whether independent hotels with less than 20 beds should have to comply with tougher safety regulations – and whether they have the capacity to comply with such regulations.

A majority of the hotel sector representatives interviewed for this study considers that safety risks are best dealt with by the individual hotel since risks vary from region to region. The majority also believes that new European hotel safety legislation might have a negative impact on many smaller hotels, causing them to close. The opposing view, which is shared by EURALARM, FTO, and InterContinental Hotels Group, holds that the major safety risks are static, enabling standardised intervention across the EU, and also suggest that fears of hotel closures are premature. From this point of view, action must be taken at EU level to ensure that all hotels, regardless of their size or affiliation, maintain a high level of safety.

⁷⁴ Interview with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

⁷⁵ Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008.

⁷⁶ Interviews with Paul Moxness, The Rezidor Hotel Group, 22.9.2008, and Andrew Cooper, The Federation of Tour Operators, 13.10.2008.

⁷⁷ Interview with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

6. Policy options and existence of a legal basis

Until now, hotel safety has only to a limited extent been regulated on the EU level. The Community interventions having an impact on hotel safety in Europe, such as the Construction Products Directive, Safety of Lifts Directive, and the Directive on safety and health requirements for the workplace (see chapter 2) have had an effect on hotel safety, but are not particularly directed at defining common safety standards in European hotels. The Council Recommendation on fire safety in existing hotels is the only Community instrument (non-binding) aiming to ensure a common safety level for the European hotels. As has been presented above, the Recommendation has, at least to some extent, been implemented into the national legislation of all Member States, but the ways in which this has been done differ from one Member State to another. In 2001, the Commission reported that the minimum requirements set in the technical guidelines of the Recommendation had been met or surpassed in most cases (EU15), but that in some Member States the requirements of the Recommendation apply only to new or newly renovated hotels, and thus not to establishments that existed when the Recommendation came into force.⁷⁸

6.1 Policy options

On the basis of the desk research and stakeholder consultations undertaken within the framework of this study, a number of possible policy options could be identified:

- No action at the Community level
- Updating the 1986 Council Recommendation and technical annex
- Obligation for the Member States to submit data and statistics on accidents and injuries related to hotel safety
- A binding legal instrument in the form of a directive or a regulation

Below, these policy options are presented together with the advantages and disadvantages associated with them.

6.1.1 No action at the Community level

According to the majority of the hotel industry representatives and the fire safety officials interviewed for this study, the extent of Community legislation in the area of hotel safety is sufficient as it is, and no further action should be taken at European level. The existing legislation on regional and national levels is considered to be adequate, whereas adding an additional level of Community legislation would only add to the bundle of legislation, without actually improving the safety in hotels. Instead, actions should be directed at enforcing the existing legislation, training of the hotel management and staff, and thus increasing the commitment of the employees to improve hotel safety.⁷⁹

Instead of adding layers of legislation for the hotel managers to deal with, the majority of the hotel industry representatives are calling for specifically engineered solutions that are developed for hotels and that focus on practical ways to meet the operational challenges that the hotel managers face in their own Member States.

⁷⁸ Report from the Commission on application of the Council Recommendation of 22 December 1986 on fire safety in existing hotels (86/666/EC). COM (2001) 348 final, 27.06.2001, p. 8.

⁷⁹ Interviews with Alexis Waravka, HOTREC, 16.9.2008, Björn Albinson, EU Fire Safety Network, 8.9.2008, and Paul Moxness, The Rezidor Hotel Group, 22.9.2008. A differing opinion was presented by John Ludlow and Jon Arrenberg from the InterContinental Hotels Group, 17.10.2008.

Rather than asking whether Community legislation is needed, the question should be: How can hotels be helped to improve their safety?⁸⁰

The solutions proposed by industry representatives and fire safety officials include the enforcement of the existing legislation and training of the hotel management and staff, thus increasing the commitment of the employees to contribute to the safety of hotels.

Investigations that have been conducted on the fire safety of hotels in Finland, Sweden and Poland as a part of supervision have indicated that the main problems related to fire safety concern fire safety management procedures and the understanding of rules and regulations. The deficiencies that remain in the hotel fire prevention are according to the fire safety officials mainly a matter of enforcement. This is why it is the view of the fire safety officials that instead of introducing binding Community legislation in the field of fire safety in hotels, the Member States should put pressure on the hotels to better comply with the national legislation that is already in place.⁸¹

6.1.2 Updating the 1986 Council Recommendation and technical annex

In line with the above-presented comments from the hotel industry and fire safety officials concerning the reasoning behind not wanting to introduce new binding Community legislation on hotel safety, the fire safety officials suggest the possibility of updating the 1986 Recommendation and its annexed technical guidelines.⁸² The underlying idea of providing a minimum standard for fire safety in European hotels is accepted by the EU Fire Safety Network, but this should be reached for example by replacing the technical requirements included in the annex by performance and function based advice, putting an emphasis on management and maintenance of fire safety systems and installations. The updated Recommendation should also focus on the importance of training, instructions and planning, and it is important to make sure that the fire safety is considered in the whole building and its activities. The EU Fire Safety Network emphasizes that this approach is built around the idea that the same level of safety can be achieved with a variety of different approaches.⁸³

Updating the Recommendation was also discussed by the Commission in its 2001 report on the application of the 1986 Recommendation.⁸⁴ The different topics taken up in this regard are:

- Including additional provisions on the responsibility of the Member States to supervise and monitor the implementation of the technical guidelines in the hotels. It could be required that the Member States report regularly to the Commission on their monitoring measures and implementation of the Recommendation.
- Updating the technical guidelines to meet the technical and scientific advances in the field.
- It should be made sure that the Recommendation covers any new types of accommodation similar to hotels.⁸⁵

⁸⁰ Interview with Alexis Waravka, HOTREC, 16.9.2008 and with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

⁸¹ Interview with Björn Albinson, EU Fire Safety Network, 8.9.2008.

⁸² Interview with Björn Albinson, EU Fire Safety Network, 8.9.2008.

⁸³ Letter from EU Fire Safety Network to the European Commission, DG SANCO, 05.01.2006.

⁸⁴ Report from the Commission on application of the Council Recommendation of 22 December 1986 on fire safety in existing hotels (86/666/EEC), COM (2001) 348 final, 27.06.2001.

⁸⁵ The report does not specify what kinds of accommodation are meant.

- The Recommendation could include mechanisms for the identification and dissemination of best practice in fire safety management and monitoring.
- A solution should be found for the situations where the provisions in the Recommendation do not cover existing hotels in a number of Member States. The problem has been that the technical guidelines of the Recommendation have in some cases not been applied to existing hotels due to economic or architectural reasons. This could be changed for example by including in the Recommendation the requirement for conducting a fire safety assessment of the alternative solutions implemented in the hotels in question.⁸⁶

Updating the Recommendation could also include expanding its validity to establishments with less than 20 beds. This would partly ease the concerns of the consumer organisations, according to whom the consumers should be able to trust that the same safety standards are being implemented, regardless of the size of the establishment.

At the same time, the process of updating the Recommendation could be used as a way to give the Recommendation and its contents more visibility in Europe, both in the eyes of the consumers, who would know what safety measures to require from their hotel, and in the eyes of the hotel industry, making the process of enforcing national legislation in the field of hotel safety more visible and transparent.

The Federation of Tour Operators considers that updating the technical guidelines of the Recommendation, broadening the scope of the Recommendation to all establishments, despite their size and age, ensuring the implementation of the Recommendation in all the Member States and its enforcement, would provide an adequate minimum set of safety standards concerning fire safety in hotels. What has to be remembered is however that the Recommendation is only dealing with the question of fire safety. In order to include for example pool safety, carbon monoxide safety, bad lighting etc into Community legislation, updating the Recommendation is not sufficient.⁸⁷

6.1.3. Obligation for the Member States to submit data and statistics on accidents and injuries related to hotel safety

As mentioned above, there are substantial gaps in the knowledge base concerning hotel safety and the existing threats and risks. Furthermore, neither systematic monitoring nor data collection relating to accidents and injuries in European hotels exist. The 2003 Report from the Commission on the safety of services for consumers proposes setting up a legislative framework in the field of service safety, including hotel safety, which would concentrate on ensuring systematic and consistent collection of data and information, administrative cooperation between Member States exchanging information on policy and regulatory developments in the field, and procedures aimed at setting and using European standards.⁸⁸

In February 2006, an international workshop organised in Brussels discussed the accident and injury data collection for non-food product and service risk assessment. The workshop came to the conclusion that “better access to existing databases and accident information should be provided via internet and that the extension of existing best practices would be the best

⁸⁶ Report from the Commission on application of the Council Recommendation of 22 December 1986 on fire safety in existing hotels (86/666/EEC), COM (2001) 348 final, 27.06.2001, pp. 9-10.

⁸⁷ Interview with Andrew Cooper, Federation of Tour Operators, 13.10.2008.

⁸⁸ Report from the Commission to the European Parliament and the Council on the safety of services for consumers, COM (2003) 313 final, 6.6.2003.

approach for the short to medium term.”⁸⁹ Moreover, a number of stakeholders interviewed for this study stated that they do not have a specific picture of the actual risks and threats in relation to hotel safety, as statistics and data are not available. For example the EU Fire Safety Network expressed a wish for better statistics on fires and fire preventive effects in general, in order to allow a better assessment of the state of European hotel safety in general, and in other areas of common interest.⁹⁰

Different models can be envisaged for the collection of data and statistics on hotel safety. The Commission conducted in 2006 a study concerning the possibility to improve the European Injury Data Base (IDB) in a way that would allow for the collection of service-related accident data. The conclusions of the study state that while adding data fields of modules to the coding manual regarding service-related injuries would be difficult, it would be possible to undertake specific follow-up research based on data that is already available in the IDB in order to “obtain a better insight into service-related accidents”.⁹¹

In the field of statistics on public health and health and safety at work, the Commission has chosen to put forward a proposal for a regulation, which aims at systematic production of statistics in the form of a minimum data set, carried out by the European Statistical System, i.e. Eurostat.⁹² The Commission considers that a legal framework would allow a consolidation of progress towards better quality and comparability standards for all routine data collections related to public health and health and safety at work.⁹³ The Regulation will cover statistics on accidents and injuries, including those related to consumer safety.⁹⁴ Provided that “the accidents and injuries related to consumer safety” include accidents and injuries in relation to hotel stays, an important part of statistics on accidents and injuries related to hotel safety would be covered. It is however likely that the statistics would not cover for example hotel fires in general, if they do not result in injuries.

6.1.4 A binding legal instrument in the form of a directive or a regulation

A policy option proposed by a number of stakeholders consists of the modification of the 1986 Recommendation into a binding legal instrument in the form of a directive or a regulation. Below the views for and against the legal instrument are presented. Broadly divided, it can be said that the stakeholders that are speaking for a legal instrument are in favour of a directive in this area rather than a regulation. This is explained by the existing differences in the Member State characteristics when it comes to the hotel industry, and the wish for the Member States to be able to accommodate any “national peculiarities” in their legislation on hotel safety. This kind of flexibility is embedded in the characteristics of a directive, whereas regulations are more rigid and do not allow for deviations from one Member State to another.

⁸⁹ See: Call for tender no. SANCO/2008/B3/022 concerning “Hotel Safety – data collection and recommendations”. Specifications attached to the invitation to tender, p. 3.

⁹⁰ Interview with Björn Albinson, EU Fire Safety Network, 8.9.2008. The lack of statistics and data was also mentioned by Nina Klemola from ANEC, and Andrew Cooper from FTO.

⁹¹ See: Call for tender no. SANCO/2008/B3/022 concerning “Hotel Safety – data collection and recommendations”. Specifications attached to the invitation to tender, p. 3.

⁹² Proposal for a Regulation of the European Parliament and of the Council on Community statistics on public health and health and safety at work, COM (2007) 46 final, 7.2.2007.

⁹³ Proposal for a Regulation of the European Parliament and of the Council on Community statistics on public health and health and safety at work, COM (2007) 46 final, 7.2.2007, p. 3.

⁹⁴ Proposal for a Regulation of the European Parliament and of the Council on Community statistics on public health and health and safety at work, COM (2007) 46 final, 7.2.2007, Annex I.

The stakeholders advocating a directive on hotel safety include the consumer organisations, the Federation of Tour Operators, some representatives of the hotel industry, as well as the fire and security systems industry.

Consumer organisations

To the consumer organisations it is clear that the 1986 Council Recommendation has not achieved its aim. The existing differences between the levels of safety in the EU Member States, between new or renovated and older establishments, and between establishments with more or less than 20 beds are unacceptable from the point of view of the consumers. The consumers should have the right to expect the same level of safety despite of the size, age and location of a hotel. The consumer organisations expect that a directive would be able to provide a strict, transparent, minimum level of safety that would be known to consumers. Furthermore, the overall safety level in Europe would increase. The consumer organisations agree with the hotel industry and the fire officials that the areas where action is needed are mainly staff training, emergency planning and fire safety management procedures. Instead of suggesting improved enforcement of existing legislation, however, the consumer organisations would like to see these aspects included in a directive. Yet, the directive should not emphasise the structural aspects as far as they are covered by the Construction Products Directive,⁹⁵ which the Commission has recently proposed to replace with a Regulation laying down harmonised conditions for the marketing of construction products.⁹⁶

Moreover, it would not be appropriate to include too many technical or structural details in the new legal instrument, because they risk limiting the application of the directive, particularly when it comes to the smaller establishments. Instead, the directive should put an emphasis on so-called service aspects, such as planning and training, which can easily be fulfilled even by smaller establishments. Finally, the directive should include provisions on disability, including constructional aspects of the hotel, staff training on disability awareness and the planning of emergency evacuation procedures, where the persons with disabilities require special attention.⁹⁷ Interestingly, one of the interviewed consumer organisations also combined the introduction of a directive and minimum safety standards with a push towards investments in the hotel area and hotel safety.⁹⁸

The consumer organisations do acknowledge that introducing a directive brings about the disadvantage associated with the lengthy legislative procedure. A CEN technical report has also been suggested as a replacement but that would not be binding (not normative in character) and as far as the consumers are concerned, it would not introduce a common minimum level of fire safety in Europe as national, conflicting documents could continue to exist. The possible role of formal European standards might be to complement and support a future directive by setting the more technical specifications.⁹⁹

Federation of Tour Operators

As presented above, the view of FTO is that hotel fire safety standards in Europe could be sufficiently high, were the 1986 Council Recommendation to be updated, fully implemented in the Member States, and effectively enforced by Member State authorities.

⁹⁵ Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products, OJ L 40, 11.2.1989.

⁹⁶ Proposal for a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, COM (2008) 311 final, 23.5.2008.

⁹⁷ Interview with Nina Klemola, ANEC, 3.9.2008.

⁹⁸ Interview with Costel STANCIU, Asociația pentru Protecția Consumatorilor din România, 6.10.2008.

⁹⁹ Interview with Nina Klemola, ANEC, 3.9.2008.

In order to ensure a minimum level of hotel safety standards for the other (non-fire) aspects of hotel safety, however, a binding legislative instrument is considered necessary. FTO considers that the basis of European hotel safety legislation should be set on the European level (ie. a directive), but that the actual regulation should take place on the local level. FTO is calling for consistent, common standards for tourist accommodation all across Europe. This could be done by the way of a general directive that would cover all aspects of safety and take into account all types of properties and buildings used for holiday accommodation.¹⁰⁰

One of the concerns that FTO is raising is that in the hotels that are used by major European tour operators and applying their codes of practice, the safety situation is in general satisfactory. More and more people are however travelling independently and not staying in the hotels that follow the tour operators' codes of practice. This produces a two-tier safety system, where people are protected by better safety standards when travelling with tour operators. However, consumers expect to be safe, no matter how they travel. This is why, according to FTO, the obligation to ensure hotel safety should fall on those who regulate, and who enforce legislation, rather than on tour operators who are at the moment largely managing the safety of the hotels that they are using.¹⁰¹

The Hotel Industry

The majority of the hotel industry representatives interviewed for this study are opposing a binding legislative instrument in the field of hotel safety. A number of reasons are presented.

Firstly, most hotel industry representatives consider that hotels with less than 10 employees, which make up around 92 per cent of the industry, would not have the possibility to comply with the different levels of legislation if a European level were added to the already existing national and regional legislation. Small hotels may feel that European legislation is insensitive to their needs, and they will in many cases not have the resources to invest time and money in learning to understand what is expected of them.¹⁰² According to the hotel industry it is even possible that a new legal instrument on EU level, be it a directive or a regulation, would force many small hotels across Europe out of business.¹⁰³

Secondly, hotel safety can, according to some hotel industry representatives, not be automatically improved with regulation. On the national level it is often seen that a specific piece of legislation related to hotel safety is adopted in response to a particular incident. This leads frequently to a fragmented legislative framework in the European countries, which could in principle speak for legislation on the Community level. Instead, for example the Rezidor Hotel Group calls for a more holistic approach or methodology that would focus on practical ways to meet the operational challenges that the hotel personnel face.¹⁰⁴

Finally, as mentioned above, most hotel industry representatives consider that an exhaustive harmonisation of the various levels of legislation on hotel safety is unrealistic given the nature and extent of legislation. This is why the hotel industry representatives prefer solutions that are developed with a view of what can be done by the hotels.¹⁰⁵

¹⁰⁰ Interview with Andrew Cooper, Federation of Tour Operators, 13.10.2008.

¹⁰¹ Interview with Andrew Cooper, Federation of Tour Operators, 13.10.2008.

¹⁰² Interviews with Alexis Waravka, HOTREC, 16.9.2008 and Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

¹⁰³ Interview with Alexis Waravka and Marguerite Sequaris, HOTREC, 12.9.2008.

¹⁰⁴ Interview with Paul Moxness, The Rezidor Hotel Group, 22.9.2008.

¹⁰⁵ Interview with Alexis Waravka, HOTREC, 16.9.2008.

The adoption of a European legislation on hotel safety could potentially weaken the interaction between the existing layers of national, regional and local levels of legislation: by trying to harmonise the existing national legislation, a directive or regulation could possibly weaken the coherence between the existing legislation and therefore decrease the level of safety in hotels.¹⁰⁶

The differences between Member State legislation on hotel safety are, according to the hotel industry representatives, not a hinder for cross-border trade, which is an important aspect of operations for the international hotel chains that are represented in more than one EU Member State. Instead, HOTREC states that dealing with different bundles of legislation in Europe allows the hotel chains to learn from the expertise developed in every Member State and it can lead to a cross-fertilisation of best practices. Furthermore, international hotel chains only represent a minority of hotels; 92 per cent of hotels have less than 10 employees.¹⁰⁷

One hotel industry representative interviewed for the purpose of this study was however of the opinion that critical safety standards are necessary on the European level.¹⁰⁸ As a minimum, the InterContinental Hotels Group considers that it should be mandatory to install smoke detectors in all bedrooms; that is, where there is a “sleeping risk. Essentially, the process of preparing European legislation should be started by identifying the critical issues on the basis of the 1986 Recommendation. Most safety issues, apart from smoke detectors and staff training are already included in the Recommendation. Furthermore, a central body could be set up to discuss and coordinate safety issues. This could for example be done within the framework of CEN in the form of a committee, consisting of sub-committees dealing with specific safety issues.¹⁰⁹

The fire and security systems industry

The fire and security systems industry goes further than proposing a directive on hotel safety; according to the industry a European level of legislation, either in the form of a directive or a regulation should deal broadly with fire safety in rooms where people are sleeping, i.e. hotel guest rooms and hospitals. The legal instrument should give attention to detection of fires, alarm systems, information, and emergency planning and procedures. Provisions should be included concerning the ways in which hotel guests are notified about emergency plans and escape routes when they arrive at the hotel. It is the view of the fire and security systems industry that by introducing a binding legal instrument, the safety situation in European hotels, particularly the smaller ones, will be improved. The legal instrument would set a clear minimum safety level which the local authorities or fire brigades would know, making it easier to enforce fire safety regulations. As mentioned by the interviewee, the fire and security systems industry is obviously somewhat biased in its opinion concerning minimum standards on hotel safety, which would increase the demand for fire and security systems. When discussing the problems related to cross-border trade inside the European Union, the fire and security systems industry does not consider the differences between legislation from one Member State to another to be a problem, because most of the companies in the field work locally and are organised in national trade associations, rather than in a pan-European organisation.¹¹⁰

¹⁰⁶ Interview with Alexis Waravka and Marguerite Sequaris, HOTREC, 12.9.2008.

¹⁰⁷ Interview with Alexis Waravka, HOTREC, 16.9.2008. This view is however not shared by the InterContinental Hotels Group.

¹⁰⁸ Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008.

¹⁰⁹ Interview with John Ludlow and Jon Arrenberg, InterContinental Hotels Group, 17.10.2008. Such a Committee exists for example under the NFPA (National Fire Protection Association) in the USA.

¹¹⁰ Interview with Bert van Langeveld, EURALARM, 25.9.2008.

Furthermore, the fire and security systems industry would not wish for the directive to include other issues than fire safety; instead, the scope of the directive might be broadened to cover fire safety outside the hotel industry.¹¹¹

Fire safety officials

The idea of only concentrating on fire safety is supported by the fire safety officials who fear that broadening the scope of a possible directive to other issues than fire safety might even lead to fire safety being neglected. This is why the fire safety officials believe that hotel fire safety should be dealt with as a separate topic. However, unlike the fire and security systems industry, the fire safety officials do not support the proposal to introduce a binding legal instrument in the field of fire safety, as presented above. Fire safety is not seen as a natural topic for the European Union to legislate on. It is rather a combination of construction regulations, human behaviour, management, and fire brigade actions, both in relation to fire inspections and fire fighting. These are all issues that can, according to the fire safety officials, be managed on the Member State level; hence, creating a binding legal instrument would not comply with the subsidiarity principle. What the Community can do instead is to invest in awareness-raising campaigns and thus emphasise the importance of hotel safety.¹¹²

6.1.5 Conclusion

What we can see is that all the stakeholders interviewed for the purpose of this study agree on the fact that safety management, staff training and emergency procedures should be improved in the European hotels. How this should be done, and who should be responsible for it, differs from one stakeholder to another.

The consumer organisations are requesting a directive, dealing more broadly with fire safety in hotels and covering all establishments, despite the size and age. FTO is hoping for legislation that would cover all the aspects of hotel safety, ranging from fire safety to pool safety and hygiene. Concerning fire safety, updating the existing Recommendation, ensuring its implementation in all the Member States and enhancing enforcement are according to FTO a satisfactory first step to improve fire safety in European hotels. The next step should thus cover all the aspects of hotel safety.

The fire and security systems industry is calling for a binding legal instrument related to fire safety in general, which would in addition to hotels cover all establishments where people are sleeping, i.e. hospitals. The fire safety officials are also only concerned with fire safety, but they argue that the main safety problems in hotels are related to lacking enforcement of the existing legislation, particularly in form of safety management procedures and training.

For the majority of the hotel industry representatives interviewed for this study it is important that no more layers of legislation are added to the existing national, regional and sometimes even local levels of hotel safety legislation. Instead, the hotels should be provided with instruments that would help the individual hotels and hotel managers to understand the importance of safety and how the safety aspects of each hotel can be improved.

In addition to the above-mentioned four policy options, the European Union could be involved in the improvement of hotel safety in Europe in at least two ways. While the stakeholders are calling for enforcement of national legislation on hotel safety, the European Union could support this by directing awareness-raising campaigns on hotel safety to both the European consumers and the European hotels.

¹¹¹ Interview with Bert van Langeveld, EURALARM, 25.9.2008.

¹¹² Interview with Björn Albinson, EU Fire Safety Network, 8.9.2008.

In this way the consumers would become aware of the different aspects they should take into account when considering the safety of the hotel where they are staying. Moreover, the hotel management and staff could be made aware of the existing legislation in the field, and by making hotel safety known and visible in Europe, the hotel management would be encouraged to increase the safety level in their hotel.

Additionally, as long as legislation does not exist requiring the Member States to submit statistics and data on hotel safety in the Member States, the European Union should continue to initiate research in this field. The Commission study “Hotel safety – data collection and recommendations”¹¹³ is a step in the right direction and its findings may be instrumental in enlightening the state of the European hotel safety. The more that is known about the existing risks and threats to the safety of hotel customers, the easier it is to build a foundation for the most relevant policy option.

6.2 Legal basis

A new binding legislative instrument, whether a directive or a regulation, has to be based on a firm legal basis in the Treaties. Because such legislation could potentially include a number of different safety issues and measures with regard to hotel safety, it is only possible to discuss the existence of a legal basis on a more general level. Below we present a number of possible legal bases for the issuing of directives.

According to the principle of legality, which is included in Article 5 of the Treaty on European Union, all legal acts must have a legal basis in the Treaties. The original basis for issuing directives is laid down in Article 94 of the Treaty Establishing the European Community, according to which the Council can issue directives when acting unanimously. The application of the Article is relatively wide, as it deals with directives “for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the common market”. This means that it is possible, on the basis of this directive, to establish provisions concerning hotel safety on a wide range of safety issues, as long as the provisions directly affect the establishment or functioning of the common market. The article can however be considered to be somewhat challenging in view of community actions as it requires unanimity within the Council. This is why it becomes relevant to consider whether Article 95 could be used as a legal basis for regulating in the field of hotel safety.

Article 95, which concerns the approximation of the provisions laid down in Member States’ legislation, and which have as their object the establishment and functioning of the internal market, can be used as a legal basis as long as the goal of the directive is to enable the achievement of the objectives set out in Article 14 TEC, which concerns the establishment of the internal market. The questions of health, safety, environmental protection and consumer protection are separately mentioned in the Article as issues where the Commission should take as a base “a high level of protection, taking into account in particular of any new development based on scientific facts”. Decisive for the use of Article 95 as the legal basis for a directive is that the directive has as its goal to improve the conditions for the establishment and functioning of the internal market. Any legal acts issued on the basis of Article 95 require qualified majority, as defined in Article 251.

Article 95 is pointed out also by the Commission as the relevant legal basis for any harmonisation measures undertaken in the field of service safety. According to the

¹¹³ Call for tender no. SANCO/2008/B3/022 concerning “Hotel Safety – data collection and recommendations”. Specifications attached to the invitation to tender.

Commission, the use of this Article would however require an assessment of the actual or potential barriers to trade distortions of competition motivating Community action.

In their 2003 report on safety of services, the Commission concluded that no evidence exist showing distortions of competition or barriers to trade caused by different national legislation.¹¹⁴

Article 96 can be used as a legal basis when “the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the common market and that the resultant distortion needs to be eliminated”, and when the situation cannot be solved by consultation of the Member State in question. The Article is not as broad as Articles 94 and 95, because the requirements for identifying distortions are strict. The Article is thus not broadly in use and it is mainly used as a secondary provision.

The more general legal bases are supplemented by the specific legal bases which exist for example for social security (Art. 42), transport (Art. 71), public health (Art. 152) and consumer protection (Art. 153). In relation to hotel safety, it is relevant to assess whether Article 153 on consumer protection could be used as a legal basis for a directive. Depending on the measures included in the directive, the other specific legal bases can also be taken into consideration.

Article 153 specifies that the Community shall contribute to protecting the health, safety and economic interests of consumers in order to promote the interests of the consumers and to ensure a high level of consumer protection. These goals shall be achieved partly through measures pursuant to Article 95 in the context of the completion of the internal market, and partly through measures which support, supplement and monitor the policy pursued by the Member States. The Article has however not been widely used, and the actions in the field of consumer protection are often based on Article 95 instead. Which legal basis should be used for regulating in the field of hotel safety depends thus on the scope of the directive and the measures included in it.

A possible legal act in the field of hotel safety will also have to be scrutinised from the point of view of subsidiarity and proportionality. With regard to the principle of subsidiarity, it is not possible, on the basis of the findings in this study, to conclude whether the objective of the action, namely safety of consumers staying at European hotels, can be sufficiently achieved by the Member States and whether a legal measure regulating hotel safety would thus be in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty establishing the European Community. The views on this vary between the stakeholders and the situation should be reassessed when adequate statistics are available. With regard to the principle of proportionality, “[a]ny action by the Community shall not go beyond what is necessary to achieve the objectives of [the Treaty]”.¹¹⁵ This refers to *the extent* of the Community action that is necessary to reach the objectives of the Treaty, ie. whether it is in form of a regulation, a directive or one of the non-binding measures. The above discussion on the existence of a legal basis confirms to some extent that the objective of regulating in the field of hotel safety can be found in the Treaties. Concerning the proportionality of such a possible legal act, it could however be seen that the stakeholders’ opinions differ as to the suitable extent of Community action. Furthermore, the proportionality of the possible legal act will have to be seen in the light of the scope of the act, and depends on the legal basis that will be chosen.

¹¹⁴ Report from the Commission to the European Parliament and the Council on the safety of services for consumers, COM (2003) 313 final, 6.6.2003, pp. 19-20.

¹¹⁵ Treaty establishing the European Community, Art. 5.

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Overview of the interviewees

Country	Organisation	Interviewee	Position of interviewee	Date of interview
EUROPEAN TRADE ASSOCIATIONS AND INTEREST GROUPS				
EU	EU Fire Safety Network	Björn Albinson	Chairman	8 Sept. 2008
EU	EURALARM - The Association of European manufacturers and installers of fire and security systems	Bert van Langeveld	CEO	25 Sept. 2008
UK	FTO - The Federation of Tour Operators	Andrew Cooper	Director General	13 Oct. 2008
EU	HOTREC - Hotels, Restaurants & Cafés in Europe	Marguerite Sequaris & Alexis Waravka	CEO & Policy Advisor	12 Sept 2008, 16 Sept. 2008, 21 Oct. 2008 (written)
CONSUMER ORGANISATIONS				
EU	ANEC - the European Association for Co-ordination of Consumer Representation in Standardisation	Nina Klemola	Project Manager	3 Sept. 2008
FI	Suomen Kuluttajaliitto ry - The Finnish Consumers' Association	Paula Pessi	Project Manager	14 Oct. 2008 (written)
RO	Asociatia pentru Protectia Consumatorilor din Romania	Costel Stanciu	President	6 Oct. 2008 (written)
NATIONAL HOTEL ASSOCIATIONS				
AT	Wirtschaftskammer Österreich - Die Hotellerie	Matthias Koch	CEO	27 Aug. 2008 (written)
CY	Cyprus Tourism Organization	Ph. Katsouri	Director General	27 Aug. 2008 (written)
CZ	Asociace Hotelů a Restaurací České Republiky	Stárek Václav	Secretary General	27 Aug. 2008 (written)

DE	Hotelverband Deutschland	Meinhard Kirchner	Legal Adviser	27 Aug. 2008 (written)
ES	CEHAT - La Confederación Española de Hoteles y Ajolamientos Turísticos	Ramón Estalella	Secretary General	27 Aug. 2008 (written)
HU	Magyar Szállodaszövetség	István Kovács	Secretary General	28 Aug. 2008 (written)
IE	The Irish Hotels Federation	John Power	CEO	28 Aug. 2008 (written)
IT	Federalberghi	Federica Bonafaccia	Legal Officer	28 Aug. 2008 (written)
FIRE SAFETY OFFICIALS				
BE	BVV - Brandweervereniging Vlaanderen	Chris Addiers	Chief Fire Officer	1 Sept. 2008 (written)
STATE AGENCIES AND MINISTRIES IN MEMBER STATES				
CZ	General Directorate of Fire Rescue Services, Ministry of the Interior	Rudolf Kaiser	Head of Department of Fire Prevention	10 Sept. 2008 (written)
LU	Ville de Luxembourg, Direction Incendie	Guy Weis	Officier Commandant adjoint, responsable prévention	5 Sept. 2008 (written)
SE	Räddningsverket - Swedish Rescue Services Agency	Björn Albinson	Fire Engineer, Department of Risk Prevention	2 Sept. 2008 (written)
HOTEL CHAINS				
UK	The InterContinental Hotels Group	John Ludlow & Jon Arrenberg	SVP Global Risk Management & Director, Risk Management	17 Oct. 2008
BE	The Rezidor Hotel Group	Paul Moxness	VP Safety and Security	22 Sept. 2008
FIRE ENGINEERS				
UK	SAFE Consulting Limited	Markus Cosmann	Associate Director	3 Sept. 2008
EU Institutions				
EU	European Commission, DG Health and Consumer protection	Gwenn Straszburger	Policy Officer, Product and Service safety	18 Sept. 2008 (written)

Short presentation of the stakeholders

HOTREC is the trade association of hotels, restaurants and cafes in the European Union. We bring together 40 national hospitality associations in 25 countries across Europe -- from Greece to Finland and from Poland to Portugal. HOTREC's mission is to promote the interests of these enterprises vis-a-vis the European institutions. HOTREC continually monitors EU policies that have an impact on the hospitality industry and bring the sector's concerns across to EU decision-makers. The aim of HOTREC is a legal environment which enables hotels, restaurants, and cafes to develop and provide more jobs and growth to the economy.

EURALARM is the association of European manufacturers and installers of fire and security systems, founded in 1970. Its members are national associations of 14 European countries, representing around 700 companies having a total turnover of approximately 3.5 billion Euro, which is approximately 70 per cent of the total European market. EURALARM is the only organisation representing the needs of European manufacturers and installers in electronic Fire and Security. EURALARM has a predominant role working with, or within, all European and worldwide organisations dealing with issues of interest to the manufacturers and installers.

The members of the **EU FIRE SAFETY NETWORK** include representatives with a competence in fire prevention matters from national authorities in 23 Member States. The objective of the network is to exchange knowledge and to foster cooperation between the Member States to help improve fire safety and being a support to the European Commission's Civil Protection Committee and other EU Services.

ANEC is the European consumer voice in standardisation, representing and defending consumer interests in the process of standardisation, conformity assessment and related legislation. ANEC aims at a high level of consumer protection. ANEC was set up in 1995 as an international non-profit association under Belgian law. They represent consumer organisations from the European Union Member States and the EFTA countries. The ANEC General Assembly is composed of one national member per country, nominated jointly by the national consumer organisations in their country. The European Commission and EFTA fund ANEC, while national consumer organisations contribute in kind.

THE REZIDOR HOTEL GROUP covers almost 300 hotels open or under development in almost 50 countries, operating more than 45,000 rooms with over 25,000 staff members. The hotels have more than 13 million guests yearly. The Rezidor Hotel Group operates such hotels as Radisson SAS (Radisson hotels in Europe, the Middle East and Africa), Regent, Missoni, Park Inn and Country Inns and Suites.

INTERCONTINENTAL HOTELS GROUP (IHG) consists of over 4,000 hotels across nearly 100 countries with almost 600,000 rooms. The hotels register 160 million stays every year. IHG operates seven hotel brands – InterContinental, Crowne Plaza, Hotel Indigo, Holiday Inn, Holiday Inn Express, Staybridge Suites and Candlewood Suites.

THE UK FEDERATION OF TOUR OPERATORS (FTO) is an umbrella for 14 UK tour operators including Allbury Travel Group, BA Holidays, Inghams, My Travel and Thomas Cook. FTO work on behalf of their members to ensure the continued long term success of the air inclusive holiday by influencing governments and opinion formers on the benefits to consumers and other stakeholders of air inclusive holidays compared to other forms of holiday arrangements. FTO and its members have been proactive in the field of holiday health, safety and hygiene for many years.

Other contacted organisations

In addition to the listed interviewees, a number of trade and consumer associations and interest groups were approached for an interview but did not wish to participate in the study.

A number of contacted hotel associations either did not respond or stated that they could not provide the requested information:

Fire officers from the following Member States were contacted in order to identify the state authority responsible for hotel safety matters in their country of residence: Austria, Cyprus, Czech Republic, Germany, Estonia, Greece, Finland, France, Hungary, Ireland, Italy, Luxembourg, Malta, Netherlands, Poland, Portugal, Sweden, Slovenia, United Kingdom.

Finally, a number of state agencies in new Member States were contacted but did not respond to the requests for an interview.

Appendix 1 – Questionnaire (hotel chains)

1. What do you consider to be the biggest threats and risks to visitors in European hotels today? E.g.: fire, drowning, falling, slipping, suffocation, terrorism.
2. Has there been any change in the nature of risks and the number and seriousness of accidents over the past 10-20 years?
3. What can the hotel industry do to keep hotels safe for the consumers, is there anything that could be improved in this field?
4. Please tell us about InterContinental's approach to safety and security.
5. Are you cooperating with other hotel chains and/or HOTREC on safety issues?
6. Do you think that the subject of hotel safety is adequately regulated in the European countries you operate in?
7. Are there differences in the severity of the inspections to which InterContinental hotels are subject in the European countries?
8. How do local hotel managers learn about the various regional, national, and European laws that they must observe?
9. How, in your opinion, should hotel safety be regulated – at European level, in the Member States, at local/regional level, or as far as possible by the hotels themselves? Please explain.
10. Are there any major advantages or disadvantages to dealing with different bundles of safety and security legislation in every EU Member State?
11. Do you see a need for creating minimum standards for hotel safety at the European level?
12. What would be the practical and financial consequences to InterContinental if a directive was adopted at EU level, stipulating minimum standards for, e.g., emergency procedures and equipment, number and design of escape routes and alarm systems, and emergency staff training programs?

Appendix 2 – Questionnaire (consumer organisations)

1. What is your overall position on the current state of European hotel safety?
2. What is the situation in the different EU Member States?
3. Should anything be improved?
4. What are the biggest risks and threats to consumers in European hotels today? E.g.: fires, suffocation, drowning, food poisoning, balcony accidents, violent as-sault.
5. Are you aware of any threats pertaining exclusively to the personnel?
6. Have the risks and threats changed over the past 20 years?
7. Is the hotel sector doing enough to prevent and combat risks and threats?
8. Do you see a need for more EU legislation in this field? If yes, why exactly?
9. Is it better to regulate hotel safety at Community level than in the individual Member States? If yes, why? What are the advantages and disadvantages?
10. I will mention a few specific areas now. In which areas is there a need for further regulation?
 - o Building construction and materials.
 - o Structural design, e.g. number and location of lifts and staircases.
 - o Availability of emergency equipment, e.g. fire hoses, sprinklers, ladders.
 - o Emergency procedures and the customer's knowledge of these.
 - o Training of personnel.
 - o Reporting of accidents occurring at the hotels.
 - o Reporting of risk preventive measures undertaken.
 - o Public monitoring of risks, accidents, and preventive measures at hotels.
11. What is, in your opinion, the most relevant policy option available for regulating on hotel safety at Community level? Please explain your choice.
12. According to the 2003 Commission report on the safety of services, (COM 2003 313), it is quite impossible to legislate about safety of services in a general sense because so

little systematic information is available about different national practices and standards, not to mention annual numbers of accidents. Do you agree that no harmonization can take place at Community level before such statistics emerge?

13. What actions have you taken to communicate your position on this subject?

14. How important is the subject of hotel safety to you relative to the other subjects you deal with?

Appendix 3 – Questionnaire (Fire safety officials)

1. Do you deal with any other hotel safety issues than fire safety?
2. What is your overall position on the current state of European hotel fire safety?
3. Have the risk of fire in hotels changed over the past 20 years?
4. What is the hotel sector doing to prevent fires?
5. Do you see a need for more EU legislation in this field?
6. Is it better to regulate hotel safety at Community level than in the individual Member States?
7. What is, in your opinion, the most relevant policy option available for regulating on hotel safety?
8. What would be the consequences of more binding legislation of hotel fire safety, e.g. a directive?

Appendix 4 – Questionnaire (The fire and security systems industry)

1. What is your position on the overall state of European hotel consumer safety?
2. Are there any major differences in the hotel safety levels between EU Member States?
3. What do you consider to be the biggest threats and risks to visitors in European hotels today? E.g.: fire, drowning, falling, suffocation, terrorism.
4. Has there been any change in the nature of the risks and the number and seriousness of the accidents in European hotels over the past 10-20 years?
5. What is the best/most efficient way to combat the risks and threats to visitors in European hotels?
6. Who should primarily be responsible for addressing the risks and threats? Hotels, Member State governments, or the EU?
7. Do you think that the issue of hotel safety is adequately regulated in the European countries where your member organizations/companies operate?
9. Could the hotels, Member State governments, or the EU do more to improve the safety of consumers in European hotels?

Appendix 5 – Questionnaire (Federation of Tour Operators)

1. What is your position on the overall state of European hotel consumer safety?
2. Are there major differences between hotel safety levels in the EU Member States?
3. What do you consider to be the biggest threats and risks to visitors in European hotels today? E.g.: fires, drowning, falling, slipping, suffocation, food poisoning, natural disasters, terrorism.
4. Has there been any change in the nature of risks and the number and seriousness of accidents over the past 10-20 years?
5. What can and should the hotel industry do to keep hotels safe for consumers?
6. Do you think that the subject of hotel safety is adequately regulated in the EU Member States?
7. How, in your opinion, should hotel safety be regulated – at European level, in the Member States, at local/regional level, or as far as possible by the hotels themselves? Please explain.
8. Do you see a need for creating minimum standards for hotel safety at the European level?
9. What would be the consequences to consumers and industry if a directive were adopted at EU level, stipulating minimum standards for, e.g., emergency procedures and equipment, number and design of escape routes and alarm systems, and staff training programs?
10. What actions is the FTO taking in the area of hotel safety?

Appendix 6 – Questionnaire (HOTREC)

1. What are the threats and risks facing customers and personnel in European hotels today?
2. What is the hotel industry doing to prevent accidents?
3. Do you see a need for more Community action in this field?
4. What would be the consequences to the hotel sector if indeed a directive or regulation was adopted at EU level?
5. You mention that the interplay between different layers of legislation creates a high and locally adapted level of safety in European hotels. Can you give some examples of countries where the number and complexity of laws covering hotel safety issues is particularly high? And, if possible, can you illustrate exactly how the safety in any such country might deteriorate if a directive on hotel safety were to be imposed?
6. Some European and international hotel chains, e.g. ACCOR, Intercontinental, Louvre etc., operate across borders. What are the advantages and disadvantages to them of having to deal with different bundles of safety legislation in every single EU nation?
7. The 1986 Council recommendation on fire safety in existing hotels (86/666/EEC) has been more or less completely implemented in the Member States according to a 2001 Commission report (COM 2001 348). How, in your opinion, has the recommendation affected the safety level in European hotels and have the hotels themselves welcomed it?
8. Are European hotel personnel and guests facing the same risks and threats today as they did 20 years ago?
9. You mention that the unresolved safety issues fall outside of Community competences. How, then, do you think they should be handled? By the hotels themselves, by trade and consumer associations, or perhaps by the Member States?
10. And related: can you be a bit more specific about the various initiatives that hotel chains have taken to ensure the highest level of safety?