

Briefing Paper

Hotel Fire Safety
The case for legislation

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ABOUT THE PUBLISHER

On 20 March 2013, the Coordinators of the Committee on the Internal Market and Consumer Protection agreed to request a briefing paper on *Hotel Fire Safety* from the **European Added Value Unit** of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Internal Policies (DG IPOL) of the Secretariat of the European Parliament. This paper would be used in the preparation of the possible own-initiative report on "Safety of certain consumer services", based on a Commission communication expected in July 2013 on injury and health risks for consumers.

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In March 2013 the Coordinators of the Committee on the Internal Market and Consumer Protection of the European Parliament requested a briefing paper on *Hotel Fire Safety* from the European Added Value Unit. This paper is intended to review the recent developments in hotel fire safety (from the Council Recommendation of 1986 to its possible revision and upgrading to a Directive) and to set out the arguments for and against legislation in this field.

Abstract

The current state of affairs, with a non-binding Council Recommendation in place since 1986 is considered unsatisfactory by many. The technical component of the Recommendation requires up-dating. In addition, the Recommendation is limited in scope and applies only to part of the hotel sector in Europe. Furthermore, there is no monitoring of compliance as there are no reliable statistics at European level

There is no consensus among stakeholders on the nature or need for action and the European Commission, while moving towards the development of a reliable system for the collection and processing of statistical data has currently indicated no plans to propose legislation.

The European Parliament, on the other hand, has supported stronger action in this field in recent years, and could use its prerogatives under Article 225 TFEU to request the Commission to propose a stronger and clearer instrument which would guarantee the highest possible level of protection from fire.

Should it wish for action over and above the revision of the 1986 Recommendation on Hotel Fire Safety, the Committee on the Internal Market and Consumer Protection could:

- (a) decide to draw up a legislative initiative report , and/or,
- (b) decide to explore further the cost and benefits of a possible legislative instrument

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Introduction

The hotel industry is an important driver in the European labour market and growing service sector. The number of hotels in Europe stands at more than 250,000, and provides nearly 15 million places in hotel accommodation across the European Union. The industry employs some 2 million people, of whom 1.5 million are employed on a full-time basis and 60% of whom are women.¹ It is clear that the safety of hotels constitutes an area of importance to both consumers and hotel owners: consumers want to be sure that they can expect no harm or injury when staying in a hotel within the EU. On the other hand, hotel staff are protected at EU level and the safety of hotel personnel is covered by European and national safety-at-work and work environment legislation.

Of the risks which relate to hotels, fire is perhaps the most significant on account of its potentially lethal and devastating effects. Media generally report only large-scale fires or those with multiple loss of life. Although such catastrophic hotel fires involving casualties and injuries are relatively rare, the hotel industry identifies fire as the main risk they must face. Indeed smaller fires are frequent: one tour operator recorded 96 hotel fires in EU countries between 2004 and 2008.² The estimates of the industry are higher still, but the lack of an EU-wide data recording system for hotels makes it difficult to give an exact figure. The absence of such data records is attributed to possible disincentives for hotel owners and municipalities, particularly in holiday areas, linked to reputational damage when fires are reported

Nevertheless, fires do happen in hotels situated in well-known tourist areas. Between 2004 and 2008, there were 27 fires in hotels on the Spanish (peninsular) coast, with an additional 11 fires in Tenerife. In the same period, 12 fires were reported in Cyprus and another 12 in the Greek islands³. The last major hotel fires in Europe were in Paris in 2005, when the Opera hotel burnt down and 22 people, including 11 children, died and 50 were injured; and more recently, in Poland on 13 April 2009, when 21 people died in a hotel in Kamien Pomorski.

¹ Source: Eurostat.

² According to the data presented by Loss Prevention Consultancy Ltd. during the SANCO Seminar (vid infra).

³ Ibid.

Loss of life is clearly and by far the worst of the negative consequences of hotel fires. However, there are many more. **Fire injuries** are often of an extremely serious nature and imply great suffering for the victims and their families. In economic terms, the **cost of medical care, intervention and litigation** in case of personal loss is also considerable. Fires have also a serious **environmental impact**. Similarly, hotel fires can lead to litigation for all parties involved and fines for the hotel owners, and even prison in case of severe negligence. Other spill-over negative effects are **bad publicity**, which affects not only the hotel concerned but also all other hotels in the same area, region or even country; the **loss of jobs and of resources**, as well as the **negative impact on tourism** and the serious impact it can mean in the local economy.

The consequences of hotel fires

- Casualties
- Serious personal injuries
- Costs of medical care
- Costs of intervention (fire brigades)
- Cost of possible litigation, fines, prison
- Environmental impact
- Bad publicity for hotels and for tourist regions
- Loss of jobs and resources
- Negative impact on the local economy

Fire can affect any hotel, regardless of its size, age, materials, clientele, nationality or location. It is a universal problem for which prevention is the best solution. Unfortunately, safety measures are often taken after a major disaster has taken place and when public opinion calls for them. In the case of hotels, potential damages are so significant that prevention and pro-activity are the safest way forward.

The industry considers that upgrades in fire safety legislation of the EU Member States during the last 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.⁴ However, many of these improvements and developments are not reflected in European legislation. Fire safety officials consider that the threat posed by fires to hotels has grown, as there has been a clear increase in the use of inflammable material, such as plastic, in the interiors of hotels.

A further consideration is that hotels in Europe are changing and evolving. The past years have seen an increase in rural hotels and “B&Bs”, while at the same time there is a tendency towards very high-rise hotel accommodation such as the Shangri La Hotel, situated in the London Bridge Tower (400m), or the Grand Hotel Bali (186m). Issues include: How to better protect guests above 100 m, where ladders cannot reach? How to ensure safe evacuation from such heights? How to guarantee the safety of the fire brigades involved in the rescue operations for such hotels? There are no easy answers but it is generally accepted **that self-regulation is not sufficient.**

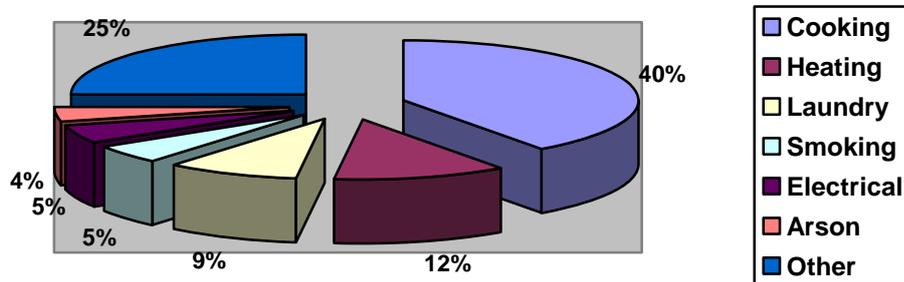
Are fire detection alarms enough?

Demand in smoke detectors has grown in Europe, spurred by construction regulations making them mandatory. However, the lack of standardization in fire alarm systems poses a problem, e.g. alarm tones differ between Member States and detectors are frequently not integrated with other alarm systems, losing much of their efficacy.

Statistics show that cooking is the most likely cause of hotel fires, in 40% of cases, followed by heating (12%), laundry (9%), smoking (5%), electrical faults (5%) and arson (4%) (see chart 1 below). Prevention is essential: the hotel installations should be in good condition and thought given to avoiding the starting of a fire and its propagation, particularly in fire-prone locations such as kitchens and places where electrical appliances are stored. Once fires break out, efforts to evacuate people overlap with measures to extinguish the fire. Unfortunately, in many cases, escape plans do not exist or are not known to the management staff, or it may be that escape exits are blocked or do not function, adding to the potential lethal effects.

⁴ Study on hotel safety (vid supra), p. 15.

Chart 1: Most likely causes of hotel fire⁵



Legal background: Council Recommendation 666/86

Council Recommendation 666/86 of 22 December 1986 on fire safety in existing hotels⁶ contains minimum technical requirements for ensuring the fire safety of hotels and similar establishments. It proposes that Member States 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 (routes that guests and staff can use to escape from fire), the stability of the building, installed and functioning warning systems and suitable instructions and training for staff. It is applicable to existing hotels of at least 20 beds. It also recommends that national authorities inspect these hotels periodically. However, it is a non-binding legal instrument, which means that hotel fire safety remains largely a national responsibility. Research has shown that even with the Recommendation in force, there are differences between Member States as regards the applicability of the provisions i.e. whether they apply to all hotels, or only to newly-build or newly-renovated hotels.

Since the 1986 Recommendation, hotel safety in general, including fire safety, has mainly been considered alongside other safety and security issues as safety of services. As was provided for in Article 20 of the General Product Safety Directive, a Commission report on the safety of services for consumers was put forward on 2003.⁷ This Report pointed at the need for systematic data collection

⁵ Source: data provided during the DG SANCO Seminar on hotel fire safety, 11 June 2012.

⁶ OJ L 384, 31.12.1986, pp. 60-68.

⁷ Report from the Commission to the European Parliament and the Council on the safety of services for consumers, COM(2003) 313, 6.6.2003.

on service-related injuries and accidents, also as regards hotel fires, before further measures could be taken.

Confronted with pressure from the European Parliament and the European Commission for a stronger instrument, the industry unilaterally adopted in 2010 the “MBS methodology”⁸, a set of guidelines for consumer fire safety in hotels in Europe around three basic axes: Management (M), Buildings (B) and Systems (S). It had been presented by HOTREC (the Association of Hotels, Restaurants and Cafés of Europe) in 2008 to the European Commission, and it extended the objectives of the Council Recommendation to other forms of accommodation and to all categories: old and new, refurbished and of any size. This methodology is “meant to help hotels of all sizes across Europe adopt a high level of fire safety, in support of national/regional and local regulations and standards”. The MBS methodology is widely respected (it has been endorsed by more than ten national accommodation associations in Europe), but it remains **voluntary** and does not include monitoring or performance reporting, which are key to the success of any initiative in this field. A self-regulatory initiative on hotel fire safety called 'a Charter', was rejected by the HOTREC's General Assembly in November 2009. As a result, a number of associations signalled their intention to adopt the methodology and promote it to individual members. At that time, the Commission took the view that if HOTREC failed to deliver on its commitment, alternative regulatory action should be considered.

The fact is that the risks and threats to consumers in European hotels, of which fire is still the biggest, have not changed since the adoption of the 1986 Recommendation. Technological developments and increasing awareness have fortunately made these risks less likely to happen, but hotel fire safety in general can still be improved:- safety management, staff training and emergency procedures, as well as enforcement of existing legislation at national level are key points where much can still be done.

In June 2012 the European Commission (DG SANCO) organized a workshop for industry representatives with a view to revising the MBS Methodology and possibly proposing a Directive to which the revised methodology would be

⁸ Document by HOTREC retrievable at <http://www.hotrec.eu/policy-issues/fire-safety-in-hotels.aspx>

annexed. Although there was a majority preference for a Directive, a result confirmed in the consultation which the Commission conducted shortly afterwards, it is understood that the European Commission is not considering any action beyond a possible Green Paper whose scope is yet to be defined. It is thought that the Commission will first consider revising the 1986 Recommendation, and will only then assess the desirability of proposing a legislative act.

It is worth noting that the European Commission is separately taking the first steps towards a European injury and accident database. DG SANCO plans to launch a feasibility study in 2013, as announced as Action 4 in the multi-annual market surveillance plan adopted in February 2013, COM(2013)76 final⁹. This feasibility study would pave the way for a database that could allow the systematic collection and treatment of reliable data of accidents and injuries in hotels across the EU. A legislative instrument could bring coherence to these separate initiatives.

Why a legal instrument?

It is estimated that about 50% of the hotel rooms in Europe each year are used by non-residents, most of them tourists and business-people. This elevated figure highlights the need for a European approach to a cross-border issue. These residents need to know what to expect in every hotel where they are guests. This **cross-border component** cannot be ignored, and can only be tackled by coherent legislation at European level.

The **importance of the tourism sector in Europe** is also relevant. A disaster caused by a hotel fire, even without casualties, can seriously undermine the tourism sector, which is an economic risk industry should not want to assume. European tourism offers and sells the history and quality of the touristic experience, and the safety of hotel accommodation is inseparable from that.

The Parliament has called for legislation on hotel fire safety on a number of occasions. Most recently, the Fidanza Report on Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe¹⁰ stressed the

⁹ http://ec.europa.eu/consumers/safety/psmsp/docs/psmsp-communication-actions_en.pdf

¹⁰ A7-0265/2011 – PE450.742v03-00

importance of paying due attention to the question of safety in various types of accommodation, particularly in regard to fire safety regulation, and called for incentives for adherence to the MBS methodology and for “*regulatory actions [to] be taken wherever self-regulation fails*”¹¹. Before that, many MEPs¹² have raised the issue in several occasions in Questions to the Commission.

Why a Directive?

A Directive is less invasive for national legal systems than a Regulation, but has a stronger binding power than a Recommendation. It allows the creation of a harmonized set of rules across the EU which Member States will have to implement and adapt to the particularities of their legal systems. The issue of the **legal base** could be discussed: though Articles 114 to 166 TFEU appear to provide a strong legal base, the scope of the legal act is decisive, as it will have to respect the principles of subsidiarity and proportionality¹³.

A Directive would be the most appropriate legal instrument in this case also because it would allow for **national/regional/local interpretation** of the basic rules while still having **binding and harmonising force**. It could also allow the **creation of a statistical register**, could enable the grading of hotels in accordance with their compliance of hotel fire safety regulations, and the measures it would provide for would be standardized at European level, so that all consumers could expect a similar level of protection throughout the EU. For example, the **monitoring of the fire protection systems or the training of the staff could be made mandatory by a Directive**.

Other instruments which affect hotel safety standards at European level are also Directives, such as the Construction Products Directive, the Low-voltage

¹¹ Paragraph 28.

¹² For instance, oral questions H-0650/03 and O-0066/07, the latter signed by Glyn Ford, Giles Chichester, Graham Watson, Arlene McCarthy, Peter Skinner, Baroness Nicholson of Winterbourne, Elizabeth Lynne, Baroness Sarah Ludford, Toine Manders, David Martin, Glenys Kinnock, Claude Moraes, Erika Mann, Alexandra Dobolyi, Ana Maria Gomes, Robert Evans, Christopher Heaton-Harris, Reino Paasilinna, Marianne Mikko, Stephen Hughes, Stavros Lambrinidis, Malcolm Harbour, Bill Newton Dunn, Catherine Stihler, Sérgio Sousa Pinto, Jan Andersson, Linda McAvan, Luisa Morgantini, Jan Marinus Wiersma, Harlem Désir, Jo Leinen, Zita Gurmai, Caroline Lucas, Brian Simpson, Barbara Weiler, Christel Schaldemose, Neena Gill, Benoît Hamon, Michael Cashman, Udo Bullmann, Corina Crețu and Glenis Willmott

¹³ Study on hotel safety commissioned by the IMCO Committee (2008) (PE 408.581), p. 4.

Directive and the Directive on minimum safety and health requirements for the workplace. The adoption of these Directives led to the European Committee for Standardization putting forward a number of standards that are applicable in all Member States. A possible Directive covering fire safety in hotels could have a foreseeably similar effect: bringing about coherent implementation and the adoption of common standards applicable EU-wide.

In reality, the lack of a legally-binding instrument has led to very different interpretations of hotel fire safety across Europe. A study dating from 2008 reveals that Member States have included hotel fire safety in very different legal areas: building regulations (i.e. UK, Spain), fire safety legislation (i.e. Belgium, Denmark, France, Hungary, Italy or Luxembourg), workplace regulations, etc. In all cases, the relevant legislation differs considerably from country to country, and it is estimated that about 38% of hotels do not meet the minimum standards set out in the 1986 Recommendation.

What scope could a Directive have?

A possible legally-binding instrument would need to have its **scope** clearly defined. **Many Member States have chosen to apply the 1986 Recommendation only to new or newly-renovated hotels** and not to existing hotels. This means that European consumers cannot expect equivalent safety standards depending on the size, the age or country of the hotel establishment.

Further to this, consumer organizations and tour operators agree that the fact that **the 1986 Recommendation applies only to hotels of more than 20 beds** and leaves out numerous establishments, such as B&Bs, hostels and pensions which are also generally more exposed to fire risk than large hotels, which normally initiate and standardize their own safety programmes. Any forthcoming legislation could **cover also smaller hotels** to guarantee equal protection from fire regardless of the size. Whereas it is often argued that smaller hotels cannot apply the guidelines of the Recommendation due to economic or architectural reasons, the UK provides a good example of the contrary, as the fire safety legislation in place has been applicable to all establishments with six or more beds and dates from the 1970s.

Although the guidance in the MBS Methodology is nowadays meant for all hotels regardless of their type or location, **not all of its provisions need to be applicable to every hotel**. Member States could decide how to apply the measures to smaller hotels, which often experience particular problems and constraints. However, the **management component is easier to implement and should be fully addressed in all hotels**, new and old, large or small. Existing hotels can always train their management team to help their understanding of fire safety provisions and ensure a proper level of fire safety in individual establishments.

In any case, it is essential that any forthcoming legislation contain provisions to

Fire safety: a shared responsibility

Although fire safety is a shared responsibility which does not only concern hotel managers and authorities, but also consumers, it is paramount that **one person, or a small team**, is given the necessary training and, afterwards, the overall responsibility to ensure that:

- necessary procedures are implemented,
- systems are regularly checked and maintained,
- regular drills are carried out,
- emergency plans are prepared and respected,
- and a Fire Safety Register is regularly maintained.

ensure that its content is **enforced in an appropriate manner in all Member States**.

What could the Directive contain?

The chart below sets out indicatively elements which a Directive on hotel fire safety could contain. It is of course not exhaustive, and only reflects certain aspects which, if contained in legislation, would add value in comparison to the current state of play. It has been elaborated by gathering the opinions submitted by the main stakeholders (accommodation industry, consumer associations, fire brigades, fire safety industries, certifying bodies and even national authorities) in the course of the Workshop referred to above

- **An update** and an **improvement** of the technical standards contained in the 1986 Recommendation. The MBS methodology is considered acceptable by the majority of stakeholders.
- **An extension of the validity for establishments of less than 20 beds**, as safety standards should be equivalent regardless of the size of the hotel. Alternatively or cumulatively, **the management component of the MBS methodology could be extended to all kinds of establishments**, as it is relatively cheap and easy to implement.
- **Measures to ensure correct implementation and enforcement**, including a clear statement of the responsibility of Member States to supervise and monitor the implementation of the Directive.
- Provisions for the **recording of reliable statistical data on hotel fires across the EU**, building on the recent efforts by the Commission in this field.
- **Measures to increase the visibility** of its content among hotel owners, tour operators, consumer organizations, tourist bodies, educational centres which offer tourism programmes, etc.
- An option would be to **include provisions on carbon monoxide detection**.
- Mechanisms for the **identification and dissemination of best practices** among hotel owners and fire brigades around the EU.
- **Limited technical or structural details** to avoid restricting the application of the Directive, particularly as concerns smaller establishments.
- **Provisions on disability**, including constructional aspects, staff training on disability awareness and planning of emergency evacuation for people requiring special attention.
- **Provisions on consumer education** to avoid fire risk in hotels and other establishments.

Conclusions

Hotel fire safety is a Europe-wide safety concern with a strong Internal Market and Consumer Protection component. The issue is of a cross-border nature as half of all hotel accommodation is provided to non-residents, while consumers have a right to expect equal standards of safety and protection from fire hazards in all Member States.

Hotel fires cause casualties and serious injuries, as well as significant economic losses. They can also cause reputational damage when they occur, affecting the entire accommodation and tourism sector, which is of paramount economic importance in the European Union.

The current state of affairs, with a non-binding Council Recommendation in place since 1986 is considered unsatisfactory by many. The technical component of the Recommendation requires up-dating. In addition, the Recommendation is limited in scope and applies only to part of the hotel sector in Europe. Furthermore, there is no monitoring of compliance as there are no reliable statistics at European level, and the best estimate is that 38% of hotels do not meet the minimum standards set out in the 1986 Recommendation.

There is no consensus among stakeholders on the nature or need for action and the European Commission, while moving towards the development of a reliable system for the collection and processing of statistical data has currently indicated no plans to propose legislation.

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