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**E3 - Product and service safety**

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**SUMMARY REPORT ON THE PUBLIC CONSULTATION ON THE**

**GREEN PAPER ON THE**

**SAFETY OF TOURISM ACCOMMODATION SERVICES**

**Table of Contents**

- 1. INTRODUCTION ..... 3
- 2. EXECUTIVE SUMMARY ..... 3
- 3. ANALYSIS OF THE RESPONDENTS..... 3
  - 3.1. Respondent's profile ..... 6
  - 3.2. Respondent's activity ..... 8
  - 3.3. Geographical distribution of respondents..... 9
- 4. ANALYSIS OF THE RESPONDENTS' CONTRIBUTIONS..... 10
  - 4.1. Existing instruments ..... 10
  - 4.2. Consistency of national approaches ..... 16
  - 4.3. Impact of the existing regulatory situation on the Internal Market ..... 21
  - 4.4. Cross-cutting aspects ..... 23
  - 4.5. Most appropriate level and instruments..... 31
- 5. NEXT STEPS ..... 40

## **1. INTRODUCTION**

On 22 July 2014, the European Commission launched a public consultation on the safety of tourism accommodation services in the form of a Green Paper<sup>1</sup> in which it requested stakeholders' views on fundamental aspects related to the safety of such services in the EU.

The consultation, available in 23 languages, was open for 18 weeks, during which stakeholders were invited to respond to 42 open questions structured around five main areas related to the safety of tourism accommodation safety: 1/ the adequacy and sufficiency of existing instruments and their implementation throughout the EU, 2/ the nature and extent of the safety risks and their potential link to flaws or gaps in the current legislative framework, 3/ the potential impact of such risks on the provision of tourism accommodation services across borders, 4/ their potential impact on SMEs and vulnerable consumers, and 5/ the most appropriate level and instruments to meet safety objectives.

The Commission received 88 responses in the context of this consultation, ranging from contributions to only one question, to position papers of over 40 pages covering all questions and complemented by a number of annexes. An analysis of respondents by type, activity and geographical distribution is presented at the beginning of the report.

As regards the methodology, and given the open, non-quantitative nature of all 42 questions, the report provides an overview of responses given per question, structured around the 5 main areas of interest mentioned above, identifying patterns of responses and recurring issues and presenting the most illustrative examples and important substantiated suggestions brought forward by the respondents. Although the report does not provide an exhaustive overview of each and every response given, all contributions are published along with this report on the dedicated website<sup>2</sup>, except when anonymity was requested.

The purpose of the Green Paper was to collect information on factual aspects and on the position and expectations of interested parties, and to stimulate a public debate on the safety of tourism accommodation services. Consequently, the Green Paper was designed to acquire current knowledge of the issues it covers, and it did not imply any pre-determined course of action or the need of new measures at the EU level.

Consequently, the purpose of this summary report is to provide a collection of the views and contributions of stakeholders to the Green Paper consultation. It does not intend in any way to reflect the views and position of the European Commission and therefore does not bind the Commission in acting accordingly.

## **2. EXECUTIVE SUMMARY**

Respondents welcomed the opportunity provided by the European Commission to be heard through the Green Paper on issues related to tourism accommodation safety. The number and length of the responses received evidenced the interest of concerned parties in ensuring consumers' safety and in sharing knowledge and experiences.

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<sup>1</sup><http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-464-EN-F1-1.Pdf>

<sup>2</sup>[http://ec.europa.eu/dgs/health\\_food-safety/dgs\\_consultations/ca/consultation\\_20141130\\_tourism\\_en.htm](http://ec.europa.eu/dgs/health_food-safety/dgs_consultations/ca/consultation_20141130_tourism_en.htm)

**Existing instruments:** In general, public authorities and the hospitality industry agreed that existing local and national instruments are sufficient to address safety in tourism accommodation and that the existing market surveillance mechanisms are effective. Tour operators, consumer associations, fire services and fire-related product industry disagreed. A large number of respondents referred to the role of online guest review sites and social media as a direct and effective monitoring tool for shortcomings, accidents and injuries in tourism accommodation. A majority highlighted the importance of mapping existing compulsory and voluntary regulations at local and national level and recurrently suggested that the European Commission should make them available via an online portal, together with guidelines and best practices available to all interested parties. Other suggestions included the organisation of workshops to share and transfer knowledge across Member States.

**Consistency of national approaches:** A large number of respondents claimed that the principle of subsidiarity should continue to be applied, based on the fact that there is no evidence that consumers are experiencing any recurrent safety issues in the hospitality sector across Europe. The link was not established between differences in the regulatory frameworks and risks for tourists. Many respondents underlined the complexity of treating 'tourism accommodation' as a single category of establishments and opposed harmonising definitions, on the base that the diversity of accommodation types (hotels, bed & breakfasts, campings, mountain huts, emerging forms of tourism accommodation such as 'glamping': safari tents, tree houses, tepees, etc.) does not allow to establish a common definition in terms of number of rooms, size, type and age. The hospitality industry, based only locally in the majority of cases with the exception of large multinational providers, claimed that the diversity of the sector, building traditions and materials used, locations of accommodation and competent authorities in relation to tourism accommodation safety justifies national approaches that take this variety into account. Tour operators on the contrary were most aware of regulatory differences across countries, as they bear the responsibility of the safety of the services they provide at the destination and must check whether such services meet the local/regional/national legislation. Many agreed on the importance of addressing carbon monoxide risks in the context of tourism accommodation safety, while a minority questioned why special consideration should be given to this type of risk which is not specific to tourism accommodation only.

**Impact of the existing regulatory situation on the Internal Market:** Two differing positions were brought forward. On the one hand, tour operators claimed that the current, fragmented regulatory panorama affects their operations across the EU as their obligations linked to the liability for safety issues according to the Package Travel Directive<sup>3</sup> result in substantial costs, which are borne by consumers in the price of their holidays. On the other hand, the hospitality industry (together with most public authorities) considered that differences do not affect tourism accommodation providers, the majority of which are small businesses which do not operate across borders. A majority of respondents pointed to the impact in the tourism accommodation market of the growing sharing economy, mostly unregulated in relation to safety aspects, and which distorts competition as compliance costs make regulated operators lift prices.

**SMEs:** While acknowledging that all providers must be compliant with relevant safety rules, a large number of respondents stressed that differences between smaller and larger companies should be taken into account. Basic differences between two distinct categories became

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<sup>3</sup><http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62011CJ0134>

apparent: larger businesses, who generally support standardised safety criteria and have dedicated resources to address safety issues, and smaller premises, with no person specifically dedicated to safety and with serious concern that an excessive administrative burden could damage their competitiveness. In this respect many explained that regulations should be practical in application and that care should be taken to ensure that any regulation is proportionate to minimise costs, which may be proportionally higher for smaller businesses.

**Accessibility:** Adequate alarm and evacuation systems and the need for further awareness and training of staff were the most relevant aspects in relation with accessibility of vulnerable consumers mentioned by a majority of respondents. The need for better coordination between different authorities was often mentioned, as accessibility requirements often conflict with fire or other rules. A minority questioned the need for separate approaches for more vulnerable consumers, the existence of which should be considered when implementing general safety requirements.

**Data collection:** There was a general agreement among respondents on the lack of harmonised and comparable data, both within and across countries, and the need to set requirements on accommodation providers to report regularly and within a common framework of incidents and accidents related to the provision of such services. One priority area of action suggested by respondents was the coordination by the European Commission of such data collection framework, which could start with a pilot project involving a number of member states and stakeholders. Many further highlighted that the increasing claim culture of consumers may influence the willingness of accommodation providers to disclose and share any such data by fear of litigation costs.

**Standards:** Respondents agreed in general on the benefits of bringing together all interested parties to standardise approaches, although concerns that private accommodation providers may be excluded from the process were raised. Another major concern was the voluntary and costly nature of standards, which may exclude providers which already show less focus on safety issues and represent thus a higher risk for consumers. Respondents also questioned the suitability of standards to address the safety of accommodation services, given that, contrary to products, the safety of such services is often linked to external factors. There were also indications that interest only exists for the development of standards in relation to the provision of services to people with special needs.

**Skills and training:** Requirements for qualification and training relate mostly to fire safety. Differences between larger and smaller providers were evidenced in the existing approach to staff requirements: smaller businesses must often place all responsibilities related to safety issues in one person, while larger ones have specialised staff with distinctive roles in this area. The safety-related training requirements of the Directive on Safety and Health at Work<sup>4</sup> were often mentioned as a minimum benchmark sufficient for smaller businesses.

**Most appropriate level and instruments:** It was evidenced that the nature of the operations and responsibilities within the supply chain of tourism businesses differs largely and points at differing requirements: the operation of tour organisers, large hotel businesses and safety related product industry has a clear cross-border dimension which smaller accommodation providers do not have. Accommodation providers therefore prefer that rules remain at the closest level in respect of the subsidiarity principle, whereas tour operators are affected by a

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<sup>4</sup><http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01989L0391-20081211>

variety of rules and experience issues which smaller accommodation providers do not. There were concerns that European legislation in this area would result in improvements in businesses' operational issues rather than in benefit for consumers, while impacting negatively on the sector's smaller operators. For consumers, a common approach would assure a uniform level of safety and meet their expectation that safety standards in the destination are equal to those in their country. A large majority of respondents explained that safety should continue to be a matter for the legislation of the Member States, especially for operators of smaller premises, to allow consideration for national particularities and the diversity of accommodation throughout the EU, although it could be complemented by better coordination and exchange of best practices at European level. Fire safety management, training of staff, safety instructions and emergency planning were mentioned as aspects where a common European approach would be beneficial. On the adequacy of self-regulatory approaches for safety, speed, ownership and flexibility were the main advantages mentioned, whilst concerns on their voluntary application and the resulting advantages for irresponsible operators were raised.

**3. ANALYSIS OF THE RESPONDENTS**

**3.1. Respondent's profile**

A total of 88 responses were received, 57% (=50) of which came from stakeholders/experts, 27% (=24) from public authorities and 6% (=5) from individual citizens. The remaining 10% (=9) of respondents categorised themselves as 'other', although an evaluation of the nature of such respondents indicated that they were indeed stakeholders which should have rather identified themselves as 'other' within the proposed list of stakeholder types. Figure 1 illustrates the distribution of respondents by type.

6 respondents requested that both their contributions and identity were kept anonymous. Although their responses are not made public in the dedicated website, their input has been given identical consideration in this report as that of those who did not object publication.

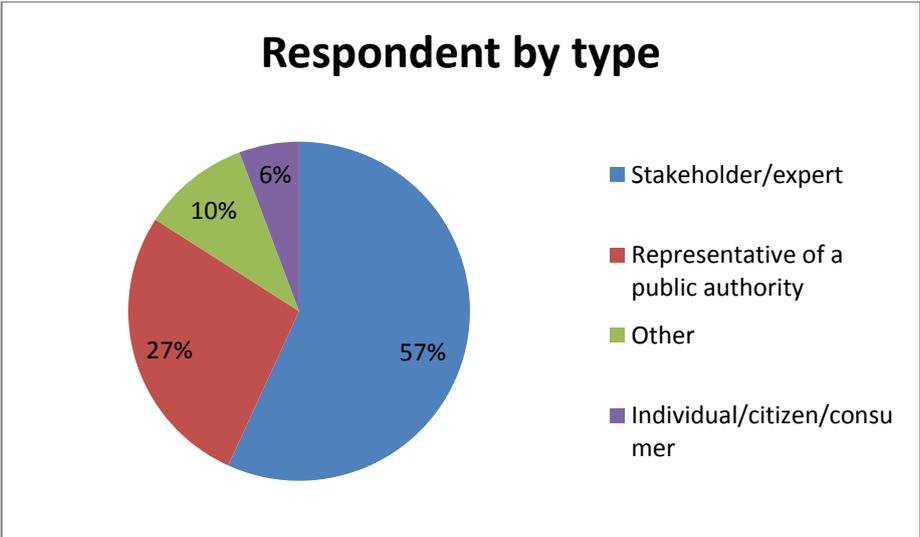


Figure 1: Distribution of respondents by type

Of the 24 public authorities which replied, 88% (=21) were national authorities, while 8% (=2) were regional and 4% (=1) local. No European level authorities participated in the consultation. Figure 2 illustrates the distribution of public authorities by level.

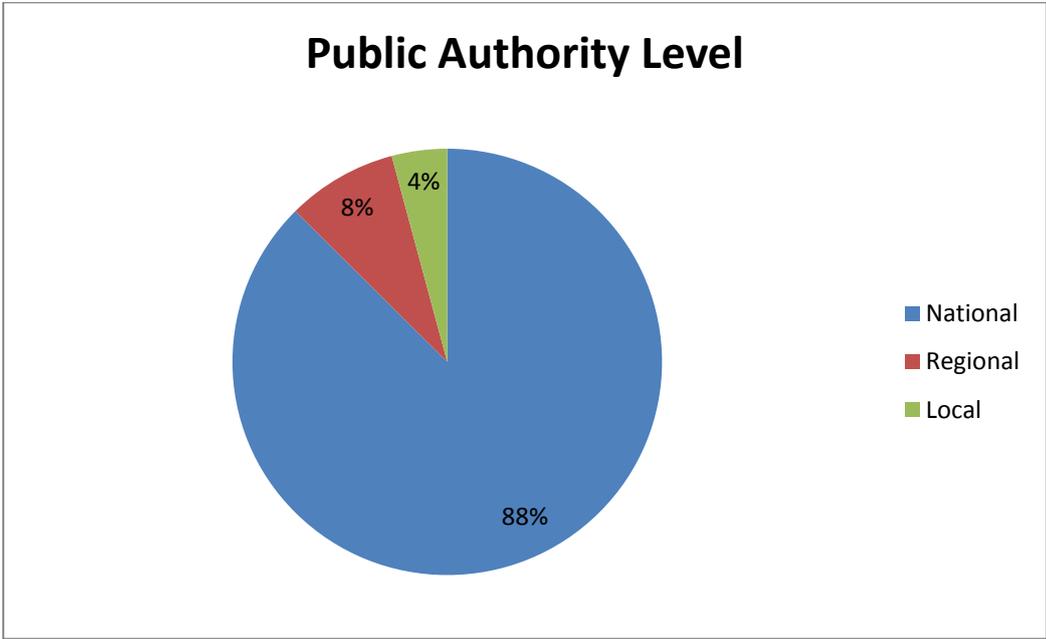


Figure 2: Distribution of public authorities by level

According to their own identification, the profile of the stakeholders/experts was distributed as follows: 54% (=27) were business/trade associations, 14% (=7) non-governmental organisations, 8% (=4) micro enterprises (less than 10 employees), 8% (=4) identified themselves as 'other', 6% (=3) were international organisations, 6% (=3) large enterprises (more than 250 employees) and 4% (=2) consumer associations. No small enterprises (between 10 and 49 employees) or medium enterprises (between 50 and 249 employees) were identified among the respondents.

The category 'other' included a think tank, a national standardisation body, a national hospitality association and a national tourism association.

It should be noted that in some cases specific associations gave a single, collective contribution representing the views of a large number of stakeholders. Some explained how they had conducted internal surveys among their membership in preparation of their response to this consultation (like HOTREC, ABTA or BHA) and provided summarising reports of the replies to their internal consultation. In other cases, on the contrary, individual members of the same association gave their own input, often similar if not identical in content. This is not reflected in the quantitative analysis presented in this section, although similar or identical input has been treated as such in the qualitative analysis under section 4.

Figure 3 illustrates the distribution of stakeholder/expert by type.

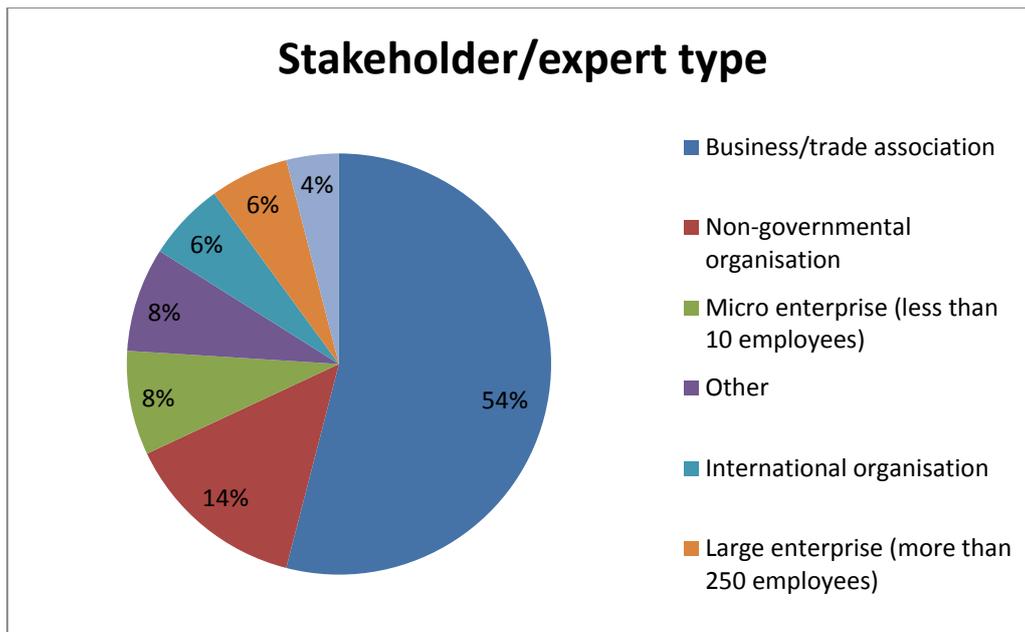


Figure 3: Distribution of stakeholders/experts by type

### 3.2. Respondent's activity

Although the questionnaire did not enquire specifically about the activity sector of respondents, an evaluation of the nature of the respondents was carried out. Excluding "individual/citizen/consumer" and "public authorities", a number of activity areas were identified<sup>5</sup> and are listed in Figure 4 below.

Type of activity	Respondents
Accessible tourism	1
Association of campsites	2
Association of chambers of commerce	1
Association of hotels	17
Association of Insurance	1
Association of recreation entrepreneurs	1
Association of SMEs	1
Association of tourism accommodation	2
Chamber of commerce	2
Consumer association	2
Consumer association (gas and CO safety)	2
Fire and rescue services	3
Fire Safety Consultant	1
Hotel fire safety consultant	1

<sup>5</sup>This list includes the 60 responses in categories "stakeholder/expert" and "other" plus 1 "individual/citizen/consumer" which was incorrectly identified and should be in category "stakeholder/expert".

Industry (man-made fibres)	1
Industry (alarms)	1
Industry (fire safety products)	2
Industry (gas detection)	1
Industry (sprinklers)	1
Large hotel business	2
Mountain huts	1
Rural tourism	1
Short-term rentals	2
Standards	3
Think tank	2
Tour operator	4
Tourism organisation	1
University	1
TOTAL	60

Figure 4: Area of activity of respondents (except public authorities and individual citizens)

### 3.3. Geographical distribution of respondents

Respondents were asked to indicate "their country, the country they represent or where their organisation is based". The majority of responses came from the United Kingdom (20), followed by Germany (13) and Belgium (10). One came from Switzerland although the respondent indicated that their main office is in Belgium. Figure 5 illustrates the distribution of respondents across countries.

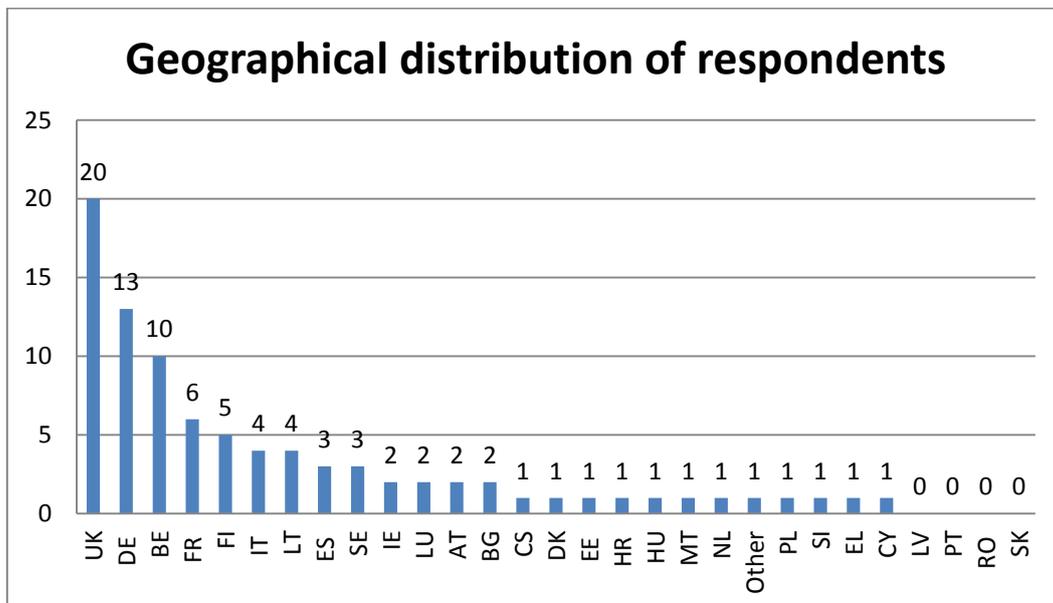


Figure 5: Geographical distribution of respondents

In particular, the participation of public authorities in the consultation was distributed across the EU as indicated in Figure 6 below. While 10 Member States were not represented in the consultation, input from 18 Member States was received via authorities at various levels.

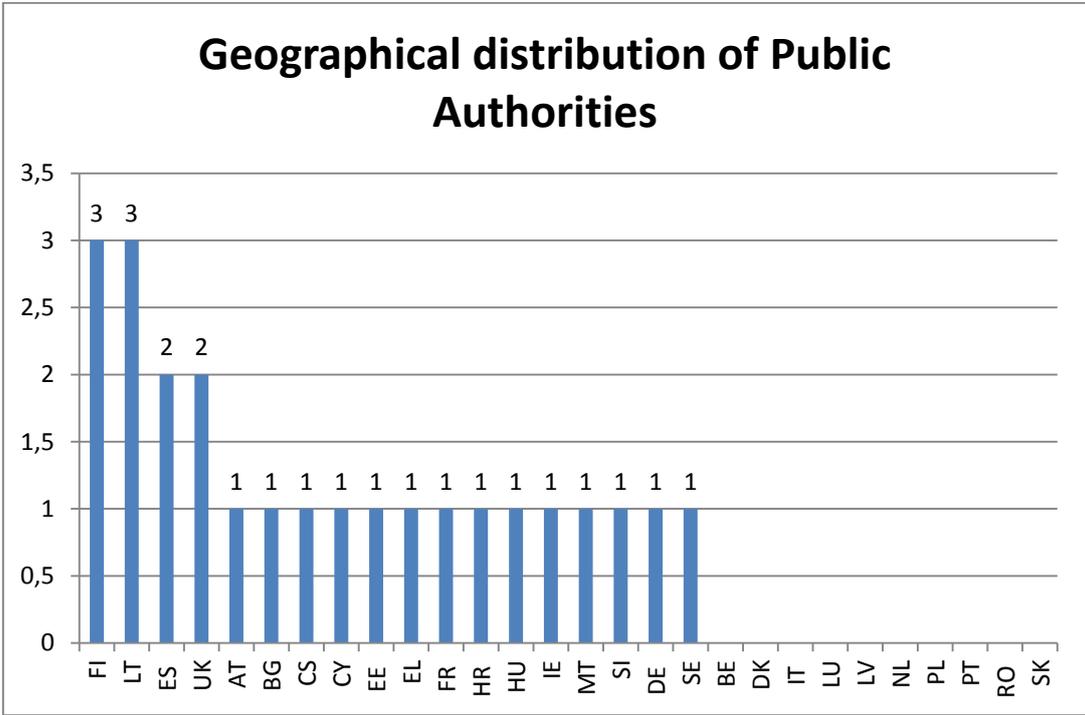


Figure 6: Geographical distribution of Public Authorities

**4. ANALYSIS OF THE RESPONDENTS' CONTRIBUTIONS**

Due to the impossibility to reflect all specific responses to the 42 open questions, this section aims to provide an overview of the responses given to each question, structured around the five macro questions mentioned in section 1, focusing on possible patterns, reflecting the remarks most commonly made and the most relevant substantiated suggestions and presenting illustrative examples when available.

**1.1. Existing instruments**

Respondents were invited to reply to 8 questions designed to evaluate how consumer safety in the area of tourism accommodation is regulated and monitored across Member States.

*Q.1. Can you give reference(s) to tourism accommodation safety regulations at national level in specific country or countries?*

A large number of respondents (58) reacted to this question, either by giving input regarding tourism accommodation safety related legislation in specific countries, or by providing an exhaustive panorama across countries in the EU (HOTREC provided a very detailed list of existing regulations in 16 Member States and the European Federation of Campingsite Organisations and Holiday Park Associations (EFCO&HPA) reported also exhaustively on safety regulations relating to holiday parks and campsites in 17 Member States). Input was also given on legislation on specific sectors (for instance swimming pools, gas detection or

carbon monoxide) or related areas (the European Network for Accessible Tourism referred to a study mapping the supply of accessible tourism services in Europe, also in connection with the safety of guests in tourism accommodation).

A remark often made, as the American Chamber of Commerce to the EU (AmCham) explained, was that *regulations vary greatly across the EU. Most countries include hotel fire safety regulation in the general building regulation. Some countries impose no additional requirements for hotels, whereas others require additional firewalls and doors, non-combustible materials and fire detection. Many require sprinklers in high-rise or large hotels. Germany has a model fire safety regulation for buildings that offer accommodation. France has specific fire safety requirements for hotel types, but bungalows and bed & breakfast are not included and are classified as 'private homes'.*

HolidayTravelWatch added that *it is clear that consumers have to navigate a patchwork quilt of mantra vs. poor access to effective regulation. ABTA explained that the only occasion on which tourism establishments would seek to determine the precise nature and extent of specific legislation is in the event of consumer claims for personal injury* and gave the example of the national tourism organisation Visit England, who provides guidance for tourism businesses on their safety obligations.

*Q.2. Do you consider that the existing rules at national level are adequately addressing risks and therefore efficiently ensuring the protection of consumers? Please indicate your reasons and any evidence to support your position.*

This question also raised the interest of a majority of respondents (67 responses given), whose opinions were clearly split. On the one hand there was unanimity among public authorities on the suitability of the existing rules. The Hungarian Department of Tourism and Hospitality of the Ministry for National Economy for instance illustrated this position by explaining that *the share of incidents reported from accommodation facilities is negligible: 0.15% for technical rescue and 0.07% for fire* (see question 23).

On the other hand, the opinion of stakeholders was divided: while there was agreement among tour operators, consumer associations, fire services and fire-related product industry on the inefficiency of the existing rules, the hospitality industry (both hotels and other types of accommodation like campsites, mountain huts or rural tourism), supported strongly the adequacy of the rules in place.

Large hotel businesses suggested that *a global listing of all national and regional regulation should be carried out to show the differences. It should point out how it will be difficult to harmonize fire safety regulation in Europe (ACCOR) and claimed that the sometimes significant differences in levels of requirements – for example, in travel distance to an escape route or in periods of fire resistance between neighbouring dwellings - are hard to explain given the nature of the risk presented (IHG).*

Conversely, HOTREC was unaware of any evidence suggesting any failure to address safety risks in hotels in Europe and supported their position by explaining that *the consumer is fully protected by the requirements for occupational safety and health and the rules of construction law, as the residence of the tourist is also the workplace of the hotel expert. Moreover, the competitiveness of the market and the publicity provided by internet (which ensures that consumers are well informed of any issue with a tourism accommodation) provide an*

*additional incentive to provide the safest service possible and the highest customer satisfaction.*

Some pointed out that in some cases (like the UK, Netherlands or Scandinavia) investigations carried out following hotel tragedies resulted in high levels of standardization.

*Q.3. Is the existing 86/666/EEC Recommendation sufficient to meet the safety requirements in tourism accommodation safety?*

Views were very varied on this issue. Half of the public authorities claimed that it is sufficient and specified that their national provisions regarding fire safety regulations are stricter than those of the Recommendation (for example Estonia and UK), while the other half (like Cyprus, Bulgaria or Hungary) stressed the limitations of the Recommendation, as it only refers to existing accommodation (and not newly built) and fire risks, excluding other risks related to tourism accommodation.

Views from stakeholders were equally divided: respondents from the hospitality industry (with the exception of one hotel association and one large hotel business) agreed on the suitability of the Recommendation. For example, Federalberghi explained that *its transposition in Italy took into account features specific to the country by laying down stricter requirements for new activities and equivalent alternative solutions for existing ones.*

The view expressed by HOTREC that *buildings regulations are undisputedly a national matter, and due to the extremely close connection between fire safety and building regulations both these matters should remain a national competence* was widely shared within this group. Some further claimed that *it is too demanding if applied to holiday homes, private rooms, or small guest houses: for example, requirements such as illuminated signposting of the fire emergency exit simply make no sense in a free standing holiday home* (EuroGites).

Tour operators, fire services, fire-related products industry and insurance companies pointed, in the same lines as some public authorities, to the limits of the Recommendation: by not addressing any other aspect of tourism accommodation (carbon monoxide safety, swimming pool safety, food safety, kid club safety and balcony safety), it cannot be considered sufficient. Some explained that *there are also distinctions between hotels with less than 20 beds and more than 20 beds. A tour operator will be liable for the safety shortcomings of the hotel, irrespective of size or age of the establishment* (ECTAA). Many also mentioned its limited impact as a result of its non-binding nature, and that *only those countries which did not have any regulation before used it as a guide for their initiatives* (FEU).

There were also claims that it has not been transposed in the local regulation. Examples were given of non-compliance regarding issues specified in the Annex of the Recommendation: *1.3.4. At least two staircases: not in force in Poland, Belgium, Germany, Switzerland, etc. 1.3.5. Dead end less than 10m: not required in Austria, Germany, Spain, Netherland, Switzerland, etc.* (ACCOR). A fire safety consultant explained that *many of the hoteliers that I speak to both in the UK and Europe are not aware of this document and this clearly shows that a recommendation has either very little or no impact on fire safety.*

EFCO&HPA, representatives of holiday parks and campsites explained that given its focus on hotels it does not apply to their businesses, which illustrates that ‘tourist accommodation’ cannot be regarded as a unique category of establishment.

*Q.4. If you have evidence of the opposite, which are the areas which need improving?*

Some public authorities explained that updates are necessary to include references to legislation issued after 1986. This concern was illustrated by ACCOR with an example of the limits of prescriptive regulation: *the recommendation makes no reference to the smoke detection system in the 1986 guideline because at that time it was very expensive and not developed*. A suggestion given to avoid these limitations was to work on objectives rather than using prescriptive regulation.

Some indicated that the Recommendation's objectives are still valid, although updates are needed in the way to reach these objectives. In this respect many stakeholders highlighted the role of risk assessment as a critical tool for addressing safety issues, as it allows for the use of compensatory features where appropriate, and explained that more emphasis should be given to good safety management and staff training.

Many claimed that the scope should be extended to cover all accommodation facilities, i.e. both existing and newly built ones and all sizes, including accommodation with less than 20 rooms.

When it came to prescriptive rules, the need was mentioned specifically for mandatory manual and automatic fire detection systems, adequate for the size of the building, improved fire compartmentation in buildings, the provision of fire resisting self-closing doors leading on to staircases, combined with emergency lighting and emergency signage, limiting of “dead end” conditions to a maximum of 10m, the provision of adequate fire separation (minimum 60 minutes) of basement areas and risk rooms and revised technical standards with regard to outlawing single staircases in hotels over two storeys. Some pointed to the need to regulate high-rise hotels to fit additional fire safety measures (as an example, AmCham mentioned *fire sprinkler threshold requirements, which vary from Portugal at 9m to France with 200m*).

The need to address monitoring and enforcement by imposing requirements for the systematic collection and assessment of data on risks of services as well as the development of enforcement indicators for compliance monitoring was also a recurring view.

*Q.5. How are the existing rules enforced (by whom, when, how often, etc.)?*

Many respondents referred to differences across the EU when it comes to surveillance mechanisms. HOTREC for example gave an overview of the type, level and frequency of enforcement controls in 16 Member States, evidencing great variety. Even within the same country, like Wyndham Exchange and Rentals (WER) explained in the case of the UK, *some municipalities are both highly active and highly visible in relation to safety, whereas some place a low priority on enforcement. This can create a feeling of unfairness, in that certain holiday parks in areas with less rigorous enforcement may not feel obliged to give so much focus to safety concerns*.

Some pointed to the fact that in practice, it is more likely that issues will come to light in the event of an incident, rather than as a result of a routine inspection. The Greek General Secretariat for Commerce and Consumer Affairs reported that *the competent regional authorities check periodically ad-hoc or after a complaint the enforcement of the corresponding legal requirements*.

The Federation of the EU Fire Officers Association (FEU) reported that *all levels of enforcement authorities (local –the majority-, regional and national) are found in their 22 member countries, with varying frequency even within countries or regions, depending mainly on the availability of inspection staff (seldom on the risks in the premises: age of the building, construction of staircases, etc.).* They added that during inspections of tourism accommodations they have discovered that existing regulations are not followed, maybe due to ignorance or because licenses were issued before the latest update of safety rules.

Tour operators claimed that they frequently undertake the only formal safety checks of the accommodation they sell and that training inspectors on safety issues, not against national legislation, but to basic principles included in their own guidelines. In particular, ABTA mentioned that *in relation to other aspects of safety beyond fire within the UK, enforcement primarily falls on to trading standards officers or environmental health officers employed by local authorities, who have an incredibly broad remit, and such, rarely if ever are able to spend any time reviewing safety procedures in relation to tourist accommodation.* Euralarm, in the same lines, explained that *the shift of responsibility to the owner/operator is a fact,* and added that *site inspections by independent third parties (authorities or accredited contractors) are necessary.*

*Q.6. How do you rate the effectiveness of the existing market surveillance mechanisms?*

A large number of respondents reacted to this question (60). The vast majority of public authorities agreed that the market surveillance mechanisms already in place are effective. On the contrary, stakeholders' views were divided: representatives of all sectors of the hospitality industry shared that opinion, while tour operators, consumer associations and fire services questioned their effectiveness.

For instance, Hungary indicated that *according to the professional associations of accommodation facilities, multinational corporations are subject to more frequent checks, while smaller companies show more irregularities.*

To illustrate that market surveillance of fire safety systems is insufficient, AmCham shared the example of fire protection authorities in the UK, who reported that 51% of inspected hotels in 2011 offered a poor level of fire safety and that only 5-8% of hotels in the UK are inspected annually.

Consumer associations pointed to *consumers' complaints regarding their inability to establish the responsible enforcement body, leading them to conclude that the holiday product they have purchased operates in an unregulated market* (HolidayTravelWatch). In this respect they pointed to *imbalances between the wealth and power of businesses and the lack of funds for those working for consumers* (CO-gas safety).

Regarding SMEs, some respondents explained that *surveillance is too inflexible for micro-services: inspections apply a "one-size-fits-all" which means that criteria are probably too relaxed for bigger accommodations and far over-demanding for micro-services* (EuroGites).

Many stakeholders highlighted the role that social media exerts as a market surveillance mechanism on a daily basis. In the views of the hospitality industry (Irish Hotel Federation, VISITA, the Swedish Hospitality and others), *the widespread development and use of guest reviews on the internet and social media communication have strongly reinforced market*

*surveillance possibilities and provide a huge incentive to tourism businesses to provide the safest service possible and the highest consumer satisfaction.*

*Q.7. What are in your view the main issues related to enforcement of existing legislation? How could the implementation of existing instruments be improved?*

A number of national authorities agreed that one of the main issues is the lack of resources for the implementation of existing instruments. Many representatives of the hospitality industry both at small and large level, indicated that some improvements could be achieved in hotel safety with the promotion of a voluntary European label such as SAFEHOTEL, which, as opposed to prescriptive rules, allows achieving good safety levels by working on objectives through different solutions. The Lapland University of Applied Sciences and the Multidimensional Tourism Institute stated in the same lines that *internal control is the most effective way to maintain a positive safety culture, and businesses should be encouraged to further apply internal audits.*

Consumer associations pointed to the lack of clear and comprehensive legislation which deals with safety aspects within holiday accommodation. HolidayTravelWatch explained that *there is a failure in strategy, legislation and enforcement in areas like swimming pools, fire, carbon monoxide, etc., as well as publication of data to indicate associated safety issues, trends and solutions. There is a great need to specify in clear legislation the duties and obligations of holiday property owners and to cross-check those responsibilities with the responsibilities imposed on Tour Operators through the Package Travel Regulations.* Further, tour operators asked that enforcement and monitoring regimes be integrated in legislation.

Another issue mentioned was the lack of uniformity and coordination, and many respondents called for better cooperation between the various authorities overlooking the tourism sector at national or local level. Some stakeholders stated that in general, too many different entities are involved and with different – even contradictory – requirements, and that the number of authorities involved should be reduced or unified. For example, *pool safety standards require a gate of certain height to restrict access to children, which is in contrast with the accessibility standard (UEAPME).* The Austrian Professional Hotel Association referred the *overlapping of provisions from various fields (e.g. health and safety at work, building regulations) which makes compliance extremely difficult.* To address this challenge, ANEC proposed to *train multi skilled enforcement teams instead of having inspections being done individually by fire inspectors, food inspectors, building inspectors etc. One inspector could be trained to look at a number of areas.*

The need for a balanced approach, which takes into account small businesses and how these changes would affect them and their competitiveness, was also mentioned. Federalberghi specifically mentioned that *significant simplification of the rules and the requirements applying to accommodation establishments is clearly necessary, in particular because most of them are small businesses.*

Finally, many stakeholders agreed that at present surveillance mostly targets responsible enterprises, giving a competitive advantage to the shadow economy. In their view safety legislation should apply to all forms of tourist accommodation, which can indeed be challenging for accommodation directly offered on internet, which may not be licensed. *There is no way of applying regulatory measures in the peer-to-peer tourism accommodation sector, which may lead to the collapse of SMEs and micro-enterprises which, owing to the regulatory*

*and tax burden, cannot compete with the private accommodation sector offering exchanges that could be described as 'black market' (Camprilux).*

*Q.8. What areas do you feel could benefit most from more cooperation between Member States in the area of tourism accommodation safety? What would be the main challenges?*

Many stakeholders from the hospitality industry mentioned that cooperation through knowledge-sharing is always beneficial and pointed to workshops and guidelines as the best tools to transfer knowledge from those who have to those who need. Many placed the role of coordinator of such tools on the European Commission. There were also repeated suggestions that the European Commission could create an online portal where a panorama of all national and regional binding regulation would be available. The French representation to the EU further called for the Commission *to provide opportunities for training of personnel in health and safety issues and exchange programmes so that wider experience could be gained. An on-line website providing guidance on health and safety issues for employers and employees would also be useful.*

Sharing data and disseminating best practices was also widely mentioned.

However, in FEU's view, *the main challenge would be to motivate the stakeholders for cooperation without a major fire resulting in a number of casualties*, as they know from experience that major changes in attitude and legislation only occur after such bad events had happened.

Finally, stakeholders from the hospitality industry, together with some public authorities, considered that given that the market is currently witnessing an exponential growth of private accommodation offered for rent on peer-to-peer websites that are either not regulated or which escape traditional enforcement and surveillance mechanism, *any increase of the cooperation between Member States on tourist accommodation safety should focus first and foremost on this new segment of the market.*

## **1.2. Consistency of national approaches**

6 further questions were proposed to respondents in order to evaluate whether tourism accommodation service providers operating across borders are subject to requirements which appropriately ensure the protection of consumers, and for whom cross-border operation does not imply eluding any such requirements due to the existence of critical gaps.

*Q.9. How is tourism accommodation defined in your national relevant legislation?*

According to respondents, definitions at national level appear to be different. As the Austrian Professional Hotel Association explained, *in many countries there is no general definition of the business at all. No congruent definition of tourism accommodation will be encountered throughout all scopes of national regulations as they have different aspects in mind.* In this respect, there were claims that definitions should be established at local or regional level so they can take into account existing differences.

In general, respondents pointed to the complexity of addressing tourism accommodation as a single category of businesses. For example, as VISITA, the Swedish Hospitality indicated, *regulations appropriate to a camping site are rarely appropriate for a facility within a*

*building, this even before we consider canal boats or cruise ships.* Many stakeholders stressed that the NACE classifications fail to keep pace with market developments, like emerging forms of tourism accommodation such as 'glamping' (safari tents, camping pods, tree houses, tepees, etc.). In the views of many, in a rapidly changing market any one-size-fits-all definition would inevitably impact on innovation. As Camprilux explained, *definition is enemy of innovation*, and in the same lines Fáilte Ireland explained that *a definition of what tourism accommodation might be is never fixed as supply and demand change*. DEHOGA further questioned whether *very detailed definitions would bring about any discernable improvement to guest safety*.

Some suggested that tourist accommodation should comprise the two classes defined by NACE, namely Hotels and Similar Accommodation, as well as Holiday and other short stay accommodation, but did not support the extension to camping grounds, recreational vehicle parks and trailer parks, as these are typically not accommodation, but sites used by tourists to place their own accommodation.

Also, there was agreement on the fact that differences between large and small hotels are too significant to be regulated together. Camprilux mentioned that in discussions with stakeholders, two distinct categories emerge: *multinationals, which are in favour of standardised safety criteria, and small hotels, which have gradually adapted to comply with the rules and are now concerned that an excessive administrative burden could damage their competitiveness, even though it is precisely these undertakings which create jobs in Luxembourg and in Europe*.

Finally, many stakeholders referred again to privately owned accommodation marketed and sold through the sharing economy or through online routes, *which is not even identified as tourism accommodation, and effectively escapes regulation entirely (WER)*.

<p><i>Q.10. Are the definitions of type, size, height and age of tourism accommodation establishments present in existing legislation suitable?</i></p>
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Many respondents explained that no consistent definitions of type, size, height and age of tourism accommodation establishments appear in national legislation. Some showed concerns that the existing definitions are not suitable, as they exclude a large number of tourism accommodations by setting size limits for compliance.

In general, definitions reported related mostly to the type of the accommodation. Regarding the age of tourism accommodation, a number of respondents questioned whether this needs to feature within any definition. In the words of Thomas Cook, *this may adversely affect the provision of safety controls, placing an emphasis on the date of construction rather than the potential to provide a safer environment which is consistent with specific heritage or other feature*.

While a minority asked for harmonised definitions, a large number of respondents, mainly from hotel and campsite associations, opposed more detailed definitions of tourism accommodation and stressed that they are incompatible with the businesses of the hotel sector, which encompasses the most varied types of accommodation (hotels, chalets, motorhomes, tourism caravans, campings, apartments, etc.) for a wide diversity of guests. In their view, stricter definitions would also hinder the development of innovative services (for example,

igloos, snow castles, caves and accommodation built in treetops) and curb the market without bringing about any discernible improvement in guest safety.

The hospitality industry illustrated their claim with the example of the ISO standard 18513:2003 on Tourism services - Hotels and other types of tourism accommodation – Terminology, and cited its introduction: “Formulating standard tourism definitions is a difficult task not the least because of cultural differences. Some terms and concepts have not been included within the standard because they were unknown in one or more member states, or incapable of being accurately translated, or described, by one or two of the three languages used in the standard. Some other terms have been excluded because their abstract nature rendered them too complex for definition”.

Many respondents brought up the issue of new types of services such as “AirBnB”, which seem to fall within a grey area in terms of regulation. France for instance explains that *due to developing markets in the accommodation field a review of accommodation definitions within current legislation is being carried out.*

Some explained that harmonisation for short-stay accommodation would not lead to increased safety but, rather, to a significant bureaucratic and financial burden on private providers of holiday homes to rent, with the result that *many would have to withdraw from the market and a much-sought-after form of accommodation (popular in particular with solo travellers and families) would be much less widely available* (German Tourism Association).

<i>Q.11. Are the requirements listed above present in the existing national legislation?</i>
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The requirements referred to in this question were the following (see Green Paper, 4.2):

- Safety of the premises, structures and equipment used for providing the service;
- Safety management (including risk assessment);
- Qualifications of the service provider;
- Staff training;
- Availability and quality of the information on safety aspects provided to the consumers;
- Availability of evacuation plans, emergency procedures and equipment to reduce damage in case of accidents;
- Notifications to authorities on risks and accidents;
- A consistent definition of tourism accommodation premises (type, age, size, height);
- Accessibility aspects;
- Specific requirements for vulnerable consumers;
- Fire related risks;
- Carbon monoxide (CO) related risks.

A number of respondents explained that many of these elements are included in national legislation. HOTREC in particular mentioned 7 Member States (Austria, Belgium, France, Hungary, Ireland, Italy and Sweden) which include them either directly or indirectly in their legislation. Some explained however that as there are no specific regulations on tourism accommodation safety it is difficult to identify the presence of those aspects. As IHG explained, *any attempt to identify potential gaps in tourism accommodation safety rules which might be affecting consumers across the EU must be made from the perspective of the effectiveness of the extent and content of the existing regulations and codes or practice.*

FEU indicated that in their experience, there is a certain priority of requirements which are generally included, like staff training, accessibility aspects, and fire related risks. The safety

of the premises, structures and equipment used for providing the service are included to a certain extent and finally requirements regarding the qualifications of the service provider are seldom included in existing rules.

*Q.12. Would the consideration of requirements regarding CO (carbon monoxide) safety issues be beneficial? Please indicate the advantages for both consumers and enterprises.*

This question received many responses (56). The majority of stakeholders agreed on the importance of addressing CO risks. Whilst the numbers of fatalities in tourism accommodation caused by carbon monoxide appear minimal, *the ability of the consumer to address safety concerns regarding gas appliances is minimal, and the likelihood of consumers identifying the extent of any risk is equally minimal*, as WER explained.

Some stressed the *benefits both for consumers, who can book with confidence, for the Member States, which would not have to invest in the care of those injured, and also for the leisure industry, as installation costs would be shared by the industry through the volume of acquired systems* (Holiday Travel Watch). Some called for the *Commission to regulate fuel burning appliances in tourism accommodation, addressing installation and maintenance and servicing, to ensure that the risks are appropriately mitigated* (Thomas Cook).

A number of respondents (campsites, rural tourism, part of the hospitality industry) mentioned that the very few accidents or problems reported do not justify specific regulations and that existing building regulations, and the requirements for inspection of gas/fuel/wood heating installations are sufficient, but need to be controlled.

Many respondents nevertheless claimed that carbon monoxide does not represent a risk specific to tourist accommodation and wondered why tourism accommodation should be singled out as being at particular risk in this regard, or why should safety management of this risk differ in any way for tourism accommodation. This particular view was broadly shared among the hospitality industry in Germany (DEHOGA's multiple contributions received), which added that *specific provisions for tourism accommodation would not remedy the problem*. HOTREC in this regard pointed to the section of their self-regulatory instrument, the MBS methodology, which deals also with CO risks.

To illustrate the differences in requirements regarding CO linked to geographical location, the Lapland University of Applied Sciences explained how, *given that sauna is very typical tourism activity in Finland, tourism actors must be totally aware on how to heat wood-heated sauna properly, as smoke sauna causes by definition carbon monoxide that needs right treatment before using it*. Conversely, the Ministry of Tourism in Malta explained that *given that the majority of hotels in Malta do not use open flame sources for heating, our climate does not favour very harsh winters and that our building standards tend towards rooms with relatively large windows, carbon monoxide poison does not feature as one of the risks in normal circumstances although it cannot be dismissed entirely*.

To stress the importance of awareness raising campaigns, COGDEM gave the example of a number of organisations in the UK which have *posters, leaflets, website information specifically on CO which can be left in the property or given on arrival or booking in to a campsite, cottage, boat etc*.

*Q.13. Is risk management integrated in relevant national legislation?*

There was a general agreement among respondents on the fact that a risk management approach to safety is very important and appropriate. In the words of the French Permanent Representation to the EU, *its aim, depending on the construction concerned, is to identify the possible scenarios in the event of fire, to estimate the potential for the spread of fire and the emission of toxic gases, and to evaluate the consequences of these phenomena on persons and goods*. In this sense it was widely considered *an effective tool to address risk factors where situations are not standardised, as is the case for the wide variety of tourist accommodation available for example, and the different types of consumer that providers might receive* (IHG).

Some public authorities criticized however that on a practical level risk management is inadequate as it lacks sufficient incentive or methods to sanction non-compliances, while others mentioned that *what is often missing is a periodic re-assessment of the risk: changes in the buildings reported to the authorities could be evaluated, and the impact on the fire safety measures re-defined and implemented* (Spanish Regional Government of Aragón).

The hospitality industry explained that risk management is already incorporated in two pieces of European legislation also applicable to hotels, and which are all applied at national level: the European Framework Directive on Safety and Health at Work (89/391/EEC) and Regulation (EC) No 852/2004 on the hygiene of foodstuffs. The Irish Hotel Federation added that *all hotels are required to have risk management as part of their insurance policies*.

However, many also showed concerns that such risk management approach is usually not applicable for private accommodation rented on websites such as AirBnB and similar.

*Q.14. Is the difference in existing regulatory frameworks likely to affect the safety of tourists? Is this impact rather related to enforcement of the existing legal frameworks? Can you please provide concrete examples?*

Views again were divergent on this question, both within public authorities and stakeholders, and again in equal proportion within both groups. Within stakeholders there were two distinctive groups: the hotel industry, claiming that differences do not have an impact on consumer safety, and tour operators, large hotel groups, consumer associations, fire services and part of the industry of fire safety-related products, with the opposite opinion.

Those who indicated that the differences in the various approaches taken across Europe do not impact on tourists called generally for respect to the subsidiarity principle. As EFCO&HPA and HOTREC explained, *there is no evidence to support the case that tourists are not safe under the different regulatory frameworks and in consequence the principle of subsidiarity should continue to be applied*. This claim was based on their belief that legislation that takes into account the local context increases the safety of the tourist: *a mountain environment is different than the coast, than a rural environment or a dense urban environment. Also the population density of each country, as well as the local building traditions, may impact on the content of the regulatory framework*.

From the consumer point of view, some explained that consumers assume that they will be safe in their holiday accommodation, and that the safety standards they will experience will be those of their home market, rather than the standards in the destination in which they are staying.

This question requested evidence supporting respondents' views, which a number indeed provided; the majority of responses however were more categorical than factual. A number of examples of impact on consumers linked to national differences were nevertheless shared:

- According to IHG, in France fire alarm systems must sound for a minimum of five minutes without any facility to silence the fire alarm either automatically or manually. This means fire alarms are programmed to silence automatically after five minutes irrespective of whether there is a fire or not whereas in other countries the alarm will sound continuously. If consumers expect to hear a continuous alarm when the fire threat is still present this could cause confusion with serious consequences.
- Thomas Cook referred to the construction and use of balconies, which are subject to national and local variations and whose requirements vary according to the construction date of the property. Historically, the minimum height for balcony construction in a number of EU Member States has been one meter. However, this has now increased in certain locations to 1.1 meters. Specifically, properties on the island of Santorini generally have balconies which are less than one meter high, and planning restrictions prevent any changes being made to those balconies. Consumers, particularly those with young children, may therefore find that they face an unexpected hazard on arrival at their destination.
- CTIF, the International Fire and Rescue Services Association explained that in Northern Europe buildings are heavily insulated to retain heat while in Southern Europe we find open air hard surfaces for cooling. These create very different internal fire conditions and require differing solutions and practices and also raise differing perceptions of the danger of fire.
- WER gave the example of glass safety standards, which vary across the EU: in the UK, glass internal doors are generally made with toughened glass, which is not the case in other parts of Europe. As a result, UK holidaymakers may expect to always find toughened glass in accommodation. A number of injuries can be attributed to this difference in standards.

In relation to potential flaws in enforcement, a recurrent remark was made in relation to lack of enforcement regarding the "shadow hospitality", which partly stems from the fact that many of those holiday homes are not visible to enforcement authorities.

### **1.3. Impact of the existing regulatory situation on the Internal Market**

In order to assess whether the diversity in the national systems and in the surveillance and enforcement methods used throughout the EU has a significant effect on the provision of accommodation services across borders, respondents were invited to reply the following question:

*Q.15. Are the differences in the regulatory environments in the EU Member States affecting tourism businesses, especially in their cross-border operations? Is this impact rather related to enforcement of the existing legal frameworks? Can you please provide concrete examples?*

The majority of the public authorities agreed that differences do not affect businesses. As for the stakeholders, there were two distinctive positions with regard to this question. The hospitality industry claimed that the services concerned are specifically linked to the tourist destination and therefore did not consider it appropriate to talk about the provision of cross-border tourist accommodation services. Together with consumer associations, fire services and fire consultants, the tour operators industry, which typically carries out cross-border

operations, by selling holiday packages in one country containing services consumed in another country, represented the other view point.

Those who claimed that differences in regulatory environments impact tourism businesses based their views on the fact that the backbone of the tourism business throughout the EU are SMEs which operate only at local level, while international hotel chains running premises in different countries have the resources in manpower ranging from lawyers to full time safety personnel to deal with the differences in national regulatory regimes.

Tour operators claimed that *international tourism is, by its nature, a cross border trade* (Thomas Cook). As ECTAA explained, *tour operators are liable for the proper performance of the services forming part of a package holiday under the European Package Travel Directive, meaning that tour operators can be held liable if safety shortcomings of their suppliers result in an accident or death of their customer*. They thus have a duty to check whether the services they provide as part of a package are safe and whether they meet the local/regional/national safety legislation. Whilst the majority of the work undertaken involves self-assessment by property owners, tour operators incur substantial costs linked to this obligation, as legislation varies between destinations, and as ABTA explained, they *may further be required to meet legislation of the country in which the contract has been concluded and thus be faced with two sets of different and sometimes conflicting safety requirements*. The added that *ultimately all additional costs arising directly from the cost of compliance created by differences in national regulatory frameworks are borne by consumers on the price of their holidays*.

To illustrate the cross-border impact resulting from the actions taken by some tour operators imposing their own fire safety standards on the owners and operators of hotels, a hotel fire consultant gave an example encountered in Spain in 2008 when surveying an aparthotel block wholly contracted to a UK tour operator. The block was fitted with a full fire detection and alarm system covering apartments and common areas/escape routes, emergency escape lighting, EN standard exit route signs, portable fire extinguishers in corridors, fire blankets in apartments and fire instructions in each apartment and in corridors. An identical adjacent block owned by the same company as the first block but contracted to an Irish tour operator only had domestic smoke alarms in the apartments, non-compliant exit signs and two fire extinguishers in the entrance lobby. The owner's representative made it clear that the requirements in the first block were only there because the tour operator had demanded them as a condition of contracting the block.

As for smaller providers, views were that more regulations would imply a market shift towards large enterprises and threaten the existence of small enterprises. As many members of HOTREC explained, *SMEs acting with many competitors and narrow margins don't have the option to pass on these costs to the guest as confronted with higher prices tourists would shift to other destinations. International hotel chains can compensate for higher costs in a country with higher income in another country within the group*.

Finally, many respondents indicated that unfair competition for legitimate businesses is being created by short-term online rental companies operating in the so called 'sharing economy' and which are escaping regulation, essentially translating in reduced cost.

#### 1.4. Cross-cutting aspects

This section assesses whether certain cross-cutting aspects, such as the impact of the regulatory environment on SMEs and on vulnerable consumers, or the way in which accessibility issues, requirements for skills and training of staff or the use of standards for such services are efficiently being taken into consideration in the regulatory framework.

*Q.16. Please quantify the current administrative burden for tourism enterprises to comply with existing safety regulations.*

A few respondents provided quantitative estimations to this question:

IHG explained that annual maintenance costs of safety equipment are rather significant for an accommodation provider. For example, for a 100 room hotel, maintaining and servicing a fire alarm costs between €5.000-6.000 per annum, maintenance of a water quality system will be €2.000-3.000 and electrical safety maintenance will be around €1.500-2.000.

In the view of VISITA, the Swedish hospitality, *it is probably impossible to calculate the administrative burden or to define the most burdensome aspects for professional tourism accommodations, as the hospitality industry is of an extremely diversified nature.* They nevertheless provided a rough estimate of the yearly cost for compliance to existing safety regulations regarding an average SME hotel in Sweden, which starts at €100.000 (regardless of whether the hotel has guests or not). They further pointed out that *many smaller and medium sized professional tourism accommodations in Sweden are relatively low yield, due to climate and geographical circumstances, which makes this burden even heavier,* and explained that they *have also noticed that costs tend to rise exponentially over time.*

Finally, EFCO&HPA shared the results of surveys conducted among holiday and touring parks in the UK (in 2001 and 2010) seeking to evaluate the burden of regulation on park businesses: in 2010, small holiday and touring park businesses spent 11% of their time on regulatory compliance and 5.5% of their turnover on advisers to assist them in this; time taken in regulatory compliance increased by 83% for small holiday and touring park businesses between 2001 and 2010, while the costs of advisers to assist in managing the business within the law increased by 37.5%; the smaller the business, the greater the burden of regulation.

*Q.17. Please indicate what are the most burdensome/costly aspects for tourism enterprises to comply with national legislation on safety.*

Respondents pointed to safety aspects which require structural costs, such as the installation of fire doors, fire alarms systems or fire escapes, as those representing the highest potential costs. Maintenance and regular inspections (lifts, ventilation systems, etc.), and compliance with risk assessment obligations were also mentioned by accommodation providers as very costly, due either to the required frequency or to the professional requirements of the technical personnel. In this context ABTA explained that *their members require the accommodation providers to complete a “walk through” audit of their property, highlighting safety issues affecting the accommodation,* and added that *many aspects of tourism accommodation safety simply involve improvements to working practices, which come at no cost.*

For tour operators, compliance audits are costly: large tour operators will have their own health and safety staff to carry out the safety inspections of the hotels, while small or medium-sized businesses will have to rely on third-party safety audits of hotels (ECTAA).

A number of respondents questioned whether the status of SME really allows for their exclusion from protective legislation on the issues of fire, carbon monoxide or safe swimming pools, and while acknowledging the administrative burden in complying with safety regulations for smaller businesses, they stressed that in practice *that burden should be regarded as part of “business as usual”, as it is necessary for any tourism establishment to be compliant with relevant safety rules* (WER).

*Q.18. Which are the main concerns of smaller tourism accommodation providers in relation to compliance with existing safety rules?*

This question raised the interest of many respondents (58). In the opinion of a number of public authorities, the main concerns of smaller providers are the lack of knowledge of the existing legislation and their related liability, as well as lack of practice in the field of administration. They also mentioned that they might not have trained and qualified staff on safety matters.

The hospitality industry explained that smaller businesses have difficulties to understand and cope with requirements as they have no central department specialising in safety aspects nor substantial administrative systems and personnel, while large hotel chains have one or several employees dedicated to the subject. They are obliged to use the services of external providers in order to meet the safety standards, which may threaten their financial position. EFCO&HPA explained that *very few are of sufficient scale to justify a range of in-house specialist functions. It is common for owners and managers of small businesses to be distracted from their core business activities due to regulatory compliance efforts, with a potentially negative impact on productivity and competitiveness*

Some stated that *many rules are made for medium/large businesses and are not feasible in small guest houses or holiday homes and are sometimes used to drive undesired competition to larger hotels out of the market (EuroGites)*. The example was given of requirements for the installation of sprinkler systems in holiday homes or a two-room B&B, or the consideration of a swimming pool of a holiday home as “public pool” with all related requirements.

Finally, many stressed again that businesses who comply to ensure safety are being punished by growing regulation in the face of a new burgeoning market which offers an identical service at lower prices, without any fear of having to comply or face (costly) penalties for failing to do so.

*Q.19. How can the compatibility best be ensured of safety measures and rules with **accessibility requirements** which are relevant for **persons with disabilities** and **older persons**?*

*Q.20-21-22. Beyond accessibility issues, which are in your view the aspects regarding safety in tourism accommodation for **ageing population/people with disabilities/persons under 15** which should be considered?*

Given the similar approaches of the responses to the four questions above, a joint summary of contributions is presented.

Remarks were often made about conflicting requirements by different authorities in this specific subject. For instance, in Austria, requirements on heavy self-closing doors are good for fire protection but unfavourable for older or handicapped persons. Some considered that such contradictions can only be tackled if there is a better coordination between the authorities in charge of conceiving and enforcing the legal requirements, which can only be done at national/regional level. ANEC, in line with some public authorities, mentioned that *problems encountered by users with special needs are often due to lack of disability awareness training of tourism staff.*

Hoteliers agreed that the main aspect regarding safety in tourism accommodation for ageing population is the alarm and evacuation in case of an emergency/evacuation. Some advocated for technical solutions, like the provision of automatic fire suppression systems or the installation of intelligent evacuation systems using both visual alarms and voice alarms in premises catering for those with disabilities, as the most effective way of ensuring their safety. ENAT mentioned at this point that *accommodation providers need to consider safety measures for people with disabilities of all kinds and of all age*, in the same lines as ANEC who specified that *a tourist with special needs is also a mother with a buggy, a person with temporary disability (e.g. a broken leg), a person with allergies: any of us.*

HOTREC pointed to its MBS methodology and explained that it deals with this issue in sections M3.1.1 (emergency response plan), M4.3.1 (staff training), B3.3.1 (special provisions for disabled persons), B3.3.4 (special provisions for disabled persons) and S2.1.7 (detection and alarm systems).

Some examples of good practices were provided by respondents: France mentioned the existence of a joint body governing safety and accessibility requirements: the departmental consultative committee on safety and accessibility (CCDSA). Malta referred to the 'Access for all' guidelines which include safety measures for accessibility requirements for persons with disability in Malta, and ENAT offered advice and specific guidance documents on issues concerning mobility requirements.

Specifically in relation to the safety of persons under 15 years, many respondents pointed to the need to ensure safety in relation to playgrounds, swimming pools and children's clubs, as well as to glass doors and balcony wall heights and the spaces between rails. Regarding balconies, however, ABTA pointed out that *most balcony injuries and deaths have typically involved those aged between 18 and 25 rather than young children falling through or over balconies, and most are behavioural and often after the consumption of alcohol.* As such, the measures to ensure minimum balcony heights to protect young children appear to have been effective.

There was however a divergent opinion shared by a number of respondents (some hoteliers and tour operators alike) who did not support the creation of separate rules or approaches for more vulnerable consumers, on the basis that the presence of those customers should simply be taken into account when implementing appropriate safety requirements.

*Q.23. Do you have data or quantitative evidence on injuries and accidents pointing to safety issues in tourism accommodation? If yes, please provide such data or evidence.*

This was a key question in the consultation, as a solid evidenced base is necessary to fully and appropriately assess the extent of safety issues in relation to tourism accommodation safety. 11 of 86 respondents provided data in one way or another.

Estonia reported fires at establishments providing accommodation services: 6 in 2013 (of which 4 in hotels); 17 in 2012 (of which 7 in hotels); 11 in 2011 (of which 6 in hotels). It further indicated that according to the Technical Regulatory Authority there are no reports of accidents having occurred at accommodation establishments in the period 2011–2013.

Hungary reported an average of 147 alerts a year (97 cases of technical rescue and 50 cases of fire) from accommodation facilities between 2010 and 2014, according to statistical data on the interventions of disaster management bodies. The number of injured persons was 33 (21 in technical rescues and 12 in fires). No fatal injuries were caused by fire and only 3 persons died in the course of technical rescue operations. When compared to the total number of alerts per year (66 720 on average), the share of incidents reported in accommodation facilities is only 0.15% for technical rescue and 0.07% for fire. 49 accidents were registered in children's resorts in 2010, 402 in children's and youth camps and 63 in campsites, linked to causes such as broken paving and furniture, windows and doors or outdoor play areas (worn-out swings, climbing frames), etc.

Regarding CO-related accidents, CO-gas safety reported 28 holiday fatalities between 1998 and 2013, 12 of which in tents. HolidayTravelWatch reported that also according to CO-gas safety, of all places where CO exposure is likely to occur, 13% will take place in a leisure environment (hotel 1%, caravan 4%, campervan 2%, boat 3% and other –tent, aeroplane and polytunnel) 3%).

Both IHG and ABTA explained that they collate data on fatalities and serious incidents, and ABTA shared copies of the 2013 data held in relation to incidents and fatalities throughout the world (in the EU, 3 fatalities in swimming pools and 3 linked to balconies –no cause given- and 42 fire outbreaks in tourism accommodation).

HOTREC explained that although they do not have consolidated data across Europe, some of their members consider that there might be less than 10 outbreaks of fire in hotels per year usually not resulting in death or injuries, which are extremely rarely heard of. In their view, *this seems to be confirmed by the absence of any recent media coverage and by the absence of any recent example spread-out on social media.*

*Q.24. Which are in your view the main challenges related to the collection of such data and how can they be best addressed?*

Stakeholders pointed in general to the need for a clear definition of the categories of accidents and injuries, and a clear methodology to be followed each time there is an accident (FEU: *what is a dead person from fire? Died on the spot, in the ambulance, in the emergency room, 4 weeks after the fire?*) and the importance of collecting data from various sources (fire services, insurance companies, hotel industry, etc.).

The absence of a central entity to notify major safety incident and the difference in methods by different competent authorities was also a concern among stakeholders, who expressed the need for a harmonised and structured system applicable in all Member States and an EU central data collection body to ensure robustness of data collection. Pending the establishment of such system, ABTA *would support some form of alternative reporting scheme coordinated by the Commission, with proper sharing either through a centralised repository, possibly the Virtual Tourism Observatory.*

Some pointed at existing systems and methods: for instance Estonia reported that *there are no problems with collecting the data on fires, since systematic records are kept, but problems may occur with collecting data on other accidents which the competent authorities are not notified of*, and IHG explained that in most countries in Europe there is a requirement to report worker injuries, although this does not always apply to users of tourism accommodation. This leads in the view of many to a lack of awareness among legislators about the risks in tourism accommodation. Some public authorities referred also to the lack of knowledge on where persons can report such incidents. Specifically in relation to CO-related incidents, the CO-Gas Safety charity complained that *the only data available in the UK on has been compiled by a charity working tirelessly.*

Many respondents also highlighted the importance of clearly establishing the causes of accidents: *it is difficult and even dangerous to assign such accidents to specific reasons related with equipment or installations of accommodation* (Eurogites); as HOTREC explained, *sometimes people which suffer an injury at a risky activity which is not covered by the accommodation insurance might shift the accident to the hotel in their insurance message to ensure coverage, which might introduce a bias in the statistics if they are not based on real shortcomings from the accommodation provider.*

*Q.25. In your view, to what extent does reluctance to make available data on accidents and injuries due to possible reputational costs may have an impact on safety issues?*

Two main remarks were recurrently made to this question. One was that rather than reluctance to share data the issue is the fear of litigation in an increasingly claims-conscious society, where consumers are increasingly likely to claim compensation if something happens to them during their holiday. In the words of WER, *we anticipate that most accommodation providers will be reluctant to disclose any information which may expose their business to cost from claimants or their legal advisors.*

The second was the role of online guests reviews sites and social media and its immediate impact on reputation. They ensure that accidents and injuries are communicated widely and, as a result, no professional tourism accommodation provider can sustain any accident to happen twice without risking bankruptcy. In relation to this, some claimed that the problem is more frequently reverse, whereby *unjustified claims are made by clients in order to blackmail providers* (Eurogites).

On a practical level, Hungary explained that failure to report an incident requiring fire-fighting interventions leads to the payment of a fine and France stated that given that examination of fire safety requirements are subject to a neutral administrative body (the local safety committee) there is no connection between safety issues and the reluctance to make available data on accidents and injuries for reputational reasons. Finally, Finland explained

that *the Nordic countries have noticed that transparency is the best development tool*, given that secrecy based on reputational issues implies a great risk.

*Q.26. What would in your view be the most appropriate and effective system to collect minimum harmonized data on accidents and injuries?*

A large number of stakeholders (fire services, tour operators, large hotel businesses, safety-related products industry) generally agreed on the role of the Commission as a coordinator of a single, central system for data collection and some suggested Eurostat as the holder of such role. Many suggested a pilot project for data collection with European funds across accommodation suppliers, insurers, the travel industry, fire services, medical emergency services, burn associations, local authorities in tourism destinations, etc.

Many respondents highlighted the need of a regulatory obligation for accommodation providers and operators to provide an annual agreed data-set, which could be done in the opinion of many via a dedicated online platform managed by the Commission. Some tour operators explained that tourism licensing regimes exist in some form in most EU Member States, and suggested that if there were centralised licensing regimes in every Member State, they could act as a framework for data collection on accidents and injuries.

Part of the hospitality industry indicated that the most appropriate and effective system to collect minimum harmonized data on accidents and injuries would be via insurance companies. Others, on the contrary, opposed the introduction of an European database on the basis that the variety of possible sources of danger not specific to the hotel sector in an accommodation enterprise would make it impossible to ensure that only accidents causally linked to the provision of tourism accommodation would be included.

As a practical example, the Lapland University of Applied Sciences reported the development of the Traumax database by the local hospital district, which compiles data from diverse tourism accidents and explained that they are currently piloting the screening of certain tourism season's patient data related to tourism (part of ESF funded project European dimension on tourism safety and security, 2012-2014).

*Q.27. How would European safety standards help improve consumer safety in tourism accommodation? What would be the main drawbacks? Please elaborate your answer both from a national and a European perspective.*

Stakeholders were in general aware of the benefits and drawbacks of the use of standards. On the positive side, mention was recurrently made of the fact that harmonised standards might allow tourism accommodation providers to compete on a more level playing field, thus increasing consumer trust in the market. In the words of CEN, the European Committee for Standardization, *one of the biggest benefits of European Standards is their identical implementation across Europe and the obligation of National Standardization Bodies to withdraw any existing conflicting national standards.*

CEN further explained that *standardization is a market-driven process and the development of standards requires the support of both the consumer representatives and of the tourism accommodation sector.* There was generally agreement among respondents on the benefits of bringing together all stakeholders (both at national and European level) to discuss and codify best practices and the importance of a balanced and fair representation of all stakeholders'

opinion. Concerns that the private rented tourist accommodation providers are excluded from the standardisation process were raised, as *it is difficult to imagine that all those providers will be willing to sign up to and implement CEN standards* (WER).

As the main disadvantage, respondents mentioned that businesses are not obliged to adhere to standards and thus their impact is minimalized. A major, common concern here was that generally providers who agree to undertake voluntary solutions are more likely to be focused and motivated to address safety generally already. Conversely those who are not so motivated will not adopt them, with the outcome that SMEs reluctant to accept the cost attached to accessing them or higher risk accommodation would fall completely outside the scope of protection.

Another common belief was that the use of standards is better suited for products and that safety issues affecting services are less easily addressed through standardisation, particularly as the delivery of services is often affected by frequent changes and external factors. For example, *the safety of services can be altered as a result of changes in the weather, facilities or changes in the condition or maintenance of a service delivery location*, as ABTA explains. CEN added that taking into account the existence of national regulations in this area some of the national standardization bodies member of CEN have stressed that *at this stage it may only have a benefit to develop standards in this area in relation to the provision of services to people with special needs*.

A reduced number of stakeholders opposed the development of joint safety standards within the European Union, given that Member States have their own safety standards that are in coherence with national legislation and enforcement.

*Q.28. If you have examples of national standards regarding tourism accommodation safety, do you have evidence that they have helped improve safety levels for consumers?*

IHG mentioned the EN 54, a technical standard covering requirements for fire detectors and their components, which has been available in all EU countries since August 2008, although some issues remain about interpretation and some localities do not recognise the standard.

Hungary reported that for certain categories of accommodation it is compulsory to ensure the availability of first-aid equipment suitable for the workforce, the content of which is specified in the national standard MSZ-13553-1989 on first-aid equipment.

Other national examples include the UNI (Italian Standardization Body) Public Available Specification on ‘Beach services–Safety, quality, accessibility and sustainability requirements of services and amenities’ or the Austrian standard ÖNORM B 1603:2013-10 ‘Accessible facilities for tourism and leisure - Design principles’. At European and international level, respondents cited the international standard ISO 16732-1 Fire safety engineering – Fire risk assessment, for use by fire safety practitioners, whose principles and concepts can be applied to any fire safety objective, as well as the standards developed by ISO/TC 228 ‘Tourism and related services’ and CEN/TC 329 ‘Tourism services’ which deal with safety aspects (e.g. wellness spas, thalassotherapy, recreational diving services, adventure tourism...) although their focus has so far not been on tourism accommodation.

AmCham referred to the US experience, where significant evidence indicates that requirements to install fire detection and fire sprinklers, present in a majority of hotels in the United States, have reduced hotel fire deaths, and explained that there has never been a fire death in a sprinklered hotel.

A hotel fire safety consultant reported that Spanish, Portuguese and Greek standards for licensing of tourist accommodation have clearly contributed to an improvement in the levels of fire protection and fire safety management.

The Lapland University of Applied Sciences reported the introduction in Finland of tourism safety norms as a tool for self-control and risk management.

Finally CEN mentioned a study on the impact of European service standards on service providers and users, carried out in 2011, whose conclusions confirmed that the most widespread benefits of using service standards relate to the improvements to service quality. An improved ability to meet health and safety requirements was also cited as a major benefit. The study did not focus on the area of tourism accommodation but confirmed that standards can also play a role in helping companies to meet safety requirements in general.

*Q.29. Is dedicated fire safety/safety training for tourism accommodation services regularly provided in national curricula or in vocational training? If so, what subjects are covered?*

Responses to this question pointed to three main areas: in the first place, a group of respondents (from Austria, France, Sweden, Hungary, Bulgaria and Lithuania) indicated that fire safety and employee protection regulations are not limited to tourism, since safety is dealt with for all sectors in training programmes. Among them some reported requirements for extensive safety training in all commercial enterprises. In Lithuania for example the law on fire safety stipulates that fire safety training must be followed by the manager of businesses, and by the employees responsible for fire safety checks and the implementation of fire safety requirements within the premises.

A second group reported rules specifically targeted at hotels: Hungary indicated that regular fire safety training in hotels is regulated in legislation; Belgium explained that a specific national organisation regularly provides free fire safety training for employees of the hospitality sector, and Denmark reported the existence of guidelines for hotels, which are governed by national legislation.

A third group of respondents (from Germany, Finland, Spain, Malta and France) indicated that the tourism and hospitality schools incorporate it in their curricula compulsory modules related to Occupational Health and Safety and Fire and Safety. In Germany for instance students have to learn the relevant laws and their application, how to determine and prevent dangers at work, what to do in case of accidents, fire-fighting measures etc. In Finland, employees in the tourism sector may also participate in voluntary safety training programmes, such as the "safety pass" for the tourism sector.

Some indicated that European regulation on safety and security at the workplace sets up a minimum framework of training content and measures, which is sufficient for micro-services, and attention was drawn to initiatives of DG GROW on professional skills in the tourism area aiming at the development of a tourism skills competences framework.

Finally, many respondents from the hospitality industry questioned why tourism accommodation safety is singled out in relation to specific safety training given that fire safety is an issue that affects every business.

*Q.30. Are there specific job profiles dedicated to safety in tourism accommodation? If so, what subjects are covered?*

Many respondents (tour operators, large hospitality business, consumer associations) pointed first of all to the differences between small and large business in relation to safety management: while there is no person specifically dedicated to safety in the smaller businesses, there is always a Safety and Security Manager or even a full department in the larger ones. In ANEC's words, *different approaches of large companies versus smaller organisations should be taken into account.*

Thomas Cook explained that *there are no specific job profiles although there are a wide variety of roles with the remit of health and safety, which are dependent on a wide range of factors, for example, the size of the accommodation in question, the number of facilities or services offered or the risk profile of the accommodation or activities offered.* ABTA suggested that for smaller businesses, *it might be appropriate for non-specific safety roles to encapsulate safety aspects, for example, training of reception staff to have knowledge of the evacuation procedures in the event of a fire and all staff checking the premises for hazards such as blocked fire exits as part of their daily routines.*

Conversely, in the view of part of the hospitality industry and given the large number of areas concerned (fire safety, protection in electrical systems, industrial safety, etc.), safety can only be ensured by a variety of qualified specialist staff and it is therefore not useful to introduce a specific job profile dedicated to the safety of accommodation services.

## **1.5. Most appropriate level and instruments**

Finally, with an aim to gather views as to whether the current levels at which tourism accommodation safety is regulated are the most appropriate and whether the most appropriate types of instruments are in place, 11 further questions were included in the questionnaire.

*Q.31. Do you have evidence against/in favour of the effectiveness of addressing safety in tourism accommodation at national/local/European level?*

Respondents shared qualitative assessments and opinions, which are analysed in detail in questions 32 and 33.

Many respondents (some public authorities, fire services, camping associations, self-catering associations and part of the hospitality industry) explained that this question implies an incorrect assumption as no evidence can be provided due to the lack of comprehensive data, and questioned the specific focus on tourism accommodation safety. In the words of the English Association of Self-catering Operators, *as a principle of good governance, governments at both the national and European level should only develop new legislation or standards in response to the identification of specific problems and not simply to enhance the perception or status of an industry.*

*Q.32. Which would be the advantages of approaching safety issues at national / local / European level, both from a consumer and a service provider perspective? Which would be the main disadvantages?*

Responses reflected two clearly opposing positions: on the one hand, public authorities and the hospitality industry claimed that the most appropriate way to address tourism accommodation safety is through local and/or national rules, and on the other hand, tour operators, consumer associations, fire services and some large hotel businesses called for regulation at European level.

The advantages of a European approach are analysed in question 33.

The main **advantage** of a **local/regional/national approach** mentioned by respondents was that it allows authorities to tailor regulations to the local environment, building traditions and type of professional tourism accommodation businesses, which inevitably varies strongly between Member States, assuring compatibility with the local regulatory culture and higher flexibility in adapting to innovations.

Specifically in relation to fire regulations, respondents highlighted the close connection between building and fire regulations and explained that building regulations (which take into account local building conventions and materials used, location of hotels in mountains, cities, small towns, beach resorts, etc.), are undoubtedly best dealt with at national level, and therefore so should fire protection rules also be.

In this respect there were repeated claims by the German hotel and accommodation sector that the safety of guests is the paramount objective, which is reflected in comprehensive national regulations that have proved their worth in the past and undergo continuous improvement.

Some national authorities indicated that the use of legislation only at national level would be sufficient for operators of smaller types of accommodation, who carry out their operation only at local or national level and find it more convenient to apply and become familiar with the local/national rules.

From a **consumer** perspective the main **disadvantage** mentioned was the inconsistency of the existing systems, which creates uncertainty in understanding what safety standards will be present in the tourist accommodation in which they stay. The experience of tour operators is that *tourists often assume that the standards they will find in the destination will replicate those in their home market* (Thomas Cook), while the reality in some countries (e.g. UK) is that the standards which prevail are those in the destination country.

For **service providers** a distinction should be made between accommodation providers and intermediaries like tour operators. The main **disadvantage** of a national approach for the latter is linked to their liability on the performance of the package holiday under the European Package Travel Directive (see question 15).

Regarding an **EU-wide approach** to tourism accommodation safety, respondents listed as **disadvantages** that it does not allow for the integration of local circumstances and that it is a barrier to innovation.

For **service providers**, respondents from the hospitality industry mentioned that any expansion of regulations could be only handled by large hotel chains with staff dedicated to safety issues (see question 15): *additional safety standards at EU level would be of advantage for just 1% of the tourism enterprises within the EU but pose problems for 99%* (Austrian Professional Hotel association). Many added that it would constitute an increase in regulatory burden with considerable financial implications, in particular for smaller businesses and especially with the emergence of large internet based companies offering private accommodation escaping regulation.

Specifically for the caravan and campsite businesses the explanation was that *the majority of them are SMEs and microbusinesses, often run as a husband and wife team* (Camprilux). The administrative burden from existing regulation is already significant and the smaller the business the greater the burden of regulation. An increasing amount of time being spent on dealing with rules means less time spent on business development and generating jobs and growth.

In relation to fire protection, many stressed that given that each Member State has its different and unique building standard, based on different circumstances, climate and building materials, fire behaviour in each building type is different and therefore it is Member States who have to establish their own fire safety legislation. As a consequence, no common standard is applicable. As an example, Malta explained that *while Nordic countries will place a higher risk on carbon monoxide poisoning since every habitation will have several fireplaces and at least one oil burner as standard, this is clearly not the case for Malta. Another typical case is building materials: while in Malta we make use of globigerina limestone, typical British construction relies on the red brick and wood trusses; the two constructions are diametrically opposed when it comes to fire behaviour and no European standards will be able to address such requirements.*

In line with this, some explained that unnecessary costs might be imposed on the tourism in countries which would have to counter risks which are not as serious as they might be for other countries. It is therefore essential to take into account the real risk connected with the construction of buildings, their location and the type of customers.

*Q.33. Which would be the advantages of European legislation in terms of improved safety levels on tourism accommodation safety?*

The main advantage that respondents mentioned was that the introduction of EU legislation would ensure that minimum standards apply throughout the EU via a consistent approach and uniform application, by helping Member States to tackle safety risks in a coordinated, efficient and cost-effective manner.

For **consumers**, a benefit would be that uniform level of accommodation service safety could be assured. Some added that this does not however mean that this level would not have been attained though national legislation.

For **businesses** and specifically for large hotels, an advantage would be the indication that a certain level of safety is being met by the establishment, which may increase consumer confidence. From a financial perspective, an additional advantage of harmonized legislation would be the economy of scale for the tourism industry, and for the fire-related products

industry *it would make market penetration with new products improving safety easier and quicker* (CIRFS).

A European approach might also facilitate the audits which are currently carried out by tour organisers, insurance companies and other private entities which gather information for audit purposes. Presently hotels receive several different audits from tour organisers and these may vary due to the different legislation of the country they originate from.

A specific remark made by the tour operators' industry was that whereas obligations regarding the safety of accommodation are imposed on them by virtue of the Package Travel Directive, there does not necessarily appear to be the same level of obligation imposed on tourism accommodation suppliers. In the view of ABTA, *there is an apparent legislative lacuna within the EU legislation on tourism accommodation. This cannot be appropriate, and clearly the obligations on the sellers of accommodation should be no more onerous than on the owner or operator of that accommodation.*

Some respondents from the hospitality industry stressed the need for consistent enforcement across the EU in the context of a European approach.

Finally, some indicated that issues such as fire safety management, training of staff, safety instructions and emergency planning, where a common European approach would be beneficial, should be written in broad, functional terms.

<p><i>Q.34. Could the same advantages be achieved by improving enforcement and/or market surveillance of existing national legislation?</i></p>
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In general, respondents agreed that enforcement and surveillance of legislation are crucial irrespective of whether requirements are laid down by national or European legislation. There was no general agreement however that improving enforcement and market surveillance of the existing national legislation alone would be enough to achieve a high level of consumer protection.

In particular, those who believe that rules should remain at local/national level agreed that any existing shortcomings are rather linked to enforcement than to lack of regulation.

As a suggestion, the Italian hospitality explained that *some advantages could be achieved by improving the quality of surveillance, by adjusting the training and activities of inspectors so that their activities focus more on risk prevention than on punishing infringements.*

Those who advocate for European legislation explained that given that legislation is inconsistent across countries in the EU, simply improving enforcement or market surveillance, whilst providing some benefits, would not result in consistency. They see improvements in enforcement of existing rules as a complementary objective to be achieved at national level, but only as a first step in the approach to tourism accommodation safety across the EU. The implementation of data monitoring across EU Member States, the development of guidelines to transfer expertise to build up national legislation or the application of voluntary initiatives of the industry could also complement the process.

*Q.35. What experiences have been gained by using non-regulatory approaches in your country?*

A few examples were given by respondents on their experiences with self-regulation at national level.

ACCOR reported that in France this type of approach is allowed only in certain cases specified by the law, such as smoke exhaust system legislation. According to a large study on fire safety engineering (PN ISI: Plan National d'Ingénierie de Sécurité Incendie) the same level of safety can be reached by using alternative solution to regulation. This shows that alternative solutions allow reaching good safety level in existing hotels at acceptable cost for hotels.

COGDEM explained that in the UK local authorities, landlords, and student accommodations have followed a Duty of Care in regard to carbon monoxide and fire safety, installing voluntarily CO alarms in existing properties. Although the building regulation calls for new homes to have CO alarms in relation to certain fuels or new appliances, many groups have included alarms in all their properties.

As regards campsites, and to illustrate the sector's commitment to safety, Camprilux explained that the European Federation (EFCO & HPA) published a charter<sup>6</sup> endorsed by the former European Commissioner Christos Papoutsis, covering risk assessment, the establishment of contingency plans and customer information on risk. Also, Eurogites mentioned a project on Safety and Security in Rural Tourism services (not only accommodation), which includes a transnational manual, national versions, online training and self-assessment.

HOTREC and many of its members mentioned the MBS methodology and explained that it has been promoted in 15 European countries and it is widely accepted by the hotel industry across Europe. VISITA Sweden considered that this tool, as well as other similar voluntary initiatives (such as the Swedish "Fire Protected Hotel certification", etc.) bring a real added value. Members of DEHOGA in Germany equally reported that the MBS is widely applied in Germany, where exclusively positive feedback has been received on its implementation, in particular concerning the frequently used checklists contained in its Annex. ABTA however questioned how many hotels within those 15 countries described as promoting the methodology have committed to adopt this approach, and further stressed that they do not include two of the largest tourism markets in the EU, namely Spain and Greece.

The hospitality industry also claimed that more and more Member States with no "non-regulatory" approaches are gradually switching towards more performance-oriented regulations. For instance, in Italy, national regulations are being reviewed and will allow, as an alternative to the current "regulatory" approach, the adoption of an "engineering" performance-oriented approach.

From their side, the tour operators industry referred to ABTA's Technical guide, a non-regulatory approach used by many accommodation providers and travel providers for the past 15 years as the basis to measure accommodation safety provisions. It was introduced in 1999 and it took a number of years to become accepted as good practice norms by accommodation providers. These now implement changes to their safety features where defects are identified,

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<sup>6</sup> <http://www.efcoha.eu/intranet/docs/EFCO-FICC%20Charter.pdf>

although in some instances are reluctant to incur the costs involved. Whilst the situation has gradually changed, adherence to the principles in the ABTA Technical Guide is by no means comprehensive across all properties used by the ABTA members.

Finally, some indicated that the non-regulatory approach does not work. FireSafety International gave the example of the UK, where risk assessment has been picked up by the larger organisations while the smaller operators are still confused after many years of this new fire safety requirement.

*Q.36. Which would be the practical advantages of the use of self-regulation at European level?*

Main **advantages** mentioned by respondents, especially by the hospitality industry, were:

- Speed: any solution can be implemented considerably more swiftly than a legislative approach.
- Ownership: it is widely accepted by the industry, by opposition to most other tools, and may therefore be more willingly entered into.
- Flexibility: it can take into account important innovations and continually adjust in response to developments.

In addition, it was mentioned that self-regulation is not in conflict with any prescriptive rules (acceptable by each country). Some also mentioned that it can be enforced with a label such as SAFEHOTEL, which can in turn reduce the use of Member States' resources to enforce and inspect tourism accommodation.

As **disadvantages**, respondents explained that self-regulation can be ignored or interpreted in many ways which will not always lead to the safest solutions.

Another point made by respondents was that accommodation suppliers that choose to participate in voluntary compliance measures are clearly already taking compliance seriously, and as such, are less likely to create significant risks for consumers. On the contrary, those who ignore voluntary approaches are more likely to have issues with compliance, and in the absence of compulsion, are unlikely to address safety hazards where they are present. Such an approach would ultimately lead to reduced costs for the irresponsible operators, creating further price differentials in what is already a price-sensitive market.

A further element of concern mentioned is the difficulty of seeing self-regulation applying to the holiday homes market, very fragmented and with no obvious body which would act as a lead in implementing any solutions.

*Q.37. What would in your view be the role of the Commission or other EU institutions in the context of self-regulation?*

Although many questioned the effectiveness of further self-regulation on tourism accommodation safety within the EU, many respondents (public authorities, fire services, and hospitality industry and tour operators alike) recurrently suggested a number of actions for the Commission, both in the context of self-regulation and beyond. In their view, the European Commission should:

- Carry out a complete study and comparison of the safety regulation of the Member States, to identify deficiencies which may exist in several regulations.
- Organize the collection and dissemination of existing best-practices in the field of tourism accommodation safety
- Frame and make compulsory the collection of accident data in tourism accommodation.
- Publish advisory guidelines on specific safety issues with a minimum recommendation to be adhered to.
- Promote the MBS methodology and other similar voluntary initiatives such as the SafeHotel label.
- Carry out comprehensive awareness raising and information campaigns.
- Create an online portal where output of the above actions would be available.
- Provide funding for training.

*Q.38. Could the MBS Methodology be used as a basis for the compilation of best practices and the identification of self-regulatory norms, with appropriate adaptations?*

The degree of support by respondents to the MBS was varying: large hotel businesses and hospitality associations agreed that *the MBS Methodology should be the reference of the European fire safety in hotels (ACCOR)*. They explained that for hotels built long time ago, it is very difficult to comply with the latest local prescriptive regulations and the introduction of flexibility and alternative solutions is necessary; the MBS methodology provides this flexibility and is applicable in all Member States without entering in conflict with current regulations, given that it is based on risk assessment. An example regarding CO detection was provided: MBS requires CO detection where there is a CO risk. If a local regulation is allowing fuel heating in guest rooms, CO detection must be installed in each room. If there is no risk of CO in a room, no CO detection is needed.

Some respondents indicated that initiatives such as the MBS Methodology *could only be effective through the imposition of a legal obligation to adopt its provisions with appropriate enforcement and sanction provisions (HolidayTravelWatch)*.

Supporters of the MBS emphasised that while the MBS guidelines may be used to supplement local or national rules, these latter are the only binding regulations and prevail in case of discrepancies.

Representatives of specific sectors of the accommodation industry such as camping and mountain huts stressed nevertheless that a distinction should be made of the type of accommodation; as Camprilux explained, *a methodology specific to hotels cannot be used without adaptation for other types of accommodation such as holiday parks and campsites. Even the language used is different, to say nothing of the physical infrastructure*. Further, some hospitality associations explained that it would be more difficult to implement for SMEs, whose organisational structure may not be compatible with the use of such methodologies.

Finally, a number of respondents stated that self-regulation without any objective control is inadequate.

*Q.39. Which adaptations to the self-regulatory instruments currently in place would be necessary to fully achieve their objectives?*

Respondents focused both on the concept and the content of the MBS methodology in particular when replying to this question.

Tour operators showed uncertainty regarding the ownership of the MBS Methodology and indicated that in order to act as any sort of framework for safety it would have to be in public ownership and available for use by the entire industry without restriction. ABTA added that *the Commission would need to secure unequivocal ownership of that methodology, including the right to make such changes to it as may be necessary and appropriate in order to secure an effective solution*. Some suggested that a Stakeholder Committee representing balance between industry and consumers should be established to ensure that the methodology is fair to all parties.

Many indicated that, since the MBS is modelled on fire safety, extensive revision would be required before it could be used as a comprehensive approach to all aspects of tourism accommodation safety. As Malta explained, *the adaptations must include actions which will fully cover all safety issues relevant to a hotel business*.

HOTREC and a number of its members were against any change from the current performance based approach backed-up by local risk assessments to a prescriptive approach, and suggested to have translations to languages of all Member States, and to facilitate the dissemination of national versions in a less formal design (e.g. with pictures comparing good and bad practices) tailored to the audience (the supporting workforce with limited knowledge and responsibility) but covering all necessary knowledge in their area.

ABTA shared a document with detailed suggestions resulting from an initial review of the draft MBS methodology carried out by a fire consultant.

Other than the MBS, tour operators agreed that ABTA's Technical Guide would constitute a workable self-regulatory framework, and acknowledged that this would need detailed consideration by other tourism stakeholders.

*Q.40. What is the most effective way to monitor voluntary safety measures?*

While there was generally agreement that monitoring voluntary safety measures in relation to the safety of tourism accommodation services is difficult, respondents took differing positions regarding this question. A first group (consumer organisations, tour operators) questioned the principle of monitoring voluntary safety measures, as these would not apply to all providers and no effective measure could be taken for non-compliance.

A second group (hospitality industry, fire services) suggested a number of options, from the introduction of some kind of formal reporting and monitoring of the evolution in the number of major incidents causing injuries/casualties in hotels over the years, to the promotion of voluntary labels (such as Safe Hotel). In line with this, the remark was also made that while indeed international hotel chains have achieved significant success in imposing high standards of safety across their properties, this approach might not prove useful for smaller businesses.

Some public authorities explained that the most effective way to monitor voluntary safety measures is the systematic checking of measures by specific bodies or independent third parties.

Finally, the role of social media as a powerful instrument for quick and global announcement was highlighted by some respondents.

*Q.41. What are your views on knowledge sharing regarding voluntary tools across the EU (benefits/drawbacks, potential difficulties, success stories, etc.)?*

The vast majority of respondents agreed that sharing knowledge and best practices is always beneficial and helpful, although many highlighted that this is not a substitute for legislation.

On the practical side, some explained that *there are significant language barriers and few voluntary tools to share other than those applied internally by large companies* (Eurosprinklers). According to the experience of a hotel fire safety consultant, *most European hotel owners/operators other than the large international chains want to do no more than the legal minimum and are not interested in any activities unless so prescribed*. In turn, large hotel businesses like IHG offered to share their standards and strategic framework and encouraged the sharing of best practice to support safety.

Some public authorities suggested that a database could be created in which any observations made by the Member States on the implementation of voluntary measures are recorded, which could also serve as the basis for the exchange of knowledge and experience.

The hospitality industry considered that this should be one of the priority areas for the Commission, as it would help raising the general expertise on tourism accommodation safety in Europe. In the same lines, and specifically on CO issues, COGDEM mentioned the roundtables they have hosted in previous years, bringing together representatives from related areas to share their CO activities and explained *how these workshops have been successful in sharing best practice ideas and projects and show that there is an interest to learn from others*.

*Q.42. Do you have any other comments or suggestions regarding tourism accommodation safety?*

Although respondents shared their views and concerns in their exhaustive answers to previous questions, a recurrent final remark related to the sharing economy and tourism accommodation provided through peer-to-peer channels: while some acknowledged that these are interesting innovations in themselves, there was a general concern that the growth of this new unregulated parallel market may give rise to significant consumer protection issues as many such accommodations may have safety shortcomings.

In the view of many respondents, this emerging segment of the market should be the first and foremost area of focus of the various authorities (European/national/local) involved in tourism accommodation safety.

## **5. NEXT STEPS**

The Commission will evaluate the suggestions and proposals and will decide in consequence the most appropriate course of action.