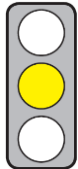


KEY ISSUES

Objective of the Green Paper: The Commission wants to get an insight into national safety regulations for tourist accommodation to assess if EU-wide follow-up measures may be necessary.

Affected parties: Consumers, providers of tourist accommodation



Pro: Information, available EU-wide, about safety regulations in the Member States and how they are monitored and enforced can make safety one of the parameters in the international competition to attract tourists.

Contra: The decision on "special safety measures" for "vulnerable" consumers – namely for old people in relation to fire safety measures – should be left up to the Member States.

Content

Title

Green Paper COM(2014) 464 of 22 July 2014: **Safety of Tourism Accommodation Services**

Brief Summary

► Context and objectives

- The Green Paper is concerned with the safety of European tourist accommodation. The Commission includes in this a broad spectrum ranging from hotels to holiday apartments and youth hostels through to camp sites.
- In 2013, 2.6 billion nights were spent in European tourist accommodation (p. 4).
- According to a Commission survey, overnight guests feel a "high level" of safety in the EU (p. 4). Only 6% of respondents reported "safety issues" during their main holiday in 2013 (Annex I).
- With this Green Paper, the Commission wants (p. 10, 18)
 - to present its ideas and thoughts on how the confidence of providers and consumers can be increased, including, where necessary, by way of follow-up measures at EU level and
 - to collect additional information on the safety of tourist accommodation by holding a public consultation.
- The Commission asserts that the safety of tourist accommodation is the competence of Member States (p. 5).

► Tourist accommodation and national safety regulations

- According to the Commission's definition, tourist accommodation offers short-term – usually lasting up to one month – accommodation in return for a fee. This includes, in particular (p. 8 et seq.)
 - hotels and "similar" accommodation as well as motels,
 - holiday houses and cabins, children's and other holiday camps, visitor apartments and "bungalows", chalets, youth hostels and mountain refuges,
 - camp sites, recreational camps, fishing and hunting camps, protective shelters and bivouac facilities for tents, and
 - private holiday accommodation such as houses and apartments.
- There are varying safety regulations for tourist accommodation in the Member States (p. 7). These relate for example to
 - the "state" of the premises, such as furnishings and balconies, and of the grounds, such as playgrounds,
 - qualifications of the providers and
 - official monitoring.
- The Commission wants to determine the "level" of the safety regulations in the Member States (p. 6, 11).
- The "safety level" of tourist accommodation depends on whether (p. 7, 9, 11, 12, 13; Annex I)
 - the premises and grounds have unrestricted access,
 - there are regulations on fire safety,
 - there are regulations on "carbon-monoxide risks", e.g. leakage due to improper use of heating systems,
 - the safety regulations of the Member States "consistently" define tourist accommodation according to type, age, size and height,
 - there are evacuation and emergency plans and equipment to reduce damage in case of accidents,
 - there are procedures in place for reporting risks and accidents to the authorities,
 - providers of tourist accommodation are qualified and their staff have been trained,
 - the safety of "vulnerable" consumers – such as the elderly, families and people with permanent disabilities or temporary "physical impairments" – is considered and
 - there is "safety management" i.e. a procedure enabling risk assessment.

► **Application and monitoring of safety regulations, cooperation between Member States**

- The Commission wants to examine the application of safety regulations. In particular, it wants to determine whether staff and managers of tourist accommodation are "regularly" trained or gain qualifications in relation to the safety regulations. National curricula and vocational training courses will also be examined in this regard. (p. 14 et seq.; Annex I)
- The Commission wants to assess the monitoring and enforcement of the safety regulations in the Member States (p. 10). For this it wants to find out whether the Member States (p. 10, 15)
 - have appointed authorities to monitor compliance with safety regulations and, where necessary, are able to take "appropriate" measures, e.g. stricter monitoring and fines,
 - provide administrative cooperation and exchange of information between the national authorities,
 - have laid down indicators for measuring and monitoring compliance with safety regulations ("compliance"),
 - "systematically" collect and assess data on accidents and injuries in tourist accommodation; according to the Commission, comparable data from the different countries has so far been lacking because the Member States fear "reputational cost"; it wants to find out how "minimum harmonized" data can be effectively collected.
- The Commission wants to find out which areas of tourist accommodation safety are most suitable for closer cooperation between the Member States (p. 11).

► **Impact of varying safety regulations**

- The Commission wants to identify possible gaps in the safety regulations in the Member States. This will prevent the situation where safety regulations in the Member States fail to "apply appropriately" to "service providers operating across borders" – especially international hotel chains – which can therefore "elude" such measures. (p. 6 f.)
- The Commission wants to examine whether differences in the national safety regulations (p. 12)
 - "distort" the internal market and
 - restrict the cross-border supply of tourist accommodation.

► **Taking account of SMEs and "vulnerable" consumers**

- 97% of providers of tourist accommodation are "microenterprises and small businesses". The implementation of safety regulations is more "time consuming" and "cost intensive" for "small and medium-sized" enterprises (SMEs) – the Commission defines these as tourist accommodation providers with up to 249 employees – than for large ones. Therefore the Commission wants to achieve the "right balance" between lower administrative costs for SMEs and the need for consumer protection. (p. 12; Annex I)
- The Commission wants to investigate "special safety measures" for "vulnerable" consumers. It includes in this a special degree of attention for people with permanent disabilities or temporary "mobility impairments" – not least old people – in relation to fire safety measures and evacuation and emergency plans. (p. 13)

► **Regulatory level and alternative instruments**

- The Commission wants to examine whether local, national or European safety regulations relating to tourist accommodation are most "effective" (p. 15).
- The Commission wants to examine whether service standardisation can give more attention to "safety issues" (p. 14).
- The Commission wants to examine whether voluntary guidelines – e.g. the guidelines to implement the Council Recommendation on fire safety (known as the MBS Methodology) issued by the Association of Hotels, Restaurants and Cafés in Europe (HOTREC) in 2008 – and codes of conduct on "best practice" are just as effective as statutory measures for harmonising safety regulations EU-wide (p. 16; Annex I).

► **Recommendation on fire safety**

The Commission is considering a review of the Council Recommendation on fire safety in existing hotels (86/666/EEC). The Recommendation so far only contains principles for fire safety regulations in the Member States, e.g. for escape routes. The Commission calls for the "highest possible" level of fire safety for hotels in the EU. (p. 10)

Statement on Subsidiarity by the Commission

Although the Member States are responsible for the safety of tourist accommodation, the "cross-border dimension" indicates a need for consideration in all Member States (p. 5).

Policy Context

The Commission already looked at the safety of tourist accommodation in the Recommendation on fire safety in existing hotels (86/666 EEC) and the accompanying report on the implementation of the Recommendation [COM(2001) 348]. In the report on the safety of services for consumers [COM(2003) 313], it saw a need for data on accidents occurring in tourist accommodation to be collected as a matter of priority. In the Agenda for a sustainable and competitive European tourism [Communication COM(2007) 621], the Commission identified the safety of tourists as a fundamental requirement for the development of tourism in the EU. It put forward a similar argument in the Communication on Tourism Policy [COM(2010) 352; see [cepPolicyBrief](#)], in which it announced that it would work towards political initiatives to improve safety regulations for tourist accommodation, particularly as regards fire safety.

Options for Influencing the Political Process

Directorates General:	DG Health and Consumers
Committees of the European Parliament:	Transport and Tourism (leading), Rapporteur TBA; Employment and Social Affairs; Environment, Public Health and Food Safety; Industry, Research and Energy; Internal Market and Consumer Protection; Regional Development; Culture and Education
Federal Ministries:	Economic Affairs and Energy (leading)
Committees of the German Bundestag:	Tourism (leading); Legal Affairs and Consumer Protection; Economic Affairs and Energy
Consultation procedure:	All citizens may express their opinion. The procedure ends on 30 November 2014; http://ec.europa.eu/dgs/health_consumer/dgs_consultations/ca/consultation_20141130_tourism_en.htm

ASSESSMENT

Economic Impact Assessment

Information, available EU-wide, about safety regulations for tourist accommodation in the Member States and how such regulations are monitored and enforced may increase transparency particularly for foreign travellers. It facilitates the assessment of whether the safety regulations in a Member State correspond to a person's own need for safety, and **can thus make safety one of the parameters in the international competition to attract tourists.**

The same applies to the "systematic", EU-wide collection of data on accidents and injuries in tourist accommodation. It is, however, unclear what the Commission means by "minimum harmonised" data. In Member States where there has previously been no collection of data, collection costs will arise.

It is questionable, however, whether consumers also really use EU-wide information because the safety of tourist accommodation appears, in practice, to be assured. The Commission itself admits that only 6% of tourists experienced "safety issues" during their main holiday in 2013. There is therefore a risk that the additional administrative burden is out of all proportion to the potential gain.

In the event that international hotel chains and other cross-border providers of tourist accommodation can avoid complying with safety regulations of Member States due to regulatory gaps, competition could be distorted to the detriment of national providers. Possible regulatory gaps affecting cross-border providers must therefore be closed.

The Commission's concerns that differences in the national safety regulations "distort" the internal market, are unfounded. Although differences in the level of national safety standards result in varying costs for providers of tourist accommodation, so that providers from a Member State with high safety standards are subject to higher costs and therefore higher prices, this does not give rise to "market distortion" because the safety of tourist accommodation is a service feature to which consumers attach individual importance. Consumers with a greater need for safety are correspondingly willing to pay for it and will choose tourist accommodation in a Member State with high safety standards. This is subject to the proviso, however, that consumers are able to inform themselves without too much difficulty about the differences in national safety regulations.

The decision on "special safety measures" for "vulnerable" consumers – namely for old people in relation to fire safety measures and evacuation and emergency plans – should be left up to the Member States. They have sufficient incentive to take appropriate account of the interests of this group. If they fail to do so, the providers of tourist accommodation themselves also have an incentive, in the competition for the growing number of old people, to introduce safety standards which are appropriate to that group. Measures at EU-level should be restricted to the introduction of quality labels in order to increase transparency and intensify competition.

The idea of giving greater consideration to "safety issues" in the standardisation of services and safety regulations, by way of voluntary guidelines and codes of conduct, gives the Member States scope for divergence according to national preferences. This is a decentralised, market-based approach.

Legal Assessment

Legislative Competency

The power to take possible follow-up measures relating to the safety of tourist accommodation depends on the nature of the content:

In the tourism sector, the EU only has the power to promote and complement (Art. 195 TFEU). It is only permitted to promote and/or complement the existing measures of the Member States in the tourism sector by way of statutory or non-statutory measures; harmonisation of national legislation is expressly excluded (Art. 2 (5), Art. 195 (2) TFEU). In concrete terms, the EU can, on the one hand, adopt measures to create favourable conditions for the development of providers in the tourism sector, e.g. by financial support for SMEs (Art. 195 (1) (a) TFEU). On the other hand, it can promote cooperation between the Member States, e.g. by way of the exchange of ideas on best practice (Art. 195 (1) (b) TFEU). In both cases, Member States must already have taken the initiative for such measures.

In addition to the power to promote and complement, the EU can only adopt measures for the approximation of laws in the internal market (Art. 114 TFEU) if the principal objectives, content and intended effects of the measures relate to the internal market (cf. European Convention, CONV 375/1/02 REV 1, p. 12).

In addition, the Council and the Commission are competent to make recommendations – e.g. on fire safety – (Art. 292 TFEU). Since these are non-binding on the Member States, there is no need for a material basis for the competence.

Subsidiarity

Not currently assessable.

Proportionality with Respect to Member States

Not currently assessable. Statutory provisions are disproportionate if appropriate voluntary guidelines suffice.

Compatibility with EU Law in other Respects

Not currently assessable.

Impact on German Law

Not currently assessable.

Conclusion

Information, available EU-wide, about safety regulations for tourist accommodation in the Member States and how such regulations are monitored and enforced can make safety one of the parameters in the international competition to attract tourists. It is questionable, however, whether consumers use EU-wide information because the safety of tourist accommodation appears, in practice, to be assured. The decision on "special safety measures" for "vulnerable" consumers – namely for old people in relation to fire safety measures – should be left up to the Member States.