

ANEC Response to questionnaire in the Green Paper "Safety of Tourism Accommodation Services"

Questions from the Green Paper "Safety of Tourism Accommodation Services" are referred in this document with answers from the perspective of ANEC, the European Consumer Voice in Standardisation.

We reiterate our views regarding the limits of Recommendation 86/666 EC and the need for more attention emergency planning, fire safety management, and staff training and awareness, i.e. on issues which can be addressed in new and old accommodations, irrespective of size.

We stress that all consumers are entitled to benefit from a minimum standard of safety throughout Europe, and hotels need to be provided with reference to good practices in order to achieve this.

We also refer to consumer expectations regarding market surveillance, accessibility aspects in accommodation services, children safety and our experience in related standards.

We highlight the crucial role of proper risk assessment for measures to be proportioned and appropriate to the size and nature of the accommodation service.

A risk based approach will allow for proportioned actions and compensatory features where appropriate.

Finally, we raise attention to the importance of collecting and sharing accident data in a consistent manner. Reliable and up-to-date accident and injury data are of huge importance to a wide range of stakeholders including governments, businesses, consumers, standards developers, enforcement authorities and prevention agencies.

Existing instruments

National level

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

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.

Although some national rules may have been upgraded over the years and achieved a lowering of risks, there is no minimum level applied within Europe. Differences among national and local regulations addressing risks in tourism accommodation services can create lack of consumer protection as long as common minimum requirements aren't set. Consumers will expect to be safe in any accommodation across Europe, but there is no certainty to this.

At national level there are examples of countries where businesses work in absence of fire safety standards and fire services have no power to require changes in the absence of compulsory rules.

European level

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

The recommendation of 1986 on fire safety in existing hotels cannot take into consideration more than 20 years' developments in the accommodation constructions and only applies to part of the establishments. ANEC would thus like to stress the importance of making sure that any updated legal text at the European level is applied to all hotels, not just to new, 'converted' or renovated ones. Moreover this Recommendation was only related to the fire safety aspect.

ANEC considers that staff training, fire safety management, and emergency planning are areas which need to be improved and strengthened in any new regulatory approach.

ANEC has been addressing the gaps for services safety at European level and the need for a revision of the 86/666/EEC or development of a new legislative tool for many years now.

The debate on the revision of council recommendation 86/666/EEC itself started among member states and institutions long ago. Already the 2001 Report of the Commission on the application of Council Recommendation 1986/666/EC highlighted that half of the countries surveyed had not accepted the measures of the Recommendation with retroactive effect and had "only applied the measures in the case of conversion or extension work". Moreover, the present Recommendation refers only to hotels with more than 20 beds. This omits a wide range of accommodation. The 2008 European Parliament Study on application of the Recommendation identified several policy options. Some stakeholders considered that an update of the Council Recommendation was not enough, and that a binding instrument in the form of a directive was needed. FTO/ABTA commissioned analyses of the implementation of the Recommendation in 2000 and again in 2009. These confirmed inconsistencies in implementation of the Recommendation (especially as some Member States applied it only to new or renovated hotels). More recently the 2013 study of

the European Parliament Briefing Paper: “Hotel Fire Safety - The case for legislation¹” also made a case for legislation in this area highlighting the changes in the sector over more than 20 years.

Enforcement is clearly crucial for any safety measures to be effective.

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

All consumers are entitled to benefit from a minimum standard of safety throughout Europe, and hotels need to be provided with reference to good practices in order to achieve this.

ANEC calls for legislation that covers emergency planning, fire safety management, and staff training and awareness, i.e. on issues which can be addressed in new and old hotels, irrespective of size. Stronger protection for people with disabilities is also missing.

Monitoring and enforcement

It is relevant to know whether there are requirements for market surveillance in tourism accommodation safety-related legislation in Member States. Such requirements relate to obligations in terms of:

1. Establishment of authorities responsible for monitoring service safety and with powers to take appropriate measures,
2. Procedures for exchange of information on policy and regulatory developments,
3. Administrative cooperation between the authorities,
4. Systematic collection and assessment of data on risks of services,
5. Development of enforcement indicators for compliance monitoring

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

Responsibility for enforcement is at different levels of administration in different countries. This will add on inconsistency of approaches.

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

Market surveillance means different things in different countries. This leads to inconsistencies and, above all, sees insufficient resources available. As a result, the consumer expectation for safe products – let alone services - is not always met.

¹ Briefing paper on Hotel Fire Safety from the European Added Value Unit of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Internal Policies (DG IPOL) of the Secretariat of the European Parliament. The paper was requested by the Coordinators of the Committee on the Internal Market and Consumer Protection.

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

Already in the products area, ANEC underlined there is an urgent need to establish a European framework for market surveillance in order to ensure a coherent approach to market surveillance activities across all EU Member States and to make more financial and human resources available for market surveillance activities. Enforcement is key and authorities need to commit to making enforcement as effective and efficient as possible. Our collective aim should be a cost-effective level of safety that reflects the needs of both the consumer and the industry; and it is important that the level of safety is achievable by the industry and easily identifiable by the consumer.

One of the ways more efficiency can be achieved is 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.

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?

Exchange of best practices related to risk assesment, staff training, education about emergency preparedness. Collaboration on sharing of accident data would also be useful.

Enforcement would remain the main challenge.

Consistency of national approaches

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 instruments.

The actual safety level of a service is determined by the aggregate effects of the following main components:

6. Safety of the remises, structures and equipment used for providing the service;
7. Safety management (including risk assessment to evaluate the extent of the risk and take the appropriate safety measures accordingly);
8. Qualifications of the service provider;
9. Staff training;
10. Availability and quality of the information on safety aspects of the service provided to the users/consumers;
11. Availability of evacuation plans, emergency procedures and equipment to reduce damage in case of accidents;
12. Notifications to authorities on risks and accidents;

In particular, for tourism accommodation services special attention is needed for²:

13. A consistent definition of tourism accommodation premises (type, age, size, height);
14. Accessibility aspects;
15. Specific requirements for vulnerable consumers;
16. Fire related risks;
17. Carbon monoxide (CO) related risks.

Q 9 – How is tourism accommodation defined in your national relevant legislation? N.A.

Q 10 – Are the definitions of type, size, height and age of tourism accommodation establishments present in existing legislation suitable? N.A.

Any common definition of hotel accommodation needs to be broad. Although it is important to have clarity on categories of accommodation concerned, we remind of the difficulties experienced in ISO in the attempt of standardising terms and definitions in the tourism area. A thorough investigation on common definitions would bias the focus from what is really important: how to improve safety of services provided in any paid for accommodation. The scope of the Green Paper should focus generally on paid for accommodation.

Q 11 – Are the requirements listed above present in the existing national legislation?

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

Yes. Accident statistics indicate that carbon monoxide (CO) poisoning is the cause of several deaths each year. In addition, many other consumers become ill, realising that a faulty or poorly-maintained gas appliance is the cause, but such incidents are often not recorded.

Provisions for the installation, maintenance and operation of gas appliances in tourism accommodations is crucial to prevent accidents. Better reporting should also be among priority objective.

Q 13 – Is risk management integrated in relevant national legislation? N.A.

Q 14 – Is the difference in existing regulatory frameworks likely to affect the safety of tourists? Is this impact rather related to the enforcement of such framework? Could you please provide some concrete examples?

² Food safety issues are excluded from the scope of this paper as they are specifically covered by Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, OJ L 31, 1.2.2002, p. 1–24.

As expressed in answers above, the consumer will have an expectation to be safe anywhere in Europe paid for tourism accommodations. With currently fragmented requirements consumer safety cannot be ensured.

Enforcement is crucial at national level and that is both negative and positive for risk assessment. Risk assessment is thus an example of how basic principles need to be set for all countries possibly in a European or international standard for risk assessment.

Impact of the existing regulatory situation on the Internal Market

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?

Large multi-national chains generally implement their own standards which are often high but the small independent organisations will need more guidelines to meet at least minimum statutory standards.

Companies working cross border will need to adapt to different requirements and we understand from the colleagues in the TASC campaign that they bear costs. For the consumer however it remains to be assured that the services offered are safe wherever they travel across Europe.

Accommodation providers that fail the safety requirements will also incur into costs for non-compliance and compensation for any accidents.

Cross-cutting aspects

Small and medium-sized enterprises

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

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

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

ANEC Comment:

The measures that would result from new legislation suggested by ANEC are probably already in place in hotels that are genuinely safe by meeting or exceeding legal requirements. The

requirements ANEC is seeking are not meant to create an obstacle to hotels but support to the efforts they make.

Accessibility and vulnerable consumers

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?

There is a need for a change in mindset to understand that accessibility is an added value for ANY tourist/traveller and in all parts of his/her trip. A tourist/traveller 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, as we luckily live in an aging society that will possibly be in sufficient health and wealth to travel when older. Tourism service providers in EU could use this to their competitive advantage.

Problems encountered by users with special needs are often due to lack of disability awareness training of tourism staff, leading for example to tourism facilities being advertised as accessible but being not, or possibly accessible for certain special needs but not advertised as such. Lack of access to on-line information is the first obstacle that needs to be overcome by tourists with disabilities, especially blind and visually impaired consumers.

It is therefore welcomed that studies commissioned by DG ENTR recognize these gaps and promote good practices. However we would regret it if no obligatory requirements are expected from providers on (e.g.) training for accessible tourism and related services provision further to the DG ENTR tenders for exchanges of good practices.

Regulations should allow the tourism experience to be a seamless sequence of accessible services from transport to all tourism offer (door to door). It would not be useful to have an accessible hotel or museum if the transport means to reach them are not accessible.

Regulation and standards should also allow for harmonized labels/symbols.

Q 20 – Beyond accessibility issues, which are in your view the aspects regarding safety in tourism accommodation for ageing population which should be considered?

Services markets can be expanded by addressing even minor impairments that elderly consumers can present. Beyond ensuring accessible routes as such, service providers should increase awareness and knowledge in the areas of: - usability of services and environments- alternative format and layout of information- use of clear language in written or spoken communications (at all stages of service provision)

[CEN-CENELEC Guide 6](#) 'Guidelines for standards developers to address the needs of older persons and persons with disabilities' is a public document that provides very useful examples of main factors that need to be taken into account when making services or products adaptable to different users.

ANEC has had a leading role in raising awareness in standardisation bodies about the use of this guide.

The recent [ANEC Position Paper: How standardisation can support the silver economy: Wiser standards for an ageing world](#) gives for more information about how ANEC has been focusing among its priorities on accessibility, and safety of people with disabilities and older people. In the paper ANEC expresses regret that standards tend to focus on mainstream consumers and do not always address the needs of the older consumer. However, ANEC believes both standards and legislation need to be inclusive and standards can play a big role in making services safe and accessible to all consumers, whatever their age and ability.

Q 21– Beyond accessibility issues, which are in your view the aspects regarding safety in tourism accommodation for people with disabilities which should be considered?

Accommodation safety is an aspect where at least minimum common safety requirements are expected all over Europe. Not only the access to all should be ensured, but also access to information at all stages of the service provision and - most importantly the safety of evacuation of each tourist.

Information provision should be available in alternative formats so as to be accessible by all consumers, irrespective of their abilities (e.g. print format, on-line content, audio and video formats). Information provided over the Internet (including downloadable documents) needs to be accessible for visually-impaired people or others who use assistive technology to access information on websites.

Q 22 – Which are in your view the aspects regarding safety in tourism accommodation for persons under 15 which should be considered?

- safety of balconies and glass doors, safety of swimming pools, safety of leisure activities

Safety of balconies

Accidents involving children falling from balconies and in swimming pools have brought ANEC to carry out research on children climbing skills and participate in standards related to Requirements and test methods for hardware for windows and balcony doors. Since 2004, ANEC has been studying the climbing skills of children in order to gain a clearer understanding of how children learn to climb and what are their precise abilities. In 2009 the ANEC study has shown the design of certain barriers, intended to prevent falls, may actually encourage falls through providing a framework on which a child can climb.

Until the ANEC study, it was thought that a simple barrier of 1,1m in height provided sufficient safety for children up to 5 years of age. However, the latest ANEC study has shown that a simple barrier of this height stopped less than half of the children tested.

More and more there are national standards for balconies and stairs barriers. New hotels being built today usually have safer balconies. The problem remains with older facilities and also

SME's providing accommodation. Better risk assessment and changes (and market surveillance) may be required in many cases.

The height of the barrier and making it difficult to climb seems to be even more important around **swimming pools**, to prevent drowning as often the child is attracted by the water. Other safety measures for swimming pools is the protection of the access to it, or the mandatory presence of a life guard during operating hours.

Glass doors – again this is linked to building and accessibility regulations: not only the glass should be resistant to impact or if it breaks should not create sharp and cutting edges (laminated or tempered glass), but also big glass panels should have warning signs at children's eye level. Often building or accessibility regulations only require these markings at adult's eye level.

Another issue concerning child safety in hotels is the **safety of leisure activities and equipment** – playgrounds, trampolines, inflatable equipment – often not in compliance with European standards. Our members referred of hotels over Europe (even luxury ones) where cheap solutions often without maintenance are chosen for kids areas. Also the **child care articles** that are offered to consumers, in particular in older premises, are often not in compliance with European standards (cots, highchairs, booster chairs, etc...) and/or they are old, not well maintained and with hygiene issues.

More recently ANEC supported the draft Commission Implementing Decision on the compliance of EN 16281:2013 for consumer fitted **child resistant locking devices** for windows and balcony doors with the general safety requirement of the GPSD and that its reference would be published in the OJEU.

These areas show how wide is the difference between product safety being dealt with at regulatory level with the GPSD and standards underpinning the safety requirements sets in European legislation.

In contrast to the European system of product safety, based on legislation supported by standards, there is not such a comprehensive legal framework for the safety of services at the European level.

Information provision before the booking

Correct and precise information on risks and safety issues to the consumer prior to booking is of utmost importance. The consumer needs to know there is a swimming pool with/without professional supervision, a beach with / without supervision with/without practice of surfing activities (there are risks involved), there are insects (so if a consumer has an allergy, he should make an informed choice before choosing the place where he/she is going...).

Data on injuries and accidents

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.

- Insurance companies should be encouraged to share data with institution.

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

Collection of data is fragmented. Different collection methods exist and data are therefore difficult to compare.

Reliable and up-to-date accident and injury data are of huge importance to a wide range of stakeholders including governments, businesses, consumers, standards developers, enforcement authorities and prevention agencies. These data are critical in the setting of priorities; the development of policy; the determination of preventive actions and public awareness campaigns; the understanding of risk; the design of safety into new products; and the development of standards. Data are also needed to evaluate the effectiveness of preventive measures and therefore determine the value of further investment in prevention strategies.

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?

Safety is not a competitive issue! It may be the case for some enterprises that they prefer not to report accidents to avoid reputational issues (also through online reviews), however, it should become a legal requirement that accidents are recorded.

Lack of consistent data should not prevent institutions from taking preventive measures on the short term.

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

In March 2013, ANEC and 27 other European associations from across the economic & social spectrum, joined forces to call on the European Commission to establish a pan-European Accidents and Injuries Database. As co-leader of the coalition with EuroSafe, ANEC is convinced such a system would help define preventive measures and aid the assessment of the effectiveness of those measures. Moreover, the costs of creating the system would be vastly offset by reductions in health care costs.

An adequately-funded, single European database would prompt significant decreases in the costs associated with the medical treatment of injuries. Such a European injury and accident database would require a representative sample of emergency centres to record the cause of such accidents. Using this resource, national authorities would then pool and collate the data into a European system, helping manufacturers to adapt their products, providing a basis for public awareness-raising campaigns, assisting legislators and surveillance authorities and standardisers to make more informed risk assessment decisions and developing better product standards.

We also responded and follow with interest the initiative of DG SANCO for a European Commission Survey ‘A European map of systems for accident and injury data collection’. The Virtual tourism observatory developed by DG ENTR can also be used for specific collection of data in the tourism area.

Standards

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.

ANEC believes that the only way to achieve a minimum common level of safety in accommodation services is for the EU Commission to propose legislation that would cite formal European standards, published by CEN/CENELEC and developed with the participation of all interested parties. Formal guidance should also be provided to accommodation service providers on the prevention of risks and safety management.

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?

CEN and CENELEC certainly have useful insights of existing formal documents both at European and international level. We bring the example of ISO 16732-1 Fire safety engineering – Fire risk assessment. This international standard is for use by fire safety practitioners. The principles and concepts can be applied to any fire safety objective including safety of life and conservation of property for example.

Skills and training

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?

We draw attention to the initiatives of DG Enterprise on professional skills in the tourism area aiming at the development of a tourism skills competences framework: http://ec.europa.eu/enterprise/sectors/tourism/skills/index_en.htm

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

Different approaches of large companies versus smaller organisations should be taken into account.

Most appropriate level and instruments to address safety

Level

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

What is evident also from the background of this green paper is that there is a lack of a EU-wide regulation to harmonise minimum levels of safety with which accommodation providers are obliged to comply. Within the EU there are many different rules and laws at national level for the safety of services.

The lack of common regulation does not allow for the consumers to be aware of the safety levels of accommodations they stay in and leads to increased costs for the businesses operating cross border.

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?

Tourism is by nature a cross-border activity, therefore safety of these services should be addressed by minimum common requirements at the European level, so that consumers can be aware of what is the least safety condition they should expect.

Certainly member states should remain free to take further steps that go beyond the common minimum safety levels.

Moreover national and local enforcement and monitoring remains crucial.

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

Consumers' safety would be improved by common minimum requirements and businesses would reduce costs for their compliance to rules.

Q 34 - Could the same advantages be achieved by improving enforcement and/or market surveillance of existing national legislation?

Considering these aspects alone would not be sufficient. It would mean only looking at the existing safety requirements that we know are not good enough in some countries.

Improving the enforcement and market surveillance is a complementary objective to be achieved at the national level.

European institutions would need to set a better and more practical framework together with better enforcement guidance. The enforcement process would need to be more open and transparent and allow the consumer to be able to identify accommodation that meets these standards and also have an effective complaints procedure.

Alternative instruments

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

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

We don't see practical advantages in using self-regulation in the area of safety. The Recommendation 86/666 on hotel fire safety and MBS methodology proved the limits of voluntary approaches in the area of hotel fire safety. European standards are also voluntary and therefore would only have a strong value when cited in legislation.

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

European institutions need to acknowledge the limits of voluntary instruments in ensuring a minimum level of safety in services provision in Europe.

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 MBS methodology could provide the reference document for development of European standards developed with balanced representation of relevant stakeholders in European standardisation bodies and implemented in all Member States.

Again, standards would need to underpin a new legislative tool and not be standalone documents.

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

European standards are the preferred tool when legislation needs to be supported by specifications. This is also in accord with the Standardisation regulation.

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

We question the use of voluntary measures in the area of safety. Even if there was an effective way to monitor voluntary measures these would still not apply to all providers nor any effective measure could be taken for non-compliance.

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

Only those providers who already have good safety policy in place would be incentivised to participate in voluntary initiatives, with the others not being controlled.

Moreover a consumer would have no way of identifying safe services. We believe safety should not be considered as an optional aspect of service provision. A publicly available database of compliant hotels may also be conceived to incentivise service providers to abide by any new legal requirement on safety of services.

Final question

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

The topics that are subject to this consultation have been debated for several years now and recently the tourism safety area has been clearly identified by the institutions as an area to act on at the European level to improve the quality of European Tourism.

We ask that the Commission sets clear timeline for action in this important area to ensure the safety of millions of consumers that use tourism accommodations in EU member states every year.