

## EUROPEAN CITIES ALLIANCE ON SHORT-TERM HOLIDAY RENTALS

*Amsterdam, Athens, Barcelona, Berlin, Bologna, Bordeaux, Brussels, Cologne,  
Florence, Frankfurt, Helsinki, Krakow, Lille Metropole, Lisbon, Madrid, Milan,  
Munich, Paris, Porto, Prague, Utrecht, Valencia, Vienna, Warsaw and EUROCITIES*

### **FEEDBACK ON THE INCEPTION IMPACT ASSESSMENT ON THE SHORT TERM RENTAL INITIATIVE**

**Date: 13/10/2021**

To the attention of the European Commission, DG GROW  
Unit G3 – Digital transformation of industry

Dear colleagues,

We thank you for the publication of the above-mentioned Inception Impact Assessment (IIA) on the announced initiative for the Short-term accommodation rental services (STR). You know that this is a matter of great interest to our cities, as we have discussed with you on several occasions over the last few years.

With this input paper we would like to reply to some of the important issues that are raised in this IIA and share with you the perspective of European cities. We do so following the outline of the IIA.

The IIA coincides with a wider public consultation for stakeholders on the same initiative, and our alliance of EU cities will participate in this as well.

We will share the views presented here as well with the different stakeholders (both nationally and European) with whom we are in contact.

### **A) Context and Problem definition**

We can only agree with the IIA where it emphasises that STRs are an important and growing dimension in the tourism-sector in Europe.

The rise in STR in the precovid times has been very significant. In Amsterdam, for example, in 2013 there were about 4500 listings, which grew to 22000 by 2017. In Lisbon's historic district Alfama more than 55% of the apartments were used for STHR. The center of Florence has seen an increase of STHR of 60% since 2015. The city of Kraków recorded an increase of 100% of STHR between 2014 – 2017. These are just some illustrations of the impact of STRs in our cities. As the IIA indicates, the growth in STRs has given rise to various concerns in European cities.

We expect and hope that the Covid situation will allow for more people to travel and that tourism will regain its momentum. Our cities are a key driver in making Europe the world's number one tourist destination. Tourism is an important source of income and employment for many people. We are and will always remain welcoming to tourists. However, we have as local authorities a broader responsibility.

We underline that we are not against STR's in our cities. We need to ensure that all STR-activity is legal and respectful of the regulations that are in place.

The pressure on the affordable local housing market in each of our cities is a key consideration. Our cities are faced with a constant and high demand for affordable housing. And we first of all need the available housing stock to accommodate those citizens that wish to study, work and live in our cities. This is a principle general public interest that is the basis of each of our city's housing policy's. We would therefore like to see more recognition of this responsibility for ensuring affordable housing as a matter of public interest that lies (not exclusively) with local authorities.

We have been in any case encouraged firstly by the European Court of Justice (joined cases C-724/18 and C-727/18), where the Court acknowledged that combating the rental housing shortage is an overriding reason relating to the public interest justifying STR regulations.

And secondly by the European Parliament, who adopted in January of this year a resolution on the importance of "Access to decent and affordable housing for all". With this resolution, the European Parliament demands from the European Commission and the EU Member States to put forward a coherent response to the key challenges with providing affordable housing across Europe. One of the challenges identified is the expansive growth of short-term holiday rental and its impact on local housing markets. This is "removing housing from the market and driving up prices, and can have a negative impact on liveability in urban and tourist centres". The resolution calls on the Commission, referring to the aforementioned judgements from the ECJ, to give "*wide discretion to national and local authorities to define proportionate rules for hospitality services, including mandatory registration, limitation of permits and specific zoning policies, limitation of period, avoiding 'touristification', the emptying of urban centres, and the decline in quality of life there, to the detriment of residents*".

Ensuring the public order and liveability in our communities is indeed another important public interest, in relation to STR's and its growth in recent years. Cities have substantial concerns for the liveability of our districts because STRs tend to coincide significantly with nuisances in the public domain. A survey conducted in 2018 amongst citizens in Amsterdam, for example, found that 80% of the residents in the city-center experience nuisance from STRs. We believe that in the contextual approach of the IIA this responsibility for maintaining the livability in our city deserves also more attention. It is an important motivation for local authorities to regulate STRs in our cities.

From the viewpoint of consumers' interests as well as from the interest of ensuring a high quality in tourism-services, it is important also that STRs are legal and abide with the regulations that are in place.

Given our city's responsibility vis a vis the livability in our districts as well as the responsibility for ensuring affordable housing, we question the 'framing' of the regulations on STRs from the perspective of STR market players as being 'fragmented, burdensome and restrictive rules' (quote from the IIA). We will return to this issue hereunder.

## **B) Problem the initiative aims to tackle**

### ***On the issue of lack of data-sharing***

In line with these observations, we fully agree that the 'responsible development' of STRs should be the aim of any legislative initiative. We much welcome the recognition in the IIA that one of the key problems in achieving this goal is the fact that the competent authorities (often local authorities) lack the relevant data to ensure compliance with the regulations that are in place regarding STRs. The lack of access to relevant data also creates recurring problems with the fiscal aspect of this type of tourism (tourist-taxation).

The IIA is very correct where it states that online platforms have the relevant data that (local) authorities need to monitor the compliance with these regulations, and that mostly they indeed do not share them with the competent public authorities. Some platforms do, and we are thankful for that. But in particular large and very dominant platforms do not cooperate in this respect.

We fail to recognize the explanations that are given in the IIA as to the causes of this problem. And if the underlying causes of a problem are not clearly (or even wrongly) identified, then it will be hard to provide a solid basis for any legislative initiative that aims to solve this problem.

Firstly, to assume that the problem is related to 'uncertainty' regarding the applicable rules, is quite a remarkable perception. Both the online platforms as well as those citizens that engage in offering STRs in our cities, are perfectly placed to inform themselves on the regulations that are applicable in each of our cities. These regulations are totally transparent and public, and we actively communicate them. And should there be room for improvements in our communications on this, we will be very happy to work on that further.

The second explanation (given in the IIA) to this problem of lack of data-sharing is equally surprising: 'a lack of consistent and systematic requests from public authorities'. Should there be one consistent element in the demands from our alliance of eu cities on STRs over the past years, then this would be that we continuously ask the online platforms to share with us the relevant data that we need in order to ensure compliance with our regulations. In fact, much of the 'frequent litigation' that unfortunately characterize this sector (as is referred to in the IIA) is between public authorities demanding data from online platforms, which the later refuse to share. In particular we ask for regularly updated data related to the number of nights rented out per house/apartment. And again, should there be a wish that we become even more consistent and systematic in our data-demands, we will be very willing to cooperate on that with any online platform. It should not be an obstacle in data-sharing.

As a third explainer, the IIA mentions 'privacy concerns'. It is in fact an ongoing bottleneck in our communications with online platforms, that data on STR-advertisements which we need from the perspective of law-enforcement, are not shared by the platforms because of their unjustified claim that these data-demands would be incompatible with GDPR-standards. The point here is, that all customers of online-platforms that wish to use these platforms to offer STRs accommodation-services in our cities, need be informed by the online platforms (as part of their contract with the platform) that relevant data may be shared with competent public authorities (when they so request) with the sole purpose of ensuring compliance with the regulations regarding STRs that are in place. This is fully consistent with the GDPR-framework. It would be helpful and appreciated should the European Commission make an explicit and clarifying statement on this.

In conclusion, the lack of sharing of relevant data by online platforms is very rightly identified as a crucial issue to resolve. We thus welcome any (legislative) initiative by the EU to help us in this respect. We would be at the same time very open to discuss and see if data-sharing could be beneficial also for the online platforms, regarding for instance certain data on our cities that we would have access to. However, we note that none of the suggested reasons why the online platforms do not share the relevant data, are very convincing.

***On the appreciation of regulatory arrangements for STR in the EU***

This brings us to the other 'problem' that hinders the 'responsible development' of the STR-sector. Which would be, according to the IIA, the 'wide variety of regulatory and often burdensome requirements' across the EU.

If we agree that the aim of any legislation of STRs (be that local, regional, national or European) would be to ensure a 'responsible development' of this sector, then we would expect from the IIA a further reflection on what is meant with this goal. What is, in the viewpoint of the European Commission, meant with 'responsible development'? It might be helpful should this be further clarified.

Local authorities assume their responsibilities to find a reasonable regulatory balance in ensuring a sufficient supply of decent and affordable long-term rental housing for all who wish to live and work in our cities, whilst also accommodating tourism and related economic interests, and as well as safeguarding the liveability and public safety in our cities. Within this complex mix of interests, we develop regulatory arrangements that balanced and proportionate and that allow house-owners to offer STR by platforms in a responsible way. Responsible being, that there is a careful balancing of all these interests. The interests in this balance are, however, not inter-changeable. For it is clear that we as local public authorities have a primary responsibility for ensuring affordable housing for all as well as for the liveability and public safety in our communities.

Thus, while from the purely 'market' perspective of online platforms, these regulations for STRs may be perceived as 'burdensome'; from the perspective of local authorities they are regarded as balanced instruments needed to manage STR's in a responsible way.

Again, from the single perspective of online platforms, these differing regulations across the EU may be perceived as 'fragmented'. But the relevant social and economic environment where these regulations apply, is clearly the local or regional housing market. And yes, this housing market is very varied (or if you prefer 'fragmented') in Europe. So for any reasonable appreciation of the regulations that are put in place for STRs, this local housing market, in combination with the urban or regional public space where tourism and other related services are offered, are all combined the essential context.

The particularities of housing markets vary not only from Member State to Member State. They vary from region to region, as well as from city to city. And even within a city, there often are considerable differences in the housing market. And likewise, the societal impact of tourism within each city (or region) is very locally defined, as for example is evidenced when we consider the touristic attraction of the historical city-centers that we cherish. In short, from our perspective (as local public authorities) this variation in regulatory approaches to STRs, which is perceived a problematic in the IIA, reflects in fact an underlying reality of great variation in housing markets and in (touristic) use of public space across cities and regions in the EU.

It follows from these observations, that we are quite doubtful that an EU legislative initiative that would harmonize in a regulatory way the STR-sector across Europe's cities, regions and Member States, will be at the same time respectful of the needed balancing of the different public interests that are at stake. We also are doubtful if the EU has a competence to harmonize aspects of policies and regulations that are so clearly a part of our housing policies. We would again stress that the aspect of 'freedom of services' is only one dimension (or interest) in this.

On a final note, as part of the problems a possible EU initiative should aim to tackle, the IIA refers also to a 'lack of level playing field' where regulations for STRs do not differentiate between those who offer STRs 'occasionally' (so-called peer-to-peer services) and those who offer STR's on a professional basis.

In the majority of European cities, when it comes to the services offered for STRs, this distinction is hardly relevant. In fact, given the very limited availability of housing stock in most of our cities, there are only very few situations where it is allowed to 'professionally' exploit an accommodation through STRs. The reason being that in most of our cities the primary aim of our policies is to make this housing stock as much as possible available for those citizens who wish to work and study in our cities. The professional market for accommodation for tourists is regulated in separate regulatory regimes, for instance for hotels and bed-and-breakfasts.

We thank you much for taking these observations further into consideration when advancing on your possible EU initiative on STRs. And we look much forward, as always, to remain in contact with you in your next steps.

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