
HOTREC

Position Paper on EU-wide Regulation of Short-term Rentals (Short Version)



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01. Foreword

HOTREC first addressed the issue of regulating Short-Term Rentals (STR) in a [2014 position paper](#) on what was known at the time as the ‘emerging shadow economy’, underlining the pressing need to establish a level playing field across the tourism accommodation services sector for the good of consumers, residents, local communities and the tourism sector. The risks we underlined back then are all the more relevant today: unfair competition, consumer exposure to safety hazards and unreported tax income, among other things, remain outstanding issues. The rapid growth of STR services has put pressure on local residents’ access to affordable housing and threatens the liveability of districts which are there for people to live, work and enjoy.

Eight years on, we are reaching a critical moment for developing the appropriate regulatory framework for STR services. We believe that it requires close coordination and an integrated structure where a common EU framework for registration and data sharing supports the establishment of the required measures at the local, regional and national levels, in line with the subsidiarity principle. It also needs to build upon the recently adopted Digital Services Act which has set out fundamental principles for the platform economy.

We have produced this report to provide everyone involved in the STR regulatory discussion – from Mayors to Members of the European Parliament, from national ministries to the European Commission, and crucially, for our Members – with a vision of how to address the complexity of establishing a multi-tiered regulatory framework.

In this report, we look back at how this regulatory debate has emerged and evolved to draw the lessons learned so far. We look ahead at how the current policy consensus about the need to set appropriate rules for short-term rentals can be translated

into effective measures. We provide clear recommendations addressing how the foreseen EU Regulation can provide common solutions to the challenges faced at the local level and support a level playing field in the tourism accommodation sector.

It has often been said that establishing a level playing field between largely unregulated short-term rental accommodation and the strictly regulated tourism accommodation sector can be solved by new laws and rules. While this is true – there is a clear regulatory gap for short-term rentals which needs to be filled - it overlooks another important side of the discussion.

There is a need to remind that the level playing field can also be achieved by awarding regulated accommodation more flexibility and lesser regulatory burden, as the huge difference in meeting the service provision obligations of, for example, a hotel or a building dedicated to STR in its entirety, gives the latter a huge competitive advantage over the former.

Regulated accommodation has to comply with labour, tax, environmental, intellectual property, safety, health, food and many other obligations. This, in the end, creates great barriers to entry and exit, not sought by the sector, undermining flexibility and which leads them to comply with heavy regulation while competing service providers do not.

Ultimately, the regulated and unregulated are looking for a guest in the market, the one who is willing to stay out of his own place. As the tourism sector emerges and recovers from the damage it sustained during the Covid-19 pandemic, we need to update the set of rules applicable to accommodation service providers, in line with the needs of stakeholders, destinations and their residents, to ensure that the environment they operate in is fair, transparent, competitive and sustainable.

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02.

HOTREC Position Paper on EU-wide Regulation of Short-term Rentals

HOTREC welcomes the European [Commission's intention to put forward a proposal for a Regulation on Short-term Rental \(STR\) Services](#). HOTREC calls for an EU-wide framework that introduces clear and consistent obligations for STR platforms and hosts and which enables effective oversight of STR activities by local and national authorities.

Over [half a billion STR accommodation nights were booked via online platforms in 2019](#), counting for over 23% of the tourist accommodation sector. While 15 years ago, STR activities represented a marginal proportion of holiday stays, STR has since then become a genuine industry, growing very rapidly and becoming a mainstay of the tourism and travel ecosystem. Unlike other tourism services, however, **the activities of STR hosts remain to a large extent unregulated or underregulated.**

We see the tremendous growth of the STR industry as a global phenomenon, driven by platform-driven search and booking websites which have greatly facilitated the growth of offer and demand, appealing to consumers of all backgrounds and nationalities, and offering possibilities for types of property owners to generate income. As major facilitators and developers of STR services, we believe that platforms should also play a key role in supporting regulatory compliance by STR hosts.

The **Digital Services Act** represents a major step forward: the principle of 'what is illegal offline is illegal online' is now backed by effective legislation which will facilitate the take-down of illegal offers of products and services circulated by online intermediary platforms. The '**Know Your Business Customer**' principle offers a basic framework to support a more robust registration system for STR hosts supported by platform verification. However, as a horizontal regulatory instrument designed for a highly diverse platform environment, the Digital Services Act falls short of fully addressing the regulatory complexity and specificity of STR activities. It seems appropriate to develop a **specific instrument at the EU level that addresses the complex and diverse regulatory questions presented by the STR industry.**

The concerns of public authorities, municipalities, local residents and other tourism accommodation providers, who compete to attract visitors and guests, must be central to decision-makers' considerations.

Effective, proportionate and fair rules for STR services are essential to bring the industry in line with fellow tourism service providers and ensure that the industry is effectively contributing to the 'real' economy, supporting the rebirth of European tourism in the aftermath of the Covid pandemic.

A key concern for the European hospitality sector is the pressing need to level the playing field. All tourism accommodation providers are competing to attract guests and offer them a place to stay away from home. We wish to take this opportunity to draw attention to the heavy regulatory burden affecting hotels as well as other forms of tourism accommodation services.

There is a multitude of requirements covering labour, taxation, environmental, intellectual property, safety, health, security, food, statistical reporting and data-sharing, and many other obligations. This affects current consumer choices based on price but also creates disincentives to invest in the regulated accommodation services, creates great barriers to market entry and exit, and affects businesses' agility and capacity to adapt. There is a case to address the regulatory imbalance by striving to lift the burden faced by so-called 'traditional' tourism accommodation service providers, as much as there is a case to set out a durable, predictable and appropriate regulatory framework for STR services.



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We believe that any EU Regulatory Initiative on the short-term rental industry should be guided by the following objectives:

- **Introduce a robust and efficient EU-wide registration system** that supports oversight by public authorities, facilitates compliance by hosts, and aligns with data held by platforms.
- **Outline clear and comprehensive data-sharing requirements** in line with the GDPR for hosts and platforms to ensure effective regulatory compliance and the development of statistics.
- Give municipalities **flexibility on fixing market access rules** while clarifying how such rules comply with the requirements of the Services Directive.
- **Support the collection of due taxes** by sharing all relevant data with national fiscal authorities and ensuring that hosts are fully informed about reporting requirements.
- **Ensure the safety and security of guests and employees** by applying comparable standards as those upheld by regulated tourism service providers and facilitate enforcement at the local level.

Why?

- **TO ENSURE A LEVEL PLAYING FIELD WITH OTHER TOURISM ACCOMMODATION SERVICE PROVIDERS:**

Hotels, as well as campsites, bed and breakfasts and rural accommodation services follow strict regulatory requirements established at various levels of governance. These rules ensure, among other things, that tourism activities can be overseen and measured, that taxes are collected, and that facilities are safe, secure and clean for tourists.
- **TO ENSURE THAT STR DEVELOPMENT DOES NOT UNDERMINE ACCESS TO AFFORDABLE HOUSING FOR RESIDENTS:**

Offering an accommodation unit as an STR service can be much more lucrative than placing this accommodation unit on the regular housing market. This has led to a reduction in the overall housing offer in major European cities, and to a rising demand. This situation sustains speculation in the property market, leads to a rise in prices for both buying or renting accommodation, and undermines access to affordable housing for people who wish to study, work and live in cities.
- **TO PROTECT THE QUALITY OF LIFE IN NEIGHBOURHOODS:**

Nuisance behaviour (e.g. inappropriate/immoral behaviour, noise, incorrect disposal of waste, etc.) jeopardizes the quality of life in neighbourhoods. When guests are left unsupervised during a stay with little or no contact from the host or other designated person, nuisance behaviour can occur with little room for recourse by neighbours. When a whole unit or multiple STR units are not authorised by the owners of managed buildings, key codes and access to communal areas may be given to strangers without neighbours or building management being aware.
- **TO ENSURE THAT STR SERVICES EFFECTIVELY CONTRIBUTE TO THE LOCAL ECONOMY:**

The contribution of STR to jobs and outsourced activities for SMEs is marginal, especially when compared to traditional accommodation service providers. Where STR hosts do create jobs and outsource activities, they will typically be providing a 'professional service' which is particularly unfairly underregulated compared to the traditional accommodation services.
- **TO ENABLE A RESPONSIBLE AND SUSTAINABLE DEVELOPMENT OF STR HOSTING ACTIVITIES AND SUPPORT ITS CONTRIBUTION TO THE RECOVERY OF EU TOURISM:**

Despite the disastrous impact of the Covid-19 pandemic on European tourism, Europe is and can remain the world's number one tourist destination. Regulated STR activities means that activities are measured, overseen and managed in such a way that they effectively contribute to economic development, public finances and lively tourist destinations rather than create the negative side-effects outlined above as well as frustration among local residents towards tourists.

Mandatory requirements to be set at EU level

Host registration and data sharing

We believe that any EU Regulation must first and foremost look at the common challenges faced by regulators across the EU: properties and hosts can be difficult and sometimes impossible to clearly locate and identify, authorities lack knowledge about the capacity and periodicity of rentals, the number nights per stay, and the number of visitors per property.

EU action would only have genuine added value if it were to establish a mandatory host registration system and mandatory data-sharing obligations. STR platforms have all the necessary data at their disposal and must be required to share all relevant data to verify and where necessary complete information provided by hosts. The establishment of a single registration number for each property and host should facilitate checks and validations where an STR listing is being advertised across several different STR platforms.

A well-designed registration process should support ‘compliance by design’ as much as possible: it offers a unique moment to collect a significant portion of required data, inform the host of his or her regulatory responsibilities, carry out necessary inspections, and filter out STR offers which do not meet regulatory requirements from the onset.



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The host registration process:

- Mandatory EU-wide registration requirement for all STR hosts and any kind of property unit offered for STR services – irrespective of whether the host owns or rents the STR property and of whether the host qualifies as a peer or as a professional.
- EU can provide a template for registration requirements and modalities to support the uptake of registration schemes but give local authorities flexibility, in particular to protect existing registration schemes that work well.
- The registration process in itself is an opportunity for authorities to inform the STR host of existing regulatory requirements – whether these are EU, national or local, to help hosts comply and respond to any questions regarding compliance.
- If an on-site inspection of the property is required by local or national rules, it should be carried out as part of the registration process. This should not preclude regular on-site inspections if required by national and local authorities.
- Via the registration process, it should be possible for authorities to refuse registration for activities which clearly do not meet legal requirements from the onset (e.g. STR offered by a tenant of social publicly-owned housing, which is illegal in several European cities).
- The registration process should be as straightforward as possible.
- It should be possible for authorities to verify that the data provided by the host is aligned with the data about the host held by the platform(s) on which the STR listing is (are) made available.
- Establishment of a registration number for registered STR hosts and properties which can be used across different STR platforms.

Data to be provided regularly by hosts to authorities:

- Identification of the owner of the establishment.
- Identification and exact location of STR premise, with number of beds and facilities.
- Periodicity of rentals: number of nights per visit and the total number of nights the premise is rented out (irrespective of through which platform the STR was booked).
- Number of visitors per night.
- Revenue generated by the host from STR activities (for tax collection purposes).

Key data to be verified by platforms to ensure compliance:

- Advertisement on new STR offer via the platform: verification of host and property registration number against an existing database.
No registration number = no listing on the platform.
- Number of nights for which a given STR offer has been 'available' on the platform.
- Total number of nights and number of visitors at a given property per year.
- Revenue generated by the host via bookings made on the platform.
- If the STR host is a tenant: data on the identity of the tenant renting the STR unit and on the property owner.

Subsidiarity

Empowering local authorities to manage the development of STR services

While STR platforms operate at a global level, the effects of STR on the economy, society and wellbeing are inherently local. This situation warrants a well-considered regulatory approach in line with the principle of subsidiarity, in particular when it comes to market access conditions for STR hosts.

Municipalities, and those the most heavily affected by STR – to such an extent that their growth significantly impacts the real estate market – have stepped up efforts to manage the growth of STR when their negative side-effects became greater than their perceived benefits. Nightly thresholds, rules regarding property zoning and types of residence, and consultations with neighbours need to be tailored to local reality and the needs of local residents.



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Types of local market access measures

- Threshold on the number of nights per year a given STR accommodation unit may be rented out.
- Ban on offering STR accommodation to tenants of publicly-owned buildings.
- Consultation of neighbours, building manager (e.g. in apartment blocks), and property owner (where STR unit is made available by a tenant).
- Ban on the provision of 'professional' STR services including daily cleaning, provision of catering services, among others.
- Hosts must be present on STR rental premises (or a limited number of nights on which STR unit can be rented out with hosts absent).
- STR unit must belong to the primary residence.
- Establishment of fines for non-compliance by hosts.

The list above represents examples of measures which have been taken by various municipalities to better manage the development of STR services and ensure balance with the realisation of key public interest objectives, such as access to affordable housing, prevention of strain on local public services, and protection of the quality of life in neighbourhoods..

The EU regulatory initiative on STR is a crucial opportunity to clarify that these types of measures are compatible with EU law, building on the [European Court of Justice's verdict on the Cali Apartments](#) case; it should be clear that such measures are compatible with the Services Directive and they are proportionate to the desired objective and justified by an overriding reason relating to the public interest.

Taxation

Supporting national fiscal authorities with relevant data

Effective taxation of STR accommodation hosting activities is also essential but may present specific challenges, considering the various levels of governance at which taxes can be defined and collected.

The mandatory data-sharing requirement should also ensure that relevant fiscal authorities have the necessary knowledge at their disposal to effectively collect due taxes, whether these are taxes applicable nationally (income tax, VAT, corporate taxes) or more frequently defined and enacted at the local level (occupancy/city and other local taxes). We consider that closely linking fiscal authorities to the foreseen STR registration and data-sharing framework is not only necessary to ensure effective tax collection, but a necessary guarantee to ensure compliance with rules.

The agreement by the EU Member States on [a common tax reporting framework for digital platforms \(known as DAC 7\)](#) must be transposed by 31 December 2022. This framework recognises the pivotal role of digital platforms as key facilitators for national tax authorities to detect income obtained by sellers through digital platforms and determine the relevant tax obligations. When transposing the Directive, Member States should take specific care in ensuring platforms effectively report the income earned by a given host through STR activities to tax administrations with comprehensive information necessary for correctly assessing the income tax due. The EU regulatory initiative on STR should aim to align data reporting requirements for fiscal purposes by hosts and where necessary strengthen reporting requirements for STR platforms.



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Ensuring safe and secure overnight stays for guests

Specific attention must be awarded to the health, safety and security of guests staying and employees working in STR accommodation. Unregulated rentals put the safety and security of visitors at risk. Measures should aim to reach a comparable level of health, safety and security as those which are already well-established for hotels, guesthouses and other forms of regulated tourism accommodation services. Such rules aiming to establish appropriate requirements related to building codes and safety standards should be defined and enforced via on-site inspections by relevant national and/or local authorities, as such measures are tailored to reflect local reality.

Any mandatory EU registration system for hosts should support compliance with local and/or national health and safety measures: authorities should ensure that hosts are well-informed about existing rules and, as mentioned above, on-site inspections should ideally be incorporated into the host registration process, and be followed-up by occasional checks to ensure that standards are still being upheld.

We would also draw attention to the fact that Article 45 of the Schengen Implementing Convention requires the managers of accommodation services to collect the ID / Passport of guests upon arrival for security purposes. It should be clarified that this requirement also applies to STR hosts.



Authorities should ensure that hosts are well-informed about existing rules and on-site inspections should ideally be incorporated into the host registration process, and be followed-up by occasional checks to ensure that standards are still being upheld.

Basic rules should apply to all STR hosts – peers and professionals

The policy debate surrounding the development of a regulatory instrument for STR will inevitably address the fact that some STR hosts provide accommodation services occasionally within their primary residence for some additional income – a typical example of a peer – while other hosts engage in large-scale rental operations, possibly buying an entire building block to put several accommodation units on the STR market exclusively and simultaneously. The latter operation, clearly professionalised, represents a major source of revenue and ultimately amounts to being a ‘covert and unregulated hotel’. The ‘professional’ service provider obviously has a much greater negative impact on key issues such as access to housing, neighbourly relations and competition with the regulated accommodation sector than the STR ‘peer’.

In this light, there is a case to introduce definitions which differentiate STR ‘peers’ from ‘professionals’. This said, the typical examples mentioned above represent the two easily recognisable extremities of a complex spectrum; most STR hosts would fall somewhere in between. We would take the view that focusing on making such a distinction in the context of an EU regulatory initiative on STR may turn out to be very complex and ultimately counter-productive for the overall timeliness and effectiveness of the decision-making process.

It should be noted that market access measures adopted at the local level such as thresholds on overnight stays or the number of visitors received provide the means to make a *de facto* distinction between operations attributable to ‘peers’ and those attributable to ‘professionals’.

When it comes to the EU regulatory Initiative itself, we consider that all hosts, peers and professionals should be subject to a mandatory registration scheme and data-sharing requirements. Furthermore, all STR hosts should be subject to tax reporting requirements and pay the commensurate amount of taxes, and all STR accommodation units should meet safety, security and hygiene requirements. We believe that national and local authorities should take the lead when it comes to setting stricter regulatory requirements for ‘professional’ STR hosts. We would urge them to ensure that professional STR hosts face an equivalent level of regulatory burden as other regulated tourism accommodation professionals.

03.

A Few Words about the Full Report

The recommendations of the Position Paper are closely associated with the findings and conclusions included in the 'Full Report'. A broad account of recent research enabled a dedicated analysis of the evolution of the landscape of STR services and regulations over an eight-year period (2014-2021). This is briefly summarised in Graph 3.1. The same research has informed a review of the demand and supply trends that underlie the evolution of the STR sector over the last two and a half years.

Moreover, the 'Full Report' incorporates valuable insights derived from a series of interviews with policy-makers and experts on STR regulations that were carried out in the second

quarter of 2022 (the list of interviewees is included in Appendix D of the 'Full Report'). The purpose of this analysis is to clarify how and why the enforcement of STR regulations has worked well (or not) for destination authorities both before and after the pandemic, and to identify key conclusions as illustrated in Graph 3.2

Finally, the 'Full Report' summarises the types of data required for enforcing STR regulations and discusses how the platforms should be able to share necessary data with destination authorities.

Graph 3.1

Evolution of the Landscape of Services and Regulations for Short-term Rentals

Eight years of increasing market momentum and progress in policy responses

2014

2015

2016

2017

2018

2019

2020

2021

The years of exponential growth

The years of false promises

The years of overtourism which alerted authorities to the need for action

The years of building common sense on STR regulations

Graph 3.2

Lessons from the Enforcement of Regulations for Short-term Rentals (STR) in Europe and North America

1

Neither local governments nor national-regional governments have managed to enforce STR regulations on their own – instead, broad-based cooperation is required.

2

Easily accessible and simple registration schemes help destination authorities implement fair and enforceable regulations or STR services.

3

Thresholds or rental days are likely to remain unenforceable unless data-sharing solutions are adopted by destination authorities and the full range of STR platforms.

4

STR platforms have considerable experience in buying time for their benefit as long as data disclosure is merely an option rather than an obligation.

5

Knowledge of market failures, stakeholder agendas and enforcement gaps is essential for ensuring the enforcement of STR regulations.



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