

Short-Term Accommodation Rental Services – The ECC-Net experience

On November 7, 2022, the European Commission released a proposal for a regulation concerning the collection and exchange of data pertaining to short-term accommodation rental services. This proposal aligns with the Commission's goals of adapting the EU to the digital era and establishing a resilient economy that prioritizes people. Building upon the recent Digital Services Act, the proposal focuses on regulating online platforms that connect hosts and guests for short-term accommodation rentals.

The objective of the regulation is to streamline the registration process for hosts and their short-term rental properties while addressing inconsistencies in data sharing practices among online platforms. Platforms would be required to verify if hosts have registered their properties and share information about rented nights and guests with public authorities. The regulation aims to prevent an excessive volume of disparate data requests that could burden online platforms and hinder their ability to offer services seamlessly across the Single market. Furthermore, it aims to enhance consumer trust in these services.

Short-term rentals (STRs) have gained increased significance within the tourism industry in recent times. The European Commission has reported that STRs now make up nearly 25% of the overall tourist accommodation supply in the European Union (EU). This substantial growth can be largely attributed to the rise of online platforms like Airbnb and Booking.com, which offer convenient short-term rental services. ECC-Net receives a large number of cases involving STR platforms per year.

The European Consumer Centres welcomed and support the European Commission's proposal and call for the implementation of a unified framework across the European Union (EU) that establishes transparent and consistent responsibilities for both STR platforms and hosts. Additionally, ECC-Net emphasises the need for effective supervision of STR operations by authorities.

ECC-Net underlines the need for rules that protect the interests of consumers. Renters deserve safeguards to ensure fair and transparent transactions. **The above mentioned responsibilities should also have the consumers at the heart of their reasoning and establish clear guidelines for short-term rental agreements**, including disclosure of important info, fair pricing practices, and dispute resolution mechanisms. By focusing on consumer protection, the regulation can contribute to building trust, fostering sustainable growth, and enhancing the overall experience in the short-term rental market.

Rules governing STRs in several EU Countries:

ECC-Net examined the rules applying in several EU countries and it is obvious that until this point, short-term rentals (STRs) have remained mainly regionally regulated or in a very few instances unregulated, resulting in similar challenges commonly associated with other collaborative economy services. These challenges may include non-compliance with health and safety regulations, tax responsibilities, limited information provided to interested renters, no proper instruments in place for insurance coverage, review systems etc., creating further inequality between traditional accommodation providers and STR services. There is a need of actual improvement of the current situation by providing governments with access to STR data, and of harmonisation of the framework to effectively monitor properties and combat any sort of abuse.

- In most of the rules examined in EU/EEA countries, landlords should **register their properties** if they want to propose them for short term rentals. In Lithuania, Estonia, Finland and Norway there is **no such clear obligation** and in most of the other countries examined the applicable rules are **defined at regional level creating many differences and discrepancies among the country internal rules as well.**

Interestingly, in Germany every flat must be registered with the authorities (registration as main residence, an accommodation facility or as a secondary residence). If the owner would like to register as accommodation facility, s/he has to check the formalities in the place where the flat is located as the legal situation is different depending on the city or federal state. Sometimes you have to fill out a special form for "Registration of an accommodation facility" (Anmeldung einer Beherbergungseinrichtung) where information such as the address of the holiday home, owner's contact details, accommodation tax or business registration are to be provided. In some areas, cities the rental is restricted due to the shortage of living space. For example in Berlin, offering and advertising of housing must be pre-approved by the responsible district office. In some cities even in cases when permission/licence is not required, property owners are nevertheless obliged to inform the competent district office before starting STR in order to obtain a registration number (e.g. Berlin). In some cities there are website on which everyone can inform the authorities about a suspected misappropriation of housing (e.g. München: [Raum für München \(muenchen.de\)](http://Raum für München (muenchen.de)))

In Malta, if the property is intended to be rented to persons who are considered as 'tourists' in accordance with the law then the property prior to being short let needs to be licenced with the Malta Tourism Authority. The application used to obtain a licence to be able to offer short let accommodation to tourists is the **Holiday Furnished Premises Licence (Apartment, Studio, Villa, Farmhouse, terraced House, Maisonette) application**, which application needs to be submitted to the Authority together with relative supporting documentation and an application fee and, if application is approved, an annual fee are to be paid accordingly.

- When it comes to **verification of the property** during the registration procedure and whether it is suitable for renting, the national rules are blurry. Usually, the regional services do verify the use of the property but not properly evaluating whether it is actually suitable for renting.

In Slovenia, during the registration procedure there is no verification of the property that it is suitable for renting. The future landlord must submit proof of ownership or possession of the apartment or holiday home, occupancy permit (for residential premises) where the renting activity is carried out. They also have to make sure that the rental property is in accordance with the Regulations on the Categorisation of Accommodation Establishments, which specify the minimum types and areas of accommodation premises, standards of equipment and services according to the category.

In Italy, there is no proper verification, only the obligation that the cadastral data of the property must be communicated to the income revenue authority.

In France, it is possible for the services of the city hall to check the property but only its use, it is not about evaluating if the property is suitable for renting or not. In Paris there is a specific service which is able to check the property, but the service does not check the veracity of what it is stated in the ads. Also, the landlords have to respect a decree which fixes rules for a decent house.

- ➔ Platforms usually do not oblige the hosts/landlords to take upon an **insurance policy** nor to verify physically through platform local agents the properties. This of course creates possible negative impacts on the renters.

Bigger platforms such as Booking.com automatically include Liability insurances whereas Airbnb.com does not provide any obligatory insurance. Of course, the above issues are left on the discretion of the platform policies.

Learning from the neighbors, the Maltese way:

All licence holders of a Malta Tourism Authority licence which authorises the provision of tourism accommodation, including holiday furnished premises licence holders, must have a third party liability insurance coverage. However, in all other cases there is no obligation to take out an insurance policy and this remains optional.

In the case one applies for a holiday furnished premises licence with the Malta Tourism Authority or any other type of accommodation licence, an onsite inspection is carried out in order to verify if the property satisfies minimum requisites as set out in the law and it is only if the property satisfies such requisites that a licence is issued by the Malta Tourism Authority.

- ➔ Another issue identified through cases handled by ECC-Net and while examining the national rules applicable on STRs : **reviews of properties**.

Usually, consumers cannot rate a booked accommodation if they have rejected moving in upon seeing the property. Reviews can be submitted after check out, or only if the renter actually stayed in the property. Interestingly, in Germany, According to §5b Unfair Competition Act (UWG) the reviews should be published only by customers that **used or purchased the services**. **In Finland, reviews can sometimes be submitted even if the consumer did not accept to stay at the property.**

- ➔ When it comes to what **information should be provided by platforms** in relation to rental ads again several differences apply among local rules and platforms. For example, not in all rental ads will the registration number of the property included or the name and contact details of the landlord.

What has been spotted when ECCs are dealing with rental cases via platforms:

The below issues have been identified through ECC-Net case handling when dealing with complaints involving booking intermediaries and e-commerce platforms in general but specifically also in the tourism sector. The Digital Services Act (DSA) represents a notable progress in addressing the issue of illegal services and products offered through online intermediary platforms. Nevertheless, the short-term rental (STR) sector poses distinct challenges that cannot be adequately resolved through the DSA alone. Given the intricate and diverse nature of the STR industry, finding a universal solution proves challenging due to its inherent complexities.

The main problem is that **contact details of landlords are missing**. So, when consumers want to claim or get information (regarding the accommodation or during the rental period) they don't know who is responsible and who can inform them - is it the platform or is it the landlords. Although it could be potentially covered by the Omnibus Directive and the obligation on traders or service providers to pre-

contractually provide information to consumer such as email address and telephone number, STR regulation should also look into it.

When the booking is cancelled or when consumers want to get a refund, the landlord refers consumers directly to the platforms whereas the landlord is legally liable for publishing his own refund's policy. So again, consumers don't know who to contact.

Advertisements of accommodation's rentals are most of the time different from the reality. So when consumers arrive they discover the trap and as contact details of the landlord are missing or not clear enough, consumers are again lost. For example the real email address of the landlord will be shared by platforms after ECC intervention but not directly to consumers when they have a concern. Platforms will only share a generic email address to consumers to which property owners usually do not answer.

Supplementary fees - sometimes not displayed in a transparent manner, e.g. information in the description that dogs are allowed but no information about the price. After the booking the customer receives the information that the fee for the dog is 35 euro per day, and the booking cannot be changed anymore;

Also about the **policy of reimbursement**, it seems that a lot of it depends of the host, it is sometimes not clear with force majeure cases and it seems that the host just applies the conditions of the booking reservation without taking into account the consumer's situation. In such cases the so called force majeure should be more defined in the rental accommodation's sector.

Key achievements of the proposed Regulation include:

-Standardised Registration Conditions: The regulation aims to establish consistent registration requirements across all EU countries. This ensures that areas already implementing registration procedures or where authorities have requested data from online short-term rental platforms follow the same harmonised conditions.

-Verification and Identification Mechanisms: The proposed regulation introduces mechanisms for authorities to verify and identify hosts. Following the issuance of a registration number, authorities have the power to check the declaration and supporting documentation provided by hosts. If any information is found to be incomplete or incorrect, authorities can request rectification.

-Compliance by Design for Platforms: The regulation not only provides a regulatory framework for Member States but also places emphasis on holiday rental service platforms. Platforms are required to incorporate certain features into their systems:

Hosts must declare whether their rental unit is in an area with a registration procedure. Platforms must allow users to identify registered units through a registration number, ensuring hosts provide this number before offering services.

Platforms are also obligated to conduct random checks on host declarations.

-Single Digital Entry Point: Once the regulation is adopted, Member States have a two-year transitional period to establish or adapt existing local/national registration systems and develop national-level IT infrastructure. This infrastructure will facilitate the streamlined exchange of data between platforms and authorities through the Single Digital Entry Point.

Suggestions on the above mentioned key achievements introduced by the new proposal:

- The Commission's proposal does not specify **who and what has to be declared when registering on the national digital registry**. The process of registering on the national digital registry – with a uniform format at EU level – needs to be made more straightforward and flexible so as to make it as easy as possible in all situations to comply with the rules, to ensure that the data are processed properly and efficiently and the rules are complied with. As ECC-Net looks into cases with a cross border aspect, we would highly recommend to take this into account.
- The regulation does not **impose specific obligations on online platforms regarding the extent of information they should provide to renters regarding accommodation units or the responsibilities of the hosts and other parties involved**. It also does not define the requirements for disclosing rental conditions to clients. These aspects are left to the discretion of the platforms and national/local authorities. Establishing a consistent level of compliance that ensures clients receive valuable information about the accommodation, health and safety standards, party responsibilities, and client obligations within the accommodation and public areas would benefit market players, local areas, and local authorities.
- ECC-Net would also like to highlight that platforms and rental providers should include **information on Alternative Dispute Resolution (ADR) bodies and ECC-Net as contact points where travellers can turn to in case of cross-border disputes**.

ECC-Net centres participated in the paper by providing information: ECC Estonia, ECC Finland, ECC France, ECC Germany, ECC Italy, ECC Lithuania, ECC Malta, ECC Norway, ECC Slovenia, ECC the Netherlands. Additionally, ECC Belgium, ECC Croatia, ECC Cyprus, ECC Czechia, ECC Latvia and ECC Slovakia support the content of the paper.

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