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NEW EU RULES ON REGISTRATION AND DATA SHARING THE SHORT-TERM ACCOMMODATION RENTAL MARKET



New EU Rules on Registration and Data Sharing the Short-Term Accommodation Rental Market

Vincent Delhomme ¹

Introduction

The market for short-term accommodation rentals has boomed over the last decade, thanks to the development of online platforms. After a drop due to the COVID-19 pandemic, a record of 678.6 million nights were booked in the EU in 2023 (via the following platforms: Airbnb, Booking, Tripadvisor and Expedia) – an increase of 13.8% from 2022.² While the precise consequences of this growth may still be debated, its effects are clearly ambivalent.³ It has brought benefits, for hosts and the tourism ecosystem, but also given rise to various negative externalities for cities.

Among the recurrent grievances are the tensions brought to housing markets – contributing to the decrease in the availability of long-term rental housing and the increase in rents and housing prices – overtourism and the associated disturbances to the neighbourhoods concerned. These problems tend to be concentrated in the urban centres of major European cities, where the short-term rental market is especially strong. In 2022, the most favoured destinations for tourists booking their accommodation through one of the aforementioned platforms were Paris (14 million nights), Lisbon (8.8 million), Barcelona (8.8 million), Rome (8.6 million) and Madrid (7.1 million).⁴



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1. Assistant Professor, Leiden University, the Netherlands; Visiting Professor, UCLouvain, Belgium.

2. Eurostat, '[Short-stay accommodation offered via online collaborative economy platforms - monthly data](#)'.

3. Maria Niestadt, 'Data collection and sharing relating to short-term accommodation rental services', *EPRS*, 2024.

4. Eurostat, *supra* note 2.

To cope with this development and the associated nuisances, national and local authorities have acted forcefully in recent years, putting in place various registration or authorisation procedures and setting limits to the number of days/nights that a host may offer for rental per year. Some more drastic measures have even been adopted. Barcelona decided to ban short-term private room rentals altogether, while Portugal no longer hands out new licences for hosts, except in rural areas.⁵

The legality of some of these measures has been contested, as will be discussed below, but EU law is not the only hurdle faced by national regulators. Enforcing these rules remains the primary challenge, where national regulators do not have access to the necessary information – regarding the identity of the hosts offering an accommodation on a given platform, where this accommodation is located and how often it is rented out. Similar problems arise as regards compliance with national tax legislation.⁶

Increasingly then, public authorities are taking measures to obtain information from hosts and seeking cooperation from online platforms to share this data. These transparency requirements and other obligations, however, diverge considerably within and between Member States, giving rise to obstacles to trade in the internal market. To remedy this, and facilitate the regulation of this sensitive market, Regulation 2024/128 on data collection and sharing relating to short-term accommodation rental services was recently adopted (hereafter ‘the Regulation’).⁷ The Regulation harmonises the rules applicable to registration procedures for hosts, where such registration is required under national law, and lays down some transparency obligations for online short-term rental platforms. While facilitating the operation of platforms across the internal market, the core objectives of the Regulation remain to promote a fairer and more transparent market for short-term rentals, to the benefits of consumers and society at large.

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5. Euronews, ‘[Italy, Austria, Malaysia: Which cities and countries are cracking down on Airbnb-style rentals?](#)’, 2023.

6. See [judgment of the Court of Justice of 22 December 2022](#), *Airbnb Ireland UC and Airbnb Payments UK* (Case C-83/21, EU:C:2022:1018).

7. [Regulation \(EU\) 2024/1028](#) of the European Parliament and of the Council of 11 April 2024 on data collection and sharing relating to short-term accommodation rental services and amending Regulation, OJ 2024 L 1028.

Short-Term Rentals: a Split Legal Framework for Hosts and Online Platforms

The new Regulation must be analysed against the broader legal framework applicable to the provision of cross-border short-term rental services in the EU.⁸ Such services, where offered via an online platform, are composite services, meaning that they include an electronic – the intermediary service – and a non-electronic-element – the accommodation service itself. The Court of Justice confirmed in the landmark *Airbnb Ireland* judgement that these two components should be distinguished and that platforms such as Airbnb merely act as online intermediaries.⁹ Hence, a different legal regime applies to platforms and to hosts.

As information society services ('ISSs'),¹⁰ online platforms, on the one hand, benefit from the favourable provisions of the E-commerce Directive.¹¹ This Directive is based on a strong country of origin principle which deprives Member States almost entirely from the ability to adopt rules that would restrict the operation of ISSs on their territory.¹² Further, and as confirmed by the Digital Services Act, ISSs cannot be held liable, in principle, for the content that they transmit or store.¹³ They shall also not be subject to a general obligation to monitor that content and to seek elements indicating illegal activity, including 'the illegal offer of accommodation services'.¹⁴

Hosts, on the other hand, provide the accommodation service, which comes within the scope of the Services Directive.¹⁵ When setting up authorisation schemes or other restrictive rules, Member States must respect the provisions of Chapter III of the Directive, Articles 9 and 10 specifically for authorisation schemes. Among other requirements, these rules must be non-discriminatory, justified by an overriding reason relating to the public interest and proportionate. In *Cali Apartments*, the Court confirmed that, provided the aforementioned criteria were respected, Member States may adopt rules to limit development of the short-term rental market in their

8. For an in depth assessment, see Augustin Chapuis-Doppler and Vincent Delhomme, 'Regulating Composite Platform Economy Services: Examining the Applicable Legal Framework in Light of Recent Judicial Developments' 1 *Legal Issues of Economic Integration* 49, 2022, pp. 43-70.

9. [Judgement of the Court of Justice of 19 December 2019, *Airbnb Ireland* \(Case C-390/18, EU:C:2019:1112\)](#). One should stress that this assessment was based on a specific analysis of the degree of control the platform exercised at that point in time on the underlying service. Any factual difference may lead to a different conclusion.

10. An ISS is 'any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services': Article 1(1)(b) of [Directive \(EU\) 2015/1535](#) of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ 2015 L 241, p. 1.

11. [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, OJ 2000 L 178, p.1.

12. Ibid, Article 3(4)(b). On the application of that provision, see [judgement of the Court of Justice of 9 November 2023, *Google Ireland* \(Case C-376/22, EU:C:2023:835\)](#).

13. Articles 4 to 6 of [Regulation \(EU\) 2022/2065](#) of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act (DSA)), OJ 2022 L 277, p. 1.

14. Article 8 and Recital 12 of the DSA.

15. [Directive 2006/123/EC](#) of the European Parliament and of the Council of 12 December 2006 on services in the internal market, OJ 2006 L 376, p. 36



In *Cali Apartments*, the Court confirmed that, provided the aforementioned criteria were respected, Member States may adopt rules to limit development of the short-term rental market in their cities, for reasons of protecting the urban environment and public housing policy

cities, for reasons of protecting the urban environment and public housing policy.¹⁶ According to Airbnb, a number of rules in place at the national or local levels do not currently conform to the Services Directive,¹⁷ something that the Commission is also investigating.¹⁸

This dual legal framework is not entirely satisfactory from a regulatory point of view. While the operation of online platforms cannot be restricted, Member States are granted with large powers to restrict the activity of the lessors, without which, ultimately, the activity of such platforms becomes meaningless. At the same time, without a general access to the data in the hands of the platforms – regarding the listings put on offer, the identity of the lessors, how often a property is rented out, etc. – it is hard for national authorities to enforce their rules. This was the issue at stake in the recent *Airbnb Ireland II* and *Airbnb Ireland and Airbnb Payments UK* judgments,¹⁹ where the Court, amongst other measures, examined a rule requiring Airbnb to provide tax authorities with data on business transactions realised on its platform. This rule, because it pertained to the field of taxation, escaped the purview of the aforementioned Directives and was deemed lawful by the Court under Article 56 TFEU.²⁰ That finding, however, remains confined to the specific area of taxation.

The New Harmonised Rules on Registration Procedures and Data Sharing

Regulation 2024/128 harmonises the rules on registration procedures for hosts and on data-sharing requirements for online short-term rental platforms, in the event that Member States decide to put in place such schemes or requirements.

16. [Judgment of the Court of Justice of 22 September 2020](#), *Cali Apartments* (Case C-724/18, EU:C:2020:743).

17. Airbnb, '[Data collection and sharing relating to short-term accommodation rental services - Airbnb position](#)', 2022.

18. Maria Niestadt, *supra* note 3, p. 2

19. [Judgment of the Court of Justice of 27 April 2022](#), *Airbnb Ireland UC*, (Case C-674/20, EU:C:2022:303); *Airbnb Ireland UC and Airbnb Payments UK*, *supra* note 6.

20. See Augustin Chapuis-Doppler and Vincent Delhomme, 'Tax Legislation on Short-Term Rentals and Obligations of Intermediation Services Providers: *Airbnb Ireland and Airbnb Payments UK*' 1 *Common Market Law Review* 61, 2024, pp. 195-222.

There is no obligation to do so. Hosts include any person, legal or natural, ‘that provides, or intends to provide, on a professional or non-professional basis, on a regular or on a temporary basis, a short-term accommodation rental service provided for remuneration, through an online short-term rental platform’ (Art. 3(2)). The Regulation does not apply to persons engaged in the activity of short-term rental through other means than an online platform. It also does not apply to hotels and similar accommodations, including resort hotels, suite or apartment hotels and motels (Art. 3(1)). The Regulation applies to any platform, as defined in the DSA,²¹ ‘that allows guests to conclude distance contracts with hosts for the provision of short-term accommodation rental services’ (Art. 3(5)).

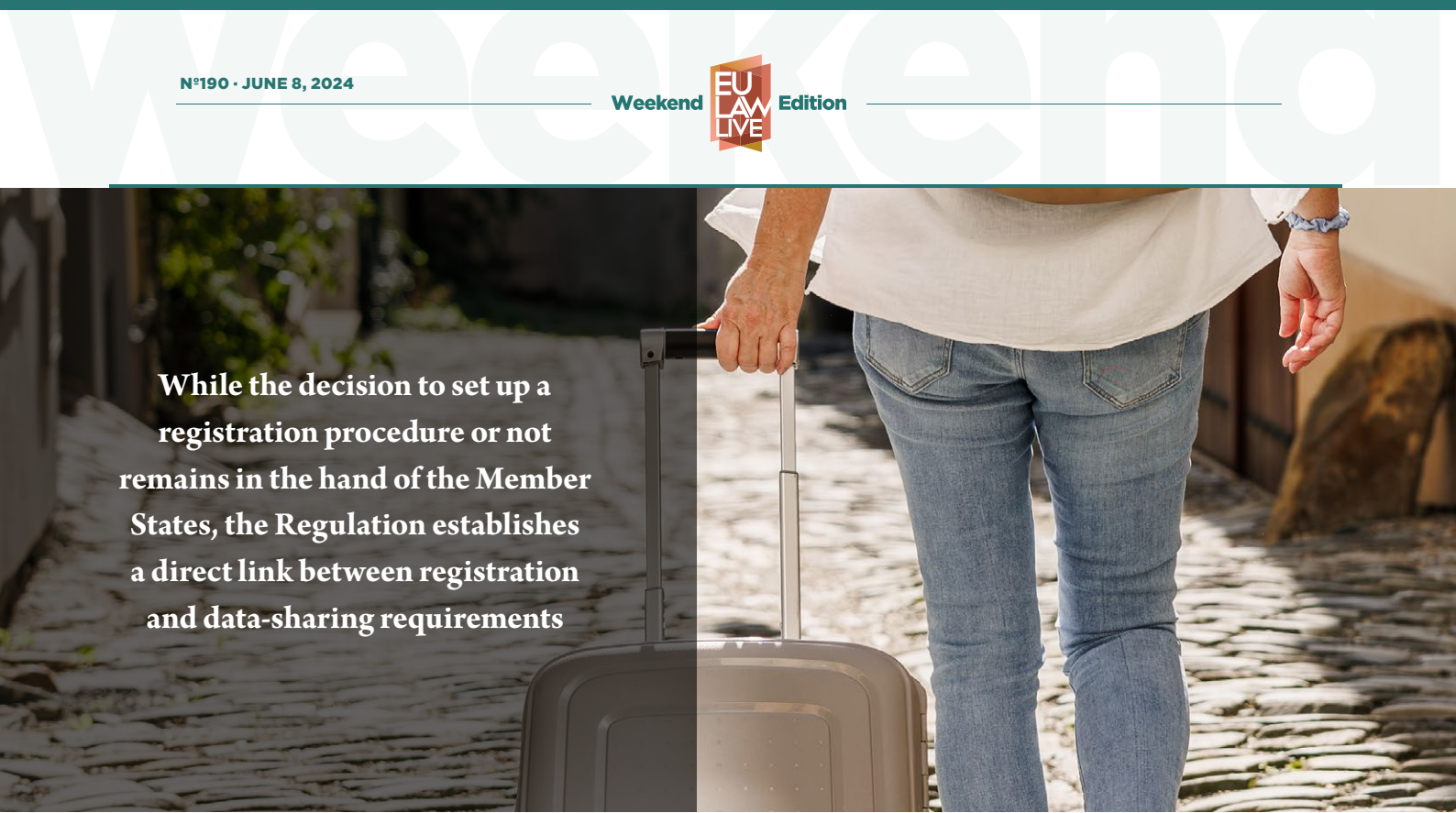
Chapter II of the Regulation lays down a number of rules regarding registration procedures, applicable to hosts and to online platforms. Article 4 establishes some common requirements to facilitate such procedures. These, *inter alia*, must operate on the basis of a declaration made by hosts, must be accessible online and, where possible, free of charge, or at a reasonable and proportionate cost. A registration number is automatically and immediately issued upon registration. This number must subsequently be communicated by the host to the online platform. A number of information must be provided by the hosts in order to register, regarding their identity, the location and type of accommodation and whether the accommodation complies with any authorisation required under national law (Art. 5, see also the rules on verification by competent authorities at Art. 6).

While the decision to set up a registration procedure or not remains in the hand of the Member States, the Regulation establishes a direct link between registration and data-sharing requirements. Member States that impose a requirement on online short-term rental platforms to transmit data, in accordance with the Regulation, must have a registration procedure in place for the units to which such data transmission requirement applies (Art. 4(2)).

Article 7 contains obligations for online platforms, made to facilitate compliance with the registration requirements, increase transparency and limit potential cases of fraud. Platforms must design their online interface in a way that requires hosts to self-declare whether a registration obligation applies to the unit offered. That number is clearly displayed on the listing put on the platforms so that users can identify the unit. Crucially, platforms must ‘make reasonable efforts to randomly check on a regular basis, declarations of the hosts concerning the existence or not of a registration procedure’ (Art. 7(1)(c)). Where such checks reveal an incorrect declaration, the misuse of a registration number or an invalid registration number, the platforms must inform the competent authorities and the hosts.

While online platforms must also make ‘best efforts’ to ensure that the declaration made by the hosts is truthful – understood that the content of this declaration remains the sole responsibility of the hosts – the Regulation makes clear that platforms remain free of any general monitoring obligation as to the truthfulness of the listings put up by hosts (Art. 8). This principle, as explained above, is a cornerstone of the EU’s regulation model for electronic services to date.

21. Article 3(1) of the DSA.

A photograph of a person from the waist down, wearing a white t-shirt and blue jeans, pulling a dark grey rolling suitcase on a cobblestone street. The person's right hand is on the handle of the suitcase. The background is slightly blurred, showing more of the street and some foliage.

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Chapter III of the Regulation contains the rules on data-sharing. Member States may require platforms to collect data relating to the activity of each unit located in an area where a registration procedure applies (Art. 9). This data, together with the registration numbers, must be transmitted, on a monthly basis, to a single digital entry point specifically set up by Member States for the purpose of the Regulation. The rules on the establishment and functionalities of single digital entry points and on the coordination of single digital entry points are contained at Articles 10 and 11 of the Regulation. Article 12 governs access to the data transmitted by the platforms.

Conclusive remarks

The new Regulation constitutes a significant step for a more effective regulation of the short-term rental market, bringing more clarity and legal certainty to online platforms, better transparency and protection for users and a better access to data for national enforcers. It should help alleviate some of the deficiencies of the current legal framework, ensuring that hosts comply with local rules and that platforms cooperate for that purpose. Its content has been broadly welcomed by a range of stakeholders, including online platforms, national and local regulators, actors of the tourism industry, etc.²²

The Regulation is, nonetheless, only one of the bricks required for a more harmonious development of the short-term rental market, securing the economic benefits that it might bring while ensuring that urban environments remain accessible and welcoming to long-term residents. Crucially, it does not make a difference between homeowners who rent their properties only occasionally and those who do so on a professional basis. For the latter, whose activity is akin to that of the rest of the hospitality sector, stricter and even rules should be adopted, on, say, taxation or health and safety standards. It is the properties bought or managed for the sole purpose of offering them for short-term renting which create most of the regulatory problems highlighted above.

22. Maria Niestadt, *supra* note 3, pp. 7-8.

The new Regulation constitutes a significant step for a more effective regulation of the short-term rental market, bringing more clarity and legal certainty to online platforms, better transparency and protection for users and a better access to data for national enforcers

Conversely, authorisation requirements and other quantitative restrictions to the exercise of the short-term rental activity, which do not come within the scope of this Regulation but rather within that of the Services Directive, tend to apply across the board, even to tenants which offer their property for rent in an ancillary manner. Homeowners should be able to exercise this activity without being unduly restricted, reaping the benefits of an extra income and offering a more efficient use of housing space in cities, for residence as well as tourism. It is hence essential for Member States to respect the conditions set in the Services Directive, and for the Commission to take appropriate action in this regard. The data generated thanks to the Regulation could serve both purposes: helping Member States justify the restrictive measures they adopt, on the basis of the specific circumstances prevalent in certain areas, and giving the Commission more grounds to scrutinise such restrictive measures, where the appropriate evidence base appears to be lacking.



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