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European Commission
Commissioner Dan Jørgensen
Wetstraat 200
1049 Brussel
België

Subject: Affordable Housing Act - call for evidence

Dear members of the European Commission,

The Association *Amsterdam Gastvrij*, representing small-scale hosts engaged in peer-to-peer short-term rental (STR) activity, welcomes the European Commission's initiative to address housing affordability within the framework of the forthcoming Affordable Housing Act.

We strongly support the objective of enabling public authorities to address housing pressures where they arise. At the same time, we consider it essential that any regulatory framework governing short-term rentals is:

- legally clear,
- evidence-based, and
- proportionate, in line with EU law.

The Commission correctly identifies that, despite recent regulatory developments, there remains significant uncertainty as to how local authorities can design measures that comply with the principles of non-discrimination, justification, and proportionality.

Our position paper focuses on the urgent need for operational EU guidance on what constitutes proportionate and evidence-based regulation of short-term rentals.

1. Problem statement: lack of operational clarity on proportionality

The current EU legal framework, based on the Services Directive and scarce case law, requires that restrictions on STR activity are based on a legitimate objective such as housing affordability. Moreover, the restrictions must be suitable to achieve that objective and proportionate.

However, in practice local authorities lack operational criteria to assess proportionality. Furthermore, case law remains limited and highly case-specific. As a result, regulatory approaches diverge widely across the EU.

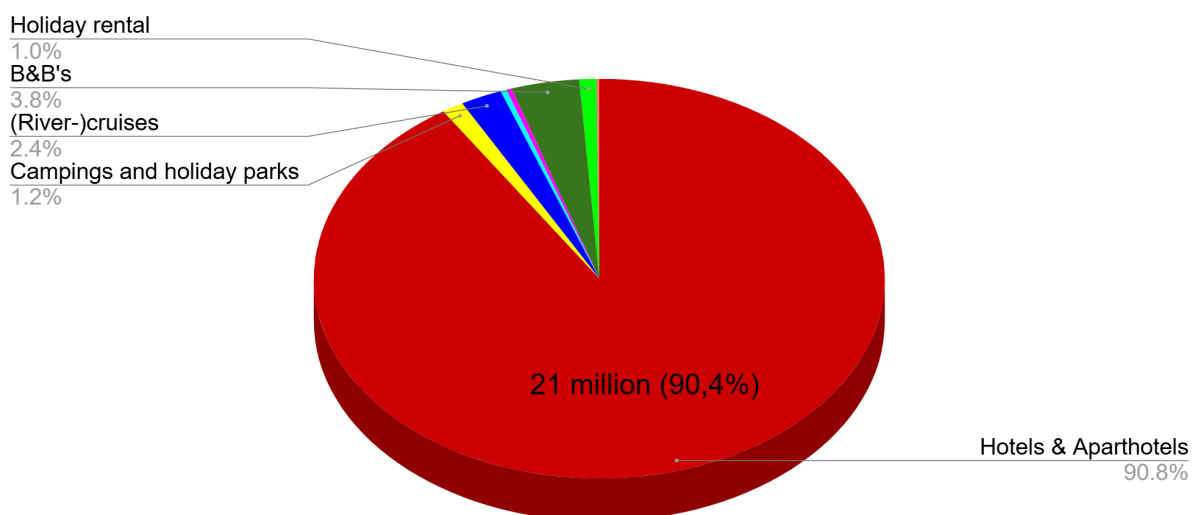
As a consequence, hosts are confronted by legal uncertainty, while certain local authorities such as the municipality of Amsterdam test the legal boundaries of the Services Directive with self-proclaimed “legal-experiments” [1]. The establishment of a harmonized legal framework as proposed by the commission could reduce the risk of disproportionate measures, particularly affecting small-scale providers.

2. Evidence from Amsterdam

Evidence from the city of Amsterdam is particularly relevant for the proposed initiative. The housing crisis is particularly acute and pressure from tourism is relatively high. Nonetheless, the regulation of short-term rentals is stricter than required for the protection of the housing stock.

In Amsterdam, STRs are limited to primary residences (“holiday rental”) or subordinate parts of primary residences (“B&B’s”). In total they account for less than 5% of total overnight stays, as shown in the graph below (sourced from [1]):

Overnight stays in Amsterdam, 2024



In Amsterdam, STR occurs in about 1,5 % of the housing units. As acknowledged by the city administration [2], existing STR policies do not affect the housing supply or house prices. It states that the primary drivers for increasing house prices are scarcity and fiscal policies. Rents in Amsterdam have risen sharply despite a drop in STR activity by more than 50 %. [7]

Nonetheless, the city administration continues to implement further restrictions that do not appear to be in line with the Services Directive. For example, the city has imposed an authorization scheme for B&B's with quota in each of the 110 neighbourhoods. These quota have been lowered three times since the authorization scheme was implemented in 2020.

For holiday rentals, the number of nights was lowered from 60 to 30 per year in 2019. Starting from the 1st of April 2026, this number will be further restricted to 15 per year in 8 neighbourhoods. This further restriction is allegedly justified by results from a biannual survey among citizens in Amsterdam. However, there is no statistically significant relationship between the actual STR activity in any particular neighbourhood and the perceived nuisance from STR in that neighbourhood as indicated by the survey. Rather, it appears that the survey results reflect sentiments on tourism in general. The use of such perception-based indicators therefore leads to a systematic misattribution of impacts.

Proportionality requires a demonstrable link between the measure and the objective and evidence that the measure is necessary and suitable. Both of these are absent in the justification of these further restrictions.

Moreover, both of these further restrictions appear to be in disagreement with the services directive, as clarified recently in an Opinion by the Advocate General of the European Court of Justice [4]. Crucially, the Opinion distinguishes between professional providers and individuals renting part of their primary residence and questions whether restrictive regimes can be justified for the latter:

"85. The protection of the urban environment does not justify that restrictive measure where the owner-occupiers of residential properties continue to live in those properties. In those circumstances, the urban environment is not altered as such: the housing concerned retains the same primary use as it had before."

3. Inaccessibility of legal remedies

A further concern relates to the practical inaccessibility of legal remedies for small-scale hosts affected by potentially disproportionate measures. While EU law provides for judicial protection, in practice this protection is often ineffective due to the length,

complexity and cost of legal proceedings at national level. Challenging restrictive local regulations typically requires multiple stages of litigation, significant financial resources, and specialised legal expertise, which are not readily available to individual hosts or small associations. As an example, a ban on holiday rentals in 3 neighbourhoods in Amsterdam, initiated in 2020, was only finally overturned for lack of proportionality by the highest administrative judge in 2023, after a lengthy and costly procedure initiated by our association.

This situation is compounded by the limited effectiveness of administrative enforcement mechanisms at EU level. Our formal complaint CHAP (2019)00495 (now EU Pilot EUP(2023)10438) relating to STR regulation of the City of Amsterdam, filed in 2019, has, to date, not led to a resolution.

As a result, there is a structural imbalance whereby public authorities can adopt legally questionable measures with limited immediate risk, while affected individuals face substantial barriers to enforcement of their rights.

We have also taken note of a letter [6] addressed to the European Commission by the STR rapporteur, Ms Kim van Sparrentak, co-signed by several Members of the European Parliament, and published on the website of her political party as well as that of the Deputy Mayor of Amsterdam. In this letter, the Commission is urged “to stop the pending pilot infringements” and “not to further pursue the path of infringements.”

We find this position difficult to reconcile with the fundamental role of the European Commission in safeguarding the rights of European citizens and ensuring compliance with EU law. The infringement procedure is a well-established and essential mechanism for upholding the Treaties. Calling for its suspension in this context effectively amounts to granting local authorities a wide margin of discretion without adequate legal oversight. This is particularly striking given that the political actors involved are generally supportive of the European project.

4. Policy recommendations

To ensure that the Affordable Housing Act delivers effective, legally robust and proportionate regulation of short-term rentals (STRs), we recommend that the European Commission incorporates the following elements into the forthcoming framework.

- Guidance on proportionality. The Affordable Housing Act should include clear, practical guidance on how the services directive applies to STR. This guidance should be unambiguous and take into account the recent opinion [4] of the Attorney General of the Court of Justice. Proportionality considerations should not neglect positive effects of STR (e.g. host income, visitor distribution, local economic benefits).

- Define standards of evidence. The framework should ensure that any regulation is justified on the basis of objective, causal evidence. Full use should be made of the data provided by the STR Regulation (EU) 2024/1028. Indicators should be transparent and publicly available and take into account various (also non-STR) contributing sources. Perception-based indicators such as survey results or generic indicators such as touristic pressure are not sufficient basis for policy, since they do not isolate the impact of STR.
- Evaluate and adjust policy measures systematically. The effects (or lack thereof) of STR policy measures on housing supply or rents should be systematically evaluated. Restrictions should be lifted if they have demonstrated limited effect (see e.g. [7]) or have become redundant.
- Differentiate between professional hosts and peer-to-peer hosts
In line with the suggestions in the Affordable Housing Plan and the opinion of the Attorney General [4], a clear distinction should be made between professional hosts and peer-to-peer hosts, in particular hosts renting out (part of) their primary residence. Minimum rights should also be formulated for the latter group, so that they are protected from excessively burdensome restrictions that are in conflict with European law. It should be clarified that the short-term letting of a primary residence or part thereof does not alter the urban environment, in line with the opinion of the Advocate General.

A coherent European framework for STR regulation may enable effective local regulation while safeguarding fundamental rights and ensuring legal certainty across the Single Market.

Best regards,

Maarten Bruinsma
Amsterdam Gastvrij

[1] De Volkskrant, Laurens Ivens (former deputy mayor for housing in Amsterdam), "Opinie: Brussel ligt dwars bij Amsterdamse aanpak toerisme", 4 Augustus 2020, <http://www.volkskrant.nl/columns-opinie/opinie-brussel-ligt-dwars-bij-amsterdamse-aa-Npak-toerisme~bc5f8994>

[2] Gemeente Amsterdam, Dienst Onderzoek, Informatie en Statistiek, "Toerisme MRA 2024-2025", <https://onderzoek.amsterdam.nl/publicatie/toerisme-mra-2024-2025>

[3] "Brede welvaartscan bezoekerseconomie - Impact van de bezoekerseconomie op brede welvaart in Amsterdam", Gemeente Amsterdam, Stedelijk Strategieteam, 1 december 2025. [Brede welvaartscan bezoekerseconomie - Impact van de bezoekerseconomie op brede welvaart in Amsterdam - openresearch.amsterdam](https://openresearch.amsterdam) (page 14).

[4] Opinion of Advocate General Campos Sánchez-Bordona delivered on 5 February 2026, Case C-813/24 (Smartflats SA),
<https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX:62024CC0813>

[5] Raad van State, ECLI:NL:RVS:2023:2076,
<https://www.raadvanstate.nl/uitspraken/@137502/202102768-1-a3-202102675-1-a3-en/>

[6] K. van Sparrentak et al. "Infringements on short-term rental rules", 11 March 2024,
<https://groenlinks.nl/sites/groenlinks/files/2024-03/STR-Infringement.pdf>

[7] Travelmedia, "Lisbon overturns short-term rental rules that failed to cut housing costs",
<https://travelmedia.in/2025/12/29/lisbon-overturns-short-term-rental-rules-that-failed-to-cut-housing-costs.html>