

**Understanding the challenges of ‘regulating’
Airbnb-type tourist accommodation
in the Brussels-Capital Region**

Open letter to the citizens of Brussels

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1. Introduction and purpose of this letter

It has been announced that the draft Ordinance on tourist accommodation¹ will be put before the Brussels Parliament. First for parliamentary debate in the Territorial Development Committee on 18 December, followed a few days later on 21 December by a vote in plenary session in Parliament.

At a time when democracy and the added value of parliamentary debates are being called into question by some members of Parliament themselves², let us hope that this debate on the draft Ordinance on tourist accommodation will be rich in in-depth discussions and that we can ultimately demonstrate, through this textbook case, that democracy can still prevail.

The aims of this open letter are twofold:

1. To try — once again — to make Minister-President Rudi Vervoort, who is in charge of tourism and territorial development, aware that his draft Ordinance is, in our view, neither proportionate nor justified, and even less non-discriminatory³;
2. To make all Members of Parliament from the various parties, both majority and opposition, aware of the damaging impact that this draft Ordinance, as it stands, will have on the Brussels-Capital Region, its economy and its citizens.

By voting all the parties will thus be taking their responsibility before you, with full knowledge of the consequences, both today and tomorrow, should this draft Ordinance be approved as it stands. We will return to the various political and legal means available under the rule of law to make our case.

But what does all this have to do with me, you might wonder? We will explain it to you transparently and objectively in this letter. And you'll understand that everyone is affected, in one way or another.⁴

¹ <http://www.weblex.irisnet.be/data/crb/doc/2023-24/148541/images.pdf>

² 'I have the impression that parliamentarianism is dead. And maybe one day democracy will be too. We are simply led to applaud the decisions of our ministers and to condemn, for good or bad reasons, and often the wrong ones, the proposals that come from the opposition. Today, an expert in a political party or cabinet has more influence than an entire parliamentary group in a democratically elected assembly. It's a terrible statement, but it's the truth.' (<https://www.lesoir.be/551084/article/2023-11-23/laicite-et-democratie-interne-pourquoi-julien-uyttendaele-quitte-le-ps>)

³ We will come back to these 3 key words in European legal doctrine later in the letter.

⁴ Thank you in advance for taking the time to read this complex subject, which we are trying to summarise for you in a simple way. If you don't have the time, please go straight to the 'Conclusions' section of this letter, or forward it to friends and relatives who might be interested in the subject.

2. Context

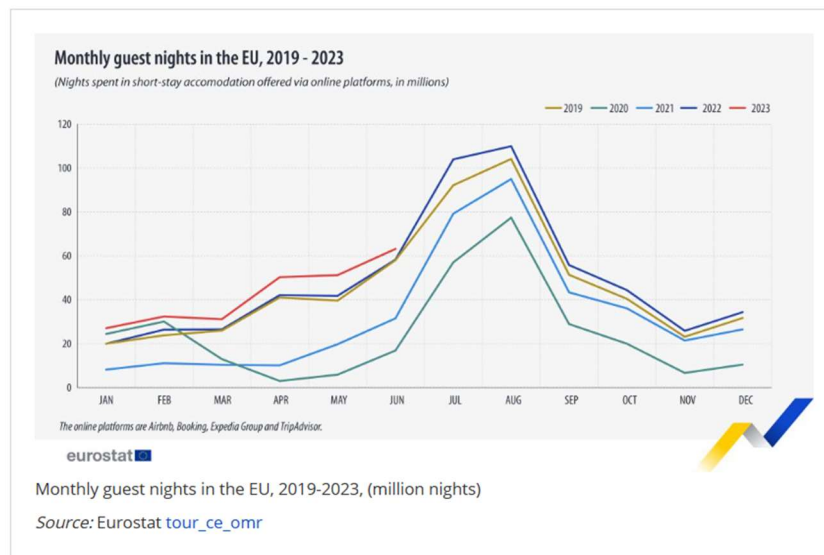
We often read about it in the newspapers. The term ‘Airbnb’ is frequently used. And you’ll agree, it’s often used in a very negative way.

So let’s tell our critics straight away: the ASBL STR-Belgium defends the interests of operators of non-hotel tourist accommodation, mainly tourist residences, whether these operators are private individuals or professionals. STR-Belgium is not financed by Airbnb or any other platform⁵.

STR-Belgium represents a sector that has existed long before the advent of Airbnb. STR-Belgium is the exclusive member of EHHA⁶ for Belgium. This European association for the defence of the interests of the short-term rental sector brings together associations, some of which existed well before 2000.

Clearly, the emergence of Airbnb on the short-term rental market has boosted the sector. Eurostat’s provisional figures⁷, taken from the online platforms Airbnb, Booking.com, Expedia Group and TripAdvisor, speak for themselves. These are just a few of the impressive figures for the European Union:

- In 2022, 90 stays were booked per minute, or almost 130,000 per day
- The pre-Covid levels have been exceeded, and growth continues: Q2 of 2023 recorded 15.9% more guest nights than Q2 of 2022. See figure below



⁵ In fact, for many of our professional members, Airbnb only generates a proportionally smaller income than other booking platforms, such as Booking.com, for example.

⁶ www.ehha.eu


⁷ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Short-stay_accommodation_offered_via_online_collaborative_economy_platforms_-_monthly_data

While demand is strong, the Government of the Brussels-Capital Region is working without a systemic approach to restrict the offer in a way that almost no other European city is doing. However, tourist pressure in the Brussels-Capital Region is relatively low compared with other European cities⁸: Brussels does not feature in the top 20 most popular destinations in terms of the number of guest nights... see ranking below.

Top 20 cities in terms of guest nights spent at short-stay accommodation offered via collaborative economy platforms, 2022

City	Number of guest nights
Paris	13 523 206
Barcelona	8 553 840
Lisboa	8 522 158
Roma	8 020 662
Madrid	6 671 388
Calais	5 409 914
Porto	4 914 725
Athina	4 520 164
Budapest	4 514 806
Milano	3 992 459
Wien	3 796 797
Valencia	3 570 087
Málaga	3 413 030
Sevilla	3 406 644
Firenze	3 289 844
Venezia	3 237 212
Praha	3 102 705
Warszawa	2 857 661
Kraków	2 657 255
Berlin	2 593 192

Source: Eurostat (online data code: tour_ce_oarc)



So where do these extremely negative stories about ‘Airbnb’ come from⁹, when 89% of Europeans who have used a short-term rental would recommend it to others?¹⁰

Clearly, the hotel industry does not take kindly to such an increase in short-term rentals. In 2017, the New York Times was already broaching the subject following the leak of a confidential document from a hotel association dating back to 2016¹¹. And in Brussels, the hotel industry's narrative is even carried and taken on unabashedly by the Minister-President himself¹². **Our sector has nothing to do with these battles between multi-nationals; our sector simply wants to defend its right to exist! Nor do we doubt the fact that our sector simply provides the necessary complement to the hotel sector.**

⁸ [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Short-stay accommodation offered via online collaborative economy platforms#In 2022.2C more than 1.5 million tourists per night slept in a bed booked via the platforms](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Short-stay_accommodation_offered_via_online_collaborative_economy_platforms#In_2022.2C_more_than_1.5_million_tourists_per_night_slept_in_a_bed_booked_via_the_platforms)

⁹ The confusion between the generic term and the company is maintained deliberately, the term short-term rental is more appropriate

¹⁰ https://single-market-economy.ec.europa.eu/system/files/2022-11/2%20EU%20fit%20for%20Digital%20age_Short-term%20rental%20FS_Final.pdf

¹¹ <https://skift.com/2017/04/18/whats-really-behind-the-hotel-industrys-plans-to-combat-airbnb/>

¹² <https://str-belgium.be/str-belgium-reagit-a-lintervention-du-ministre-president-rudi-sur-bel-rtl-ce-mardi-21-novembre/>

We must not be fooled by the divide-and-rule strategy of certain stakeholders: sometimes they play off our sector against the hotel industry, sometimes against the citizens...

These are the criticisms systematically levelled at short-term rentals:

- 1) they drive up rents, making it impossible for people to find housing, and even emptying towns of their inhabitants;
- 2) they generate unfair competition with the hotel sector;
- 3) they are a source of public tranquillity problems.

Are these criticisms justified and are they the only ones to be considered to justify the appalling fate reserved for short-term rental in the Brussels-Capital Region? We return to these essential questions in section 4, and we'll also tackle other questions which are just as fundamental but which are not part of the arguments of the short-term rental critics.

3. Current (and future?) regulations in the Brussels-Capital Region

Does the Brussels-Capital Region Government prohibit you from advertising your flat on Airbnb or another booking platform? Yes and no ...

Let's start by defining the issue. It's not uncommon to hear people who, in principle, should know better, get confused when talking about an 'Airbnb'.

There is an Ordinance that sets out the regulatory framework for tourist accommodation in the Brussels-Capital Region: it dates from 8 May 2014¹³ and was transposed into an implementing decision on 24 March 2016¹⁴.

This Ordinance sets out the categories of tourist accommodation as follows:

- Hotel
- Aparthotel
- Tourist residence
- Home-stay accommodation
- Social tourism accommodation centre
- Campsite

Although the Ordinance defines the 'tourist residence' category as 'any villa, house or flat, studio or room reserved for the exclusive use of the tenant, equipped with the furniture necessary for living and cooking and including, where appropriate, hotel-type services at an additional cost', it appears that over the period 2016-2022, i.e. 6 years, the BEE (Brussels Economy and Employment) branch of the Government has only registered 96 tourist residences. This compares with more than 5,000 tourist residences that can be found on

¹³ https://etaamb.openjustice.be/fr/ordonnance-du-08-mai-2014_n2014031471.html

¹⁴ https://etaamb.openjustice.be/fr/arrete-ministeriel-du-18-avril-2016_n2016031310.html

Inside Airbnb when you look at the properties offered in Brussels¹⁵... And these Inside Airbnb figures only include active listings on Airbnb and not those on other platforms. This means that less than 2% of the market is 'registered', or in other words, 98% of the tourist residence market is illicit!

'Home-stay accommodation' is defined as 'any establishment with one or more separate rooms or areas equipped for this purpose, which form part of the operator's personal and usual dwelling or adjoining annexes'. Once again, BEE's figures of 166 registered units are significantly out of line with what can be found on Inside Airbnb (1,775 units). The 'legal' market for the 'home-stay accommodation' category doesn't even reach 10%.

We might wonder about this massive under-registration, which was already highlighted in a study by the Brussels Studies Institute in 2019¹⁶.

If you would like to find out more about non-hotel tourist accommodation, you will find a wealth of useful documentation on the STR-Belgium website¹⁷. The aim here is to be concise, so we'll go straight to the major problems posed by the current Ordinance:

1) The terminology used in the Ordinance is confusing in that it often refers to registration. In terms of European best practice rules, however, we find the Licensing-Authorization scheme and the Registration scheme. In the Brussels-Capital Region, the proposal involves an **authorisation scheme** (an operator may not operate without obtaining a licence number), which requires the Brussels authority to comply with a number of provisions of the EU Services Directive¹⁸. In case you are curious, here you will find the 3 key words announced in section 1 of the introduction: proportionality, justification and non-discrimination. It is also questionable whether Rudi Vervoort's Cabinet has paid any attention in its draft legislation to the position of the Court of Justice of the European Union, which applies indiscriminately to all 19 municipalities in the Brussels-Capital Region. In the Cali Apartments case¹⁹ in Paris (September 2020), the Court of Justice of the European Union (CJEU) emphasised that **the introduction of an authorisation scheme must be justified by an 'overriding reason relating to the public interest' and must remain proportionate to this objective**. In particular, the legislator is to ensure that **the requirement is 'strictly relevant' to the specific situation not of the municipality concerned taken as a whole, but of 'each neighbourhood'**.

2) While obtaining a registration number (or rather a licence number) is, in principle, perfectly feasible for the 'home-stay accommodation' category, the same cannot be said for obtaining a licence number for the 'tourist residence' category. The only way to obtain this number is to rent out the flat or villa in which the operator has established his main residence for no less than 120 days (cumulative) per year.

¹⁵ <http://insideairbnb.com/brussels>

¹⁶ <https://str-belgium.be/etudes-et-statistiques/>

¹⁷ <https://str-belgium.be/>

¹⁸ See sections 3 and 4: <https://str-belgium.be/wp-content/uploads/2023/11/eutt-study-By-Christoph-Busch-Regulating-Short-Term-Rentals-Towards-Data-Driven-Policymaking.pdf>

¹⁹ <https://str-belgium.be/mise-a-disposition-de-logements-a-une-clientele-de-passage-les-mesures-nationales-anti-airbnb-ne-sont-pas-necessairement-contraires-au-droit-europeen/>

Consequences of this extremely important limitation:

- a. Under the terms of the Ordinance, the **tourist residence market is not open to professionals**, unlike the markets in all other European cities. In other words, the total offer of short-term rentals in the Brussels-Capital Region can only be provided by private individuals, whereas this potential capacity looks more like an empty shell, due to the restrictions imposed:
- For home-stay accommodation: as a citizen, would you like to share your privacy and welcome tourists into your home for no less than 120 days a year²⁰? Do you have the necessary space?
 - For the tourist residence category: who can claim to offer a capacity of 120 days per year of their main residence (certain categories of citizens such as expatriates, maybe)? In most cases, this will only be for a few weeks (see point b) below), during the holidays, and again for those who are willing to do so...
- b. The total 'legal' capacity of the 96 'registered' tourist residences is certainly not to be considered — in terms of guest nights — as capacity available all year round but for only 1/3 of the year (maximum 120 days, see above). The offer of tourist residences is also concentrated during certain times of the year (weekends, summer period).

To sum up, it is easy to see that the legal potential for guest nights in tourist accommodation offered by private individuals is extremely low, if not negligible, given the issue set out above.

3) There is a clear link between an economic administrative policy (Ordinance of 8 May 2014) and a regional administrative policy (the Regional Land Use Plan, PRAS — *Plan Régional d'Affectation du Sol* from 2001, obsolete). The Government has also understood the obsolescence of the PRAS, since it has launched the Share The City project²¹. STR-Belgium has asked (without response at this stage) to take part in this work, but doubts that the Minister-President will have any desire **to align these 2 administrative policies — economic and town planning — even though this is the keystone of the current Ordinance**. In fact, only the 'housing' and 'hotel' categories appear in the PRAS. Applying for a licence for a tourist residence rented out all year round (where the operator does not have his main residence) therefore requires a change of use of the property, which is impossible to implement in practice, as it requires the application of the unworkable compensation mechanism defined in the same PRAS. However, this review of the PRAS should have been undertaken as long ago as 2014...

4/ The Ordinance makes no distinction in its authorisation procedure, thus undermining its own objectives: all the boxes have to be ticked in order to be able to operate, so it is easy for the

²⁰ The 'home-stay accommodation' category (= 1 or more rooms in a flat or house) of the Ordinance of 8 May 2014, in article 10 – §1^{er} – 2° c) stipulates that the (part of the) accommodation made available to tourists must be available to receive tourists for at least four months a year (minimum 120 days) whereas a tourist residence (= the entirety of a flat or house) in which the operator has established his main residence may effectively only be let for a maximum of 120 days a year.

²¹ <https://str-belgium.be/str-belgium-salue-linitiative-du-gouvernement-de-revoir-le-pras-outil-urbanistique-fondamental-et-obsolete/>

authorities and the critics of the tourist residence sector to label everyone as illegal, without any nuance²².

5/ Authorisation procedures are neither simple nor online in the Brussels-Capital Region, which runs counter to the recommendations of the European Union²³.

In conclusion:

A/ Point 5) is undoubtedly a stumbling block for private individuals wishing to register. However, STR-Belgium would like to stress that certain rules — particularly in terms of safety — must apply regardless of whether you are a private individual or a professional. This point — which may require investments — just like the need to take out operating liability insurance to cover the business, cannot be bypassed for private individuals. The protection of the service user is at stake, as is the image of Brussels, as the recent fire in Ixelles²⁴ reminds us.

B/ Points 1) to 4) must be tackled to enable professional tourist residences to exist in the Brussels-Capital Region in a regulated and controlled manner.

And the future regulations, the ones on the table in Parliament, what will they bring? Unfortunately, the spirit of the current Ordinance has been fully maintained. Only a few formal adjustments are proposed:

1. The possibility of outsourcing simplified inspection certificates to certifiers
2. A certificate of compliance with town-planning regulations will no longer be required for the 'Accommodation in private homes' or 'Tourist residence' categories (provided that the operator has established his main residence there and does not rent out the property for more than 120 days).
This is merely an administrative simplification of form, as it is — in substance — not very problematic to obtain.
3. The agreement of the co-ownership council no longer has to be obtained formally, only a notification has to be made to the co-ownership council. Without in any way questioning the merits of this request for agreement from the co-ownership council, the Government's explanation makes it very difficult for those wishing to obtain this agreement beforehand, and for those wishing to avoid disputes afterwards (which would result in the withdrawal of the registration number). We'll come back to the real/false issue of public tranquillity problems used as an opportunistic weapon by the sector's critics.

On the other hand, the fines have been seriously increased, demonstrating the determination of the Minister-President to converge the existing illegal market (~ 6,000 to 7,000 units) with the 'legal' market as defined by his Cabinet (~ 300 units), i.e. a **destruction of 95% of the market**, to

²² See figure 1 in this article: <https://str-belgium.be/reactions-de-str-belgium-suite-a-la-prise-de-position-de-lechevine-de-lurbanisme-de-la-ville-de-bruxelles-dans-le-cadre-de-la-pose-de-scelles-sur-un-hebergement-touristique-non/>

²³ <https://str-belgium.be/what-could-eu-regulation-mean-for-short-term-rentals/>

²⁴ <https://www.lavenir.net/regions/bruxelles/ixelles/2023/11/27/un-incendie-ravage-un-airbnb-rue-felix-bovie-dans-le-quartier-des-etangs-dixelles-photos-et-video-l2BIUH5YL5FD3PB5S6XQ7RXQ4Y/>

the (much hoped-for) benefit of the hotel segment... and to the detriment of other economic sectors (see section 4).

4. Understanding the issues

After these technical considerations, let's move on to the issues at stake in this Ordinance.

The stated objectives of the Ordinance remain unchanged, although for some obscure reason the order of these objectives has been changed... We refer you to the open letter sent to the Minister-President on 12 October 2023 and the letter sent to him on 30 September 2022²⁵, in which the draft Ordinance and its various objectives are analysed in terms of their relevance and the effectiveness with which they are achieved.

As mentioned above, demand for short-term rentals continues its impressive rise across Europe, and Brussels is obviously no exception to this trend. Beyond the risks and constraints that tourist residences bring (see below) — which are the only elements of the political (and the hotel lobby's) discourse — and which require effective regulations (and not a ban), the sector generates real opportunities for the Brussels-Capital Region and its citizens:

1. As a citizen, listening to our politicians talk about Airbnb could easily give you the **Nimby Syndrome**²⁶.

But bear in mind that if the Brussels government's policy approach, in a surrealistic Belgian-style scenario, were to make it to the European level, you would be much less able to take advantage of the benefits of short-term rental during your city trips or holidays in Europe.

2. Tourist residences offer a totally different and complementary experience to that of hotel rooms, and attract large numbers of tourists to every region and town in Europe, as the Eurostat figures mentioned above illustrate. The **economic spin-offs** of this influx cannot be ignored, and indeed must be carefully preserved; the revenue generated directly (tax on business income, payment of city tax just like hotel owners) and indirectly is essential, especially to feed a Brussels budget on the verge of bankruptcy²⁷, to **reduce the tax burden** on you, the citizens of Brussels.
3. Customers of the tourist residence are also customers of cafés and restaurants. At a time when the restaurant sector in particular is in the doldrums²⁸, it is **vital to assess the impact of the draft Ordinance on the restaurant and café sector**. Our tourist residence sector fears that the drastic reduction in supply — in terms of both quality and quantity (see arguments above) — will cause certain categories of customers (families, groups of friends, etc.) to turn away from Brussels in a single click. In a market where supply and demand are completely

²⁵ <https://str-belgium.be/lettre-ouverte-au-ministre-president-de-la-region-de-bruxelles-capitale/>

²⁶ <https://en.wikipedia.org/wiki/NIMBY>

²⁷ <https://www.beci.be/budget-bruxellois-beci-craint-la-faillite-de-la-region/>

²⁸ https://moustique.lalibre.be/actu/consommation/2023/11/29/cest-bon-mais-cest-cher-aller-au-restaurant-en-belgique-est-il-devenu-un-luxe-273547?utm_medium=Social&utm_source=Facebook&fbclid=IwAR3ONs7Q4zt09FINrU3PscE03cBmxjeRfTqqpBvroZEpldU-u1M0bKaUtM#Echobox=1701270600

unbalanced as a result of such a policy, resulting in an increase in the price of hotel rooms, a **drop in the number of people visiting cafés and restaurants** is more than likely in tourist areas, with **dramatic consequences for this sector and its employment**;

4. The tourist residence sector is completely disregarded by the Minister-President, despite the fact that this sector is surrounded by a whole **ecosystem of entrepreneurs and companies** in the laundry, cleaning and technology (management software, AI, etc.) sectors, which is well established and recognised in every city in Europe. This is demonstrated by the trade shows that are held periodically to boost the sector²⁹. But **what desire does this government have to maintain/create jobs, to stimulate economic activity by taking account of the economic realities of the market and, ultimately, to support small and medium-sized businesses³⁰**, in the interests of the competitiveness of the market and the end consumer, the tourist? The tourist residence sector is wrongly seen as a sector for wealthy multi-owners, whereas the role of ‘property managers’ in the sector enables small owners to make ends meet, renovate their properties and keep them up to current environmental standards.

The Brussels-Capital Region Government is completely missing the **real opportunity to create an economic bubble that will enable dozens of small and medium-sized local businesses to generate value for the Region and its citizens, by applying a quota system with well-defined, transparent and non-discriminatory parameters.**

5. Maintaining a sufficient and correctly sized offer of tourist residences makes it possible to achieve a market balance that will guarantee the **protection (of the interests) of the users of the service**. The term in brackets has been completely omitted by the Minister-President, whose draft policy will drive up prices and prevent healthy and fair competition that benefits the users of these services. It is also surprising that the current and future Ordinances make no provision for the **labelling of the tourist residence sector** (we will come back to this below), as if it were absolutely essential to keep the tourist residence sector in the amateur's league, so as not to compete with the hotel sector...
6. The European Commission is looking into the subject of regulating the sector³¹ and important milestones have been set in December 2023³². It would seem entirely logical, healthy and a sign of good governance for the Brussels-Capital Region Government to take advantage of this **momentum to synchronise its draft Ordinance with the project to regulate the short-term rental market initiated by the European Commission** (implementation planned for 2026), which the Government has also announced as the moment when its project to **revise the PRAS** — Share the city — will be completed. As a reminder, the Council of the European Union announced in its press release: ‘The co-legislators agreed to align the new regulation with the relevant provisions of the Digital Services Act and the Services Directive.’

²⁹ France: <https://france.scalerentals.show/show/>; Spain: <https://www.vitursummit.com/vitur-summit-2022?lang=en>; Italy: <https://italia.scalerentals.show/> Portugal: <https://vacationrentalworldsummit.com/>; London: <https://uk.scalerentals.show/attend/>; ...

³⁰ <https://www.rtbef.be/article/plus-de-la-moitie-des-entrepreneurs-envisagent-de-quitter-bruxelles-11293262>

³¹ https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6493

³² <https://str-belgium.be/le-projet-de-regulation-europeenne-du-secteur-de-la-location-courte-duree-franchit-une-etape-supplementaire/>

For STR-Belgium, a policy of banning professional tourist residences, as implemented without scientific justification, cannot be compatible with the EU Services Directive.

Of course, we will get back to the arguments of our critics, but we have taken the liberty of reversing the order of the explanation:

7. As for the **inflationary effect of tourist residences on the rental prices**, and the resulting inability to provide people with reasonably priced accommodation, which could even lead to towns being emptied of their inhabitants. The purpose of this letter is not to claim bluntly that none of these effects are possible. These effects, where they exist, must be demonstrated on a neighbourhood-by-neighbourhood basis. And it is even less ambitious to believe that we can solve this problem in a few lines of an open letter. Nevertheless, we are asking the Government of the Brussels-Capital Region to be pragmatic and to assess the effect of all the means it has at its disposal to tackle the housing crisis without using the tourist residence sector as a scapegoat — through non-differentiated, non-proportionate, unjustified and discriminatory global policies.

Some examples:

- a. In France, vacant dwellings (= abandoned/unoccupied properties) are 41 times more present in the statistics than short-term rentals. Even in Paris this ratio is still 15³³.
- b. In Brussels, **there does not yet appear to be a systemic, validated study of the weighted impact of the various parameters affecting changes in the cost of housing**. In its proposed solutions to the housing crisis, CD&V mentioned³⁴ ~ **20,000 vacant homes and over a million square metres of empty office space**. In passing, we welcome the fact that CD&V, unlike other parties, has not made short-term renting its scapegoat in this housing issue.

To put things in perspective: assuming that the Government authorises a bubble of 2,000 professional tourist residences in the Region, it would have a stock of vacant accommodation 10 times greater than that to compensate for this 'loss' (and this even without using empty office space). **How could the Minister-President claim that authorising a limited number of professional tourist residences, distributed in a relevant way (also taking demand into account), would 'jeopardise' the objective of protecting housing?**

Aren't there other ways of tackling the housing crisis other than banning business tourism residences altogether?

For those who raise the issue of overtourism, it's worth remembering:

- that tourist residences are not the only category of tourist accommodation potentially open to criticism

³³ <https://str-belgium.be/wp-content/uploads/2023/11/Strategy-Airbnb-Etude-dimpacts-de-la-location-courte-duree-en-France-Exec-Sum-OK.pdf>

³⁴ <https://www.bruzz.be/politiek/cdv-brussel-wil-registratierechten-verlagen-van-125-naar-6-procent-2023-12-03>

- that Brussels is (unfortunately) not in the top 20 most-visited cities
- the example of certain cities in the United States is particularly illustrative³⁵ — and this is certainly not the aim, which is why the regulations must support the law of supply and demand.

We will come back to the link with housing policies with some very clear questions to the Government in the last section of this letter.

8. As for the unfair competition caused by tourist residences vis-à-vis the hotel sector. **An underground market like the one in Brussels is not good, neither for the hotel sector, for the (professional) tourist residence sector, nor for the public as a whole, or for the users of the service.** What is most regrettable is that this is a *de facto* situation based on an Ordinance that will celebrate its 10th anniversary in May 2024.

On the basis of all the elements listed above, this policy is completely unbalanced, and it is more than **incomprehensible** that the Minister-President has not reviewed his

policy on the basis of this **crystal-clear feedback**. The Minister-President presents his project as non-discriminatory, since it applies to all categories of tourist accommodation, but let's not confuse the two. The professional tourist residence sector is simply asking to be able to exist, whereas the hotel sector is asking to be able to expand.

9. As for the source of public tranquillity problems, it is obvious that it needs to be monitored. A minority of unscrupulous and sometimes (very) imaginative users of the platforms should not be a justification for the critics of tourist residences. **Intelligent sound level meter solutions exist**³⁶, combined with security services, and are being deployed throughout Europe. In some regions, such as Andalusia, they are **even required** by law³⁷. A source of inspiration for the Government of the Brussels-Capital Region! **A first step towards labelling tourist residences?!**

5. Key questions

Here are the questions to which the Minister-President should provide clear answers during the parliamentary debates:

1. As your Ordinance will effectively destroy a large proportion of the real offer of tourist residences rented out all year round, have you carried out an **impact analysis of the brutal imbalance that you are going to create between supply and demand for tourist accommodation**, in particular:

³⁵ <https://www.businessinsider.com/airbnb-vrbo-hosts-summer-slowdown-new-normal-2023-6?r=US&IR=T>

³⁶ For example: <https://roomonitor.com/> & <https://fr.minut.com/>

³⁷ <https://www.europapress.es/esandalucia/sevilla/noticia-andalucia-plantea-limitar-particulares-explotacion-maximo-dos-pisos-turisticos-provincia-20230610111451.html>

- a. on the parallel rise in hotel room prices?
 - b. on the attractiveness of Brussels?
 - c. on the collateral effects on the patronage of restaurants and cafés?
2. Your memorandum justifying the Ordinance refers to several studies on the upward trend in rental prices in recent years, some of which show a correlation with the presence of ‘airbnbs’ in certain neighbourhoods. **Could you provide some concrete figures on the effect that your policy of destroying a sector will have on rental price trends?**
 3. In the **same spirit, could you demonstrate that it is impossible to find a global optimum, in particular by stepping up measures to reallocate vacant housing stock** (20,000!, not counting the 1,000,000 m² of empty offices) as a means of **maintaining a bubble of professional tourist residences**, in the interests of the service users and the Brussels-Capital Region, without undermining the measures taken elsewhere to resolve the housing crisis?

Have you used multi-criteria decision-support techniques to justify your policy? If so, it would be useful to communicate the weight of the different criteria that you are announcing in the objectives of the Ordinance.

4. You reject the quota system proposed by STR-Belgium on the basis of an extremely unconvincing justification (see section 7. Appendix). Your government was able to apply this in the field of mobility with scooters just recently (the safety problems relating to this mode of transport have not been catalogued as an overriding reason relating to the public interest³⁸?!). **Could you explain and justify your position on the introduction of quotas, which could be a real boost for the Region?** How do you view the court ruling in Amsterdam³⁹?
5. **What specific measures have you implemented in the Ordinance to address the potential problem of public tranquillity**, which is not very common for serious operators, but is nonetheless a very real problem if left unmonitored? Why haven't you considered the legal obligation to use smart sound level meters and associated security services (see the example of Andalusia)?
6. You quote a study in your justification (A-770/1 - 2023/2024 — p. 24 (Verhaeghe & Endrich, 2022)) without taking up one of its recommendations: to establish progressive tourist taxes and to better distribute the offer throughout the Region: ‘There is too much offer in the city centre. But there might be room for an extended offer in other municipalities where there are very few tourist accommodations of this type and where this could benefit the restaurant

³⁸ ‘Overriding reason relating to the public interest’ under European law

³⁹ The Dutch Council of State has just ruled that the city of Amsterdam could not ban short-term rentals in certain areas of the city: ‘A total ban on holiday rentals in certain neighbourhoods is a far-reaching measure’, said the court. ‘It can only happen if there are good reasons for it related to the purpose and scope of housing laws. The city executive should first have investigated whether less drastic measures could be taken to reach the intended goal.’ The verdict suggested that instead of a total ban, Amsterdam could first have investigated whether a reduced quota (*) of Airbnb-style rentals would have had an effect, or whether it could have been achieved by withdrawing permits from people whose rentals created nuisance. <https://str-belgium.be/amsterdam-was-wrong-to-ban-airbnb-rentals-in-three-areas-court-dutchnews-nl/>

Understanding the challenges of ‘regulating’ Airbnb-type tourist accommodation in the Brussels-Capital Region /
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and café sector — for example, on the other side of the canal, which also acts as a border for Airbnb.’ **Could you explain why you do not wish to take this recommendation into account?** It should also be noted that the study talks about a distribution, not a ban for the city centre, and even less about a ban on an entire region or professional sector.

- 7. Could you explain why you are not taking advantage of the momentum of 2026 to synchronise your draft Ordinance with the implementation of the European Commission's plan to regulate the sector and, above all, with the work on revising the PRAS?**

6. Conclusions

Dear citizens of Brussels, the issues at stake in the draft Ordinance on tourist accommodation have been presented to you. As you will have gathered, the Minister-President has used the extremely sensitive and electoral argument of housing protection to justify the massive destruction of an established segment of the tourist accommodation market. The validation and implementation of such a policy requires strong and impartial justification to ensure that it is in the general interest of the Region. This is what the sector is calling for: absolute clarity, without ignoring or scorning the blatant problems of a well-recognised housing crisis. We need to show that we can make a contribution, and define where precisely and to what extent.

While the political pathway is difficult, given the various and sundry conflicts of interest that poison the discussions on the subject, the sector has every confidence in the legal pathway, at national level, and if need be, at a later date, before the Court of Justice of the European Union. We would remind you that Belgium — as a Member State of the European Union and interface with the Brussels-Capital Region — is subject to a pre-litigation procedure. In our view, this formal notice from the European Commission is a crucial element, and we are astonished that the Minister-President is continuing down this **one-sided path of banning the professional sector of tourist residences without robust and scientific arguments that take all the parameters of the equation into consideration.**

The ball is now in the court of the Minister-President, but also of the Members of Parliament from the majority and the opposition.

7. Appendix

Quota system — Justification by the Minister-President (A-770/1 - 2023/2024 / p. 29)

‘During the evaluation phase of the 2014 Ordinance, the difficulty of obtaining the urban planning compliance certificate was reported by several sector representatives. They proposed replacing the requirement for a compliance certificate with a quota system, i.e. determining a number of tourist accommodations that would be considered tolerable for a certain area.

Introducing a quota system as part of the economic regulation of access to the tourism profession would mean exempting certain people from the obligation to comply with the urban planning regulations that apply to everyone, in the name of entrepreneurial freedom.’

There is nothing to stop the Government taking advantage of the Share The City project and reviewing these urban planning rules as part of the PRAS review.

‘Furthermore, the quota system would lead to the inevitable and peculiar phenomenon of “first come, first served”, which suggests that operators already in business who have been operating tourist accommodations illegally would thereby be regularised without giving new projects a chance to develop. In this way, the quota system would put in place an authorisation scheme that discriminates against service providers, which is prohibited by Article 9 of the Services Directive.’

All we need to do is look at the examples applied in many European cities. Licences can be granted for a limited period of time and reallocated fairly, creating a dynamic market for the benefit of all.

‘Furthermore, by introducing a quota system that would amount to bending the rules of urban planning — through tourism policy — we would only prove that the territory, as currently organised and planned, taking into account the need for housing for residential purposes, is not designed for such an intense influx of activity aimed at substituting housing with businesses. However, this does not mean that the PRAS does not take tourist accommodation into account, as it provides for and defines “hotel establishment” as an establishment for hosting people.’

Since the Minister-President is competent for Territorial Development and Tourism, it would be remarkable if he were unable to find solutions... but the real question is: a solution to which problem? When public tranquillity is under control (although the Ordinance would have to provide for real measures in this area), the integration of a tourist residence in a residential area is not in itself a problem.