



” Short-term rent market in the face of regulatory changes

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Short-term rental has become a more and more popular option of accommodation per night. Development of services such as Airbnb or Booking.com has strongly contributed to it. Since the very beginning of that type of accommodation, tourists have been very enthusiastic about it. This trend is apparent in big cities and touristic destinations.

Business dependent on renting a flat for short period generates higher profits than a traditional long-term rental. This is a reason why the investors' activity in this scope has increased significantly within few last years, both for the benefit of tourists and business travellers. Until now, this market has been growing. From year to year we could see the increase in number of short-term rental offers on booking platforms.

With a new kind of activity on the market, new challenges appear as well. Lack of legal regulations, conflict with cities governments or neighbour issues on the short-term rent market are still being discussed and remain unsolved. Outbreak of the Coronavirus pandemic has been an additional, strong blow to be dealt with by the investors.

SHORT-TERM RENTAL AND THE LAW

On September 22, 2020 a judgement of the Court of Justice of the European Union (CJEU). concerning the short-term rental in France, was issued. The Court did not contested the French legal provisions, which give the authorities the possibility to impose regulations restricting the activities of people who handle the short-term rental. This issue concerned the provisions of the French Construction and Housing Code, which makes it possible to change a function of dwelling located in municipalities with more than 200 thousands inhabitants only after obtaining an appropriate permission from local authorities, under threat of penalty.

According to the French law, multiple short-term rental of fully furnished flat with no check in, is actually a change in function of a property. The CJEU judgement is a response to the doubts of the French national court regarding the compliance of those requirements with the EU law. In its judgement the Court stated: 'Domestic rules, which require a special permission on short-term rental for clients without check-in, is consistent with EU law'.

Thereby the Member States have the right to create regulations for people who want to rent their flat per day. As emphasized by the CJEU, implementation of restrictions on short-term rental will serve a housing policy in a given country and aims to counter a lack of apartments for long-term rental. In case of Paris, local government may impose penalties for not having a proper permit. The French case, which was placed on the CJEU's list, gave the green light to other member states, including Poland, as our government is considering to enact restrictions regulating this kind of business activity.

A lot of European cities have brought their own rules into force. They concern, for example, number of days for which the premises can be made available in the form of short-term rental, location of the accommodation in a given area or duty to have an appropriate permission for conducting this type of activity. The group of cities with this kind of local regulations includes, apart from Paris, also Berlin, Amsterdam, London, Barcelona and others.

As announced previously by the Polish Ministry of Development, the act regulating the short-term rental principles is to be developed. According to the assumptions, a central register of accommodation facilities will be created, which will include also a list of short-term rented premises. Their owners will not have to apply for a permit, but they will have to submit a notification under a penalty of a fine.

The main aim of this law will be to counteract unfair competition from investors, who pose a threat to legally operating accommodation facilities. The register is planned to be published in 2021. It means that the current legal status of the short-term rental will probably remain unchanged during the 2021 tourist season.

Short-term rental also causes controversy not only in terms of restrictions on business activity, but also of a tax nature. It turns out that currently many people, who purchase real estate for tourist rental, do not set up a business and do not pay the related taxes.



SHORT TERM RENTAL AND LOCAL GOVERNMENT

Raising popularity of short-term rental, mainly in attractive tourist destinations, not only harms the hospitality industry, but also, above all, ordinary inhabitants. Flats for short-term rental are very often located in multi-family residential buildings, where other people live their everyday lives as well.

According to local government officials, dwellings rented for a short time should be classified as tourist facilities. Currently, there are no legal regulations allowing for such treatment. At the moment, this form of lease does not generate any tax revenues for municipalities.

Local governments would like to introduce regulations, allowing to control the short-term rental, also in terms of finances. Currently there are no tools for the enforcement of local or health fees. Local government bodies may only call for its payment.

The city authorities, mainly in Krakow and Sopot, where the short-term rent market is quite significant, are in favour of introducing a register of short-term rental facilities. They also appeal to the government to accelerate work on new regulations. They propose that the solutions would work similarly to how they function in the field of counteracting alcoholism, which allow the local government to introduce local regulations, like limitations on sale of alcohol.

SHORT TERM RENTAL AND CORONAVIRUS PANDEMIC

On the real estate market, the coronavirus pandemic has hit the short-term rentals the fastest. As a consequence of introducing the state of epidemic threat in Poland, in the period from mid-March until May, there was a ban on short-term rentals. In this time lessors could rent an accommodation only for people who have been under quarantine. Therefore, most of landlords during this period remained without income.

The borders closure and the ban on flights, thereupon the inhibition of tourist traffic, was a strong hit to this market. Tourist were a main group of guests who rent flats for short time. Moreover, a significant number of companies stopped sending their employees on business trips because they converted into online meetings. Business travellers were also in a group of potential clients for short-term rent market.

With defrosting the economy and loosening the restrictions, the number of people who prefer short-term rental as an alternative to a hotel has increased. However, mostly they were local tourists. This year, the number of tourists from abroad, who constituted a significant percentage of guests in this kind of facilities, was clearly lower. Polish tourists chose to spend holidays in the country more often than they used to do so in previous years, but eventually the gap was not filled in 100%. As a result, decreases in annual profits from this premises should be expected. This can be a particularly difficult situation for those investors, who took out mortgage loans to buy apartments for short-term rental.

A new phenomenon on the market, which has recently arisen as an alternative to the short-term rental, is a medium-term rental. Some investors, who have rented flats per day, now make them available for potential tenants for a period of approximately three months. They do not want to rent them for a longer period because they hope that situation will improve. This option seems to be quite difficult to implement as hardly anyone needs a flat for a period of several months. Moreover, contracts concluded for such a period are often unfavourable for tenants, because the landlord can terminate it very quickly. This is due to the fact that landlords are mainly interested in rental for days, which is the most profitable for them.

A tourist voucher is a form of assistance for the domestic tourism sector, which can be used by landlords of short-term housing. However, appropriate conditions must be met for customers to redeem the voucher in a given facility.



Payment with a voucher will be allowed only in premises rented by a business entity. Hence, landlords interested in getting profit from this program, will have to register their business activity. This can become a tool for reducing a 'shadow economy'. In this way short-term rental market may be regulated.

It should be noted that families with children more often choose holiday destinations at the seaside or in the mountains than in big cities. That is why owners of the apartments for short-term rent located in popular holiday destinations are more likely to benefit from the tourist voucher programme than those, who offer a short-term rent in big cities.

CONCLUSIONS

Short-term rental is dependent on many fluctuations, which negatively affect the business. Competition, seasonality, legal regulations, even unpredictable situations such as the coronavirus pandemic undoubtedly inhibited the aspirations of those, who wanted to invest their capital in short-term rental. However, this sector will continuously grow. Certainly, over time the new regulations at the statutory level will be brought into force. Probably local authorities will have a lot of autonomy in relation to detailed solutions. As far as now, their entry into force seems not quite imminent.



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