

## **Perks of Being a Host Provider – Airbnb’s Liability Under European Law**

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Airbnb operates a platform where people can connect to each other for travel purposes. The platform was founded eleven years ago and has been tremendously successful since then. In the last years the shine of the Sharing Economy in general and Airbnb in particular has been tarnished by bad media coverage and criticism from different angles. Whereas socio-economic concerns (e.g. higher housing prices, gentrification) and problems of order such as tax evasion are ever-present issues in the political discussions, the examination of the phenomenon ‘Airbnb’ from a private law perspective has only very recently emerged from its shadowy existence.

Among the most important issues in the triangular relationship between the platform and its users in general is the extension of responsibility of the platform operator for the proper performance of the contract between supplier and customer. In the particular case of Airbnb, the platform operator has established a regime that offers some reassurance for hosts (host guarantee), whereas it denies any responsibility for bad performance or non-performance of the host. This exclusion of liability and its justification will be in the centre of the presentation. First, the effective European law foundations that limit the member states’ possibility to make platforms liable for misconduct of its users and their application to Airbnb will be presented. In this context, the presentation will shed light on the recent judgment of the CJEU concerning the transportation platform Uber (C-434/15) as well as the opinions of advocate general Szpunar in the pending case against Airbnb (C-390/18).

Second, the legal-political dimension of the topic will be discussed, including a critical analysis of proposals of both the European legislator (e.g. Recommendation on measures to effectively tackle illegal content online, COM 2018, 1177 final) and academic lawyers (e.g. the Discussion Draft of a Directive on online intermediary platforms by the European Law Institute). Methodologically, the presentation will use the generally recognised principles of interpretation of European law as far as questions of legal-dogmatic nature are concerned. With regard to issues of legal policy, the techniques of reverse subsumption and concretising comparison will be applied.

**Keywords:** Online Platforms; Liability; Airbnb; European Law