



Understanding Short-Term Rental Regulation: A Case Study of Lisbon (Portugal)

Joana Almeida (corresponding author)

IST, Department of Civil Engineering, Architecture and Geo-resources, Lisbon, Portugal

joana.c.almeida@tecnico.ulisboa.pt

Frederico Diniz Oliveira

PBH, Municipal Foundation of Culture, Belo Horizonte, Brazil

oliveira.frederico@campus.ul.pt

Jorge Baptista e Silva

IST, Department of Civil Engineering, Architecture and Geo-resources, Lisbon, Portugal

jbsilva@tecnico.ulisboa.pt

Abstract: *Notwithstanding the positive impacts of short-term rentals (STRs), it is often their negative effects that have been raising pressing questions for urban planners and public policy-makers, including changes in housing dynamics, conflicts between residents and visitors, tourism gentrification phenomena, unfair competition practices, and tax evasion, among other externalities. Because of this, short-term rental regulation has become an important item on the political agenda of municipalities that live daily with these issues. In order to contribute to a better understanding of STR regulatory approaches, this paper investigates how Lisbon (Portugal) has been responding to the effects attributed to STRs. It can be concluded that the main negative impact of STR in Lisbon is its effects on the housing prices increase and that the main STR regulation measure is focused on zoning: definition of zones for the application of differentiated STR rules and management.*

Keywords: short-term rental; regulation; housing affordability; tourist gentrification.



Introduction

The exponential increase in the number of holiday rentals has revealed that it is possible to provide relevant improvements, but also to intervene negatively in the urban and social fabric, thus giving rise to problems of various kinds. Neighbourhood conflicts, residential segregation, and the displacement of vulnerable residents are some of the impacts addressed by Gurran and Phibbs (2017) and Wachsmuth and Weisler (2018).

City councils have consequently developed sets of rules to mitigate the negative impacts of short-term rentals (STRs). Most papers dealing with STR regulation measures, such as those published by Gottlieb (2013), Oskam and Boswijk (2016), and Gurran and Phibbs (2017), argue that cities should not adopt packages of measures or standardised strategies, as there are a number of specifics that must be taken into account, particularly given that impacts and the intensity thereof tend to vary depending on the concentration of STRs, the types of leased properties, the characteristics of the real estate market, social and economic conditions, and the level of tourism pressure.

Although research on STRs has focused on developing comparative analyses of case studies in order to identify similarities and differences in the regulatory practices that have been adopted, such as those published by Wegmann and Jiao (2016), Hajibaba and Dolnicar (2017), and Furukawa and Onuki (2019), there is a lack of research focusing on the systematisation of impacts and their relationship with the different types of regulatory measures. This research study sets out to fill that gap.

Accordingly, this research has three main objectives: 1) to identify and systematise the main effects associated with STRs; 2) to identify and to systematise the current STR regulatory measures; and 3) to clarify the main STR impacts and regulatory measure in the specific case of Lisbon. The main methodological tool used for this purpose is document analysis.

Literature review

The rise and the consequences of STRs have been addressed in the academic literature of several disciplines and areas of knowledge and in a significant volume of scientific publications and case studies. In line with the object and objectives of this investigation, two major topics were selected as the focus of the research, the first referring to the effects associated with STRs (Table 1) and the second concerning measures to regulate STRs at the international level (Table 2).



Table 1: Literature review of the main effects associated with STRs

Types of STR effects	Characterisation of STR effects
Impacts on housing	An increase in STRs can contribute to an increase in property value, reducing the offer of long-term rents and increasing the value of traditional leases. It can also contribute to the scarcity of affordable housing for residents, encouraging the conversion of long-term rentals to short-term rentals.
Tourist gentrification	The proliferation of STRs can contribute to abrupt changes in the socio-spatial relationship in historic areas, particularly areas with heavy tourism, by replacing, or emptying the area of the resident population. It can motivate dynamics in which traditional commercial spaces are converted to tourist services. It can lead to residential segregation and the displacement of vulnerable residents, as well as the closure of historic stores. And It can also encourage the mischaracterisation of historic neighbourhoods in terms of their intangible heritage.
Neighbourhood impacts and conflicts between residents and tourists	This effect comprises issues related to the increase of visitors in certain areas: excessive noise; situations of drunkenness; the generation of excessive solid waste; the misuse of common areas in residential buildings; increased security risks for the other apartment owners/residents; too many people in the same dwelling; inadequate use of parking spaces, among other inconveniences resulting from the non-compliance with or ignorance of local rules by tourists.
Problems of informality, tax evasion, and unfair competition	With the exponential growth of STR activity, the informal supply of rental properties has become one of the main challenges for public administration. In addition to it being a potential means of tax evasion, informal rentals are also considered a practice of irregular and unfair competition, especially in relation to the hotel industry and other kinds of tourist accommodation industries.
Problems related to safety, quality control, and protection of consumer rights	When tourist accommodation services are being provided there are necessarily concerns about the physical safety of users, the quality of the properties on offer, including aspects such as conformity with public health standards, habitability, comfort, fire prevention, and risk control, and about the resolution of eventual conflicts between the parties involved in peer-to-peer negotiations over tourist accommodation and problems regarding the role and responsibility of companies like Airbnb in transactions facilitated by their platform.
Impacts on the local economy	The increase of STR activity can contribute to: <ul style="list-style-type: none"> - the generation of more income and jobs and the collection of fees and taxes; - the strengthening of the tourism production chain and the promotion of local commerce.
Incentive for urban regeneration	STR activity can stimulate urban redevelopment and building renovation practices, particularly in terms of the renovation of vacant properties, properties that are in a bad state of conservation or need maintenance.

Source: Based on Altes, Kleinhans and Meijers (2018); Barron, Kung and Proserpio (2018); Brousseau, Metcalf and Yu (2015); Carvalho et al. (2019); Castela (2018); Cocola-Gant and



Gago (2019); Crommelin et al. (2018); DiNatale, Lewis and Parker (2018); Dolnicar (2019); Fang, Ye and Law (2019); Freytag and Bauder (2018); Gurrán (2018); Gutiérrez et al. (2018); Guttentag (2019); Heo, Blal and Choi (2019); Higgins-Desbiolles (2018); Horn and Merante (2017); Koens, Postma and Papp (2018); Lee (2016); Lestegás, Seixas and Lois-González (2019); Llop (2017); Nieuwland and von Melik (2018); Schäfer and Braun (2016); Shabrina, Arcaute and Batty (2019); Wegmann and Jiao (2017).

Table 2: Most common types of restrictions to limit short-term rentals

Quantitative restrictions	Qualitative restrictions
<ul style="list-style-type: none"> to limit the maximum number of days that accommodation can be rented in the course of one year and can be rented each month; to limit the minimum number of days a property can be rented out; to limit the maximum number of guests in a property at the same time and per year per property; to limit the supply to only one STR per host, in any area of the city; to limit the supply of rooms or entire properties by a single host in specific areas of the city. 	<ul style="list-style-type: none"> to limit the STR supply depending on the type of accommodation – for example, only entire properties or private rooms are allowed; to restrict the STR operation to obtaining prior authorisation or licensing; to require from STRs the same operating conditions regarding the safety, comfort and public health as conventional tourist accommodation establishments; to establish specific rules for STR supply in a main residence and in a ‘second home’; to restrict the STR operation to meet minimum safety, health, and comfort requirements; to restrict STR operations to meet specific urban norms, such as the mandatory independent or direct access of properties to the street.
Location restrictions	Density restrictions
<ul style="list-style-type: none"> to restrict STR activity in certain districts, neighbourhoods, or areas of the city, including a ban on new STRs in central areas of the city. 	<ul style="list-style-type: none"> to define the maximum number of STRs in certain districts, neighbourhoods, or areas of the city, or even the maximum proportion of STR units in relation to the number of standard family housing units.

Source: Based on Furukawa and Onuki (2019), Gurrán, Searleand and Phibbs (2018), Nieuwland and Melik (2018).

Methods and Results

Lisbon Case study

Lisbon, with approximately 518,618 inhabitants and 100 km², is selected here as a case study because it is a rising destination on the Airbnb platform and it is a city in which the expansion of STRs has had huge repercussions and generated a high level of conflict.

To study the STR phenomenon, three different kinds of variables are identified as relevant: quantitative information, STR effects, and STR regulation.



Quantitative information

To begin we can characterise the situation in Lisbon as our case study using data on the activities of the Airbnb platform from Inside Airbnb. This characterisation should enable future research and other case studies to compare and quantify differences and similarities and to understand the context in which the phenomenon of STRs has grown, what its impacts are, and what regulatory approaches has it been targeted with.

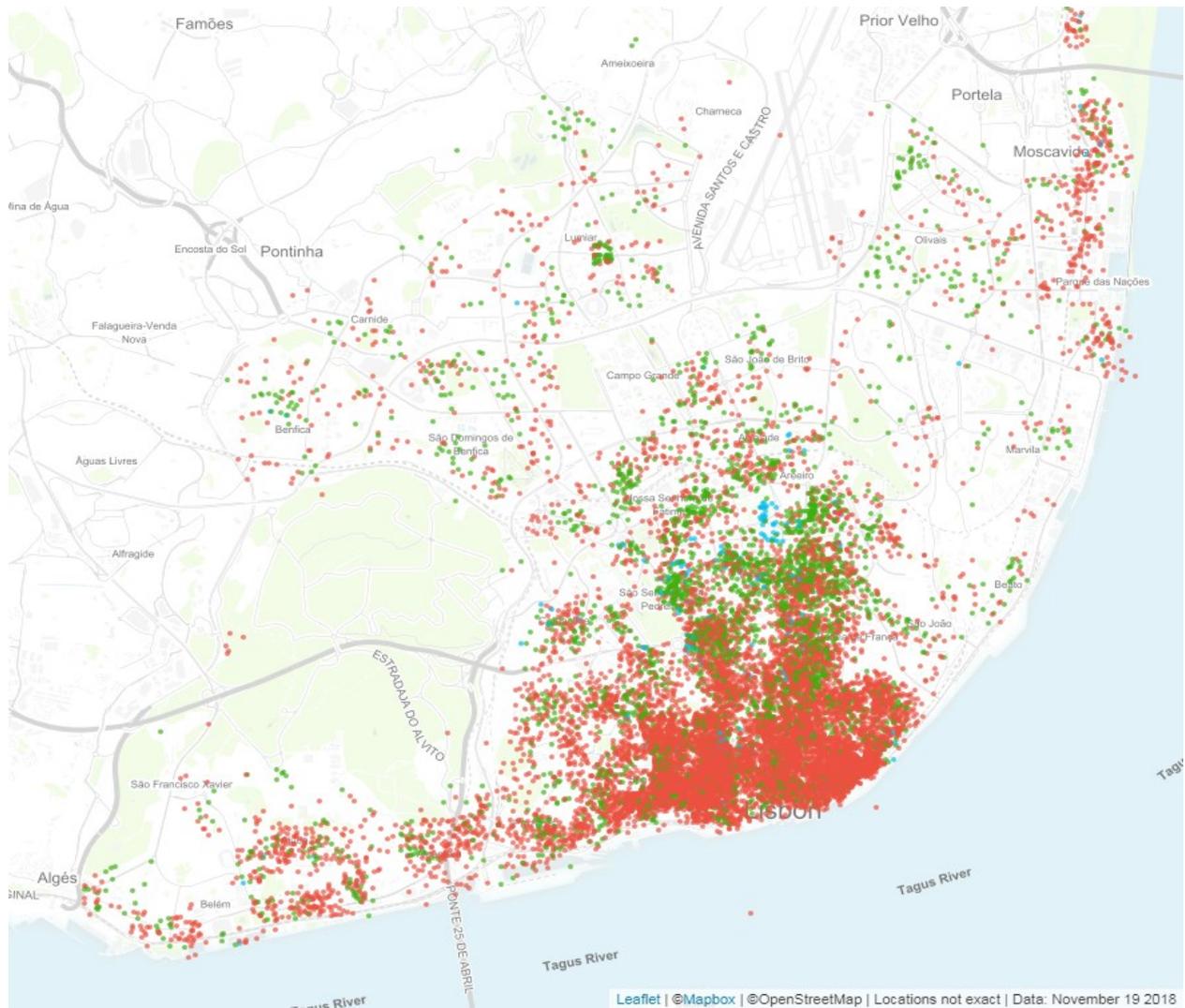
The spatial distribution of short-term rentals in Lisbon shows a high concentration in the central areas of the city, namely in the historic neighbourhoods, where more than two-thirds of the 16,230 listings in the city are located. Based on the Inside Airbnb data, 74.8% of available accommodation in the Portuguese capital can be categorised as entire properties, while 23.8% are private rooms and 1.4% are shared rooms.

The large share of entire properties on offer, as shown in Figure 1, combined with the fact that over 70% of the hosts have more than one property listed on Airbnb and that those listings are available, on average, for over 245 days a year, suggest that short-term rentals are drifting away from their original purpose in connection with the occasional use of home sharing with visitors.

In this sense, the increase in the touristic use of entire properties by owners and by small and large investors indicates that the economic interests associated with such activities are currently about much more than just generating additional income for residents.



Figure 1: The spatial distribution of entire properties on offer (in red), private rooms (in green), and shared rooms (in blue) from Airbnb in Lisbon



Source: *Inside Airbnb*. 2018.

Short-term rental (STR) effects and regulation measures

As established in the literature review (Tables 1 and 2), we propose organising STR effects into seven categories of effects and structuring regulatory measures into two categories: quantitative and qualitative restrictions (Table 3).

Based on this matrix of analysis and on the document analysis for the specific case of Lisbon, it is clear what the STR effects on Lisbon are and what the rules (quantitative and qualitative) implemented in the case of STRs are in Lisbon (Table 3).



Table 3: Identification of STR effects and quantitative and qualitative restrictions on STR development in the Lisbon case study

STR effects:	Lisbon
Impacts on housing	✓
Tourist gentrification	✓
Neighbourhood impacts and conflicts between residents and tourists	✓
Problems of informality, tax evasion, and unfair competition	✓
Problems related to safety, quality control, and protection of consumer rights	NA
Impacts on the local economy	✓
Incentive for urban regeneration	✓
Quantitative restrictions on STR development:	
Time limitation on the rental of entire properties	NA
Time limitation on room rental	NA
Spatial limitation of rooms in relation to the property	✓
Limitation on the maximum number of guests	✓
Collection of tourist fees	✓
Qualitative restrictions on STR development:	
Zoning	✓
Distinction of rules for main residences and second homes	NA
Permits	✓
Taxation and control	✓
Safety, health, and comfort requirements	✓

Note: NA – Not applicable.

Source: Authors.

Based on the three categories defined by Oliveira (2019: 72): ‘1) Total or partial ban on new STRs on entire properties; 2) temporal limitations + Distinction of rules for main residences and second homes + STR automatic offer blocking; 3) Zoning (definition of zones for the application of differentiated rules and management)’, Lisbon is included in the third category: ZONING.

STR effects

Clarifying the STR effects in the Lisbon case study (table 3), some authors address changes in housing dynamics in Lisbon that have resulted from factors that include the concentration of local accommodation in specific neighbourhoods (cf. Cocola-Gant and Gago 2019). The main risks of short-term rental are the large increase in the rental values for residents and the conversion of rental housing into short-term rental accommodation.

Several authors around the world, including from Lisbon (cf. Mendes 2018; Cocola-Gant 2019), have warned of the consequences of the accelerated growth of the offer of short-term rentals, highlighting the problems related to touristification and gentrification – most notably, the departure of residents from neighbourhoods in Lisbon due to the growth of short-term rentals.

Another effect of STR development in Lisbon is related to the fact that the sharing of space between residents and tourists may be a source of *conflict* stemming from a competition for



resources, facilities, and services. In the case of Lisbon, it appears that there has been an increase in community opposition to urban tourism and STRs, mainly due to the increase in noise, the displacement of residents (due to the increase in rents), and the increase in tourist-oriented spaces (e.g. commerce) (Cocola-Gant 2020).

With respect to ‘problems of informality, tax evasion, and unfair competition’, the Portuguese Hotels Association (AHP – Associação da Hotelaria de Portugal) has criticised the unfair competition between STRs on offer as tourist accommodation and the traditional forms of accommodation], especially when it comes to operating requirements. The AHP study (2016) presents the demanding and detailed regulations that dictate the operating requirements for hotels, while there are almost no regulations that govern the functioning of STRs.

But short-term rentals also have positive effects on neighbourhoods and specifically on the local economy. Bernardo, Almeida and Martins (2017) highlight the fact that STRs provide small landowners with supplementary income, increase the amount of available tourist accommodation in destinations that have a shortage of this, stimulate an increase in the number of visitors in some cities and, thus, boost the economy through increased tourist spending on restaurants and local businesses.

On the other hand, we can conclude from the research carried out by Cruz (2016) that short-term rental also plays an important and positive role in Lisbon's urban rehabilitation. More than 50% of housing units used for short-term rent had previously been vacant-

The only STR effect in Lisbon that is not referenced in either the literature or the document analysis is the ‘problems related to safety, quality control, and protection of consumer rights’.

Quantitative restrictions on STR development

There are four types of accommodation used for short-term rental: a) single-family houses; b) apartments, in buildings with multiple dwellings; c) hostels, where the accommodation units offered are bedrooms; d) bedrooms, where the accommodation units that are part of the lessor's residence. According to this typology, limitations may vary by type of STR.

Regarding the ‘Limitation of bedrooms in relation to the property’, the National STR legislation stipulates the maximum number of rooms (9) that can be rented out (except in the case of type d) and indicates that a maximum of 3 rooms can be rented out by the owner in his/her private residence and that there are no limits in the case of type c, where it is stipulated that the maximum number of bedrooms that can be rented out in a holder's residence is three. In the case of apartments (type b) the owner of the apartment can rent out more than nine units per building as long as the number does not exceed 75% of the total number of existing apartments or other parts of the building.

Regarding the ‘limit on the maximum number of guests’, only 30 users per STR development are allowed.

As of 1 January 2019, the Municipality of Lisbon added a new restriction that involved applying a tourism tax to STR activities, which was set at 2€ per night up to a maximum of 7 nights per person and per stay.



In Lisbon there are no limitations on how long an entire property or a rooms can be rented out.

Qualitative restrictions on STR development

Clarifying the qualitative restrictions on STR development in Lisbon:

a) Zoning

It is important to analyse zoning regulation measures of this kind in more detail. Lisbon City Council approved the Municipal Regulations on STR accommodation in November 2019. Based on a demarcation of Homogeneous Tourist Areas, the regulations establish a set of rules for STR accommodation and the limits on the number of establishments permitted in these areas. Two types of areas in the city with restrictions on STRs were identified: the total containment areas (in red) and the relative containment areas (in yellow), as shown in Figure 3.

The ‘total containment areas’ are homogeneous tourist areas or subdivisions where the ratio between the number of STR establishments and the number of permanent dwellings is equal to or greater than 20%. In these areas, new registrations of STR establishments are not permitted. Lisbon City Council may authorise, in exceptional cases, new registrations in the total containment areas that concern the renovation of dilapidated buildings or the integral renovation of buildings totally vacant for more than three years, and that are considered of particular interest to the city, as they give rise to buildings for multifunctional use, in which STR accommodation can be integrated into a locally developed social or cultural project or be part of an offer of affordable rental housing.

The ‘relative containment areas’ are homogeneous tourist areas or subdivisions where the ratio between the number of STR establishments and the number of permanent dwellings is equal to or greater than 10% and less than 20%.

New registrations of STR establishments may be exceptionally authorised by the Lisbon municipality in the case of one of the following situations:

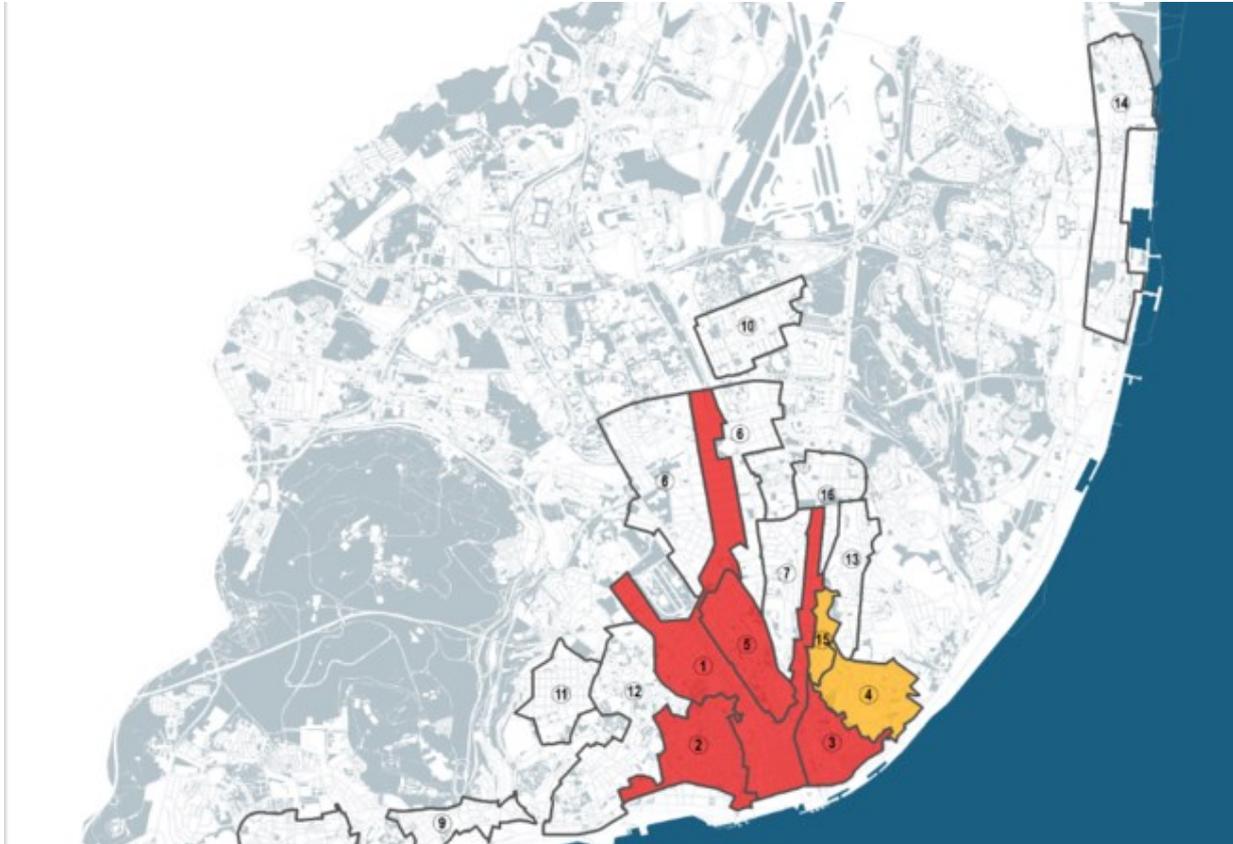
- when the registration applies to an entire building in a dilapidated state or one that has been declared totally vacant for more than three years;
- when it applies to a building or part of a building that has been declared vacant for more than three years, where the building was in a bad or very bad state of repair and has undergone renovation work in the last two years, which has allowed for the conservation to be raised two levels in a 5 levels scale (a scale established in the National Law for Urban Rental that rules the conservation state of a building: excellent; good; medium; bad; very bad);
- when the registration concerns an entire building or part of an urban building that, in the past two years, has undergone a change in use from logistics, industry, or services to housing.

Exceptional authorisation for new STR establishments in containment areas is granted for a period of five years, or, in the case of the renovation of dilapidated buildings or the integral renovation of buildings that have been vacant for more than three years, it can be granted for a



maximum period of ten years. The duration is defined by the Lisbon municipality depending on the given investment value of the property.

Figure 2: Lisbon City Council’s plan for containment areas for STR development



Source: Lisbon municipality.

b) Permits

In order to exploit an STR, prior registration is mandatory and must be done by submitting notification to the Mayor in advance through the ‘Balcão Único Eletrónico’ (a public e-service), which assigns a registration number to each request for STR registration if, after the 10- or 20-day period, there is no opposition from the said Mayor. In addition, before starting the STR activity, the interested party must submit a declaration of the start of this activity online through the Tax Authority site.

c) Taxation and control

As regards ‘taxation and control’, platforms (such as Airbnb) that make available, disseminate, or exploit STR activities must apply for and display the registration number in the National Register of Local Accommodation Establishments (RNAL). After receiving advance notification, municipalities must carry out, within 30 days, an inspection to verify compliance with the requirements stipulated for operating STRs. The STR unit can also be inspected by the Food and Economic Security Authority (ASAE) or by the municipality to verify compliance with the law. The Portuguese Tourism Entity (Turismo de Portugal) can also inspect the STR unit to see if they meet the conditions to be considered a tourism development activity. These



surveys are carried out at the request of the ASAE, or at the initiative of the Portuguese Tourism Entity in cases where the same operator owns more than nine establishments in the form of an apartment in the same building. Recently, the Santa Maria Maior parish council opened a communication channel (alert number) for residents to report informal / unregistered local accommodations.

d) Safety, health and comfort requirements

With respect to ‘safety, health, and comfort requirements’, STR activities must: meet the standards necessary to ensure the maintenance and functioning of the facilities and equipment; be connected to the public water supply network and the public sewage network; be provided with hot and cold running water; have adequate furniture, equipment and utensils; have a system by which it is possible to seal the light from outside; have doors equipped with a security system to ensure the privacy of users; have sanitary fittings that ensure the privacy of users; and, in general, ensure that the STR always meets hygiene and cleanliness conditions.

The STR unit must comply with technical safety regulations, and with fire regulations in particular, except in the case of an STR establishment/unit/property with a capacity for 10 or fewer guests, and fire extinguishers, first aid kits, and emergency phone numbers must be readily accessible in the property for guests to use.

Finally, although there are some cities that have different STR rules for main residences and second homes, this is not the case of Lisbon.

Contributions to the regulation of local accommodation in Lisbon

From the above discussion it is possible to identify the specific steps Lisbon has taken that represent improvements to the regulation of local accommodation. More important than calculating the absolute number of STR units in Lisbon, it is relevant to identify how many STR units are actually active and to understand how and when STRs are being used. For this reason, it is essential that Lisbon improves its STR management and monitoring instruments by collecting dynamic information from the most varied sources and sectors related to the activity. The development of indicators that enable the assessment of in-continuum STR impacts in different areas and the compatibility of data on official bases, such as between the Integrated Management System of the Lisbon Municipality and the STR National Registration (RNAL), are extremely important improvements, since incompatible data can result in a distorted reading of reality and support the wrong decisions.

Regarding STR development, the Portuguese legal framework distinguishes tourist accommodation from STR accommodations and identifies and defines the different types of STR (rooms, houses, apartments and hostels). These options allow for different types of accommodation to be handled in different ways. Although this possibility is enshrined in the general legislation, it was ignored in the STR Legal Framework for the Lisbon Municipality (CML). From the perspective of the Lisbon Municipality, there seems to be no reason to define different rules on containment areas depending on the type of STR. This homogeneity is questioned in the literature. In this perspective, it is recommended that future regulatory measures consider the possibility of applying specific rules depending on the characteristics of STR development and the effects associated with each type of STR accommodation. Such



information could even motivate a review of the policy of containment zones and of the fiscal and tax regimes in force.

In relation to the adoption of possible measures relating to temporal restrictions or territorial distinction (zoning) based merely on the absolute number of STRs registered, it is emphasised that such practices may go against the directives published by the European Union about the collaborative economy. Thus, it is recommended that each proposed measure is based on evidence that justifies its implementation, promoting transparency and legal certainty and stability.

In addition to STR regulation, it is essential that housing policies are improved in Lisbon, including initiatives that effectively stimulate the offer of classic housing accommodation. In the case of projects for the rehabilitation of run-down buildings or for the complete rehabilitation of vacant buildings for future STR development, the Lisbon STR Regulation could allow this authorisation as long as a certain proportion of dwellings are also allocated] for affordable housing and also for student accommodation.

Since the effects of STRs cannot be confined within administrative boundaries and cities are not supposed to be understood as isolated systems, it is recommended that the Lisbon Municipality maintain a political agenda on STR development within the scope of the Metropolitan Area of Lisbon (and its 18 Municipalities), while taking into consideration the several interested sectors. The exchange of experiences, techniques, and points of view can result in a more in-depth and holistic reading of these territories in the face of the STR problem.



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