

Regulating Short-Term Rentals

Platform-based property rentals in European cities: the policy debates



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Cover photograph: awareness-raising campaign on illegal short-term rentals, Ajuntament de Barcelona. (Source: Claire Colomb, 2017).

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Acronyms

B2C Business-to-Consumer

CEC Commission of the European Communities

CJEU Court of Justice of the European Union

EHHA European Holiday Homes Association

EU European Union

HOTREC Association of Hotels, Restaurants, Pubs and Cafes and similar establishments in Europe

P2P Peer-to-Peer

STR Platform-Meditated Short-Term Rental(s)

Foreword from the Chair of the Property Research Trust

Digital technology has transformed the lives of much of the world's population, in a multitude of different ways. One of those has been the ease with which people are now able to rent properties online, for holiday or business visits, facilitated by the rapid growth of several digital platforms. This has proved particularly popular in many of Europe's best-loved cities. Within a small number of years the short-term rental market has turned from a small-scale niche practice into a huge global business, with the unintended consequence that many long-established communities now feel threatened. Rents have spiralled, people have lost their homes, and neighbourhoods have changed from being essentially residential to being increasingly part of the visitor economy.

This balanced and detailed report by Claire Colomb and Tatiana Moreira de Souza shines much-needed light on this complex issue. Its publication comes as we are seeing the first signs of the Covid-19 pandemic perhaps coming under greater control, with the consequent possibility of a resurgence in tourism and business travel. Its timing could not be more appropriate.

I am therefore particularly delighted that this is the first report to be published by the newly independent and rebranded Property Research Trust, formerly the RICS Research Trust. I hope that Claire and Tatiana's work will help to produce a reasoned and measured debate around an issue of great importance to very many citizens of Europe's cities.

Professor Sarah Sayce

Chair

Property Research Trust

Key points

- Short-term rentals of residential properties to visitors have grown enormously in number in recent years, owing to the advent of online digital platforms.
- This has had both positive and negative impacts that are unevenly distributed among socio-economic groups and places. Detrimental impacts on the housing market and quality of life of long-term residents have been particularly contentious in some cities.
- In the 12 cities studied in this report (Amsterdam, Barcelona, Berlin, Brussels, Lisbon, London, Madrid, Milan, Paris, Prague, Rome and Vienna), city governments have responded differently to the growth of short-term rentals.
- The emerging local regulations of short-term rentals take multiple forms and exhibit various degrees of stringency, ranging from relative laissez-faire (Prague, Milan, Rome) to strict control (Berlin, Madrid, Barcelona, Amsterdam). Most city governments have sought to find a middle-ground approach that differentiates between the professional rental of whole units and the occasional rental of one's primary residence.
- These regulations are contentious and highly politicised. Six broad categories of interest groups and non-state actors with contrasting positions actively participate in the debates: advocates of the 'sharing' or 'collaborative' economy; corporate platforms; professional organisations of short-term rental operators; new associations of hosts or 'home-sharers'; the hotel and hospitality industry; and residents' associations/citizens' movements.
- All city governments face difficulties in implementing and enforcing regulations, due to a lack of sufficient resources and to the absence of accurate and comprehensive data on individual operators and properties. That data is held by corporate platforms, which, with a few exceptions, have generally not accepted to release it nor to monitor the content of their listings against local rules.
- Effective implementation is impossible without the cooperation of platforms. Unfortunately, the relationships between platforms and city governments have oscillated between collaboration and conflict.
- In the context of the European Union, the debate has taken a supranational dimension, as two pieces of EU law frame the possibility — and acceptable forms — of regulation of online platforms and of short-term rentals in EU member states: the 2000 E-commerce Directive and the 2006 Services Directive.
- For regulation to be effective, the EU and other countries' legal frameworks should be revised to ensure platform accountability and data disclosure. This would allow city (and other tiers of) governments to effectively enforce the regulations that they deem appropriate.
- Furthermore, national and regional governments, who often control the legislative framework that defines particular types of short-term rentals, need to give city governments the necessary tools to be able to exercise their 'right to regulate' in the name of public interest objectives.

Summary

The short-term renting of a property to visitors is not new. However, the rise of **internet-based platforms** — digital marketplaces that match supply and demand — has fuelled the **diversification** and **expansion** of this **practice** in an unprecedented way. The market leader in the short-term accommodation sector is Airbnb, created in 2008 to allow landlords and tenants to advertise their homes for short-term rental. There now exists a variety of short-term rental platforms that differ in terms of their business models (peer-to-peer, business-to-consumer or both), their links with giants of the online travel industry, their geographical coverage and the types of accommodation they offer. Their offer has grown rapidly over the past decade, although interrupted in 2020 by the onset of the COVID-19 pandemic. The likelihood is that as recovery from the pandemic comes about, the **short-term rental market** will rebound.

Platform-mediated short-term rentals include a variety of practices, of which **three main types** can be distinguished:

- **Type 1: Professional short-term rental.** The letting on a commercial basis of an entire property not used as a primary residence to visitors staying for short time periods.
- **Type 2: Short-term rental of a primary (or secondary) residence.** The short-term letting of an entire dwelling which is normally used as a primary (or secondary) home while the main resident is away on a temporary, occasional basis.
- **Type 3: Short-term rental of part of a primary residence.** The short-term letting of part of a primary residence (e.g. one or more rooms) while the host is usually present (so-called ‘home-sharing’).

These different types of short-term rentals have **positive and negative impacts** that are **unevenly distributed among socio-economic groups and places**. The profitability of short-term rentals has opened new markets for real estate investment and rent extraction: in many cities, a significant part of the short-term rental offer is no longer composed of individuals occasionally renting their home, but instead of professional landlords or investors managing several properties permanently used for short-term rental. Over

the past decade short-term rentals, and especially the first type, have thus become the object of **contention and debate** in the media and political arena of many countries, regions and cities, entangled in broader concerns about the **housing crisis, gentrification and touristification**.

For large cities faced with strong demographic pressures, intensive visitor flows and tight housing markets, a growing body of research has shown that the increase in short-term rentals has contributed to a **decrease in the supply of long-term rentals**, induced an **increase in rental prices**, and fuelled the **displacement** of long-term residents. While those impacts may not be quantitatively significant at the level of an entire city if compared to other factors, they are highly **concentrated in particular neighbourhoods**. In those areas, the existing socio-economic fabric has come under significant pressures due to the high ratios of short-term rentals relative to their total housing stocks. In response, a number of city governments have sought to **design and implement new forms of regulation** to manage or control short-term rentals, as well as the activities of online platforms that advertise them.

This project analyses and compares **how public actors in large European cities have attempted to regulate platform-mediated short-term rentals**, and outlines which **implementation and enforcement challenges** they have faced in doing so. The objectives of the research were to:

- 1) Identify the different types, and arguments, of **interest groups and stakeholders** who have been advocating or opposing the regulation of platform-mediated short-term rentals;
- 2) Identify the **regulations** put in place in large European cities to manage or control the phenomenon, and compare their **instruments, modalities and degrees of stringency**;
- 3) Assess how public authorities perceive the **effectiveness** of the regulations to date and identify the challenges they face in terms of **implementation and enforcement**.

The study focused on 12 capital cities or second-largest

cities in 10 European countries: **Amsterdam, Barcelona, Berlin, Brussels, Lisbon, London, Madrid, Milan, Paris, Prague, Rome and Vienna**. A combination of qualitative methods and a wide range of primary and secondary sources were used: public statements by specific interest groups, policy and regulatory documents, legal decisions and court cases, media articles, and just under 50 semi-structured interviews with representatives from city governments, residents' associations, grassroots campaigns, the hotel industry, 'home-sharing clubs' and professional organisations of short-term rental operators.

The debates: stakeholders and arguments

Our research shows that **six broad categories of interest groups and non-state actors** actively participate in the **debates on the regulation of platform-mediated short-term rentals** – though they are not equally active in all the 12 cities. They channel their demands to elected representatives and public officials at various tiers of government, and mobilise to make their position heard before, during, and after the enactment of new regulations.

One category of actors comprises the **intellectual and political advocates of the 'sharing' or 'collaborative' economy** – a system characterised by the temporary access to, and mutual exchange of, 'underused' goods and services. These actors have fed into the development of new agendas for 'sharing cities' in a number of locations such as Milan, Vienna or Amsterdam. They tend to support home-sharing in a strict sense, but are critical of the transformation of the early spirit of the sharing economy into profit-seeking forms of 'platform capitalism'.

Three categories represent the key actors of the short-term rental market: **corporate platforms; professional organisations representing operators of commercial short-term rentals; and new associations of (mostly non-professional) hosts or 'home-sharers'**. These actors tend to accept the need for some light-touch regulation (at times reluctantly), but by and large oppose strict regulations that would affect the freedom of enterprise, and the 'right to rent' or 'the right to share' a property. This includes what they perceive as burdensome authorisation or licensing schemes, as well as measures that seek to limit the quantitative growth of short-term rentals via land use planning controls. For their part, associations of non-professional hosts emphasise the occasional nature of the

practice of renting their primary residence on a short-term basis, and campaign for light, proportionate rules that do not treat them like professional operators. All three types of actors have, in cities such as Paris, Berlin and Barcelona, legally challenged the new regulations enacted by city governments.

By contrast, two categories of stakeholders represent the economic interest groups and social groups who have been most adversely affected by the sharp increase in short-term rentals. In all the cities we examined, **representatives of the hotel and hospitality industry** support a tougher approach to short-term rentals, which they perceive as unfair competition. They demand that short-term rental operators be subject to the same rules that apply to hotels and 'bed and breakfast' establishments. In some cities (Barcelona, Berlin and Madrid), **residents' associations, citizens' movements and housing activists** have been actively mobilising against the sharp increase of short-term rentals in their neighbourhoods, denouncing the nuisances they cause and their impacts on the housing market. Campaigners defend residents' 'right to peace and privacy', as well as their collective 'right to housing', and demand strict forms of control or even prohibition of short-term rentals. Their demands clash, at times, with the opinions of other local residents who rent out their home occasionally or are engaged in small short-term rental businesses.

The contrasting positions and arguments put forward by these six categories of actors allow us to understand why the question of **the regulation of short-term rentals is contentious, and highly politicised**, as with any attempt by public authorities to regulate a (new) market. The rationale for regulating, which form regulation should take, how stringent it should be, to which type(s) of short-term rentals it should apply – all these issues have been the object of intense public debates. Any form of regulation entails winners and losers.

A diversity of local regulations

City governments in the 12 cities have **responded differently** to the growth of short-term rentals and to the demands channelled to them by the above-mentioned stakeholders. The current landscape of regulations ranges from **rare cases of laissez-faire** to **a few cases of partial prohibition or strict quantitative control** of short-term rentals, though most city governments have sought to find a **middle-ground approach**. The emerging local regulations of short-term rentals take

multiple forms, exhibit **various degrees of stringency**, and are located within **different policy fields**: housing, land use planning, tourism, economic development and health and safety. In some countries, **regional or national governments** have also developed regulatory interventions.

Our research shows that emerging regulations aim to **influence or control** the following dimensions of the phenomenon:

- The very **existence** of platform-mediated short-term rentals and their **visibility to public authorities** (through registration or licensing schemes), as well as their **quality** (through safety requirements and minimum standards)
- Their **overall quantity** at the scale of the whole city or in certain neighbourhoods, and/or their **geographical distribution** between different parts of the city
- The **distinction** and **balance** between **different types of short-term rentals** (through criteria that seek to distinguish professional and non-professional operators and a differentiated treatment of Type 1, 2 and 3)
- The **practices** of the **platforms mediating short-term rentals**.
- The appropriate **taxation** of the transactions associated with **short-term rentals**.

As of April 2021, only a few cities have not taken any new regulatory measure yet (e.g. in Prague, though measures are under debate). Conversely, there are few examples of prohibition of short-term rentals Type 1 (the rules in place in Berlin between 2016 and 2018 being the closest to that – since then modified) or of stringent quantitative restrictions (Barcelona since 2015; Madrid since 2019). Most city governments have sought to find a **compromise** between protecting the long-term residential housing stock, maintaining the city's attractiveness to visitors, while allowing tenants, mortgage-holders and homeowners to supplement their income through the occasional rental of their home. This has been achieved through **differentiated rules that distinguish between professional/permanent vs. non-professional/occasional short-term rental activities**, for example by restricting the number of days per year during which a unit can be rented out, and by setting limits on the occupancy and/or on the

space that can be rented out.

In many cities, a system of **authorisation, license or permit** applies to short-term rentals Type 1, sometimes to Type 2 and more rarely to Type 3. The authorisation can be granted for the exercise of an economic activity (e.g. Barcelona, Madrid, Vienna) and/or for a change of land use (e.g. Paris, London). For Type 2 and/or Type 3, a number of city governments have recently introduced a new requirement for a simple **declaration (or self-registration)** of occasional hosts and home-sharers (e.g. Amsterdam, Berlin, Barcelona and Paris). This should be distinguished from an authorisation (which can be refused), in the sense that a registration number is automatically granted.

Six city governments out of the 12 examined in this report have developed **regulatory instruments** that seek to **limit, or reduce, the overall number of short-term rentals** – either in the city as a whole (Berlin, Barcelona, Madrid) or in specific neighbourhoods (Amsterdam, Lisbon, Vienna). Their aim is to **stop the transformation of residential units into short-term rentals** through a system of permits or authorisations for change of use, often linked with zoning mechanisms. Such **restrictive approaches** have been **legally challenged** by affected landlords, professional organisations and platforms, and may have to be modified or relaxed in the future in light of court rulings (as was the case of Amsterdam where a court overturned a short-term rental ban in three districts on 15th March 2021).

In Paris a unique approach has been adopted to prevent, in theory, the loss of residential space. A professional short-term rental operator must receive an authorisation of change of use from 'residential' to 'commercial', which is conditional on an **offsetting requirement** ('compensation') whereby the applicant has to contribute to a program of conversion of non-residential premises into residential units.

Moreover, in cities with a sizable stock of **public or social housing** (London, Paris, Vienna and Amsterdam), tenancy agreements explicitly forbid subletting part or all of a unit on a short-term basis. In the **private housing sector**, homeowners' associations, mortgage lenders, freeholders and landlords also often forbid such practices.

Challenges of implementation and enforcement

In all cities, local government representatives reported significant **difficulties in implementing and enforcing**

the regulations. Firstly, relevant departments have **limited human resources** for the **control** of thousands of properties. City governments that have significantly increased their control capacity, such as Barcelona, have managed to reduce the illegal short-term rental offer. But this requires a significant amount of public resources, depends on the capacity to identify precisely where short-term rentals operate, and is a never-ending process: new short-term rentals constantly appear and operators devise elaborate strategies of avoidance or concealment. In most cities, once there is evidence that a housing unit is illegally used as a short-term rental, it may take years for the **legal proceedings** to be concluded. The **sanctions** and **finances** imposed to individual hosts or to platforms vary hugely; and landlords and platforms often appeal against the decisions.

Secondly, the **digitally-mediated nature** of short-term rentals challenges traditional modes of regulation, forcing public authorities to deal with **hard-to-measure practices** and **new transnational companies**. The **detection** and **localization** of suspected illegal short-term rentals is challenging in the first place. The **data held by digital platforms** is the only comprehensive source of information that would allow public authorities to identify who is offering a short-term rental, in what capacity, at what precise location and for what amount of time. City government officials have made repeated **demands on platforms** to voluntarily share such data to assist with enforcement activities. However, platforms — invoking the provisions of the European Union *E-Commerce Directive* — have generally **refused** to give this data to public authorities or to carry out any preliminary control of the listings they publish. In our sample, only the city governments of Barcelona and Paris have managed to secure **data disclosure agreements** that require platforms to send monthly or yearly lists of all active advertisements — though these lists were reported to be incomplete. In other cities, platforms have agreed to remove some of the listings that do not comply with local rules, though not always.

In all cities, public officials stressed that **effective enforcement** is therefore **impossible without cooperation by platforms**. The **relationships** between **large platforms and local governments** have oscillated between **collaboration** (for example through tax collection agreements) and **conflict**. **Corporate platforms** now play a **significant role** in the politics of short-term rental regulation, through communication campaigns,

advocacy and lobbying activities at various tiers of government, ‘grassroots mobilising’ of their users, and legal challenges against city governments.

Judicialisation of the conflicts

New regulations have been the object of **intense opposition** and **legal challenges** filed by corporate platforms, professional short-term rentals operators, and associations of hosts or ‘home-sharers’ in front of regional or national courts (in Amsterdam, Paris, Berlin, Barcelona, Brussels and Madrid, among others). In the context of the **European Union** and the Single Market, those legal challenges have taken a **supranational dimension**. **Two pieces of EU law** have been explicitly mobilised by the stakeholders opposed to new forms of regulation: the 2000 *E-Commerce Directive* and the 2006 *Services Directive*. Their interpretation by **regional, national and EU courts** will ultimately define the very possibility — and acceptable forms — of regulation of online platforms and of short-term rentals in EU member states. **Three issues** are subject to **legal debates**: (i) the nature of platforms; (ii) the scope of the ‘overriding reasons relating to the public interest’ that are recognised as legitimate by the courts to justify regulatory interventions by public authorities; and (iii) the types of regulatory interventions that will be deemed acceptable.

Two recent **rulings by the Court of Justice of the EU** (CJEU) offer a mixed picture in that respect. On the one hand, in December 2019 the CJEU ruled that Airbnb should be classified as an ‘information society service’ under the *E-Commerce Directive*, that is, a **mere digital intermediary** (and not a service provider). This means that the platform **cannot be held liable** for the illegal content of the advertisements it publishes if it has no knowledge of it, and that it does **not have a general obligation to systematically monitor** the content of its listings. This also means, according to the ‘**country of origin principle**’, that the regulations of the EU country where the company is established apply to it (in the case of Airbnb, Ireland), and that nothing can be adopted as an obstacle to the company’s day-to-day business elsewhere in the EU, unless there are compelling reasons of public policy, public security, health and consumer protection. This restricts the type of market access requirements or operating conditions that can be imposed on Airbnb by a public authority outside of Ireland.

On the other hand, in September 2020 the CJEU

confirmed that under the *Services Directive*, the objective of **combating a long-term rental housing shortage** constitutes an ‘overriding reason relating to the **public interest**’ that can **justify proportional measures** by public authorities to regulate the exercise of, or access to, a service such as the short-term rental of a housing unit. Public authorities, however, can only set up a market access requirement’ (for example an authorisation or licensing scheme) provided that it is **necessary** to attain a clearly identified overriding reason of public interest, **non-discriminatory**, and **proportionate** to achieving this interest.

The **EU legal framework** is bound to **evolve** in the coming years: on 15 December 2020, the European Commission published a **draft proposal** for a new *Digital Services Act* that will now be subject to debates and scrutiny as part of the EU policy-making process. Various **interest groups** have been actively **lobbying** EU institutions to convey their policy preferences, such as large platforms and the European Holiday Home Association. In response, **22 European city leaders** have collectively **mobilised** to make their **voices heard** with EU institutions: they call for a new EU legal framework that would force platforms to **share relevant data** and be **liable for fulfilling their obligations** according to national and local legislation in all EU member states. At present, the draft Digital Services Act falls short of the city governments’ demands in terms of platform accountability and data disclosure, as it maintains the principles that limit the regulatory power of public authorities (i.e. the ‘country of origin’ principle, the limited liability of platforms in relation to illegal content and the non-obligation of ‘general monitoring’). Whether the Act will ultimately respond to the concerns expressed over the past decade by a variety of actors, in particular city governments, is less than certain at this stage.

The impact of the COVID-19 pandemic

The emergence of the **COVID-19 pandemic** in early 2020, and the measures taken by national governments to prevent the spread of the coronavirus, generated a brutal and unprecedented **drop in international mobility**. Flows of visitors to European cities all but stopped for a few months, which led to a massive wave of cancellations of short-term rental bookings and low levels of new bookings throughout 2020, though with some **recuperation** where and when restrictions were lifted. At the time of writing (April 2021), there

was still a great amount of **uncertainty** as to when the pandemic would be brought under control, and whether global mobility flows and the travel sector would **return to their pre-COVID levels**. This makes it hard to speculate about the **medium- and long-term impacts** on the short-term rentals market, and on the behaviour of investors, landlords and consumers.

Landlords and hosts whose main source of revenue depended on short-term rentals **lost income** overnight. Meanwhile, the media reported evidence, in cities such as London, Paris, Barcelona and Madrid, of the **return of short-term rental units to the long-term rental market**, though it is unclear whether this trend will last once the pandemic is brought under control. The offer listed on short-term rental platforms remains high, and many landlords hope to ride through the storm. Some are turning to the ‘**medium-term**’ market, for which demand has increased due to the widespread diffusion of remote working. In some cities, new policy initiatives have emerged to encourage the return of short-term rentals units to the long-term rental market (as in Lisbon, though with modest results to date).

While it is possible that some city, regional and national governments will take advantage of the current crisis to **enact and enforce stricter regulations** on short-term rentals, others will push for a **liberalising agenda**. As the economies of many European cities are highly dependent on **tourism**, and as the prospects of a sustained **recession** loom large, **public authorities** will face a **dilemma**: whether to prioritise demands to attract more visitors at all costs or demands to protect local housing stocks. While our research focused on the largest European cities, the debate is likely to be different in medium-sized cities, small towns and villages in more rural or peripheral settings, depending on the balance between the positive and negative externalities of short-term rentals.

Lessons and policy recommendations

Our analysis of the debates on the regulation of platform-mediated short-term rentals has revealed highly **contrasting and conflicting positions** between a variety of **stakeholders**. **Regulatory choices** inevitably involve **socio-political arbitrages** between the freedom to use one’s property and conduct an economic activity based on the **exchange value** of a housing unit, and the necessary protection of ‘public interest’ objectives — in particular the protection of the long-term residential

stock in cities marked by sharp housing inequalities (based on the **use value** of a housing unit).

This larger issue should be addressed both **nationally** and **supra-nationally**.

Our **first recommendation** is that **national and regional governments**, who often control the legislative framework that defines particular types of short-term rentals, need to **give local governments** the **necessary tools** to be able to exercise **their ‘right to regulate’** in the name of public interest objectives — that is, to enact **territorially-differentiated approaches** to regulation that can take into account the **specificities** of the local context. City governments should be able to **apply different regulatory measures** to the three main types of short-term rentals, distinguishing between professional vs. occasional practices.

Our **second recommendation** is that **city governments** should have a **right of access** to **relevant, accurate and individualised data** on short-term rental units. This is absolutely central for public policy-making: such data is necessary for the justification of regulatory measures in the first place, and subsequently for the effective implementation and enforcement of such measures. That data is held by corporate digital platforms, who have generally not disclosed it in a systematic manner, backed by the existing provisions of the EU directives that frame the functioning of the Single Market. The EU has consequently become a key battleground for the future regulation of both short-term rentals as a service, and of platforms as online intermediaries of such services. The **EU legal framework** should therefore **be revised** to ensure **platform accountability** and **data disclosure**, which would allow city (and other tiers of) governments to effectively enforce the regulations that they deem appropriate.

Our **third recommendation** is that any discussion about managing or controlling the growth of short-term rentals in the name of the protection of the ‘right to housing’ should form part of a **broader debate** on how to **solve the housing crisis** and **housing inequalities**. Short-term rentals are only a (small) part of a wider set of **dynamics** and **factors** that impact **housing markets** and **socio-spatial change** in cities, e.g. demographic trends, the (de)regulation of the private rental sector, land policies, or measures affecting the supply of affordable and social housing. These dynamics sit **beyond the remit of city governments** alone. They raise the highly political question of **how housing should be governed** and **regulated** when it has become an **asset** in a globalised world of transnational mobilities, investments and financialisation.

1. Introduction

1.1. The ‘sharing economy’ and the growth of platform-mediated short-term rentals

The short-term rental of a property, as an activity conducted on a professional or occasional basis, is not a new phenomenon. In most European countries, there are long-established regulations on holiday rentals and Bed and Breakfast establishments. More informal practices such as home exchanges or the word-of-mouth seasonal letting of a second home have also existed for many years. However, internet-based platforms have fuelled the transformation, diversification and expansion of such activities in an unprecedented way. Online platforms are digital matching tools, or marketplaces, which allow the exchange of supposedly underused goods, assets or human resources. They have been described as the backbone of a new sharing or collaborative economy, characterised by temporary access to, rather than ownership of, goods and services (Belk, 2007; McLaren and Agyeman, 2015).

Platforms can be *peer-to-peer* (P2P) or *business-to-consumer* (B2C)¹ and can support *for-profit* or *not-for-profit* activities. They have acquired visibility in the landscape of our cities and operate, in particular, in the field of transportation (e.g. Uber, Zipcar), food delivery (e.g. Deliveroo) and short-term accommodation. Corporate platforms organise supply and demand via online systems, take a commission for intermediation, rely on user-based rating systems for quality control, and offer providers flexibility in deciding the frequency and timing of the service (Telles, 2016). Such platforms had existed since the 1990s, but the development of mobile technologies and apps from the 2000s onwards gave them a significant boost, combined with innovations in algorithmic tools and online transactions.

The best-known for-profit digital platform (and market leader) in the short-term accommodation sector is Airbnb, created in 2008 in San Francisco to allow individual landlords or tenants to advertise their homes — or parts thereof — for short-term rental. According to the company’s website, in March 2020 it advertised more than 7 million listings in more than 220 countries. Besides Airbnb, over the past decade mergers and acquisitions have consolidated the role

of a small number of corporate platforms. There is nevertheless a diversity of online platforms offering short-term rentals in terms of their business model (P2P, B2C or both), their links with giants of the online travel industry, their geographical coverage, and the types of accommodation they offer.²

In a study covering five large European cities, Coyle and Yeung (2016) highlighted the rapid growth of Airbnb listings between 2010 — the start of the platform’s operation in Europe — and January 2016: from zero to 18,000 listings in Amsterdam, 26,000 in Berlin, 28,000 in Barcelona, 48,000 in London and just over 60,000 in Paris. By the mid-2010s, Europe-based listings represented over half of Airbnb’s business (Airbnb, 2014). In 2016, it was estimated that the short-term rental sector in Europe provided 20 million beds — twice the number of hotel beds (EHHA, 2016) — and generated an annual turnover of €15 billion (Vaughan and Daverio, 2016). Table 1 (in Appendix) shows the number of Airbnb listings in the 12 cities covered in this report as of late 2018/early 2019.

The growth of this ‘informal tourism accommodation sector’ (Guttentag, 2015) entails a variety of practices subsumed in this report under the term *platform-mediated short-term rental* (hereafter STR). The Court of Justice of the European Union (CJEU) defined STR as ‘the repeated short-term letting, for remuneration, of furnished accommodation to a transient clientele which does not take up residence there’, whether on a professional or non-professional basis, (CJEU, 2020b). Within that definition, we distinguish three main types of STR for analytical purposes, as set out in Box 1.³ This distinction matters in relation to the debates about the impacts and regulation of STR, as the first category is often more controversial than the other two. In practice, the distinction between the three types can be blurred, as STR operators may shift from one to the other — or attempt to disguise one form into another — in order to avoid restrictive regulations.

Over the past ten years, STR have become an object of contention, public debates and regulatory controversies frequently discussed in the media and political arenas of many countries, regions and cities (Dredge et al., 2016). Residents’ associations, housing activists or hotel industry representatives have started to

question the impacts of STR on housing markets, local life and incumbent economic actors, as will be shown in Sections 2 and 3. Fierce debates have erupted, in particular, in large cities with tight housing markets and in small or medium-sized cities that receive a high number of visitors relative to their resident population.

Box 1. Main types of short-term rental practices mediated by digital platforms (Source: authors)

Type 1: Professional short-term rental

The letting on a commercial basis of an entire property not used as a primary residence to visitors staying for short time periods.

Type 2: Short-term rental of a primary (or secondary) residence

The short-term letting of an entire dwelling which is normally used as a primary (or secondary) home while the main resident is away on a temporary basis.

Type 3: Short-term rental of part of a primary residence

The short-term letting of part of a primary residence (e.g. one or more rooms) while the host is usually present (so-called ‘home-sharing’).

In response, many city governments have sought to design and implement new forms of regulation to manage or control STR and the activities of platforms that mediate them. In many parts of the world, including Europe, it is sub-national tiers of government that have taken the lead in seeking to regulate the phenomenon of STR, because, as Artioli explains, ‘some of the sectors most affected by platform development fall within the prerogatives of local or regional government in the fields of spatial planning, economic development, mobility, culture or health and safety’ (2018: 3). Depending on the division of competences between tiers of government, regional and/or national governments have also, in some countries, pursued regulatory interventions.

As will be shown in Section 4, the local regulations of STR take multiple forms and exhibit various degrees of stringency, not just between different countries but within the same country (Cassell and Deutsch, 2020).

Yet there is, to date, scant published research analysing those responses in a comparative manner.⁴ This report seeks to fill this gap and contribute to public debates about the necessity, instruments and effectiveness of policy and regulatory responses to STR practices mediated by corporate digital platforms.

1.2. Objectives of the research

This research project aims to analyse comparatively how public authorities in large European cities have attempted to regulate platform-mediated short-term rentals (STR), and what implementation and enforcement challenges they have faced in doing so. The object of policy and regulatory debates is two-fold: STR themselves, as well as their mediation through digital platforms.

To that end, the **objectives of the research** are:

- 1) To identify the different types of **interest groups** and **stakeholders** who have been advocating or, on the contrary, opposing the regulation of STR, and analyse their respective **arguments** (Section 3)
- 2) To identify the **regulations** put in place in large European cities to manage or control the phenomenon of STR, and compare their **instruments, modalities** and **degree of stringency** (Section 4)
- 3) To assess how public authorities perceive the **effectiveness** of the regulations to date and to identify the **challenges** they face in terms of **implementation** and enforcement (Section 5).

The project does not aim to quantify the size and impact of STR on housing markets (or on other economic sectors) in the case-study cities, although Section 2 offers a brief summary of recent studies that have done so.

The conversations held in the course of the delivery of this project with public officials, professional associations, economic actors, residents and community groups in various European cities have revealed a strong appetite for transnational exchange of experience, knowledge and expertise on the topic of STR and their regulation. This report will therefore be of interest to:

- public authorities in cities and towns faced with a sharp increase in short-term rentals, as well as regional and national governments;

- residents' associations, community groups, activists and housing campaigners who have pressed for public action to control the nature and speed of change of the housing stock in their neighbourhoods;
- individual citizens who — whether as hosts or guests — have offered or used short-term rentals and wondered about the impacts and legal implications of this activity;
- key economic agents with a stake in the issue of STR regulation (and their professional organisations): the hotel industry; holiday rental agencies and property managers; digital platforms; investors or developers active in the field of short-term accommodation provision and/or management; associations of 'hosts';
- researchers and students in planning, housing, real estate, geography, sociology, politics, and tourism studies;
- lawyers in regional, national and European courts; and
- European Union officials in the European Commission and European Parliament dealing with the Digital Single Market, competition law, tourism and other relevant policy sectors (see Section 5.3).

1.3. Research methods

Geographical scope and case-study cities

The study focuses on large cities within the EU, namely the 12 capital cities or second-largest cities of 10 EU member-states (prior to the UK's exit from the European Union): Amsterdam, Barcelona, Berlin, Brussels, Lisbon, London, Madrid, Milan, Paris, Prague, Rome and Vienna. They are, for the most part, the cities that receive the highest annual numbers of visitors in Europe (all except Brussels were in the list of the 15 top-performing European cities in terms of total bed-nights for 2018 (ECM, 2019)). But they are nonetheless characterised by different structural conditions in terms of economic vitality, tourism pressures, and housing market conditions (see Table 1 in Appendix).

As discussed in Section 5.3, the European Union (EU) regulatory context is crucial in shaping the capacity of city-level, regional and national governments to regulate the phenomenon of STR — hence a focus on EU cities only (with the exception of London from 31st January 2020 onwards). Due to limited time resources and

to maintain analytical coherence, the authors deliberately excluded small historic towns and cities whose economies have, for a long time, been dominated by tourism (e.g. Venice, Florence), or medium-sized cities, small towns and villages in more rural settings.

Prior to the completion of this research project, a pilot comparison between three cities (Barcelona, Paris and Milan) was carried out in 2015-2017 by one of the authors, Claire Colomb, in collaboration with Thomas Aguilera and Francesca Artioli⁵, to identify and test preliminary hypotheses about the factors that can explain the different degrees of politicisation, and forms of regulation, of STR.⁶ This initial comparison (reported in Aguilera et al., 2019a, 2019b, 2019c) inspired the design of the methodological and analytical framework that underpins the wider comparison presented in this report. Those authors hypothesized that the differences in responses to STR between cities cannot be simply viewed as the result of differences in structural conditions, but instead are the outcome of struggles 'between collective actors with various interests, modes of action and narratives embedded into place-specific institutional arrangements' and power dynamics (Aguilera et al., 2019a: 3). In a comparative study of the responses to the transportation platform Uber in the United States, Germany and Sweden, Thelen shows that reactions can vary 'from welcome embrace and accommodating regulatory adjustments to complete rejection and legal bans' (2018: 938). She adds that the regulatory tensions that a platform provokes in different countries 'mobilize different actors, inspire the formation of different coalitions, and shape the terms on which conflicts over [the platform] are framed and fought' (Ibid.).

Research methods and sources of data

The research design entailed, in each city, the identification of the actors mobilised around the issue of STR; the tracing (reconstruction) of the process of politicisation and policy/regulatory development; an analysis of the content of the regulations put in place; an exploration of the perception of their effectiveness and of the challenges involved in their implementation and enforcement. Drawing from sociological approaches to public policy, a combination of qualitative methods was used, drawing on a wide range of primary and secondary sources:

- (i) a brief review of public debates around the regulation of STR in each city, through keyword searches

- in local/national media (accessed online) and an analysis of relevant policy documents, advocacy documents, reports or statements by specific interest group, legal texts and court cases;
- (ii) an analysis of the content and scope of the relevant regulations and policies (existing, new or in preparation) in each city, based on texts obtained from the website of the relevant city (or regional/national) authorities or through direct contacts;
 - (iii) semi-structured interviews with representatives from city governments (officers or elected representatives), residents' associations, community groups, the hotel industry, home-sharing clubs and professional organisations of STR operators. A total of 47 interviews with key stakeholders in 8 cities were carried out by the two authors between April 2018 and April 2019 (see Table 2).⁷ Interviewees were identified through institutional websites, documentary analysis and 'snowball' recommendations.⁸ Due to the often controversial nature of the topic in the local political arena, most interviewees asked to be anonymised: in the report they are referred to by their position and category within the spectrum of actors presented in Section 3.

To analyse the collected data, comparative tables were designed and filled in. These tables show, at a single glance for each city, the key characteristics of the regulatory measures put in place for STR, the enforcement and control mechanisms, and the relationship between city governments and platforms (see Tables 5.1 to 5.12 in Appendix). The information and opinions gathered through the interviews with key stakeholders were analysed and integrated into Section 3 (structured by type of stakeholders), and Sections 4 and 5 (structured according to the key themes that emerged during the analysis).

Two important caveats should be noted. First, some city governments (or regional/national governments) were in the process of debating or drafting new regulations when the fieldwork for this report was carried out. Although efforts were made to ensure that the key features of the regulations mentioned in the report were accurate as of April 2021, STR-related policies and regulations are constantly evolving — sometimes in response to legal challenges. Readers interested in the details of the regulations applicable in a particular city should therefore refer to the website or official publications of the relevant public authorities.

Second, the final write-up of this report was completed in the first months of 2021, as the COVID-19 pandemic unfolded and drastically reduced international and intra-national travel. The pandemic — and associated mobility restrictions and confinement measures — temporarily brought tourism and visitor flows to a halt in most of the globe, with significant short-term impacts on the STR market. Some brief reflections about the implications of the COVID-19 pandemic for STR and their regulation have been included in the concluding section of the report.

Table 2: List of interviewed stakeholders (compiled by the authors)

| City | Organisation | Position of the interviewee(s) | Category of actor |
|------------------------------|---|---|---|
| Amsterdam (July 2018) | Association of B&B and short-term lets <i>Amsterdam Gastvrij</i> https://www.amsterdamgastvrij.com | Representative | Professional organisation, STR operators |
| | Dutch Association of Hotels <i>Koninklijke Horeca Nederland</i> https://www.khn.nl | Representative | Professional organisation, hotel & hospitality industry |
| | Amsterdam in Progress Independent think-tank on tourism http://www.amsterdaminprogress.nl/ | Founder | Think-tank |
| | Friends of Amsterdam City Centre <i>Vereniging Vrienden van de Amsterdamse Binnenstad</i> https://www.amsterdamsebinnenstad.nl | Member (volunteer) | Residents' association or citizens' movement |
| | Amsterdam City Council <i>Gemeente Amsterdam</i> https://www.amsterdam.nl/en | Elected Alderman Laurens Ivens, Deputy-Mayor for Housing | City government |
| | Amsterdam City Council <i>Gemeente Amsterdam</i> https://www.amsterdam.nl/en | 2 senior policy advisors on housing and STR | City government |
| Barcelona (May/June 2018) | Barcelona City Council <i>Ajuntament de Barcelona</i> https://ajuntament.barcelona.cat/en/ | Senior official from department of tourism | City government |
| | Barcelona City Council <i>Ajuntament de Barcelona</i> https://ajuntament.barcelona.cat/en/ | Senior official from department of urban planning | City government |
| | Barcelona City Council <i>Ajuntament de Barcelona</i> https://ajuntament.barcelona.cat/en/ | Senior official from department of urban planning (inspection service) | City government |
| | Regional Government of Catalonia <i>Generalitat de Catalunya</i> https://web.gencat.cat/en/ | 3 senior officials from department of tourism | Regional government |
| | Barcelona Association of Tourist Apartments <i>Asociación de Apartamentos Turísticos de Barcelona (APARTUR)</i> https://apartur.com/en/ | Senior representative | Professional organisation, STR operators |
| | Assembly of Neighbourhoods for a Sustainable Tourism <i>Assemblea de Barris per un Turisme Sostenible (ABTS)</i> https://assembleabarris.wordpress.com/ | Member (volunteer) | Residents' association or citizens' movement |
| Berlin (March/April 2019) | Berlin Senate Department for Urban Development and Housing <i>Berlin Senatsverwaltung für Stadtentwicklung und Wohnen</i> https://www.stadtentwicklung.berlin.de/index_en.shtml | Official from housing and rental law unit | City government |
| | HomeSharing Berlin https://homesharing.berlin/ | Member (volunteer) | Association of hosts/home-sharers |
| | Apartment Allianz Berlin https://www.apartmentallianz.net/ | 2 representatives | Professional organisation, STR operators |
| Lisbon (June 2018) | Lisbon City Council <i>Câmara Municipal de Lisboa</i> https://www.lisboa.pt/ | Senior official from department of urban planning | City government |
| | National Parliament of the Republic of Portugal <i>Assembleia da República</i> https://www.parlamento.pt/ | 2 elected members of parliament involved in working group on holiday rentals active in 2018 | National parliament |
| | Association of Holiday Rentals in Portugal <i>Associação do Alojamento Local em Portugal (ALEP)</i> http://www.alep.pt/ | Senior representative | Professional organisation, STR operators |

| City | Organisation | Position of the interviewee(s) | Category of actor |
|-----------------------------------|---|---|---|
| Lisbon (June 2018) | University of Lisbon <i>Universidade de Lisboa</i> http://www.ulisboa.pt/ | 2 researchers (geographers) | University |
| | Portuguese Association of Hotels, Restaurants and Similar Establishments <i>Associação da Hotelaria, Restauração e Similares de Portugal (AHRESP)</i> https://ahresp.com/ | Representative | Professional organisation, hotel & hospitality industry |
| | Living in Lisbon <i>Morar em Lisboa</i> http://moraremlisboa.org/ | Member (volunteer) | Residents' association or citizens' movement |
| London (August/September 2018) | HospitalityUK (formerly British Hospitality Association) https://www.ukhospitality.org.uk/ | Representative | Professional organisation, hotel & hospitality industry |
| | Greater London Assembly https://www.london.gov.uk/about-us/london-assembly | Elected member of Assembly Tom Copley (Labour), Chair of housing committee | City government |
| | Marchmont Association, Camden http://www.marchmont.org/ | Member (voluntary) | Residents' association or citizens' movement |
| | London Borough of Tower Hamlets https://www.towerhamlets.gov.uk/ | Official from housing policy team | City government (borough) |
| | UK Short Term Accommodation Association (STAA) https://www.ukstaa.org/ | 2 representatives | Professional organisation, STR operators |
| Madrid (June 2018) | Madrid City Council <i>Ayuntamiento de Madrid</i> https://www.madrid.es/ | 2 senior officials from urban planning department | City government |
| | National Distance Education University <i>Universidad Nacional de Educación a Distancia</i> https://www.uned.es/ | Researcher (sociologist) | University |
| | Residents' Association of Sol y Barrio de las Letras <i>Asociación Vecinal de Sol y Barrio de las Letras</i> http://avbarrioletas.es/ | Member (voluntary) | Residents' association or citizens' movement |
| Prague (April 2019) | Prague 1 District Council <i>Městská Část Praha 1</i> www.praha1.cz | Elected district councillor Pavel Nazarský | City government (district) |
| | Prague City Council <i>Magistrát hlavního města Prahy</i> https://www.praha.eu/jnp/en/index.html | Elected City Councillor Adam Záborský, in charge of Housing and Transparency | City government |
| | Housing rights campaign: "Housing-living" <i>Bydlet-Žít!</i> http://zadostupnebydleni.cz/ | 3 members (voluntary) | Residents' association or citizens' movement |
| Vienna (April 2019) | Vienna City Council <i>Stadt Wien</i> https://www.wien.gv.at/english/ | 2 senior officials from department for economic affairs | City government |
| | Vienna University of Technology <i>TU Wien</i> https://www.tuwien.at/en/ | 2 researchers (sociology/geography) | University |
| | Viennese Apartment Manager Association <i>Wiener Apartmentvermieter Vereinigung</i> https://www.wavv.at/ | Representative | Professional organisation, STR operators |

2. The impacts of platform-mediated short-term rentals: debates and controversies

The growing academic and grey literature on the sharing economy has often been polarised between studies lauding its virtues (e.g. Botsman and Rogers, 2011) or, on the contrary, criticising its transformation into new forms of ‘platform capitalism’ devoid of the ‘sharing’ or ‘collaborative’ values of early pioneers (e.g. Slee, 2016; Srnicek, 2017). With respect to STR, scholars from the field of tourism studies were the first to analyse the changes in the practices of hosts and guests generated by the emergence of digital platforms, described as a ‘disruptive innovation’ (Hannam et al., 2014; Guttentag, 2015; Dredge and Gyimóthy, 2017; Oskam and Bowijk, 2016; Prayag and Ozanne, 2018; Oskam, 2019). The impacts of STR on the travel practices of globally mobile social groups, on the behaviour of individual homeowners and investors, and on local economies, social relations, housing markets and neighbourhood life, have subsequently been investigated in a variety of disciplines.

A brief review of recent academic research⁹ is provided here, to synthesise the arguments and evidence at the core of the debates on STR (Table 3). The impacts of STR on different socio-economic groups and places are first introduced, before turning to a more detailed discussion of their impact on housing markets. This provides context for the positions and arguments formulated by different types of stakeholders, presented in Section 3.

There are significant methodological challenges involved in measuring the impacts of STR on various spheres of economic and social life. Airbnb and other platforms may release aggregate data on the STR offer they advertise, but do not disclose any individualised data about hosts, accommodation unit location, rental activity and financial transactions, as discussed in Section 5.¹⁰ As a result, most academic and independent studies use aggregate data scraped from publicly available STR listings published on the Airbnb website. Virtually all studies focus on this platform, as it represents the lion’s share of the STR offer in most locations.

Two main sources of STR data analytics exist. First, the private consultancy *AirDNA*, founded in 2015, scrapes data available on the Airbnb and HomeAway websites for a variety of clients: STR managers, hoteliers, real estate investors or researchers. Second, the open data project *Inside Airbnb* offers a set of free tools and pre-scraped data, which allow users to explore how Airbnb is being used in many cities around the world, including the 12 studied in this report.¹¹ The data provided by *AirDNA* and *Inside Airbnb* can help answer questions such as: How many listings are there in a particular city and where? How many housing units are being rented out frequently to visitors? How much are, on average, hosts making from renting to tourists (compared to long-term rentals)? How many hosts have multiple listings?

Table 3: The pros and cons of STR: overview of arguments (Source: compiled by the authors)

| Arguments of the advocates of STR | Arguments of the critics of STR |
|---|--|
| <ul style="list-style-type: none"> • Democratisation of travel • Flexibility for travellers • Extra income for hosts • Sociability and inter-cultural exchanges • Better territorial spread of tourist accommodation • Trickle-down effects through visitors’ expenditure and wealth generation in surrounding neighbourhoods | <ul style="list-style-type: none"> • Security and safety concerns for guests • Disturbances/nuisances to neighbouring residents • Competition with ho(s)tels • Tax evasion • Loss of the initial spirit of ‘sharing’ • Reproduction of socio-economic and racial inequalities • Structural impacts on housing markets (evictions and displacement; loss of residential units) and on the socio-economic fabric of neighbourhoods (retail; services) |

The aggregate data produced through these methods is not perfect, as it is inevitably based on approximations and assumptions¹² – for example, about the number of days per year above which a housing unit rented short-term is no longer considered to be someone’s ‘primary residence’. But in the absence of a legally binding requirement on platforms to release individualized and geographically precise data to public authorities about the listings they advertise, there are currently no other methods available to analyse the STR offer.

2.1. The uneven impacts of platform-mediated short-term rentals on people and places

The advocates of STR argue, first, that they democratise travel through lowering the cost of short-term accommodation for consumers (compared to traditional holiday accommodation such as hotels), thus benefitting families or travellers with less income. Moreover, STR are argued to foster beneficial forms of social and cultural encounters between hosts and guests (Paulauskaite et al., 2017; Tussyadiah and Pesonen, 2018) – an argument valid in the case of home-sharing in a strict sense (Type 3). By contrast, the critics of STR – who, as we shall see in Section 3, come from different sectors – argue that such a form of accommodation poses safety issues for guests and generates unfair competition for hotels, in particular those at the lower-end (Zervas et al., 2017) – though evidence is not clear-cut (Coyle and Yeung, 2016; Dogru et al., 2019). STR are generally subject to less stringent regulatory requirements than traditional hospitality establishments in terms of fire safety, accessibility, health and service standards, or taxation.

From the perspective of the operators of STR (so-called ‘hosts’), STR generate a source of income that can help homeowners or tenants improve or maintain their living standards. Airbnb contends that it is ‘democratizing capitalism by expanding the economic pie for ordinary people, allowing them to use their home, typically their greatest expense, to generate supplemental income to pay for costs like food, rent, and their children’s education’ (Airbnb, 2016: 1). In cities where housing costs are very high, home-sharing is portrayed by Airbnb as ‘part of the solution to the housing crisis’ (Airbnb, 2018), an argument heavily contested by other social groups, as we will see.

A number of studies have shown that not all urban dwellers can equally seize that opportunity, and that the operation of STR may reflect or reinforce existing spatial, socio-economic, labour and racial inequalities (Edelman et al., 2017; Schor and Attwood-Charles, 2017). Individual operators of STR tend to be disproportionately white property owners (or tenants), highly educated and in possession of particular forms of cultural, social or financial capital (e.g. IT skills, presentation and communication skills or aesthetic taste) (Arias Sans and Quaglieri Domínguez, 2016; Frenken and Schor, 2017; Schor, 2017). In the USA, Cansoy and Shor (2016) noted a positive correlation between the educational level of hosts, the number and price of listed properties, and the income generated. As noted by Gurran (2018: 301), ‘those with spare and marketable space to rent to tourists are generally not the primary sector of the population experiencing the greatest housing need’, thus contradicting the oft-mentioned argument that home-sharing is a significant ‘housing affordability’ strategy. This does not exclude the possibility that lower-income households may derive benefits from STR practices, particularly in neighbourhoods considered increasingly desirable by travellers seeking ‘off-the-beaten-track’ locations.

Moreover, many studies have shown that in large cities, the STR offer available on the biggest platforms is no longer primarily composed of individual owners (or tenants) renting a room in their primary residence or renting their home when they are away (Type 2 and 3), but instead is increasingly dominated by STR Type 1. This was first shown in North American cities (see for example Samaan, 2015 on Los Angeles; and Hoffman and Schmitter Heisler, 2020). Crommelin et al. (2018), in their study of Paris, London, New York, Sydney and Hong Kong, showed that in 2016, between a quarter and half of all Airbnb listings were traditional holiday-let businesses (Type 1) rather than examples of home-sharing (Type 2 and 3). Other studies have shown similar patterns of concentration of the Airbnb offer in the hands of a small number of multi-property operators in the cities covered in this report, e.g. Barcelona (Arias Sans and Quaglieri Domínguez, 2016); Paris (Chareyron et al., 2015) or Rome (Celata, 2017).

The aggregate data extracted from the *InsideAirbnb* website in the autumn of 2019 confirms this finding for the 12 cities covered in this report (see Table 1 in Appendix, as well as Demir and Emekli, 2021). The share of whole units as a proportion of the total listings

offered on Airbnb (as opposed to rooms in a shared flat) ranged from 47.5% (Berlin) to 86.8% (Paris). While some of the whole-unit listings might be primary residences rented a few weeks per year while the host is away, a large proportion were available for more than 60 days a year (a percentage ranging from 28.2% in Berlin and Paris to 87.5% in Rome). In addition, the proportion of ‘multi-listings’ advertised by a single ‘host’ varied between 19.9% (Paris) and 67% (Lisbon). This demonstrates a professionalisation of hosts – more visible in some cities than others (for example, in Prague or in Madrid, see Gil and Sequera, 2020). In Barcelona, 76% of entire homes and 50% of private rooms advertised on Airbnb in early 2020 were managed by multi-listing hosts (Cox and Haar, 2020). Other authors have shown that this is accompanied by an unequal distribution of revenues among hosts: in Paris in 2015, almost 27% of hosts earned less than US\$ 1,000 while 3.4% earned more than US\$ 30,000 (Coyle and Yeung, 2016) (see also Wachsmuth et al., 2017 on Canadian cities and Wachsmuth et al., 2018 on New York City). For those reasons, critics have consequently argued that the STR offer available on large platforms can no longer be described as forming part of the ‘sharing economy’ (Slee, 2016).

The largest platform, Airbnb, has produced a series of city-based reports on the economic impacts of its STR offer, starting with San Francisco in 2012 (Airbnb, 2019a). Those reports argue that in popular urban destinations, the increase in STR contributes to a better territorial spread of tourist accommodation across neighbourhoods and generates sizable ‘trickle-down effects’ on local economies – claiming that 42% of guests’ spending ‘stays local’. The reports emphasise positive impacts for consumers and the tourism industry, for neighbourhoods and local businesses, and for resident households. Besides, an entire economy of new intermediary services has developed around, or been boosted by, the exponential increase in STR, involving the refurbishment of properties, the management of hosts’ profile, online communication, cleaning, key-picking and reception services. These services can be offered by individuals (often informally through precarious and low-paid activities) or by companies, some delivering highly professionalised packages (e.g. Hostmakers or Airtorted).

According to Airbnb (2019a: n.p.), its reports are based on ‘the findings of host and guest surveys, Airbnb bookings data, and analysis by local economists’, although

the detailed evidence base, econometric modelling assumptions and methodology for the calculation of those impacts are not explained and thus difficult to verify. The claims made in the company’s publications have consequently been contested, at times, by researchers and activists. Several studies have in particular sought to explore the geography of Airbnb listings in specific cities, revealing a mixed picture. In most cities, listings have indeed spread over time from central areas to more distant ones characterised by a smaller hotel supply and a higher residential stock (see Quattrone et al., 2016 and Shabrina et al., 2019 on London; Coles et al., 2017 on New York; Balampanidis et al., 2019 on Athens). However, Coyle and Yeung (2016), in a study of 14 European cities, showed that Airbnb properties were, in 2016, sparsely located, if not absent, in poorer or ‘rougher’ areas of those cities. The undeniable process of dispersion of STR does not invalidate the fact that, in all cities, the offer tends to remain, on the whole, highly concentrated in central neighbourhoods or in those near major tourist sites and leisure opportunities (see Arias Sans and Quagliari Domínguez, 2016; Gutiérrez et al., 2017 on Barcelona). In Paris, the Deputy Mayor in charge of housing – a vocal opponent of STR Type 1 (Brossat, 2018) – has



Figure 1: Lockboxes to store the keys of short-term rental apartments, London, 2021. (Source: Tatiana Moreira de Souza, 2021)

argued that ‘in the four central arrondissements of Paris, a quarter of all properties are now no longer homes but purely short-term rentals for tourists’ (Brossat, quoted in Henley, 2019).

In those areas with high concentrations of STR, the potential adverse impacts on the daily life of long-term residents have been at the core of fierce critiques and controversies (see Section 3.2). As frequently reported by interviewees, STR located in residential apartment buildings can be a source of disturbance for permanent residents due to the constant movement, and possible noise or anti-social behaviour, of guests. The authors heard anecdotal accounts of STR properties sometimes being used for criminal activities such as drug dealing. Daily life can also be disturbed by the increasing pedestrian traffic or waste generated by high concentrations of visitors. In neighbourhoods that may already be affected by processes of gentrification (i.e. the gradual displacement of lower-income residents by higher-income ones), the rapid increase in STR can contribute to a shift in the offer of services and shops towards the needs of visitors rather than long-term residents.

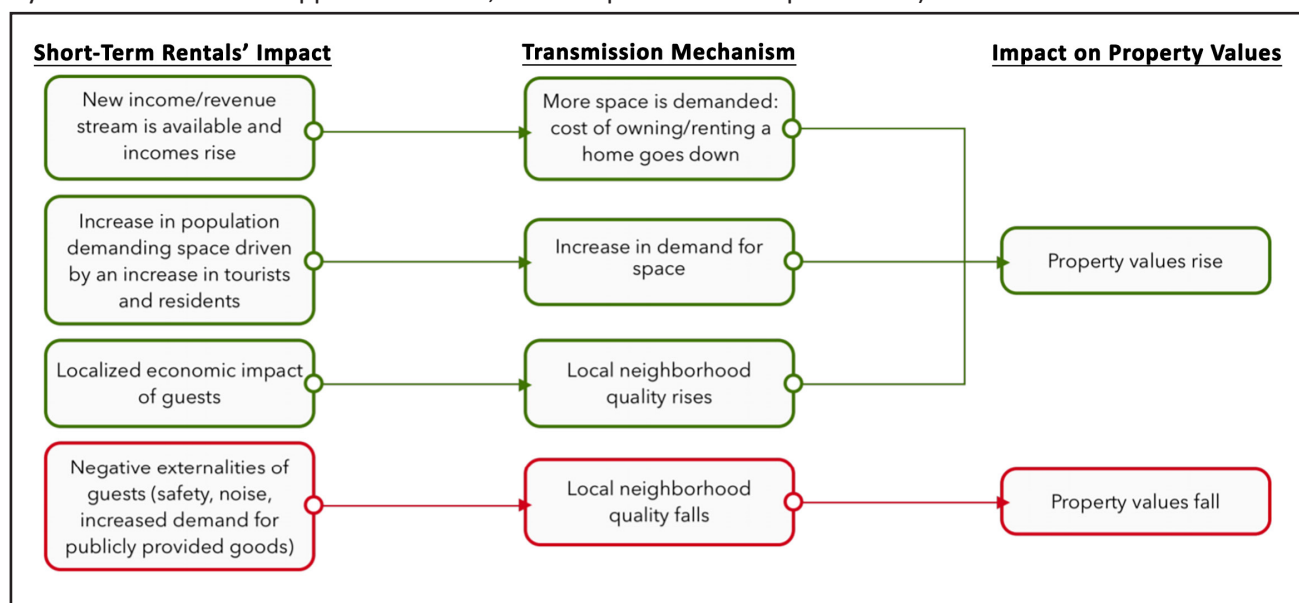
Finally, the issue of tax avoidance/evasion is often raised as problematic at two levels: that of platforms (Boffey, 2017; Marriage, 2018), and that of individual STR operators who do not always declare the income from their activity. In Greece, the loss of tax revenues from the STR market was estimated at approximately EUR 270 million per year (Balampanidis et al., 2019).

Additionally, in cities where a visitor or occupancy tax exists, it is often not remitted by hosts to the relevant authorities (unless it is automatically collected by the platforms, see section 5.2). Critics argue that the extra pressure on public infrastructure and public services generated in areas of heavy concentration of STR is a form of ‘free-riding’, as hosts and guests do not contribute to the costs of meeting the additional demand that they generate (Dredge et al., 2016).

2.2. The impact of platform-mediated short-term rentals on housing markets

In cities all around the world, the impacts of STR on housing markets have been at the forefront of acute critiques and controversies. However, there are important differences between the impacts of each of the three types of STR defined in Section 1: in theory, strictly speaking, the following discussion relates primarily to Type 1. STR can impact housing markets if many landlords decide to remove properties from the long-term rental market to convert them into short-term rentals. Other things being equal, this would decrease the supply of housing units in the long-term private rental market and put upward pressure on long-term rents (for a concise economic explanation, see Horn and Merante, 2017; Sheppard and Udell, 2018, and Figure 1). This is more likely to happen in cities or neighbourhoods that already have a tight rental housing market (with high demand and low supply).

Figure 2: Transmission mechanisms for the impact of short-term rentals on housing prices (Source: adapted by the authors from Sheppard and Udell, 2018. Reproduced with permission)



The most common methods of measuring STR impact on housing entail estimating the number of units of housing lost (which increases the cost of housing by a quantifiable amount), and/or tracking rents or housing costs over a period of time, compared to the presence of short-term rentals, while controlling for other variables (Cox and Haar, 2020). While it is not easy to entirely isolate the effect of STR from other possible variables that may influence the supply of long-term rentals and rental prices, Wachsmuth (2017) argues that once reasonably good estimates for the number of whole-unit rentals available all year round on Airbnb are produced, measuring their impact on the housing market of a city is relatively straightforward (see also Grisdale, 2019). But representatives of large platforms, and at times professional associations of STR operators or hosts, have criticised such methodologies, producing their own ‘counter-studies’ (e.g. InAtlas, 2017, in the case of Barcelona) – the latter often criticised, in turn, by researchers or activists.

In high-demand cities, many recent studies have found evidence that the proliferation of STR has contributed to a decline in the housing stock available for long-term occupation and to an increase in rental prices, though much more pronounced in specific neighbourhoods than when measured at the level of the city as a whole (Table 4). In Paris, for example, it is estimated that between 15,000 and 25,000 entire housing units are rented on Airbnb throughout the year, diverted from the traditional rental market without the necessary authorisation for “change of usage” (Cox and Haar, 2020). The monthly or yearly income that can be generated by renting ‘short-term’ rather than ‘long-term’ can be three to four times higher, according to multiple interviewees in the case-study cities. Wachsmuth et al. (2018) estimated that in New York City, owners of frequently rented entire-home Airbnb listings earn 200% or more above the median long-term rent for the neighbourhood. In Toronto, Grisdale (2019: 20) showed that in ‘up-and-coming’ neighbourhoods in the vicinity of the downtown Waterfront Entertainment district, entrepreneurial operators made between 300-600% of the median market rent in the assessed year from their STR.

It is clear that STR have created a new form of ‘rent gap’, a concept defined by Neil Smith (1979) as the disparity between the potential ground rent level and the actual ground rent capitalized under the present land use. In the case of STR, this gap is ‘driven by

sharply rising potential revenue, rather than gradually falling actual revenue’ (Wachsmuth, 2017: np)¹³. The exploitation of this new rent gap in desirable neighbourhoods has happened in a rapid manner through a range of different actors — from individual homeowners and tenants, to small-scale amateur landlords who buy and operate one flat (e.g. in Vienna, Kadi et al., 2019), to multi-property landlords (Wachsmuth and Weisler, 2018; Amore et al., 2020), and more recently real estate investment and wealth and asset management companies (see Cocola Gant and Gago, 2019 on Lisbon). The STR market has shifted ‘from an individual, unregulated, informal practice to a large-scale, strategic management of real estate property’ (Balampanidis et al., 2019: 2), although this development is still relatively under-researched and difficult to quantify (for a discussion in the US context, see Hoffman and Schmitter Heisler, 2020).

A number of authors thus interpret the exponential growth of STR as part of a broader trend towards the ‘assetisation’ and ‘financialisation’ of housing (Gurran, 2018; Grisdale, 2019; Hoffman and Schmitter Heisler, 2020). At the level of individual households, this refers to a shift towards individual strategies of investment into property assets as a source of income or equity, in a context of declining redistribution by the welfare state. This often requires increasingly high mortgages, for which STR can become a complementary strategy of income generation. This trend has become intertwined with increasing forms of short- and long-term mobilities and transnational lifestyles. In that context, many European cities have become desirable locations for transnational real estate investments by non-residents buying a second home, a ‘safe haven’ or a profitable asset (see Paris, 2009, 2010 on second home ownership and housing markets; Deverteuil and Manley, 2017 on ‘high net-worth individuals’ and ‘pied-a-terre urbanism’ in London; Cocola Gant and Gago, 2019, on foreign investment and STR in Lisbon).

STR are more likely to impact long-term residential housing markets in countries and cities where tenant protection regulations are weak, and/or if there are easy opportunities for investors to buy empty properties and turn them into STR (e.g. in historic city centres that had suffered decline, abandonment and vacancy). For those reasons, Balampanidis et al. (2019) hypothesize that the negative effects of STR could have a greater impact in Southern and Eastern Europe. In Barcelona, the neighbourhoods with the

Table 4: The impacts of STR on the housing market: findings from a sample of key studies (Source: compiled by the authors)

| Country | City | Authors | Impacts on housing stock and on rental and/or housing prices |
|-----------|---------------------------------|--|---|
| USA | Whole country | Barron <i>et al.</i> (2017) | A 10% increase in Airbnb listings leads to a 0.42% increase in rents and a 0.76% increase in house prices. |
| | Los Angeles | Samaan (2015) (see also Lee, 2016) | Airbnb-mediated STR removed 7,316 units from the long-term rental market (equivalent to 7 years of affordable housing construction). |
| | New York City | Wachsmuth <i>et al.</i> (2018) | Airbnb-mediated STR removed between 7,000 and 13,000 units from the long-term rental market. |
| | New York City | Barron <i>et al.</i> (2017) (see Schneiderman, 2015) | Airbnb growth can explain 0.27% of the annual rent growth and 0.49% of the annual house price growth for the years 2012-2016. |
| | San Francisco | Brousseau <i>et al.</i> (2015) | Between 925 and 1,960 units have been removed from the housing market from Airbnb listings (= 0.4-0.8% of the rental housing stock) in 2013. This represents between 11.0 and 23.2% of the 8,438 units reported as vacant in the city. |
| | Boston | Horn and Merante (2017) | A one standard deviation increase in Airbnb listings is associated with an increase in asking rents of 0.4. For census tracts in the highest decile of Airbnb listings relative to total housing units, this increase in asking rents ranges from 1.3% to 3.1%. |
| Canada | Montreal, Toronto and Vancouver | Wachsmuth <i>et al.</i> (2017) | Airbnb-mediated STR removed up to 13,700 housing units from the long-term rental markets of the 3 cities. In some areas (often neighbourhoods with above-average rents), this represents more than 2% of the total housing stock (a number comparable to rental vacancy rate in the 3 cities). |
| Australia | Sydney | Gurran and Phibbs (2017) | Nearly 1% of Sydney's total dwellings and 3.26% of the total rental stock were available for short-term stays via Airbnb in late 2015. The number of dwellings removed from the permanent rental market amounts to about half of Sydney's rental vacancy rate. |
| Germany | Berlin | Schäfer and Braun (2016) | STR represent 0.3% of the overall housing stock in the city, but 7% in some neighbourhood (e.g. Mitte). Areas with a large proportion of STR experienced higher rental growth on average than those with small proportions. The STR boom has exacerbated the tightness of the market, initially caused by other factors (e.g. significant in-migration rate). |
| Spain | Barcelona | Duatis <i>et al.</i> (2016) | Neighbourhoods that experienced higher penetrations by Airbnb-mediated STR experienced faster growth in prices and rents. In the most affected areas: increases in rents and prices of about 11% and 17-18% (2015-2018). |
| | | Garcia-López <i>et al.</i> (2020) | For the average neighbourhood, Airbnb activity has increased rents by 1.9%, transaction prices by 4.6% and posted prices by 3.7%. But the estimated impact in the top decile of neighbourhoods with high Airbnb activity is substantial: rents are estimated to have increased by 7%, while increases in transaction (posted) prices are estimated at 19% (14%). |
| UK | London | Snelling <i>et al.</i> (2016) | The number of private homes in London let via Airbnb in 2015 amounted to less than 1% of the total private housing stock. This is not large enough to exert a significant impact on supply, although this may be different in some boroughs where the proportion of Airbnb listings let for more than 90 days is considerably higher: Kensington and Chelsea, Camden, Hackney, Westminster, Tower Hamlets, Islington and the City of London. These areas may be susceptible to growing pressure in future, which may exacerbate existing housing supply issues. |
| | | Shabrina <i>et al.</i> (2019) | The overall proportion of Airbnb-mediated STR only accounts for 1.4% of the overall housing supply in London. However, their effect is much greater in some neighbourhoods: they represent up to 20% of the overall housing supply in some LSOAs of Hackney, Tower Hamlets and Westminster, further exacerbating the process of gentrification. |
| | | Todd <i>et al.</i> (2021) | Increased level of property listings from Airbnb has a modest and positive association with average increase in house prices in London, though there is large variability between different parts of the city. Substantial increases in house prices tend to be concentrated for LSOAs in boroughs of Kensington and Chelsea, Westminster and Camden. |

| Country | City | Authors | Impacts on housing stock and on rental and/or housing prices |
|----------|--|---------------------------------|--|
| Austria | Vienna | Seidl <i>et al.</i> (2017) | Around 2,000 have been removed from the long-term rental market through Airbnb-mediated STR. |
| France | Bayonne Lyon Marseille Montpellier Nantes Nice Paris Toulouse | Ayoub <i>et al.</i> (2020) | Study of Airbnb rentals' effect on private rental sector rents in 8 French cities in 2014–2015: density of Airbnb rentals puts upward pressure on rents in Lyon, Montpellier, and Paris, whereas it has no significant effect in other cities. If analysis is restricted to STR Type 1: a greater effect in Marseille and Paris. |
| Portugal | Lisbon Porto and others | Franco and Daniel Santos (2021) | In Lisbon and Porto: a 1 percentage point increase in a civil parish Airbnb share led to a 3.2% price increase (2014-2016). Strong effects localized in the historical centres and touristic areas. |

biggest Airbnb presence – in the historical city centre – were the ones experiencing the greatest population loss (Arias Sans and Quaglieri Domínguez, 2016), as in Rome (Celata and Romano, 2020). In 2016, in the district of Ciutat Vella, it was estimated that 17% of all housing units were listed on Airbnb (against 2% for the city as a whole), and in some of its most popular streets, up to 50% of the housing stock (Cócola Gant, 2016b). Correlation is not causation, but interviews

with local residents and grassroots activists have revealed multiple cases of tenant evictions, non-renewal of rental contracts or heavy pressures on sitting tenants to make way for STR – processes facilitated by weak tenant protection laws.

The impacts of STR on housing markets have thus been discussed by scholars in relation to broader processes and dynamics of ‘gentrification’ and ‘touristification’ (Cócola Gant, 2016a, 2018; Gravari-Barbas



Figure 3: Pressures on the historic city. Lisbon, an attractive destination for foreign investors and tourists. (Source: Claire Colomb, 2017)

and Guinand, 2017; Mermet, 2017; Cocola Gant and Gago, 2019; Oskam, 2019; Cocola Gant et al., 2020). In popular tourist cities, processes of displacement of lower income groups and traditional retail from historic centres started before the emergence of Airbnb in 2008 (Venice being one of the most extreme cases). But the new rent gap created by STR has sharply intensified those processes.

Broader changes in the national regulatory and policy environment can also fuel the growth of STR, as illustrated by the case of Lisbon. From 2012 onwards, a combination of national reforms in the fields of taxation, visa, citizenship and rental legislation has had a dramatic impact on the pace of conversion of housing units into STR (Mendes, 2018; Cocola Gant and Gago, 2019; Marques Pereira, 2020). These reforms have strongly incentivised foreign investments into Portuguese real estate and made it easier for long-term tenants to be displaced in favour of STR. Between 2015 and 2019 the number of STR licences increased from 3,174 to 20,014 (Marques Pereira, 2020). In the UK, recent reductions in tax breaks for 'buy-to-lets' might make STR more attractive in terms of financial returns. Any discussion about managing or controlling the growth of STR thus needs to consider these broader policy fields — which are often beyond the remit of city governments.

Altogether, the existing body of research on the impacts of STR on neighbourhoods and cities faced with strong demographic pressures, high visitor flows and a tight housing market show that the increase in STR has contributed to a decrease in the supply of long-term rentals, induced an increase in rental prices, and fuelled the displacement of some residents: either owners/sellers who move elsewhere voluntarily, or tenants who are displaced against their will. However, those impacts are not easy to quantify and may not be quantitatively significant at the level of the city or metropolitan area *as a whole* when compared to other factors influencing the housing market. Nevertheless, those impacts are often highly concentrated, and thus much more intense, in particular areas affected by a sharp growth in the number of STR relative to their total housing stock. In those areas, the existing social and economic fabric has come under threat as a result. A study prepared for the European Commission — covering Berlin, Barcelona, Amsterdam and Paris — concluded that the STR sector has 'not necessarily caused housing shortages and affordability issues but

its growth may have aggravated these conditions, in particular in centrally located districts' (Dredge et al, 2016: 3).

3. Stakeholders and arguments for and against the regulation of platform-mediated short-term rentals

Besides elected representatives and public officials at various tiers of government, a variety of stakeholders are involved in the politicisation and framing of the issue of STR and their regulation. The pilot study of three cities (Aguilera et al., 2019a) and the subsequent research conducted in nine additional European cities for this report allowed the authors to identify six broad categories of non-state actors and interest groups. While some are well-established (such as the professional organisations representing the hotel and hospitality industry), others have emerged with the development of STR (such as hosts' associations or platforms). Drawing on the interviews conducted with a variety of actors and on statements published by the relevant organisations, the following sections analyse the position of each type of stakeholder with regard to STR, their demands on public authorities in terms of regulation, and the means through which they seek to influence city (and other tiers of) governments to push forward their agenda.

3.1. The hotel and hospitality industry

The hotel industry's business response to the rise of STR has varied 'from embracing it, as best exemplified by AccorHotels' acquisition of Onefinestay or the Spanish hotel group Roommate, to ignoring the phenomenon, as Hilton Hotels, IHG and Marriott have largely done' (Marvel, 2017: 4). In terms of regulation, in all cities and countries, representatives from the hotel industry have systematically advocated a tougher approach to STR which they perceive as 'unfair competition'. They demand that operators of STR be subject to the same set of rules that apply to hotels and that the principles of a 'level-playing field' be upheld (a term that appears recurrently in their public statements). These demands are channelled through well-established local, regional, and national hotel federations or professional organisations, which sometimes include other hospitality-related sectors besides traditional hotels (such as restaurants and bars in the Netherlands and the UK). In some cities or

countries, separate organisations represent smaller tourism accommodation providers, such as Bed and Breakfast operators (e.g. the *B&B Association* in the UK).

The position of the professional organisations representing the traditional hospitality industry, as expressed in their public statements, tends to be similar across cities. They tend to accept home-sharing (in the strict sense of Type 3) as an acceptable phenomenon, but stress that a large part of the STR offer is composed of full units managed by professional landlords or multi-property owners (Type 1) who do not have to comply with the same stringent rules that apply to hotels. They argue that 'properties with high levels of short-term use are 'hotels/guesthouses' in all but name and thus traditional business models are placed in a position of unfair competitive disadvantage' (BHA, 2016a: 3).

The main areas of concern recurrently mentioned by hotel industry representatives are: health and safety (fire/gas/food); tax (corporation tax, VAT, income tax, tourist tax); insurance; registration, permits and licensing; reporting obligations for public order and statistical purposes; consumers' rights; zoning/land use category in urban planning; labour law, employees' rights and protection. Additionally, hospitality industry organisations are particularly critical of the platforms' perceived lack of cooperation with public authorities, seeing them as 'providing 'a 'loophole (albeit legal) for 'pseudo hotels' to circumvent ... regulations' (BHA, 2016a: 1).

These organisations have consequently been campaigning for public authorities to 'level the playing field vis-à-vis licenced operators who comply with extensive regulations, to safeguard the interests of residents, to foster community cohesion and to promote fair competition' (HOTREC, 2017: 1). In Milan, for example, in 2015 well-established hotel industry associations actively campaigned for stricter legal norms and harder controls on STR, during the elaboration of a new regional law on tourism in Lombardy triggered by the upcoming Milan World Expo. Their slogan was

‘same market, same rules’ (Aguilera et al., 2019a). Equally, the Dutch Association of Hotels (*Koninklijke Horeca Nederland*) called on the lower house of the Dutch Parliament to take measures setting a national framework for STR, including an obligation for STR to be registered, a limit of 30 days per year for STR, a better monitoring of STR by the Fire Brigade, Tax Authority, and Environment Inspectorate (Pieters, 2018), and the requirement for platforms to share information about individual hosts with local governments. In the UK, UKHospitality (formerly known as the British Hospitality Association) has also called for platforms to share non-anonymised host data with local governments and the tax office, to ask hosts to identify themselves as either a host (individual homeowner) or a professional (renting flats that are not their homes), and to make stricter safety and security checks on listings (BHA, 2016b: 4).

At the European level, the umbrella *Association of Hotels, Restaurants, Pubs and Cafes and similar establishments* (HOTREC) was founded in 2007 as a not-for-profit association under Belgian law, bringing together 44 national associations from 32 countries. It represents and champions the interest of the established hospitality industry in front of the EU institutions and other relevant stakeholders, and acts as a platform for knowledge sharing and best practice among its members. After analysing the implications of STR and the so-called ‘collaborative economy’ on their industry (HOTREC, 2015), in 2017 HOTREC published a list of policy priorities under five key themes reproduced in Box 2. HOTREC argues that ‘an equilibrium should emerge thanks to a clear distinction between private and professional activities, ensuring that it truly reflects the principles of fair competition promoted at supra-national level by the European Commission’ (2017: 1).¹⁴

3.2. Residents’ associations, citizens’ movements and grassroots campaigns

In some of the cities under study, most notably Barcelona, Madrid, Berlin and increasingly Lisbon and Prague, residents’ associations and citizens’ movements have made STR a key focus of grassroots campaigns. Two issues are at the core of their grievances: the immediate, daily disturbance that STR may create in the buildings and neighbourhoods where they are located (noise, uncivil behaviour, litter, damage to

communal spaces...), and the structural impacts they have on the housing stock and retail fabric. Representatives from residents’ associations and citizens’ movements defend the individual right to ‘peace’ and ‘privacy’, and the collective ‘right to housing’ of local residents, and demand stricter forms of regulation, control or even prohibition of STR. This, at times, has entailed denigrating and demonising STR (Boon et al., 2019), although many activists do make a difference between home-sharing in a strict sense (Type 2 or 3) and professional STR (Type 1) – the latter being the main object of contention.

Barcelona was one of the first cities in Europe where grassroots campaigns emerged specifically to challenge the growing ‘touristification’ of the city’s neighbourhoods, and the role of STR therein (Colomb and Novy, 2016; Novy and Colomb, 2019; Aguilera et al., 2019a). In the early 2000s the residents’ associations of the historic district of Ciutat Vella began to denounce the nuisances caused by ‘tourist apartments’. As the number of STR increased sharply in the 2010s, these associations began to convene frequent public meetings to raise awareness of the problems generated by STR, lobby local elected representatives for action, and report illegal STR. Protests against the lack of response by the city government to the problems caused by STR escalated in the summer of 2014 (Colau, 2014). STR became problematised as part of a broader critique of the negative effects of mass tourism on the city’s physical and socio-economic fabric, and of the spirally costs and unavailability of housing for the city’s residents.

Prior to the municipal elections of May 2015, the *Federation of Residents’ Associations of Barcelona* (FAVB) sent a list of demands about the regulation of tourism to all political parties, including the demand for a moratorium on new licenses for all forms of tourism accommodation. Many of those demands were taken on board by the left-wing citizens’ platform called *Barcelona en Comú* that won the elections. It promised to improve access to housing and change the city’s urban development model, including a better regulation of tourism (Colau, 2014; Russo and Scarnato, 2018). In July 2015 a one-year moratorium on new hotels and STR licenses was voted. A *Special Plan for Tourist Accommodation* was approved in January 2017, which bans any increase in the total number of licenses for STR (see Section 4.3). It was accompanied by an increase in the resources dedicated to control and enforcement. According to representatives from

Box 2. Association of Hotels, Restaurants, Bars and Cafes and similar establishments in Europe (HOTREC): Five policy priorities for a responsible and fair 'collaborative' economy' (Source: HOTREC, 2017)**Registration:**

- Individuals renting out a room or a whole property must register with the local authority.
- P2P platforms must cooperate proactively with authorities, removing listings without a valid registration.
- The procedure (system) must be simple and straightforward.
- Platforms must share data that will help government agencies to enforce the law in their jurisdiction.

Threshold:

- Authorities must set thresholds on the number of days per year for which a property may be rented out.
- Authorities must set thresholds on the number of guests allowed per type of property in accordance with local demand, building codes and health & safety standards.

Taxation:

- Compliance with fiscal obligations must be considered as a prerequisite for engaging in STPAR [Short Term Private Accommodation Rentals] activity.
- Applying same tax obligations to STPAR activity, as to businesses, when the activity is regular or income reaches a certain threshold, depending on local markets is a must.
- P2P platforms must comply with their duties giving relevant and exact information required for fiscal obligations.

Health, safety and security:

- All types of STPAR activity must be subject to basic health protection and safety requirements, including explicit adherence to building codes, basic fire safety regulations and food hygiene rules and be subject to inspections.
- Renters must be responsible for verifying the identity of guests according to EU legislation.
- Platforms must be proactive in providing information and guidance concerning health, safety and security alike, as well as in removing non-compliant properties.

Liability:

- Renters, online platforms and authorities must assume their liabilities to the consumer and make these clear.
- Renters and P2P platforms must assume their liabilities with local authorities.
- Adequate insurance mechanisms must be put in place and these must be communicated by platforms to suppliers and consumers involved.
- As the holders of most data, online platforms must cooperate with authorities to ensure a responsible 'collaborative' economy.
- Authorities must be prepared to impose sanctions, where applicable alike, as well as in removing non-compliant properties.

residents' associations and grassroots campaigns, while progress has been made in controlling illegal STR, the new rules lack 'teeth' because of limited enforcement capacity and the lack of cooperation of platforms (see 5.1 and 5.2). The issue of STR thus remains a focus of grievances.

In Prague, while the depopulation of the historic centre through 'touristification' and the nuisances caused by STR had been issues of concern for local residents and district councillors for many years (Pixová, 2020), it is only over the past two years that residents' campaigns and grassroots mobilisations focused on the issue of STR have emerged (e.g. "Stop Airbnb", "At Home in Prague – Regulate Airbnb", and the association for a "Tolerable living in the Centre of Prague") (Kafkadesk, 2020).

In other cities, interviews showed that while dedicated grassroots campaigns against STR might not have emerged *per se*, the issue of STR regulation has become increasingly integrated into the debates and demands of existing social movements, for example the tenants' movement in Berlin or housing rights collectives in Lisbon (Marques Pereira, 2020) and Madrid (Wilson et al., 2021). Such movements criticize STR as a factor that fuels evictions, the displacement of long-term residents and the gentrification of neighbourhoods. In Paris, the issue of STR regulation has been integrated into the demands of established residents' associations (which, in Paris, have a mostly middle-class composition, see Gravari-Barbas and Jacquot, 2016), who defend their right to peace, privacy and quality of life, and to a lesser extent also worry about the protection of the housing stock. In a number of cities (e.g. London, Milan and Vienna), the authors have not heard about highly active grassroots campaigns around the issue of STR to date, although other types of stakeholders have taken a critical stance against their increase, such as the hotel industry or public officials in charge of housing in the city government.

3.3. Organisations representing property managers and professional operators of short-term rentals

In most cities there are organisations representing the professional operators or property managers of commercial STR and holiday rentals (Type 1). Some of them are large, well-established and pre-date the

emergence of platforms; others are smaller and of more recent creation. In some cities, such as Lisbon, associations of STR operators argue that the bulk of the STR market (Type 1) is provided by second-home owners or small individual investors who bought and refurbished a few properties, and that these form their main constituency. This claim is contested by other stakeholders, such as housing rights campaigners, who argue that big investors, speculators and large corporate interests have now entered the STR market. It is extremely difficult to obtain a precise picture of the patterns of ownership and management of the STR supply in any city, and to know the proportion owned by large-scale investors of different kinds – though evidence of the latter's entry into that market has recently been documented (see Cocola Gant and Gago, 2019, on Lisbon).

The organisations representing the professional operators or property managers of commercial STR facilitate exchanges of experience among their members, offer legal advice, organise public relations and networking activities, and lobby local and regional/national elected representatives. A few accept corporate platforms as members or partners, while others explicitly do not include them (as in Berlin). At the European level, the European Holiday Home Association (EHHA) was founded in 2013 to give a voice to the STR industry. Its members are both large corporate platforms and national associations that represent professionally-managed serviced apartments, STR property managers and owners in EU member states.

Interviews with representatives of such organisations and the analysis of their public statements show that, on the whole, they declare themselves favourable to some *light* forms of regulations, accompanied by effective enforcement measures that would distinguish and protect them from competition by their 'illegal' STR-operating counterparts. In some cases, these associations have asked platforms to be more active in removing 'illegal' STR listings from their website. They also emphasise how what they offer is complementary to, rather than in competition with, traditional hotels. However, most of these professional organisations tend to be critical of, or opposed to, permit or licensing schemes. All firmly oppose any regulation that seeks to impose bans or quantitative limits to the STR market at the city-wide level (as was attempted in Barcelona or in Berlin, see 4.3), which interviewees describe as an unfair interference in the right to free enterprise,

to provide a service or to use one's property.

In Barcelona, after the suspension of new STR licenses in 2015 and the adoption of a restrictive *Special Plan for Tourist Accommodation* in January 2017, the president of the Association of Barcelona Tourist Apartments (APARTUR) argued that “the worse manner to combat illegality is to freeze licenses”. This, according to him, is arbitrary, unjust and contrary to the EU *Services Directive* (as explained in 5.3); will pave the way for more illegalities; and will not solve the problem of co-existence of STR and residential uses in apartment blocks. In the case of Berlin, a change of local rules in 2014 (see Section 4.3) *de facto* turned Type 1 STR (*Ferienwohnungen*) into an illegal activity, while they had previously been operating legally: this retroactivity was strongly contested by the organisations representing STR operators. Some of them had, for years, run holiday rentals as a small business complying with legal requirements, and described the measure as ‘criminalisation’ of their activities.

Regarding the ‘over-concentration’ of STR in specific neighbourhoods, respondents from those organisations had different opinions about the desirability (and possibility) of implementing *some* geographically-targeted restrictions on the number of STR in particular neighbourhoods. Some were open to discussions about exceptional and restricted measures to maintain a good balance between STR and long-term residential uses in high-demand neighbourhoods, while others opposed the idea of any geographically-bounded quantitative restriction. They all emphasised that the problem of STR over-concentration is affecting specific neighbourhoods only, and should not form the rationale for ‘catch-all’ restrictive regulations applied to the whole city.

The relationships between these organisations and public authorities oscillate between cooperation and opposition. On the one hand, several such organisations have been proactively engaging with public authorities, as explained by interviewed representatives. This has for example been the case in Lisbon, where ALEP (*Associação do Alojamento Local em Portugal*) contributed ideas and technical knowledge to the drafting of the national law on tourism accommodation that was in the process of being discussed in the Portuguese Parliament in the summer of 2018; and in Barcelona, where APARTUR has systematically participated in round tables, public consultations and meetings with the city government. On the other hand,

in the cities where more stringent regulations of STR have been passed (Paris, Berlin, Barcelona, Madrid and Amsterdam in particular), professional organisations of STR operators have lodged legal challenges against the city government to seek to topple the new regulations.

Additionally, such organisations have often expressed their scepticism about the data used by public authorities (or by citizens’ movements) to demonstrate the adverse impacts of STR on the housing supply and rent levels in their city. They question the validity of the data, pointing to the difficulties in demonstrating causal links (as discussed in Section 2.2). Some organisations (e.g. APARTUR) have produced their own alternative studies of the impact of STR on housing markets, usually concluding that these are less significant than their detractors claim. In the opinion of the representatives of professional STR operators interviewed in Lisbon, Barcelona and Berlin, the topic of STR has been instrumentalised negatively for political ends, in the context of public debates about housing unaffordability and gentrification. They feel that their business has become an easy scapegoat for a housing crisis that, they argue, is not of their own making and has much broader causes than STR.

To respond to the intense debates around, and at times negative portrayal of, STR in the public sphere, a number of organisations developed communication campaigns and good practice guidance to improve the co-existence of STR with residential uses. In Barcelona, for example, the organisation APARTUR has been promoting the use of ‘noise meters’ in STR properties (devices linked to the operator’s/landlord’s phone, which send an alert if the noise level goes above a certain threshold, prompting immediate contact with the guests).

3.4. New associations of hosts or ‘home-sharers’

Distinct from the above-mentioned professional organisations, new associations of hosts or ‘home-sharing clubs’ have recently emerged in several cities. They are diverse in their composition: some only represent ‘home-sharers’ in the strict sense, i.e. STR type 2 and 3; others represent both home-sharers and small individual operators of full STR units (type 1). The activities of such associations vary: meetings to share experiences with other hosts; legal advice and assistance to their members; public communication campaigns; petitions

to local (or other relevant) authorities and meetings with elected representatives and public officials to influence regulation.

As argued by a local resident involved in *Homesharing Berlin*, the profile of their members is not that of profit-seeking multi-property owners, but includes “students, freelance workers, academics, creatives, employees and retired people”, who rent a room in their flat, or their whole flat occasionally when they travel for work or holidays. Many of these hosts need the extra income provided by STR to survive financially. This argument has been particularly mobilised in countries heavily affected by the post-2008 recession and its consequences in terms of unemployment, decreasing wages and pensions: in Southern Europe, lower and middle-income households have used STR as a ‘maintenance strategy’ of micro-entrepreneurship to make up for losses of income (Semi and Tonetta, 2020; Balampanidis et al., 2019). In cities with very high housing costs such as London, the extra income generated by occasional STR or home-sharing is crucial for many households to sustain their lifestyles or to afford to ‘stay put’ in their homes — homeowners with

a high mortgage or tenants faced with increasing rents (though sub-letting is often not legally or contractually allowed).

The members of such associations often make a distinction between their practices of home-sharing and those of professional landlords who operate (multiple) STR units the whole year around: it is their main place of residence that is occasionally rented out — a practice that does not remove housing units from the long-term residential market. They argue, as in the Berlin case, that a wholesale ban on STR (including home-sharing) is not going to solve the shortage of housing in the city. Their primary argument revolves around the *non-professional* and *occasional* nature of their STR activity, and thus the need for light, proportionate rules. They oppose burdensome or restrictive forms of regulation that would treat them like professional STR operators, in particular, measures that have introduced a licensing/registration system. Some of them also oppose the time limits imposed by a number of local governments on the number of days per year during which a home can be rented out. The *Amsterdam Gastvrij* (association of B&B and short-term



Figure 4: Exasperated residents: demonstration against “tourist flats” in La Barceloneta, Barcelona. (Source: Michael Ip/Alamy Live News F0PF39, 2015)

lets), for example, expressed its discontent with the reduction in the number of days people can rent out their entire homes (from 60 to 30), which it perceives as an attack on people’s freedom to rent/share their property.

These associations acknowledge the possible occurrence of problems and disturbances to neighbours in residential buildings where units are rented short-term, and have developed guidance on ‘responsible hosting’. This has not prevented the emergence of tensions between individual residents who rent their home short-term and defend home-sharing, and some of their neighbours who oppose the practice.

The role of Airbnb in supporting the development of such ‘associations of hosts’ is significant. In 2015 the company began to roll out a global strategy of mobilisation of its individual users, who are encouraged to form local advocacy groups called ‘Home Sharing Clubs’ (Culpepper and Thelen, 2018; Sharp, 2018; Boon et al., 2019; van Doorn, 2019; Yates, 2021). They are mainly composed of landlords who share or rent their own homes short-term (carefully avoiding the 59% of ‘professional landlords’ who advertise units on Airbnb), and are ‘resourced, mobilised and coordinated by Airbnb public policy teams to advocate for favourable regulation’ (Yates, 2021: 4). There are around 400 such clubs around the world – as noted by Yates predominately in cities where stricter regulations of STR have been under development. According to Airbnb, they help ‘hosts come together to advocate for fair home sharing laws in their communities’, ‘share best practices around hosting and hospitality’ and ‘elevate the host voice locally’.¹⁵ Yates (2021: 5) analyses this form of ‘platform-sponsored grassroots lobbying’ in detail, showing that ‘clubs hold meetings, attend and give evidence in legislative hearings, lobby officials by phonebanking, letter-writing, in-person or by open petitions, liaise with media, and convene protests’, supported organisationally by Airbnb. However, while many associations of hosts are in contact with Airbnb or supported by it, others have not accepted the platform’s support and have preferred to remain independent (and at times critical) of it.

3.5. Corporate platforms

Corporate platforms have started to play a significant role in the politics of STR regulation in all cities where new, more stringent forms of regulation have been

developed. The role played by platforms (and more broadly, by digital tech companies) in public policy debates and in the management and development of cities has been a focus of growing attention (McNeill, 2016; Shearmur, 2016; Stabrowski, 2017; Sharp, 2018; Ferreri and Sanyal, 2018; Boon et al., 2019). According to Aguilera et al. (2019a) and van Doorn (2019), major platforms have been acting as ‘regulatory entrepreneurs’ (Pollman and Barry, 2017).

The biggest platform, Airbnb, has been particularly active in seeking to shape and influence public policy through a variety of means – some traditional, some new. Firstly, as mentioned in 2.1, Airbnb has commissioned studies to demonstrate the positive impacts of STR. Secondly, it has hired experienced public relations and public policy professionals who regularly meet with elected representatives and public officials to seek to influence the drafting of new (local, regional or national) regulations in ways amenable to the company’s interests (Tibbitt, 2019). This also means actively engaging in advocacy and lobbying activities directed towards EU institutions, as discussed in 5.3.

Thirdly, the company has published its own public policy guidance in a document entitled *Policy Tool Chest* (Airbnb, 2016, updated 2017), which offers recommendations on the type of policy interventions that the company is prepared to accept, with case-studies from various cities around the globe. The *Tool Chest* offers policy options for consideration under four topics (2016: 3): facilitating tourist tax collection via the platform through Voluntary Collection Agreements; offering tools and good practices to ‘help ensure that hosts and guests are respectful of the neighborhoods in which they share space’; fostering accountability through collaboration with authorities on ‘practical, enforceable rules for home sharing’; and combining transparency and privacy by providing some data to local policymakers ‘to enable smarter decision-making about home sharing rules without compromising hosts’ or guests’ privacy rights’.

In this document, Airbnb recognises that there may be special rules enacted to control STR in rent-stabilized or social housing. It also accepts the possibility of rules setting limits on the number of nights per year during which a unit can be offered as STR, or on the number of listings per host that can be advertised (albeit with caveats). It opposes ‘complicated permits or licenses’ but accepts ‘some thoughtfully targeted registration programmes [that] have the potential to provide

critical information to local governments while not posing undue burdens on regular people who share their homes' (2016: 9), recommending a simple online system with automatic or interim approval.

In relation to the use of local zoning and land use policies to control STR (discussed in 4.3), Airbnb takes a highly critical stance, arguing that

zoning and other local land use policies may unfairly restrict the rights of people to share their permanent homes on a short-term basis. Often designed to prevent the operation of full-time businesses in residential areas, many of these regulations were enacted before the internet was created and did not anticipate the concept of local residents occasionally sharing their living space with travelers, much less the fast-growing popularity of home sharing. Not only does responsible home sharing not demonstrably alter the character of a residential neighborhood, it can generate significant benefits for small businesses and residents who gain new sources of income (Airbnb, 2016: 5).

In this quote, the platform does not appear to acknowledge the evidence (presented in section 2) that in many cities, a majority of listings do not correspond to 'home-sharing' in a strict sense, but to units permanently rented as STR and not inhabited by long-term residents.

Fourthly, Airbnb launched communication campaigns disseminated via social media and advertisement posters to promote the benefits of 'home-sharing' and enlist the support of public opinion for light regulations. The public campaigning activities of Airbnb first came to light in San Francisco in 2015 in relation to the so-called 'Proposition F', a draft local law that intended to limit STR. It was rejected by voters in a local referendum in November 2015 after an intense campaign marked by a resource imbalance between the supporters of the proposition and its opponents, the latter funded by USD 8.5 million from Airbnb (Ember and Isaac, 2015; McNeill, 2016).

Fifthly, one of the most novel aspects of Airbnb's activities is the active mobilisation of its user base, which it frames as 'a community of entrepreneurial middle-class citizens looking to supplement their income in a climate of economic insecurity and tech-enabled opportunity' (van Doorn, 2019: 1). A dedicated website (*airbnbcitizen.com*) connects users of the platform and includes country-specific sections on 'responsible

hosting', which give an overview of the regulations applying to STR with a disclaimer.¹⁶ As mentioned in 3.4, Airbnb actively supports 'home-sharing clubs' via advocacy training activities and meetings ('MeetUps'), online communities and discussion forums encouraging 'hosts' to campaign against regulations deemed too restrictive, 'in defense of their economic interests and liberties, which ostensibly are structurally aligned with Airbnb's own interests and objectives' (van Doorn, 2019: 3). Other large platforms, such as VRBO, have also encouraged their user base to engage in advocacy activities to influence public debates about regulation, through guidance to hosts about how to do so.¹⁷

Finally, Airbnb and other platforms have openly opposed new regulations in a number of cities through legal challenges and court cases (see 5.2 and 5.3, and Cox and Haar, 2020: 16-18).

3.6. Advocates of the original 'sharing economy'

In some cities (for example Milan, Vienna or Amsterdam, as further explained in 4.1), an explicit policy agenda to support the 'sharing economy' has been developed – understood in its original meaning of facilitating the mutual use and exchange of goods and services, and inspired by practices based on social solidarity, ecological consciousness, and open access. This agenda has been influenced by grassroots initiatives, non-governmental organisations and intellectual advocates inspired by the initial principles of the 'sharing' and 'collaborative' movement. In Milan, for example, the first group to mobilise around STR was a coalition of 'sharing economy' advocates set up in the run-up to the World Expo held in the city in 2015 (Aguilera et al., 2019a). This group played a key role in the emergence of the 'Milano Sharing City' strategy (Comune di Milano, 2014).

In several other cities, various civil society initiatives and advocates of the sharing and collaborative economy also fed into the development of strategies to support this sector. Their positions regarding the role of corporate platforms vary. But many are critical of the transformation of the early spirit of the sharing economy into 'platform capitalism' and seek to promote, instead, alternative business models of 'platform cooperativism'. The most notable initiative in the field of STR is Fairbnb.¹⁸ It was launched in Venice, Amsterdam and Bologna in 2016 'to create a just

alternative to existing home-sharing platforms' and is being rolled out in other cities. It commits itself to advertise only units that are the host's primary home, and that comply with local and national regulations. It charges a 15% commission similar to that of other corporate platforms, but promises to donate half of it to local community and social projects. This illustrates local attempts at reclaiming the original spirit of the 'sharing economy'.

4. Regulating short-term rentals in 12 European cities: approaches

4.1. Overall approaches: a variety of local responses

A growing awareness of the possible adverse impacts of STR have led many city governments (and in some countries, regional or national governments) to develop new rules and regulations to better control the phenomenon. However, the public authorities of the 12 cities covered by this report have responded very differently to the demands channelled to them by the stakeholders identified in Section 3. As shown by Aguilera et al. (2019a), while different socio-economic structural conditions matter (in particular the intensity of tourist flows, the relative number of STR, and the state of the housing market), they are not the only factors explaining the differences in regulatory approach between cities. Those differences can be better explained, first, by the activities and influence of the specific actors who politicised the issue of STR in the first place, framed it within a specific policy sector, and demanded particular forms of public action. Those actors were not necessarily the same in all cities, and do not have the same weight in influencing public policy debates.

While there is no scope in this report to carry out a detailed comparison of the role played in the 12 cities by each of the six types of stakeholders described in Section 3, a few examples can be given. In Paris, it was the hotel industry and the city government's housing officials who successfully pushed the issue of STR onto the local political agenda from 2015 onwards. By contrast, as shown in 3.2, in Barcelona (and to a lesser extent in Madrid), it was residents' associations and grassroots campaigners that politicised the issue, eventually triggering new regulations after the municipal elections of 2015 brought to power a new political force sympathetic to their plea. In Milan, the most influential actors were advocates of the sharing economy (at the local level) and the hotel industry (at the regional level) (Aguilera et al., 2019b).

Besides, the particular framing of the topic of STR that was emphasised by each city government was influenced by pre-existing issues that were already high on their political agenda (e.g. the question of affordable

housing for long-term residents in Paris and Berlin; the problems of so-called 'over-tourism' in Barcelona (Milano, 2017), Amsterdam (Gerritsma, 2019; Oskam and Wiegerink, 2020) and Lisbon (Marques Pereira, 2000); or the quest for international tourism attractiveness in Milan). Depending on how the challenges generated by STR are framed, different policy solutions and sectors are advocated (Aguilera et al., 2019a; Marques Pereira, 2020: Figure 1). Additionally, as explored in the next sub-section, the distribution of competences between the city and higher tiers of government is another key factor that influences the diversity of responses observed in the 12 cities.

As a consequence of these factors, the regulations enacted in the 12 cities stem from different policy fields (see Tables 5.1 to 5.12 in Appendix), such as land use planning, housing, tourism, taxation, economic development and health and safety.¹⁹ It is interesting to note that in about half of the cities covered in this report, STR were framed by city governments as part of a broader policy agenda in support of the so-called 'sharing' or 'collaborative economy' (understood in its initial definition) (Eurocities, 2017; Vith et al. 2019). This is exemplified by the *Milano Sharing City* strategy (Comune di Milano, 2014), the *Action Plan Sharing Economy* of the Municipality of Amsterdam (2016), the strategy *Turning the Sharing Economy into a Fair Economy in Vienna* (StadtWien, 2016), the circular economy agenda of the Mairie de Paris (2015), and the *Impetus Plan for the Social and Solidarity Economy* of the Ajuntament de Barcelona (2016).

Those five cities, as well as Lisbon and Madrid, signed the declaration of 'Common principles and commitment for city sovereignty regarding the platform economy' adopted at the third Sharing Cities Summit in 2018.²⁰ Its content reflects a concern with the governance and regulatory challenges posed by the platform economy to cities' sovereignty, and the desire of city governments to achieve a balancing act between *promotion* and *regulation*. This explains why several of the city governments that have explicitly promoted the sharing economy are also those that have positioned themselves in favour of a strict regulation of STR and platforms (e.g. Amsterdam, Barcelona and Paris). As explained in 4.3, their focus has been on limiting the

growth of STR Type 1 without preventing ‘home-sharing’ in a strict sense (Type 2 and 3), in line with the original meaning of the ‘sharing economy’.

Existing studies of local regulations of STR in the USA and Europe have shown that they exhibit various degrees of stringency, ranging from a *laissez-faire* approach (i.e. no new regulation) to *prohibition* (which is rather rare and usually concerns Type 1)²¹, through a range of *intermediary approaches* that allow STR subject to certain restrictions (Furukawa and Onuki, 2019; Nieuwland and van Melik, 2020). The present study confirms that in the European context, such middle-ground approaches are the most common. As further explained in 4.3, there are few examples of prohibition of STR Type 1 (the Berlin case between 2016 and 2018 being the closest to that) or of stringent quantitative restrictions (Barcelona since 2015, Madrid since 2019). Conversely, there are only a few cities (or countries) where no new regulatory measures have been adopted in response to the rapid growth of STR (Prague was, at the time of writing, the only such city in the sample, although grassroots demands for regulation have intensified, leading to new proposals for national legislation being presented to the Czech Parliament).

Most city governments have sought to find a middle ground to maintain their attractiveness to visitors while attempting to protect long-term residential uses. They have done so by distinguishing between the three types of STR identified in Box 1 in their regulatory approaches, as explained further in Section 4.3. In the 12 cities studied in this report, the local governments that have taken comparatively more restrictive regulations and proactive enforcement measures towards STR have been governed by left-of-centre parties or coalitions, who value the protection of affordable housing and the quality of life of long-term residents. The challenge, for them, is to design ‘an equitable policy that protects public interests, including housing affordability, health and safety, neighborhood quality, and municipal revenues, while retaining reasonable latitude for city residents to host and earn money from short-term guests’ (Eskandari-Qajar and Orsi, 2016: 4).

4.2. Multi-level governance and the regulation of platform-mediated short-term rentals

In all cities, the scope of local regulations is influenced by the specific competences of the city government in relation to higher tiers of government, and by the political bargaining between them. In some cases, it is either the regional government (of Catalonia, Lombardy, Lazio, and the Autonomous Community of Madrid respectively for Barcelona, Rome, Milan and Madrid) or the national government (of France, Portugal, and the Czech Republic respectively for Paris, Lisbon and Prague) that has competence over the legal definition of what constitutes ‘tourism accommodation’ (including STR), *not* the city governments. In that context, one crucial aspect of regulation is whether regional or national legislation defines particular types of STR (1, 2 and/or 3) as an economic activity or as a land use *different from* a residential use in legal terms — thus making STR activities potentially subject to a business license, permit or authorisation for change of use. Where this is the case, local governments are often in charge of the licensing or authorisation process, and can therefore regulate such changes of uses through the local planning system (e.g. in Paris and London) and/or through the granting of licenses for particular types of economic activities (e.g. in Madrid and Barcelona).

In this context, there may be a lack of cooperation, or even tensions, between different tiers of government regarding the approach to STR regulation. This can be due to ideological differences between their respective ruling parties. In recent years, several local governments have advocated more interventionist agendas that have clashed with those of regional or national governments that are more favourable to deregulation and liberalisation. Examples include the left-of-centre city governments of Milan, Madrid and Barcelona facing regional governments led by centre-right parties; and the left-of-centre city governments of London, Paris, Prague and Vienna facing national governments led by centrist or right-wing parties.

The tension between local and national governments is vividly illustrated by the cases of London, Paris, and Prague. In London, as noted by Holman et al. (2018), local planners have found themselves trapped between a ‘public interest’ duty to promote housing delivery/affordability and the central government’s push for planning deregulation. The UK *Deregulation Act* of 2015 allows homeowners to rent out their home for a maximum of 90 days per year without planning permission for a change of use, supported

by an exemption of income tax for earnings of up to GBP 7,500 per year from that activity (as of 2019). No registration of the activity is required.²² In theory, local authorities can apply to the Secretary of State for Housing for the 90-day exemption to be lifted in a defined area severely affected by the growth of STR. This is currently the only route through which STR can be further regulated at the local level. Westminster City Council is the only London Borough to have applied for this exemption — which was met by a rejection in May 2016. There have been calls to hand over to the Mayor of London the power to assess those requests, so that Borough Councils are given the effective capacity to ban the renting out of whole properties for STR in some areas if they see it as necessary to protect the housing stock (Copley, 2018).

In Paris, the city government had repeatedly asked the central government to pass national legislation on digital platforms, as French municipal governments can only draw their competence in that field from national legislation. The *Law for a Digital Republic* passed in

October 2016 now allows cities over 200,000 inhabitants to set up a registration system for STR hosts, and to require STR platforms to include this compulsory registration number in the listings they publish. Two subsequent laws passed in November 2018 and December 2019 (Law *‘Evolution du Logement de l’Aménagement et du Numérique’* and Law *‘Engagement et Proximité’*) went further, by legally requiring that platforms share a list of whole units rented out via their intermediation with the public authorities of cities where a registration system has been put in place (see Section 5.3 for details).

Other city governments have proactively pushed for national parliaments to consider new legislation that would give lower tiers of governments stronger powers to regulate STR, as has been the case with Amsterdam (leading to new legislation being successfully approved by the Dutch Parliament in October 2020), Lisbon, or Prague. In Lisbon, a new national law was passed in the summer of 2018 that gives municipal authorities more power to regulate new tourism accommodation units.



Figure 5: Managing and balancing the impacts of tourism on cities: a challenging task (Source: Islandstock / Alamy Stock Photo PA4M73, 2017)

In Prague, after a new coalition won local elections in October 2018, the new Mayor (from the Pirate party) has promised to fight for more regulation of STR. He publicly stated his preference for only allowing the occasional rental of a primary residence (Type 2 and 3) (Tait, 2020). While some Prague residents and councillors argue that existing laws are sufficient but need to be strictly enforced, others have campaigned for changes in national legislation that would give more powers to municipal governments. A special commission on STR was set up within the Prague City Council in early 2019, which drafted a bill presented to the Czech Parliament in the summer of 2020. Another bill proposing mechanisms for more regulation of STR (Type 2 and 3) was presented by a group of MPs. As of April 2021, those bills had not yet been discussed. It is unclear whether they will be considered during this legislature, in the context of the COVID-19 pandemic and against the backdrop of ideological differences between the national and local governments with regards to regulatory interventions in the use of housing and property.

Additionally, it is worth noting that there may be tensions *within* a city government between different sectoral departments that may have different view on the regulation of STR. The case of Paris, again, illustrates this well: while STR were welcomed by the Department for Tourism and Economic Development as an economic opportunity to maintain the city's attractiveness, after 2014 STR were reframed by the Deputy-Mayor for Housing as a problem that undermines the affordable housing policy objectives pursued by the left-of-centre party governing the city since 2001 (Aguilera et al., 2019a).

4.3. What exactly is being regulated and how?

This section offers a brief comparative synthesis of the range of methods and instruments of STR regulation. Tables 5.1 to 5.12 (in Appendix) show, for each of the 12 cities, the details of the regulations in place as of April 2021 for the three categories of STR identified in Box 1. Nieuwland and van Melik (2020) identified four types of restrictions embedded in such regulations: quantitative restrictions (e.g. limiting the amount of nights per year that a unit can be rented out as STR); locational restrictions (confining STR to specific locations); density restrictions (limiting the number of STR

in certain neighbourhoods); qualitative restrictions (distinguishing between different types of STR).

Our comparative analysis shows that regulations seek to influence or control the following aspects of STR:

- The very **existence** of STR and their **visibility to public authorities** (through registration or licensing schemes), as well as their **quality** (through safety requirements and minimum standards)
- Their **overall quantity** at the scale of the whole city or in certain neighbourhoods, and/or their **geographical distribution** between different parts of the city
- The **distinction** and balance between different types of STR (through criteria that seek to distinguish professional and non-professional STR operators and a differentiated treatment of STR Type 1, 2 and 3)
- The **practices** of the **platforms mediating STR**, which are discussed in Section 5.2.

Additionally, existing or new regulations seek to ensure the appropriate taxation of the transactions associated with STR (e.g. the tourist/city tax applied to each guest's overnight stay where it exists, and/or the tax on the income generated by hosts), an aspect that is not investigated in detail in this report.

Existence, visibility and quality

In many European countries, prior to the emergence of online platforms, there were long-established regional or national systems of **authorisation** and/or **license/permit** applying to holiday rentals (STR Type 1) and Bed and Breakfast type of establishments. In Paris, Barcelona and Madrid, the requirement to apply for such an authorisation/license was extended to STR Type 1 (and Type 2 as well in the case of Catalonia and the Madrid region). An authorisation or licensing scheme means that the activity cannot be performed until a positive response from the relevant administration is issued. In some cases, obtaining such an authorisation or license is subject to very strict conditions: in Brussels, a demanding registration process requiring various justificatory documents and compliance with strict standards applies equally to the three types of STR, a situation that has been contested as excessive by advocates of STR Type 2 and 3 (Nicosia, 2020).

The authorisation or license can be granted for the exercise of an economic activity (Barcelona, Madrid,

Vienna), and/or for a change of land use (Paris, London). In several cities, in land use planning terms, the STR of a housing unit on a commercial basis (Type 1) does not entail a change of use from residential to commercial (as in Lisbon, Milan or Rome). In the case of Lisbon, this has been justified by the argument that a change of use to ‘non-residential’ would make the potential return of the STR unit to the long-term rental market more difficult.

For STR Type 2 and/or Type 3, a number of city governments (e.g. Amsterdam, Berlin and Paris) have recently introduced a new requirement for a **simple online declaration (or self-registration)** of occasional hosts and home-sharers. This should be distinguished from an authorisation (which can be refused), in the sense that a registration number is automatically granted.

Both a system of authorisation and/or of simple registration can help public authorities to ensure that the host has ‘the legal right to rent the property, that [it] does not violate their lease, property title, insurance, building by-laws, a city’s social housing laws, caps on permits or zoning’ (Cox and Haar, 2020: 15). In all the cities that have introduced such a system, public authorities have asked digital platforms to include a field for the authorisation or registration number in all listings, but that measure has not been implemented systematically by all platforms (see 5.2).

Overall quantity and geographical distribution

Six city governments out of the 12 examined in this report have developed regulatory instruments that seek to explicitly limit, or reduce, the overall number of STR – either in the city as a whole (Berlin, Barcelona, Madrid) or in specific neighbourhoods (Amsterdam, Lisbon, Vienna). The aim is to stop the transformation of residential units into STR through a system of permits, or authorisations for change of use, often linked with zoning mechanisms.

In **Berlin**, in 2014 a new law was passed by the Parliament of the city-state that banned the use of any residential unit as STR without a permit (*Zweckentfremdungsverbot*). The districts (*Bezirke*) are in charge of issuing permits but have since then delivered very few. This law was followed by a two-year grace period that ended in May 2016. Until 2018, only the short-term rental of a portion of a flat representing less than half of the total floorspace (i.e. home-sharing in a strict sense, Type 3) was allowed without a permit. Under

strong political and legal pressures from platforms, STR operators and associations of hosts, the law was amended in 2018 to allow the occasional short-term rental of an entire home used as a primary residence (Type 2) subject to a simple registration with the district authorities (as well as of second homes up to 90 days per year).

In **Barcelona**, in July 2015 the newly elected city government declared a one-year moratorium on new hotels and STR licences, while a plan was prepared by the Urban Planning department. *The Special Plan for Tourist Accommodation* (PEUAT) was approved in January 2017 with the aim to reconcile four explicitly mentioned rights – the right to housing, to rest and privacy, to sustainable mobility and to a healthy environment (Ajuntament de Barcelona, 2017). It applies to all types of tourist accommodation (hotels, hostels and STR) and is based on a principle of ‘zero growth’ of the existing total number of licenses for such forms of accommodation (standing at just under 10,000 for STR). It aims to re-balance the territorial distribution of STR away from the over-congested historical centre, through a zoning system that bans any type of new tourist accommodation in central areas, but allows a replacement of extinguished licences, or a very modest growth, in other areas.

The approval of the PEUAT, and the significant increase in the resources dedicated to enforcement that accompanied it, were met with polarized reactions – welcomed by many residents but decried by STR operators, platforms, associations of hosts and the hotel industry. As of early 2020, nearly 100 legal cases against the PEUAT had been lodged in front of the High Court of Justice of Catalonia. In August 2019, the Court published a decision that called for the cancellation of the PEUAT on the grounds of a lack of evaluation of the financial and economic impacts of its implementation. In other decisions, it only invalidated some parts of the PEUAT. The regional court, however, did not question the overall objective of the plan (i.e. the strict regulation of tourist accommodation in certain parts of the city for reasons of public interest), nor did it suggest it contravened the Spanish legislation translating the EU *Services Directive* (see Section 5.3). In November 2019, the city government of Barcelona appealed against the cancellation of the PEUAT in front of the Spanish Supreme Court, which has yet to issue its ruling. Meanwhile, the plan remains valid.

In **Madrid**, the city government used its competence

in urban planning to seek to control the economic activities corresponding to STR Type 1 and 2 (which are defined in a regional law amended in April 2019). In March 2019, a special plan to regulate this type of activity was approved (*Plan Especial de usos del Hospedaje*) by the Left-wing government led by the political force *Ahora Madrid*. The plan aimed to protect residential buildings against the proliferation of STR by imposing strict conditions for the granting of a license, requiring in particular a STR unit to have a separate entrance and lift from those used by the residents of the building. These rules apply in specific zones defined in the plan that cover the historic centre and surrounding neighbourhoods. These strict requirements de facto turned 95% of the existing STR offer in Madrid (approximately 10,000 flats) into illegal units.

The plan was immediately challenged in court by several associations of STR landlords, and was publicly criticised by Airbnb in an open letter (2019b). Two months after the plan's approval, municipal elections brought a coalition of right-wing political parties to power in Madrid, who had previously fiercely criticised the highly restrictive plan, arguing that it amounted to a STR ban in disguise and that it was impossible to enforce (Rodríguez-Pina, 2019). In its first year in power, the new city government nonetheless stated that it would wait until the court judgement before deciding how to modify the plan to make it less restrictive - with a view, in particular, to distinguish between STR Type 1 and Type 2 (Pérez Mendoza, 2019). In February 2021, the High Court of Justice of the Madrid Region upheld the plan approved in March 2019, ruling that its objectives constitute acceptable 'reasons of public interest' to avoid the desertification and gentrification of specific neighbourhoods.

In a few other cities, elected representatives and residents' associations of the central districts or boroughs most affected by the recent increase in STR (in Prague, London, Amsterdam, Lisbon and Vienna) have been campaigning for **geographically-targeted bans or quotas** (usually on STR Type 1) that would halt the pressure felt by their neighbourhoods, as reported during interviews. The idea of neighbourhood 'quotas' has been discussed in various cities (most recently in Paris during a meeting of the City Council on 13 April 2021), but is not easily put into practice, in large part due to the restrictions imposed by EU legislation on this type of approach (see section 5.3 below).

In **Vienna**, since December 2018, the commercial

letting of residential space for short-term accommodation (STR Type 1) is prohibited in a number of 'residential zones' (*Wohnzone*) that cover a large part of the historic city centre. Yet the implementation of this ban was judged to be difficult by an interviewee, due to the insufficient enforcement capacity of the city's building control department. Municipal guidance specifies that prohibition of STR in such residential zones does not apply to people who occasionally rent out their own living space in order to "earn some extra money", if in terms of time and space their own use for residential purposes continues to predominate and the living space is therefore not withdrawn from the housing market. But there is no threshold of time and space specified in the regulation, so case-law will be needed to clarify the distinction between commercial (professional) and occasional (non-professional) STR in contentious cases.

In **Amsterdam**, the city government has banned all vacation rentals from three city centre districts in the old town (Burgwallen-Nieuwe Zijde, Burgwallen-Oude Zijde and the Grachtengordel-Zuid) from 1 July 2020, responding to concerns about 'overtourism'. The professional organisation representing STR operators (*Amsterdam Gastvrij*) challenged the ban, which was declared illegal by the Court of Justice of Amsterdam on 12 March 2021²³. The court argued that a system of permits cannot contain a total prohibition, which infringes on the right to property and the free movement of services (Lomas, 2021).

In **Lisbon**, following the revision of the national law on holiday accommodation in August 2018 that gave new regulatory powers to municipal authorities, in November 2019 the city government introduced 'containment areas' (*zonas de contenção*) in the historic centre and other neighbourhoods popular with visitors. 'Absolute' containment areas have a ratio between the number of licensed STR establishments and the number of permanent dwellings that is equal to or greater than 20%; while in 'relative' containment areas that ratio is between 10 and 20%. No new registration of STR is allowed in 'absolute' containment areas, or only under strict conditions in 'relative' containment areas.²⁴

A unique approach has been adopted in **Paris** to prevent, in theory, the loss of residential space to STR Type 1. In France, the category of short-term 'furnished tourist rentals' had been regulated since the 1960s by various legal texts. Since 2005 the French Construction and Housing Code imposes a prior

authorisation scheme for large municipalities (of more than 200,000 inhabitants). A STR Type 1 must receive an authorisation for change of use from ‘residential’ to ‘commercial’. This change of use (*usage*, in French) is subject to an **offsetting requirement** (‘compensation’ principle): the applicant has to contribute to a scheme that converts non-residential premises into residential spaces of an equivalent or double floorspace (usually by buying a compensation voucher from a specialised company). Between 2010 and 2019, approximately 900 new housing units were created through this system (Rey-Lefebvre, 2020a), many of which are social housing. After 2013 the city’s Housing Department toughened its controls on the ‘change of usage’ and ‘offsetting’ provisions and began to fine non-compliant landlords. However, a phenomenon has started to cause concern in Paris: the increasing conversion of former shops, workshops and small offices into STR Type 1. In Paris, this is considered a ‘change of destination’ that currently does not require an authorisation for a ‘change of usage’ that would be subject to the offsetting requirement – a loophole that has not escaped the attention of investors (Denuit, 2021). This could possibly become an issue in other cities, in particular as a result of the lower demand for office and retail space in city centres following the COVID-19 pandemic.

Finally, at the level of **individual buildings**, it should be noted that in many countries, STR fall under the scope of **civil/private law**, more specifically ‘rules and obligations that come with ownership or occupation of properties in multiple dwelling buildings, and through tenancy agreements between landlords and tenants’ (Crommelin et al., 2018: 437). In practice, this means that the condominium or homeowners’ associations that exist in the multi-storey apartment blocks typical of many continental European cities (e.g. *copropriété* in France or *comunidad de propietarios* in Spain) can have a vote on whether to allow STR activities in their building – though individual landlords have often ignored such decisions, as reported by interviewees in Prague, Paris, Madrid and Barcelona. Moreover, in cities with a sizable stock of **public or social housing** (London, Paris, Vienna and Amsterdam), tenancy agreements explicitly forbid subletting part or all of a unit for STR. Mortgage lenders, leasehold and private tenancy agreements also often forbid such practice.

Distinction and balance between different types of STR

In many cities, new regulations seek to distinguish between professional operators and non-professional hosts who rent out their primary residence, that is, **between STR Type 1, 2 and 3**. This is usually done by imposing stricter requirements on Type 1 (professional short-term rental of a full property not used as a primary residence) and lighter requirements on Type 2 and 3 (home-sharing). This has been done by either **restricting the number of days per year during which a unit can be let** without being subject to the stricter requirements applied to STR Type 1 (30 days in Amsterdam, 60 days in Berlin, 90 days in London, 120 days in Paris); and by setting **limits on the occupancy and/or on the space** that can be rented out (maximum of 50% of the total floorspace in Berlin; maximum of 40% of the floorspace + up to 4 guests in Amsterdam). Beyond this limit, an authorisation is required (Paris, London) and rules for Type 1 apply (such as the above-mentioned offsetting requirement in Paris). City governments have asked platforms to suspend listings that advertise a unit for more than the allowed time limit, though compliance has been uneven (see 5.2). The distinction between professional operators and non-professional ‘hosts’, however, is not captured by current regulations in Barcelona, Madrid, Lisbon and Prague (meaning STR type 1 and 2 are subject to the same set of rules).

Only in a few cities are there specific, explicit rules that treat Type 3 differentially (e.g. Amsterdam and possibly Barcelona, subject to changes to be voted in the summer of 2021). In some cities like Milan, there is no distinction in the regulations between Type 2 and 3, which are subject to the same rules. In others, the rental of a room falls under existing rules for B&Bs (if breakfast is served) or ‘lodgings’ (e.g. the Rent a Room scheme in the UK/London). In many cities, STR Type 3 remain in a grey area – a situation that an interviewee referred to as ‘a-legal’. This was the case in Barcelona until the summer of 2020: there was no specific definition of ‘room rental in a primary residence’ in the Catalan Law on Tourism Accommodation. The Catalan government amended that law in 2020, creating a new legal category of ‘shared home’. It gives municipal governments one year to develop their own regulation of this new type of STR (Type 3). In Barcelona, at the time of writing (April 2021), that regulation was in the process of being prepared as part of the revision of the Special Plan (PEUAT) regulating different forms of tourism accommodation in the city. A draft revision of the plan was published in January 2021 and was

undergoing public consultation before its submission for a vote in the City Council in the summer 2021. The draft proposes to prohibit the rental of rooms for less than 31 days (room rental for longer period is allowed for students or temporary workers). This was justified by the city government as a measure to guarantee the social function of housing and avoid a saturation of tourist rooms that would cause problems of coexistence and impact on the housing market. There were about 7,600 listings for rooms on Airbnb in Barcelona at the end of January 2021, so this is a controversial proposal that has been subject to vocal opposition from various actors (platforms, associations of hosts and some local residents).

5. The challenges of implementation

5.1. Enforcing regulations in the digital era: a mission impossible?

Limited resources for controls and inspections

No matter what types of regulation are enacted, their implementation and enforcement are, in all cases, challenging and difficult. As previous studies have shown (Leshinsky and Schatz, 2018), public authorities have limited capacity on the ground for the control and inspection of STR. In many of the cities covered in this report, respondents mentioned a lack of sufficient human resources to be able to carry out large numbers of inspections in properties whose hosts are suspected of operating illegally and/or not complying with local regulations. Most local administrations have small teams of inspectors dedicated to the control of such illegalities, who belong to different sectorial departments (planning, housing or tourism). But those teams are often responsible for inspecting other types of illegalities, and there are notable differences in the human resources dedicated to enforcement (see Tables 5.1 to 5.12 in Appendix).

In the UK, cuts in local authority funding by the central government have, since 2010, led to significant staff reductions in planning departments, which are responsible for the enforcement and controls of ‘changes of use’. This seriously hampers the capacity of the 32 London Boroughs to monitor STR in an effective way. An officer from an east London borough reported that in 2018, its planning department only had four staff members in charge of controlling all types of suspected breaches of planning control.²⁵ This means that only a small number of planning contravention notices have been served in relation to illegal STR. By contrast, in Barcelona, in 2016-2019 the city government invested in a ‘shock plan’ for detection and enforcement, with more than 30 inspectors investigating suspected illegal STR across the city, as well as a new team of 40 ‘visualisers’ specifically hired to perform detailed online searches on the websites of large platforms to identify illegal STR.

In any case, inspections and controls on the ground are a difficult, piecemeal and challenging task. Inspectors do not have a legal warrant to enter a property. They

can only ring the bell and hope that the occupants will reply. Strategies of avoidance, disguise and deception – some highly elaborate – were reported by inspectors from Paris and Barcelona. For example, guests may be asked by the STR operator to not open the door to anyone, or to claim that they are friends or relatives. Alternatively, flats are decorated with personal items (such as photographs or books) to make them look like a primary residence, even if they are rented the whole year round as STR. In some cases, landlords re-purpose entire flats as private rooms advertised individually in separate listings to avoid restrictive rules applicable to STR Type 1. The Barcelona city government estimated that as of 8/12/2020, 445 rooms that were advertised on digital platforms are in fact full, unlicensed flats (STR type 1) disguised as rooms.

Additionally, several city government interviewees (e.g. in Amsterdam and London) stressed that the enforcement of STR regulations has multiple dimensions that cut across administrative departments/authorities. It requires a coordinated response that is difficult to achieve — mobilising services in charge of health and safety, taxation, tourism, police, fire protection, housing, business licensing and planning. In some cities, inspectors benefit from the collaboration of other agencies: in Amsterdam, the fire brigade can immediately shut down a housing unit used as STR if it does not comply with fire safety regulations, a technique that has increasingly been used in the crack-down on ‘illegal hostels’.

Enforcement without data

The detection and localization of suspected illegal STR is challenging in the first place. In cities where a requirement for hosts to apply for a permit or to perform a simple registration with public authorities has been introduced (e.g. in Paris, Amsterdam and Milan), only those hosts prepared to comply with local regulations do so — many do not. In a context where most STR advertisements and transactions now take place online, the data held by digital platforms is the only comprehensive source that would allow public authorities to identify who exactly is offering a STR, in what capacity, at which precise location and for what amount of time — and subsequently assess whether hosts comply with extant regulations. In all



Figure 6: Young couple on vacation planning their activities through mobile apps. (Source: Andor Bujdoso / Alamy Stock Photo 2CBX5MM, 2019)

cities, interviewed public officials stressed that effective enforcement is impossible without the collaboration of all the platforms active in a particular country. However, as mentioned earlier, platforms have in most cases rejected requests by public authorities to release this data in a systematic manner (with a few exceptions described in the next section). To justify their position, platforms invoke the *Communications Decency Act* in the USA, and the *General Data Protection Regulation* (GDPR) and *E-Commerce Directive* in the EU, as further explained in Section 5.3.

To circumvent this lack of data, some local administrations (e.g. in Amsterdam and Barcelona) have commissioned IT-savvy experts using ‘data scraping’ techniques to seek to identify illegal STR in a more proactive way. But city government interviewees noted that they often take a reactive approach to enforcement — i.e. responding to complaints — due to a lack of other options. In cities such as Amsterdam, Berlin, Barcelona, and Paris, there are channels for third parties (e.g. neighbours) to report suspected illegal STR — often identified because of noise nuisances or the constant movement of people. In only a small number of cases have city governments sought to address the

consumers of STR: guests. In Barcelona, a communication campaign was launched to alert visitors of the illegal nature of many STR, and to encourage them to verify the status of their STR accommodation through an online register (as shown in the photograph on the cover of this report).²⁶

Despite those challenges and limitations, the regulation and enforcement efforts of particular city governments have had a clear impact on the STR supply. In Berlin, immediately prior to the entry into force of the ban on STR (Type 1 and 2) on 1 May 2016, Airbnb witnessed a 40% drop in the total number of listings between March and May 2016, although the number has increased since (O’Sullivan, 2016). This drop was the result of hosts removing their listing, as Airbnb did not suspend the listings targeted by the new regulations (Cox and Haar, 2020). The Berlin Senate estimates that 2,500 flats were returned to the long-term rental market in 2014-2016. Duso et al. (2020) analysed the impact of the regulatory changes introduced in Berlin in May 2016 and concluded that these led to a reduction in the number of entire homes listed on Airbnb substantially (by eight to ten listings per km² on average), in particular high availability listings likely to be

STR Type 1. The subsequent revision of the regulations by the Berlin city government in August 2018 (requiring hosts and platforms to show a registration number on their listings) additionally led to another decrease in the number of entire homes listed on Airbnb in Berlin (by approximately ten entire homes per km² on average), though this mostly concerned less active listings (likely to be STR Type 2). Those results confirm that specific regulations have differential effects on particular types of hosts and STR: ‘regulation of the short-term market aiming to ease the burden on the long-term rental market should take into account carefully which types of short-term rental listings will be affected’ (Duso et al., 2020: 42).

In Barcelona, the results of the ‘enforcement offensive’ launched in 2015 have been visible. According to the city government, between July 2016 and July 2018, 2,355 STR were closed down; steps were taken to close a further 1,800; 10,635 cases were opened and 5,503 fines were imposed. The number of illegal STR identified on platforms was cut from 5,875 in 2016 to 1,714 in June 2018, a reduction of 70% (Ajuntament de Barcelona, 2018a). The team of ‘digital visualisers’ scanned 17,000 ads on 140 websites (Ajuntament de Barcelona, 2019). 2,176 flats were deemed to have returned to long-term occupation by the end of 2020 (La Vanguardia, 2020). But as explained by the director of the city’s enforcement team, this required a significant amount of public resources and is a never-ending process. New STR constantly appear, and some operators devise increasingly elaborate strategies of avoidance or concealment to circumvent regulations and controls. Moreover, in many cities, once public authorities have proof that a housing unit is illegally used as a STR, it often takes months or years for the cessation proceedings to be concluded. The resulting sanctions and fines imposed to individual hosts and platforms vary hugely (see Tables 5.1 to 5.12 in Appendix); and landlords and platforms can (and often do) appeal against such decisions.

5.2. Public authorities and platforms: a challenging relationship

The relationships between platforms and local governments have oscillated between conflict and collaboration (Aguilera et al., 2019a). Conflicts between platforms and public authorities first took place in the USA (Martineau, 2019; Hoffman and Schmitter

Heisler, 2020), later on in Europe. Some city governments have been more amenable than others to negotiate with platforms, while some platforms have been more cooperative than others in agreeing to forms of self-regulation and compliance with public authorities’ requests. The outcomes of the negotiations between individual platforms and cities vary significantly, with platforms accepting concessions and agreements in some cities that they do not in others (Cox et al., 2020) (see Tables 5.1 to 5.12 in Appendix).

Firstly, city governments expect all platforms to include clear and up-to-date information on their website about the local, regional and national regulations pertaining to STR. But platforms do not carry out any systematic, preliminary control of the listings they publish against existing regulations, invoking the provisions of the European *E-Commerce Directive*, as further explained in 5.3. For platforms, hosts are responsible for understanding and complying with applicable regulatory and tax arrangements.

Secondly, in cities where a system of permit or registration of STR is in place (e.g. in Paris, Barcelona, Madrid, or Amsterdam), city governments have asked platforms to include a field requiring hosts to give the corresponding number.²⁷ This move ‘does not require the platforms to understand or verify the complex laws of each market’ (Cox and Haar, 2020: 15), as city governments remain in charge of verifying the legality of a listing based on the registration or permit number. Public authorities can notify platforms that a listing does not have a registration or permit number, that it is invalid or has been denied or revoked. In those cases, platforms must remove illegal listings, but do not always do so. Cox and Haar (2020) estimated that 80% of Airbnb listings in Berlin, and 60% in Paris, did not display the required registration number (and were thus illegal) at the end of 2020. In Barcelona, in 2017 the city government found an agreement with the platforms Booking, Homeaway, Tripadvisor and Rentalia, who agreed to remove unlicensed STR listings from their website. Airbnb subsequently agreed to follow suit in 2018. Yet in December 2020, the city government still identified more than a thousand illegal listings on Airbnb, formally requesting the platform to remove them (La Vanguardia, 2020).

Thirdly, interviewed city government officials reported that they had made repeated demands on platforms to cooperate with enforcement activities by voluntarily sharing the individual details of hosts listing STR

properties on their website. As mentioned above, most platforms have refused to do so, invoking the provisions of the EU *E-Commerce Directive* (see 5.3). However, a small number of city governments have managed to secure data disclosure agreements that legally require platforms to send monthly or yearly lists of all active advertisements. This was not achieved easily, often following several years of legal battles (in New York City and San Francisco)²⁸, negotiations (in Barcelona) or the passing of new national laws (in Paris and Amsterdam) (Cox and Haar, 2020). In Barcelona, in May 2018 Airbnb agreed to supply a monthly list of detailed host data (Ajuntament de Barcelona, 2018b). In Paris, as described in Section 4.2, French law requires all platforms (from 1 December 2019 onwards) to supply, on an annual basis, a list of ‘full-unit’ STR (Type 1 and 2) in cities that have introduced a registration scheme. The list should include the host’s name, address and status of the property (primary or secondary home), STR registration number, and the number of days during which the unit was rented out. In both Barcelona and Paris, however, public authorities recently reported that the data supplied by Airbnb is incomplete, with approximately 60-70% of listings displaying missing or incorrect addresses in Barcelona, and 7% in Paris (Cox and Haar, 2020: 20-21).

In other cities like Vienna or Berlin, similar requests by city governments for platform data release have not succeeded yet — hindered by strict requirements from Airbnb as a precondition for releasing any data (for a discussion of these ‘data wars’ in the context of US cities, see Chapter 2 of Hoffman and Schmitter Heisler, 2020). In such cities, platforms have agreed to release the individual data of a restricted number of listings for which public authorities had evidence of an illegality²⁹, or to remove such listings altogether — though not always. The city of Vienna prohibits STR in public housing: while most platforms have removed public housing units from their websites, Airbnb has not done so to date (Frassl, 2020). Finally, in other cities, platforms submit aggregate data (Amsterdam, Brussels), which is, however, not helpful for enforcement purposes. Some city governments, for example in Barcelona or Paris, have started proceedings to impose heavy fines on platforms for advertising illegal STR (without a registration number), but the process to enforce those fines is complex, long and uncertain if the platforms’ headquarters are located in another country.

Taxation has been another subject of negotiation

between public authorities and the platform Airbnb. In some cases (Vienna/Austria, Prague/Czech Republic, Madrid and Barcelona/Spain, Rome and Milan/Italy), the pressures on platforms for the sharing of individual host data have come from national tax authorities and have been justified in terms of reducing tax evasion. At the city level, since 2015, Airbnb has entered into more than 400 ‘Voluntary Collection Agreements’ to collect and remit the city tax or tourist tax (where it exists). In the sample of cities covered in this report, this has been the case in Amsterdam since 2014 (updated in 2016), Milan since 2015, Paris and Lisbon since 2016, Rome since 2020. Some authors note that tax collection agreements make city governments dependent on platforms for revenue streams, and thus less likely to push for a stronger regulatory stance on STR in the future (Cox and Haar, 2020). This is why some city governments (e.g. Berlin) have refused to engage in such agreements, so long as Airbnb refuses to release individual host data.

In some of the cities where a time limit has been defined in order to distinguish between occasional, non-professional STR (types 2 and 3) and professional STR (type 1), city governments have managed to secure an agreement with large platforms, such as Airbnb and Booking, to automatically suspend listings that exceed the threshold — 90 days in London and 60 days in Amsterdam (until 2019). However, after the Amsterdam city government voted to reduce the cap from 60 to 30 days in 2018, Airbnb (2019d) refused to apply the new limit of 30 days per year, which led to the suspension of the agreement previously signed between the company and the city government in 2016. In any case, hosts can circumvent a time limit by creating a new listing, or by reposting it on a different platform with a different username. A landlord who had three homes listed on Airbnb told BBC London: ‘I’ll just carry on as before. When the 90-day rule comes up, I’ll re-register the homes I have so it looks like they’re different homes... a few metres away. I know many other landlords planning to do the same thing’ (Lynn and Allen, 2017).

While many city governments have engaged in negotiations with large platforms, this has not prevented open conflicts from arising. Platforms have, in many instances, failed to cooperate and to self-regulate, as analysed in detail by Cox and Haar (2020), ‘by ignoring or blocking regulations, threatening to and engaging in excessive litigation, withholding data and knowingly

shielding illegal activity’ (p. 6). Some public authorities have started legal proceedings against non-compliant platforms for not respecting local, regional or national rules. In November 2016 the Barcelona city government started legal proceedings to fine Airbnb and Homeaway €600,000 each, for repeatedly advertising illegal STR listings despite warnings. In early 2019, the Paris city government started legal proceedings against Airbnb to fine the platform €12.5 million for advertising 1,010 unregistered listings. Conversely, new local STR regulations have been the object of intense opposition and legal challenges filed by corporate platforms, professional STR operators, and associations of hosts or ‘home-sharers’ in front of regional or national courts (in Amsterdam, Paris, Berlin, Barcelona, Brussels and Madrid, among others).

5.3. The EU level as a regulatory battleground

In the European context, the judicialization of the conflicts around STR regulation has shifted towards the supranational scale of the European Union. The EU’s backbone is a single market facilitating the free movement of goods, persons, capital and services across national borders. The functioning of the Single Market is underpinned by an extensive body of EU legislation that applies to private firms and public authorities. The European Commission and the European Parliament have, over the past five years, explicitly promoted the development of a ‘digital single market’³⁰ and the growth of the so-called ‘collaborative economy’ (CEC, 2016a, 2016b). Until 2019 the European Commission took the view that the existing EU legal framework was fit for purpose to deal with the growth of that sector, supplemented by guidance to public authorities, market operators and citizens (CEC, 2016a; CEC, 2018a). In early 2020, however, it announced the preparation of a new *Digital Services Act* that will modernize the EU regulatory framework in that field.

At present, two key pieces of EU law currently form the basis of the regulatory framework that applies to digital platforms and the services they mediate: the 2000 *E-Commerce Directive* and the 2006 *Services Directive*. These two directives are explicitly referred to by the stakeholders opposed to new forms of regulation of STR.³¹ If the regulatory measures taken by a local, regional or national public authority are challenged in court by these stakeholders, judges will evaluate

the measures in light of the national legislation that transposed those EU directives. In case of uncertainty, regional or national courts can refer the case to the Court of Justice of the European Union (CJEU). The CJEU will then issue a ruling over the correct interpretation of EU law in that particular case, which becomes binding on all courts in the EU dealing with a similar case in the future.



Figure 7: The EU as regulatory battleground. The Court of Justice of the European Union in Brussels. (Source: CJEU)

Consequently, the interpretation of the *E-commerce* and *Services Directives* by regional, national and EU courts will ultimately define the very possibility — and acceptable forms — of regulation of both online platforms and STR operators by public authorities in the EU. Three key areas are subject to legal debate: (i) the nature of platforms; (ii) the scope of the ‘overriding reasons relating to the public interest’ that will be recognised as legitimate by the courts to justify regulatory interventions by public authorities; and (iii) the types of regulatory interventions that will be deemed acceptable. Two recent CJEU rulings of 2019

and 2020 – briefly explained below – have provided some answers in these areas of debate.

The ambiguous nature of digital platforms in EU law: mere intermediaries or actual service providers?

The first area of debate arising from existing EU law is about the *nature* of digital platforms: are they mere online intermediaries between the providers and users of goods or services; are they providers of the underlying services (e.g. transport, short-term accommodation, etc.); or both? According to EU law, a digital platform is an intermediary, but it is *not necessarily* a provider of the underlying service. Some platforms act as ‘pure notice boards’ that simply match supply and demand, while others intervene in the configuration of the product or service, or may even provide it (Martínez Mata, 2017). This distinction is essential as it determines which pieces of EU law and requirements apply to particular platforms. If a platform is considered a pure noticeboard, only the provisions of the *E-Commerce Directive* apply to it, which has significant implications for the potential regulation of its activities across the EU. If it is considered a provider of the underlying service, then the provisions of the relevant sectorial local, regional or national regulations apply — the conditions and limitations of which must be in accordance with the *Services Directive*.

In legal terms, whether a platform is considered a pure noticeboard or a provider of the underlying service has to be established on a case-by-case basis. In 2017, the CJEU (2017) (C-434/15) ruled that the intermediation service offered by the platform Uber goes beyond that of an ‘information society service’ and qualifies as a ‘transport service’. However, in a ruling of December 2019, the CJEU (C-390/18) stated that Airbnb, as an intermediation service, should be classified as an ‘information society service’ under the *E-Commerce Directive*. This ruling responds to a request lodged in June 2018 by the *Tribunal de Grande Instance* (administrative court) of Paris in relation to legal proceedings against Airbnb started by an association of French hotels. The AHTOP (*Association Représentative des Acteurs de l’Hébergement et du Tourisme Professionnels*) had filed a complaint against Airbnb Ireland (the European subsidiary of the US-based platform), arguing that the platform operates like a real estate agent and that it should therefore be subject to the same licensing, accounting, insurance and financial obligations as

traditional brokers of rental accommodation.

This CJEU ruling limits the capacity of public authorities to take measures restricting the market access and operations of Airbnb in Europe (the ruling applies to this platform only), as the company is now considered a mere digital intermediary under the *E-Commerce Directive* (‘information society service’, or ISS, in EU jargon). First, according to that directive (Section 4, art. 12 to 15), if a platform is considered an ISS, it is liable *only* for the electronic intermediation service it offers, but *not* for the possibly illegal content or service it advertises *unless* it has actual knowledge, in factual terms, of the illegal content or activity. The *E-Commerce Directive* does not set a general obligation on ISS to monitor content systematically, nor to actively seek facts or circumstances indicating illegal activity.³² Several public authorities have asked for a ‘general obligation’ on platforms to systematically check every listing they publish to monitor their compliance with domestic laws, something platforms have refused. But if a platform (in this instance, Airbnb) does know that there is illegal content (for example because a city government has notified it of individual, evidenced cases of illegal STR), the platform is obliged to remove the illegal listings. However, it has been noted that the ‘notice-and-takedown’ provisions of the *E-Commerce Directive* are not very effective: several city governments, such as Vienna or Paris, have asked Airbnb to remove listings that are in breach of local rules, but the company has not yet done so (Cox and Haar, 2020).

Second, according to the *E-Commerce Directive*’s ‘country of origin principle’ (Article 3(2)), only the rules and regulations of the EU country where an ISS company is established should normally apply to that company. Elsewhere in the EU, ‘nothing can be adopted that can be seen as an obstacle to the company’s day-to-day business’.³³ That general rule can be derogated from under certain conditions to protect specific legal interests (public policy, public security, health and consumer protection). In those cases, a public authority can take measures in respect of an ISS company established in another EU country, but such measures need to be necessary and proportionate, and notified in advance to the European Commission and the state of establishment. An obligation on Airbnb to include the registration number of an STR in all listings, for example, would have to be justified under the above-mentioned derogation.

This considerably restricts the market access

requirements or conditions that can be imposed on Airbnb – whose European operations are registered in Ireland – by a public authority outside of Ireland. Municipal, regional or national governments have indeed lost legal cases over access to platform-held data on several occasions on the basis of the principles of the *E-Commerce Directive* (for example in Berlin, Munich, Vienna and the Balearic Islands – see Cox and Haar, 2020). Some European city governments have appealed to Irish courts for the right to request host data from platforms or for the right to impose a fine on platforms for publishing illegal listings (Cox and Harr, 2020). As reported by an interviewee from Berlin, this is a costly and lengthy process. Altogether, the above-mentioned CJEU ruling is likely to pave the way for more legal challenges by platforms (and associations of STR operators) against local, regional or national regulatory measures affecting Airbnb's operations.

Importantly, the EU legal framework might change in the coming years. On 15 December 2020, the European Commission published draft proposals for two legislative initiatives: the *Digital Markets Act* and the *Digital Services Act*. Among other objectives, the *Digital Services Act* aims at updating the *E-Commerce Directive* to harmonise the rules on the provision of digital services in the internal market.³⁴ In the published draft, the main principles enshrined in the *E-Commerce Directive* are maintained, in particular the 'country of origin' principle, the limited liability of platforms in relation to illegal content if they have no knowledge of it, and the non-obligation of general monitoring of the content they advertise. The draft *Digital Services Act*, however, strengthens the requirements on platforms to act upon orders against illegal content, or orders to provide information lodged by judicial or administrative public authorities, in an efficient, transparent and expedient manner. This would be achieved through: the introduction of new due diligence mechanisms to facilitate the removal of illegal content; the creation of an internal complaint-handling system for online platforms; transparency obligations regarding the activities carried out by platforms and the use of data for decision-making; and the publication of reports concerning the requests for the removal of illegal content received from third parties. This would make platform non-compliance with orders received from public authorities more visible, but falls short of city governments' demands (as explained below).

The Services Directive and the limits on the regulation of short-term rentals

The second area of debate concerns the application of the *Services Directive*, and the conditions that it spells out for public authorities to be able to regulate a service (such as the short-term rental of a housing unit). The *Services Directive* aims to support the creation of a single European market for 'services provided for economic return' by removing legal and administrative barriers to trade and creating a level playing field for businesses and consumers across Europe. It facilitates the freedom of establishment and provision of services in member states other than the country of origin of a service provider. The operators of STRs themselves, as providers of accommodation services, are subject to the relevant sectorial local, regional or national regulations – the conditions and limitations of which must be in accordance with the *Services Directive*.

Under the directive, any measure taken by a public authority to regulate the exercise of, or access to, a service may be considered a barrier to the Single Market and deemed incompatible with EU law. Public authorities can only set up a 'market access requirement' (for example an authorisation or licensing scheme) provided that it is *necessary* to attain a clearly identified overriding reason of public interest, *non-discriminatory* (i.e. not favouring one business model over another), and *proportionate* to achieving this interest (i.e. not replaceable by less restrictive means). These conditions make it harder for public authorities to enact and maintain restrictive regulations of STR. Any measure taken by a public authority, if challenged in court, needs justification, through a clear identification of the problem that will determine the possible 'overriding reason of public interest'. Two challenges arise from the *Services Directive*: the scope of the 'overriding reasons relating to the public interest' that will be recognised as legitimate by courts to justify regulatory interventions by public authorities; and the types of regulatory interventions that will be deemed acceptable.

First, the *Services Directive* contains an open list of 'overriding reasons relating to the public interest' that may justify national measures restricting the freedom to provide services. National authorities have the possibility to advance other reasons than those listed. In the field of STR, the public interest reasons mentioned by city governments to justify regulatory intervention

vary: protecting consumers; ensuring public safety; combating tax evasion; safeguarding public health and food safety; or remedying the scarcity of affordable housing for citizens (CEC, 2016a: 3). The city government of Barcelona has, for example, invoked the need to ‘protect the city environment’ when it asked the national government to expand the list of public interest reasons that may justify regulatory interventions in the relevant Spanish legislation that translates the Services Directive (Martínez Mata, 2017).

Ultimately, it will be case-law from the CJEU that will clarify what are considered acceptable ‘reasons of public interest’ justifying a particular regulation of STR in specific circumstances, and what regulatory measures are deemed to be adequate and proportional. The CJEU has, in various previous decisions unrelated to STR, recognised reasons related to the ‘right to housing’ (Martínez Mata, 2017). In October 2020, the CJEU made a significant ruling that will potentially help European city governments to uphold some of their recently enacted regulations of STR activities in the name of the protection of housing for long-term residents.

The context for that CJEU ruling was a legal dispute in Paris: two owners of STR were fined by the *Tribunal de Grande Instance* for illegally renting their property without prior authorisation, and were ordered to return the properties back to residential use. In France, the change of use of residential premises is subject to a prior authorisation granted by the municipal government. In the case of Paris, this is subject to an offsetting requirement in the form of the conversion of an equivalent floorspace of non-residential premises into housing (described in Section 4.3). The two owners appealed against that decision. The French Court of Appeal subsequently turned to the CJEU to ask whether the relevant regulations (i.e. an authorisation scheme rooted in national legislation but implemented by the City of Paris) complied with the EU *Services Directive* (Cases C-724/18 and C-727/18). In April 2020, in an advisory opinion that preceded the final CJEU ruling, Advocate General Michal Bobek argued that ‘neither the freedom to conduct a business nor the right to property are absolute. Far from it: both can be limited’ (CJEU, 2020a: 17), further stating that ‘combating a housing shortage and seeking to ensure the availability of sufficient and affordable (long-term) housing (in particular in large cities), as well as the protection of the urban environment, are

valid justifications for the establishment of authorisation schemes broadly based on social policy’ (Ibid.: 19).

On 22 September 2020, the CJEU confirmed that the objective of combating the long-term rental housing shortage constitutes an ‘overriding reason relating to the public interest’ (CJEU, 2020b) that justifies the regulatory measures taken by the French national government and the City of Paris. These were deemed compliant with EU law, proportional and limited in scope:

Its material scope is limited to a specific letting activity, it excludes from its scope housing which constitutes the lessor’s main residence, and the authorisation scheme which it establishes is of limited geographical scope. In addition, the objective pursued cannot be attained by means of a less restrictive measure, in particular because an a posteriori inspection, for example by way of a declaratory system accompanied by penalties, would not enable authorities to put an immediate and effective end to the rapid conversion trend which is creating a long-term rental housing shortage (CJEU, 2020c: 2).

The ruling is a landmark in the context of the debates on the regulation of STR, as it makes it clear that national legislation that imposes a prior authorisation to the short-term rental of a premise that is not the primary residence of the operator (Type 1) is allowed under the *Services Directive*, under certain conditions. The CJEU leaves it up to the national or regional courts to decide on the proportionality of specific measures, in light of the evidence applicable to the local context. In February 2021 the French Court de Cassation ruled that the regime applicable in Paris was proportional to the objective pursued.³⁵ This allows the Paris City government to resume the legal proceedings against 350 STR operators suspected of illegal ‘change of usage’ that had been put on hold since the beginning of 2019.

There is one important caveat to the CJEU ruling: it concerns only *one* type of regulatory mechanism used by city governments in Europe (namely a prior authorisation scheme for change of use), not the other types exposed in Section 4.3 — all of which can potentially be challenged in front of the courts by those stakeholders opposed to them. This has indeed been the case for the ban or freeze on STR Type 1 declared in some cities or parts thereof (e.g. in Barcelona and Berlin), which has been legally challenged in regional and

national courts, and on which there is as yet no EU case-law. As mentioned in 4.3, the Court of Amsterdam overturned the STR ban in the three districts on in March 2021. Article 15 of the *Services Directive* stipulates that absolute bans or ‘quantitative restrictions’ of an activity should be a measure of last resort. This has implications for local land use planning measures aimed at limiting the total number of authorisations granted for STR units in specific geographic areas.³⁶ According to the European Commission, they would have to be justified with very solid evidence and used only ‘where other policy measures... have failed to address the shortage in the availability and affordability of local housing’ (CEC, 2018a: 3). This implies a reactive approach and has been criticized by city governments. Besides, while the CJEU ruling is positive in terms of the cities’ ability to regulate, it leaves one significant problem unsolved: whether cities can actually enforce the regulations (Cox and Haar, 2020), as discussed in 5.1 and 5.2.

Finally, it is worth mentioning that the European Commission encourages EU member states, in their

regulations of STR, to distinguish between different types and apply distinct rules for the occasional practice of an individual homeowner or tenant renting out their primary home, and for the professional activity of an individual or company managing several STR as a business.³⁷ This has been done, for example, by establishing thresholds based on the level of activity (CEC, 2016a: 7), as mentioned in 4.3. But EU legislation does not establish explicitly at what point a ‘peer’ becomes a ‘professional services provider’, although the European Commission encourages authorities to consider the frequency of the service, profit-seeking motive and level of turnover as criteria.

Advocacy and lobbying at the EU level: a key regulatory battleground

Any ruling from the national courts and the CJEU about the interpretation of relevant EU law will impact on the ability of (local) public authorities to regulate STR. Unsurprisingly, large platforms and the European Holiday Home Association (EHHA) (the professional organisation representing platforms and professional STR operators in Europe, see 3.3) have invested in intensive

Box 3. European Holiday Homes Association: Roadmap for the short-term rental sector (Source: EHHA, 2018)

1. The STR sector is ready to exchange with the relevant authorities on the impact of STR services in their locality, including statistics relating to STR accommodation providers when in line with GDPR rules, and to cooperate on ways in which to address potential concerns.
2. The STR sector supports the sharing of existing best practices with a view to eventual solutions at national or EU level where justified and proportionate.
3. Where STR rules apply, the STR sector will inform hosts of these rules when they list their property.
4. Online STR platforms and property managers will provide tools to STR accommodation providers (individual hosts) to assist them in their compliance with local laws, for instance the provision of permit fields to allow accommodation providers to enter registration numbers where registration is in place.
5. Online STR platforms will provide tools to allow STR accommodation providers (individual hosts or property managers) to identify themselves as traders and non-traders.
6. Online STR platforms and property managers will take down any property where they have received effective knowledge of illegality from the enforcement authorities.
7. The STR sector will cooperate with public authorities in order to facilitate compliance by STR accommodation providers, including on issues of guest occupancy taxes, and on the reporting of host earnings. Best practices on how to create positive incentives for people to declare their personal income will be shared.

communication and lobbying activities at the EU level to push for a strict interpretation of EU legislation. The EHHA, Airbnb Ireland and the Expedia Group (which owns Vrbo and HomeAway) are registered in the *EU Transparency Register* under the category ‘In-house lobbyists and trade/business/professional associations’ since 2013, 2015 and 2017 respectively. Each of these organisations has between one and three staff members in Brussels and spends relatively modest, although increasing, amounts on lobbying activities including networking, meetings with officials, and preparing reports and statistics.³⁸

In 2018, the EHHA clarified the actions to which its member platforms would agree in a document that sought to adopt a conciliatory tone (Box 3), following an earlier document in which it had strongly criticized the regulations passed by a number of European city governments (EHHA, c2017)³⁹.

Despite the collaborative tone of this document, in recent years the EHHA and large platforms such as Airbnb have taken legal action to contest new forms of local (or national) regulation of STR in front of the competent regional or national courts. At the EU level, in September 2016 the EHHA lodged a complaint to the European Commission’s service in charge of monitoring the compliance of national laws with the Single Market,⁴⁰ targeting the public authorities of Berlin, Barcelona, Brussels and Paris. The EHHA criticised the latter for ‘some of the most over-zealous rules and restrictions/bans which are not consistent with EU law’ (EHHA, 2016: 1), referring to the *E-commerce* and the *Services Directives* (EHHA, 2018). In its formal complaint, three actions by city governments were challenged by the EHHA: the request to platforms to hand over data about hosts or to monitor the legality of listings; the requirement for hosts to go through registration and authorisation schemes; and the quantitative restrictions on STR imposed by particular authorities. According to the EHHA’s Secretary General, those restrictions ‘infringe the EU’s fundamental freedom to provide services across Europe’ and ‘the EU must intervene to put an end to the unnecessary patchwork of restrictive and contradictory municipal rules and red-tape’ (*Ibid.*: 2). In response to the EHHA complaint,⁴¹ the European Commission has to date taken action with regard to the case of Brussels, sending a formal letter to the Belgian government in January 2019 to seek explanations on the regulation of STR by the Brussels Capital Region (whose government set

very strict requirements on all types of STR) alleged to contain disproportionate restrictions in breach of the *Services Directive* (CEC, 2019). The minister-president of the Brussels Capital Region, Rudi Vervoort, stated in the press that he did not intend in the first instance to modify the regulations, but instead to explain their rationale to the Commission (Sente, 2019), though the city administration has begun to re-examine the rules (Nicosia, 2020). As Martínez-Mata (2017) stresses, the evaluation of any given regulatory measure by national courts and/or by the CJEU will have to be undertaken on a case-by-case basis. It will depend on the evidence and justifications put forward by a local public authority in terms of the ‘public interest objectives’ that are pursued through particular forms of regulation of STR. For city governments, this means collating solid evidence of the impacts of STR on housing markets, among other types of impacts. The CJEU ruling of September 2020 defers to national courts the responsibility to ‘verify, in the light of all the evidence available to it... whether that option is an effective response to the shortage of long-term rental housing that has been observed in the territories concerned’. The legitimacy of public intervention and regulation is therefore grounded in the capacity of public actors to demonstrate a ‘serious and grave risk’ to the availability of affordable housing causally linked with the proliferation of STR in a particular city (or territorial unit). This is challenging, as we have seen in section 2.2, as other factors intervene in creating a crisis of supply and affordability in urban housing markets. This also means that courts intervene when the identified ‘problem’ is already at an advanced stage, while city governments have argued that they wish to have the power to take preventive measures and act in advance to protect the housing stock and urban environment.

This brings us back to the thorny question of access to, and production of, data that is necessary for public policy formation and the justification of regulatory measures. The European Commission has not, so far, encouraged platforms to communicate data about individual hosts and listings – the bottom line identified by all city governments as the single most important measure that would help them regulate STR. In March 2020 the European Commission reached an agreement with several large platforms (Airbnb, Booking, Expedia and TripAdvisor) for them to share regular data on the number of nights booked and number of guests staying, though aggregated at the level of municipalities (CEC, 2020). This agreement, however, is not legally

binding, and aggregated data is insufficient for local regulatory enforcement, as stated by a network of 22 European cities: ‘regulations that cannot be enforced with aggregated data include application of taxes and duties, building regulations, regional planning, registrations, and the exclusion of short-term rental in social housing’ (Eurocities, 2020b: 4).

Mirroring the activities of the EHHA and large platforms, European cities have gradually mobilised collectively to make their voice heard at the EU level. From 2016 onwards, initially under the impulse of public officials and elected representatives of Barcelona — and later on of Berlin and Amsterdam, a number of city governments started to meet regularly to compare their experiences, approaches and difficulties in regulating STR and in dealing with large platforms. In January 2018, eight city representatives sent a letter to the European Commission asking for a legal initiative that would allow public authorities to secure access to individualised data from platforms (Boztas, 2018). In June 2019, 10 city governments — mostly led by left-of-centre mayors or coalitions (Amsterdam, Barcelona, Berlin, Bordeaux, Brussels, Krakow, Munich, Paris, Valencia and Vienna) published an open letter to the European Commission and European Parliament (reproduced in Henley, 2019). The letter argued that the protection of the availability and affordability of the local housing stock is a public interest objective and must be allowed to override the restrictions in the *Services Directive* and the *E-Commerce Directive*.

Following the above-mentioned CJEU ruling that qualified Airbnb as a digital intermediary, in March 2020 the governments of 22 member cities of the Eurocities network (including Amsterdam, Barcelona, Berlin, Brussels, London, Milan, Paris, Prague and Vienna) publicly called for a new EU legislative framework to supersede the *E-Commerce Directive*, making three demands (Box 4). These demands were elaborated upon in a detailed policy paper published by Eurocities (2020b) in response to the European Commission’s announcement of the preparation of a new *Digital Services Act*. In September 2020, local leaders from Paris, Amsterdam and Berlin, among other cities, met with European Commission Executive Vice-President Margrethe Vestager to reiterate those demands, and pled for reinforcing the provisions that would force STR platforms to better cooperate with city governments in future EU legislation (Eurocities, 2020c).

As mentioned above, the draft *Digital Services Act*

published by the Commission in December 2020 has implications for the activities of STR platforms and for the public authorities seeking to regulate them. From the point of view of local governments, the first draft of the *Digital Services Act* does not deliver the necessary provisions for cities to regulate STR adequately (Cox and Haar, 2020). This proposed legislation will be debated in the European Parliament and in the EU Council of Ministers (a process that can take several years), so there are opportunities for change to the draft text. The legislative process is being carefully scrutinised by a variety of actors and interest groups, in particular large platforms and the so-called “GAFA” (‘big tech’ companies such as Google, Apple, Facebook, Amazon and Twitter) that are affected by the proposal.

In parallel, European city governments have continued to express their demands for the inclusion of stricter obligations on platforms in future EU legislation — though it is unclear at this stage whether such demands will succeed. Cox and Haar summarize in a clear way what would be needed from the *Digital Services Act* ‘to equip cities with the tools needed to deal with the impact on affordable housing from short-term rental platforms’ (2020: 3). Achieving the maximum room of manoeuvre for cities would mean to exclude STR platforms from the scope of the *Digital Services Act*, like Uber has been by a ruling of the CJEU in December 2017. If STR platforms are to be included in the *Digital Services Act*, six elements are needed for cities’ capacity to regulate and to enforce regulations: (1) Access to non-aggregate data; (2) Obligation to provide valid data; (3) Acceptance of authorisation schemes for both hosts and platforms; (4) Full cooperation on illegal listings; (5) Full liability where platforms operate; and (6) No obstruction from the Commission (see Cox and Haar, 2020: 72-73 for details).

Box 4. European cities call for action on short-term holiday rentals. Position paper on better EU legislation of platforms offering short-term holiday rentals agreed by the cities of: Amsterdam, Athens, Barcelona, Berlin, Bologna, Bordeaux, Brussels, Cologne, Florence, Frankfurt, Helsinki, Krakow, London, Milan, Munich, Paris, Porto, Prague, Utrecht, Valencia, Vienna and Warsaw (Source: Eurocities, 2020a)

As regards to STHR we need from Europe a new legislative framework for the Digital Single Market, which will ensure that:

1. Holiday rental platforms are obliged to share relevant data with city administrations. Data access will enable the enforcement of the rules protecting the public interest, the affordability of housing and the liveability of our cities. As long as city administrations do not have access to relevant rental data from the online platforms, we will see further unplanned growth of short-term rentals, to the detriment of the availability of affordable housing and the social cohesion in our cities.
2. Where national or local registration-schemes apply, STHR-platforms should be obliged to publish the registration numbers of their listings. Platforms should also be obliged to remove listings without valid registration number.
3. Platforms are liable for fulfilling their obligations according to national and local legislation and legal enforcement is possible and effective. Currently rules on the liability of platforms and the legal enforcement of obligations are effective only in the Member States where the platforms are legally based. We believe platforms must be held accountable when not respecting local/national legislation in all Member States, for instance on data sharing and on removing illegal listings. The EU-wide enforcement has to be guaranteed, including the removal of social housing apartments from their listings if local rules explicitly forbid it.

We, European cities, will go at length to welcome the many tourists who wish to visit us in the coming decades. We recognize the opportunities in this that come with short-term holiday rentals. But we have at the same time a primary duty to accommodate the people who wish to live and work in our cities. And we need urgently to secure the liveability of our neighborhoods and therefore find the right balance when facing these challenges. A 'carte blanche' for STHR cannot be the answer and we sincerely hope to find in the European Commission, the European Parliament and the Council of Ministers an ally.

6. Conclusions and policy lessons

6.1. Summary of key findings

STR have become a very controversial issue in the large European cities studied in this report (and elsewhere) because their positive and negative externalities are unevenly distributed between people and places. Their regulation, therefore, generates bitter disputes between different interest groups, as is the case with any attempt by public authorities to regulate a (new) market. Besides, the phenomenon of STR is entangled in debates about housing shortages and broader processes of neighbourhood change and urban restructuring (e.g. financialisation, gentrification, touristification), as the profitability of STR has opened new markets for real estate investment and rent extraction. The digitally-mediated nature of the practice has challenged traditional modes of regulation, forcing public institutions to deal with informal, hard-to-measure practices and new transnational companies.

The **first objective** of this research was to identify the different types, and arguments, of interest groups and stakeholders who have been advocating or opposing the regulation of STR. As shown in Section 3, besides elected representatives and public officials at various tiers of government, six broad categories of non-state actors and interest groups actively participate in the debates on STR and their regulation. One category represents the intellectual and political advocates of the ‘collaborative economy’ in its original spirit, who have influenced, in some cities, the development of an explicit policy agenda supporting the ‘sharing economy’ – though many have become highly critical of the transformation of the early spirit of the sharing economy into ‘platform capitalism’.

Three types of actors represent the STR market: corporate platforms; organisations representing professional operators of commercial STR; and new associations of hosts or ‘home-sharers’. They tend to accept the need for some light-touch regulation (at times reluctantly), but by and large oppose any strict regulation that would affect the ‘right to rent’ one’s properties, the ‘right to share’, or the freedom of enterprise. This includes what they perceive as burdensome authorisation or licensing schemes (and the conditions attached to them), and any measures that seek to limit

the quantitative growth of STR in a city (via land use planning regulations and controls on changes of use). For their part, ‘home-sharing clubs’ emphasise the occasional nature of the practice of renting out one’s primary residence, and campaign for light, proportionate rules that do not treat them like professional STR operators. All three types of actors have, in several cities, legally challenged the new regulations enacted by city governments (in Paris, Berlin and Barcelona in particular).

By contrast, two categories of stakeholders represent the economic and social groups directly affected by the sharp increase in STR. In all cities, representatives from the hotel and hospitality industry support a tougher approach to STR, which are perceived as unfair competition. They demand that STR operators be subject to the same rules that apply to hotels and Bed and Breakfast establishments. In parallel, in some cities (Barcelona, Berlin and Madrid in particular), STR have turned into a key object of social mobilisations among residents’ associations and citizens’ movements, who protest against related nuisances and the structural impacts of STR on the local housing stock. Campaigners defend the ‘right to ‘peace and privacy’ as well as the collective ‘right to housing’ of residents, and consequently demand strict forms of regulation, control or even prohibition of STR (in particular Type 1). Their demands can clash with the position of other residents who are engaged in small-scale STR businesses or who rent out their home occasionally.

The diversity of positions and arguments put forward by these six broad categories of actors shows how the question of the regulation of STR is controversial, contentious, and highly political: its very existence and rationale; which form it should take; how stringent it should be; to which type(s) of STR it should apply. These actors have mobilised to make their voice heard before, during, and after the enactment of new regulations, invoking clashing ‘rights’ in their narratives (Aguilera *et al.*, 2019a).

The **second objective** of the research was to analyse the regulations put in place in large European cities to manage or control the phenomenon of STR, and compare their approaches, instruments and degree of stringency. As shown in Section 4, city governments

in the 12 cities have responded very differently to the growth of STR and the demands channelled to them by relevant stakeholders. Their room for manoeuvre is influenced by higher tiers of government, with which they may have conflicting policy agendas. New regulations are located in different policy fields: housing, land use planning, tourism, economic development and health and safety.

The current landscape of regulations in the 12 cities ranges from (rare) cases of *laissez-faire* to a few cases of partial prohibition or strict quantitative control of STR Type 1 (and sometimes Type 2). But most cities exhibit a variety of ‘middle-ground’ approaches that seek to distinguish between professional/permanent vs. non-professional/occasional STR activities, with lighter requirements for the latter. The regulations have sought to influence or control the following dimensions of the phenomenon: the existence of STR and their visibility to public authorities; their quality; their overall quantity and/or geographical location; the distinction and balance between different types of STR; the taxation of transactions or income associated with STR; and finally the practices of the platforms mediating STR.

Finally, the **third objective** of the research was to assess how public authorities perceive the effectiveness of the regulations to date, and to identify the challenges they face in terms of implementation and enforcement. In all cities, interviews revealed huge difficulties with implementing and enforcing the regulations. As discussed in Section 5, public authorities have limited human resources for the control of thousands of properties, and are confronted with elaborate strategies of concealment or avoidance by illegal STR operators. However, city governments that have significantly increased their control capacity have managed to significantly reduce the illegal STR offer (as in Barcelona), though at a high cost.

In an era of digital intermediation via private companies, the detection and localization of suspected illegal STR is challenging in the first place. It is hindered by the lack of individualized data on STR, as platforms have so far refused to release such data to public authorities. More generally, the relationships between large platforms and local governments have oscillated between conflict and collaboration, as discussed in Section 5.2. Cities and platforms often have competing objectives: ‘While tourism and economic development interests may be aligned, cities’ concerns about sustainability,

the impact on housing and residential livability, which may only be achieved with restrictions on short-term rentals, conflict with the platform’s desire of unlimited market and revenue growth’ (Cox and Haar, 2020: 24). Corporate platforms, especially Airbnb, now play a significant role in the politics of STR regulation, through communication campaigns, advocacy and lobbying activities at various tiers of government, ‘grassroots mobilising’ of their users, collaboration with public authorities (e.g. for tax collection and remittance), but also legal challenges against regulations.

In the context of a European single market that aims to dismantle barriers to trade, the legal conflicts around STR regulations have shifted towards the supranational scale of the European Union, as discussed in section 5.3. EU law has been mobilised by the stakeholders opposed to new forms of regulation of STR, in particular the 2000 *E-Commerce Directive* and the 2006 *Services Directive*. The interpretation of these directives by regional, national and EU courts will ultimately impact the ability of public authorities to regulate both online platforms and STR operators in EU member states. Recent developments have sent a mixed picture in that respect. On the one hand, in December 2019 the CJEU ruled that Airbnb should be classified as an ‘information society service’ under the *E-Commerce Directive*, that is, a mere digital intermediary whose operations cannot easily be restricted outside of Ireland (where the European legal base of the company is located). On the other hand, in September 2020 the CJEU confirmed that the objective of combating a long-term rental housing shortage constitutes an ‘overriding reason relating to the public interest’ that can justify some STR regulatory measures by city governments.

At this point it is important to reflect on the generalisability of this report’s findings. It focused only on European capital cities and large cities that are magnets of employment and visitor flows – and often confronted with demographic pressures and tense housing markets. The authors did not study ‘ordinary’ (medium-sized) European cities, nor small towns and villages in rural settings. The present analysis and conclusions do not necessarily apply to these (Semi and Tonetta, 2020). In destinations that have less concentrations of STR and visitors, in ‘ordinary cities’ and peripheral territories, some of the negative impacts discussed in Section 2 might be less prevalent, while the positive impacts in terms of local economic and social development might outweigh negative externalities.

6.2. The COVID-19 pandemic: a short- or long-term disruption to the market?

The emergence of the COVID-19 pandemic in early 2020, and the measures taken by national governments to prevent its spread, generated a brutal and unprecedented drop in international (and intra-national) mobility at the global scale. In the spring of 2020, visitors' flows to European cities all but stopped for a few months. This led to a massive wave of cancellations of STR bookings and a weak demand for new bookings throughout 2020, though with some recuperation in the summer due to demand for intra-national travel as restrictions were lifted (see the AirDNA COVID-19 Data Centre for statistics).⁴² At the time of writing (in early 2021), many European countries were in the middle of a second or third wave of the pandemic. There was still a great amount of uncertainty as to when it would be brought under control, and whether global mobility flows and the travel sector would return to their pre-COVID levels any time soon. This makes it hard to speculate about the medium and long-term impacts of the pandemic on the STR market, and on the behaviour of investors, landlords and consumers.

In the short term, STR have been accused of contributing to the spread of the COVID-19 outside of metropolitan centres, as urbanites who could afford to do so fled the conditions of lockdown in large cities. In cities such as Madrid, residents complained that STR have been used to host illegal parties that breach the strict rules on social distancing (Pérez and Casado, 2021). At the same time, landlords and hosts whose main sources of revenue depended on STR (some of whom had contracted heavy mortgage debt to enter this activity) lost their source of income overnight. Airbnb quickly announced 'exceptional measures' to reimburse travellers and compensate hosts harmed by the crisis. The company opened a channel to allow hosts to offer accommodation to healthcare staff. A communication campaign was launched to reassure hosts and guests, in particular around safety concerns. In May 2020, however, the CEO of the company announced a 25% cut in staff and a suspension of its investments in new ventures such as the luxury market, anticipating that its 2020 revenue would be less than half of 2019 (Airbnb, 2020). This did not prevent the company's long-awaited introduction in the Nasdaq stock

exchange on 10 December 2020. Days after the first official authorisation of a vaccine against COVID-19 boosted confidence in the recovery of the global travel industry, the Airbnb share price opened at over \$150, more than double the price of the Initial Public Offering (IPO) of \$68. This valued the company at nearly \$100bn, twice the value of Marriott, the largest hotel operator (Rushe, 2020).

Meanwhile, the media reported anecdotal evidence that, in cities such as London, Paris, Barcelona and Madrid, the regular rental market was being 'flooded by bargain Airbnb listings' (Temperton, 2020). It is unclear, however, what proportion of operators of STR Type 1 will permanently return their unit(s) to the long-term rental market (see Motet and Sanchez, 2020 on Paris). Many will not, hoping to ride through the storm.

In Madrid, while 25% of STR Type 1 were estimated to be empty at the end of 2020, only 190 of 11,946 recorded units were formally withdrawn by their landlord from the regional STR register between March and December 2020 (Pérez Mendoza and Casado, 2021). Other landlords are turning to the 'medium-term' market, for which demand seems to be increasing due to the widespread diffusion of remote working during the pandemic (Turner, 2020) and the expected long-term changes in working practices this will trigger. At any rate, the number of STR listings on offer has remained high: in most cities the number of listings has only decreased by 10 or 20% (Cox and Haar, 2020).

Citizens' movements and other actors who have been campaigning for the strict regulation of STR Type 1



Figure 8: City without tourists. Barcelona, Carrer de Ferrán during the COVID-19 pandemic. (Source: Claire Colomb, 2020)

see this crisis as an opportunity not to be missed by local governments. A few initiatives have emerged to encourage the return of STR units to the long-term rental market, whose success and impacts are uncertain. In Paris, the Deputy-Mayor for Housing declared that the city government would abandon legal action against 281 STR landlords if they committed to rent their units to long-term tenants (Rey-Lefebvre, 2020b). In the spring of 2020, the Paris Mayor publicised the idea of setting up a semi-public municipal real estate company to buy back properties previously rented short-term and offer them for rent at 20% below market price (Carrive, 2020). In Lisbon, the city government has launched a program named *Renda Segura*⁴³ (Safe Rent), which gives landlords the option to rent out a unit to the city government, who in turn will rent it long-term to tenants in housing need (Medina, 2020). However, as of December 2020 the Lisbon city government had only approved 284 properties under that program, of which a small portion were previously STR (Pedro Pincha, 2020; Warren and Almeida, 2020). This contrasts with 15,000 entire home listings still available on Airbnb in the same month.⁴⁴ A similar initiative, entitled *Reviva*, has been announced in Madrid, to incentivise the return to long-term rental market of empty or STR units, with modest objectives of 100 units per year (De Vega, 2021).

More broadly, while it is possible that some city, regional and national governments will take advantage of the COVID-19-generated crisis to enact and enforce stricter regulations on STR, others will push for a liberalising agenda. As the economies of many European cities are highly dependent on tourism, public authorities will be tempted to prioritise the need to attract more visitors over the desire to control STR more strictly.

6.3. Lessons and policy recommendations

“We are not against the platforms, but they must abide with local and national regulations. It is time for a new European regulatory approach that serves first and foremost the general interest, which is for us accessibility of housing and the liveability in our cities.” (Anne Hidalgo, Mayor of Paris, in Eurocities, 2020c)

What is at stake in (local) regulatory choices is how to strike a balance between, on the one hand, ‘supporting

the development of platform-related activities and the economic benefits they generate’ and on the other, ‘mitigating their collective costs and negative externalities’ (Artioli, 2018: 20). This inevitably involves socio-political arbitrages between the freedom to use one’s property and conduct an economic activity based on the *exchange value* of a housing unit, and the necessary protection of various objectives of ‘public interest’, in particular the protection of long-term residential uses (based on the *use value* of a housing unit) in cities marked by sharp housing inequalities.

National and regional governments, who often control the legislative framework that defines particular types of STR, need to give local governments the necessary tools to be able to exercise their ‘right to regulate’ to pursue locally-defined objectives of public interest — that is, to enact territorially-differentiated approaches to regulation that take into account the specificities of each local context. City governments need to be able to, and should, apply different regulatory measures to the three main types of STR, distinguishing between professional vs. occasional practices, namely between operators of STR Type 1 and individual owners/tenants who rent all or part of their primary residence occasionally for short periods (STR Type 2 and 3). This involves, in particular, the ability to set the maximum number of days per annum that a property can be used for tourism accommodation, and the ability to require the owner of the property to be present if a property is used for tourism accommodation (UK House of Commons APPG on Tourism, 2018: 25). This also involves the ability to use local land use planning and housing regulations to control the amount and location of STR in particular neighbourhoods if deemed necessary.

As we have seen, the question of the production of, and access to individualised data on STR units is central to the formation of public policy, the justification of regulatory measures, and effective control and enforcement. That data is held by digital platforms, who have generally not disclosed it in a systematic manner, backed by the existing provisions of the EU directives that frame the functioning of the Single Market. City leaders argue that digital economy companies should not be allowed to become ‘more powerful than cities, more powerful than states’ (Deputy Mayor for Housing, Paris, Ian Brossat, quoted in Henley, 2019). City governments should have a right of access to relevant, accurate and individualised data on short-term rental units. The challenges of ‘governing without data’

— or with imperfect data — in the age of global digital capitalism and of privately-produced big data (Courmont and Le Galès, 2019) should be a central focus of research and policy advocacy in the coming years.

In the European context, the EU has consequently become a key battleground for the future regulation of both short-term rentals as a service, and of platforms as online intermediaries of such services. Organised interests and platforms have been actively lobbying EU institutions to convey their policy preferences. European city governments have, in response, started to mobilise collectively to plead for new EU legislation that would require STR platforms to better cooperate with local governments. Cox and Haar (2020: 3), in a report commissioned by members of the Internal Market and Consumer Protection Committee of the European Parliament (*Left* group), conclude that three components of regulation have proven essential: a mandatory registration system requiring hosts to apply for a permit, license or registration; platform accountability (in making sure that only registered STR are advertised); and platform data disclosure, i.e. the regular sharing of files containing active listings.

All three components depend on the scope of action allowed by EU law.

The EU legal framework should therefore be revised to ensure platform accountability and data disclosure, which would allow city (and other tiers of) governments to effectively enforce the regulations that they deem appropriate. The EU legal framework will evolve in the coming years, with a draft *Digital Services Act* currently under consideration. Whether the Act will respond to the concerns expressed over the past decade by a variety of actors, in particular city governments, is less than certain at this stage. The three key demands made by the Eurocities network (of which nine of the 12 cities studied in this report are a member) are that STR platforms should: be obliged to share relevant data with city administrations; be obliged to publish the registration numbers of their listings where national or local registration-schemes apply; and be liable for fulfilling their obligations according to national and local legislation (meaning that legal enforcement is possible and effective in all member states, not just the country of origin) (Eurocities, 2020a).

As discussed in Section 2.2, STR are only a (small) part of a wider set of dynamics and factors that impact housing markets and socio-spatial change in cities, e.g. demographic trends, the (de)regulation of the private rental sector, land policies, or measures affecting the supply of affordable and social housing. Any discussion about managing or controlling the growth of STR in the name of the protection of the ‘right to housing’ thus needs to form part of a broader debate and agenda for public action in a variety of policy fields — some of which sit beyond the remit of city governments alone. This leads into the highly politicised question of how housing should be governed and regulated in an era when it has become a commodity/asset in a globalised world of transnational mobility, investment and financialisation. This larger issue should be addressed both nationally and supra-nationally.



Figure 9: Contested forms of neighbourhood change, London. (Source: Claire Colomb, 2019)

7. Endnotes

1 'Peers' are defined as private individuals offering services on an occasional basis, while 'businesses' act in their professional capacity (CEC, 1996a: 3). In practice, the boundary is not easy to define.

2 Online marketplaces offering vacation rentals in urban and rural settings (B2C or P2P) existed before Airbnb, such as Vacation Rental By Owner (VRBO, created in 1995), Perfectplaces (1996) or UK companies Owners Direct (1997) and HolidayLettings (1999). New platforms with an international offer were set up in the 2010s as the market expanded rapidly: 9flats, founded in Germany in 2011 (which now has a mixed offer of vacation rentals, apartment rentals, homestays, hostel beds and hotel rooms); Housetrip (2009) or Homestay (created in 2013 for home sharing in a strict sense). Some platforms disappeared after a few years (i.e. the German-based Wimdu, 2011-2018). Others were bought by larger platforms or online travel firms. HomeAway (founded in 2005) quickly became one of the giants in the sector after buying national platforms such as VRBO, the French Abritel, the British OwnersDirect.co.uk, the German FeWo-direkt and the Spanish TopRural. It now operates through 50 websites in 23 languages, offering all types of short-term rental accommodation in 190 countries. It was bought by Expedia in 2015, an American travel technology company offering travel fare comparators and meta-search engines. Other platforms and online travel companies that initially catered for hotel accommodation, like Booking.com, Trivago.com and Hotels.com (the latter two owned by Expedia) have recently expanded their offer to include serviced apartments and short-term rentals. TripAdvisor expanded its activities by acquiring the short-term rental platforms HolidayLettings and Flipkey and by partnering with Housetrip (in 2010). Finally, 'aggregators' have emerged (e.g. Tripping.com founded in 2009), which allow users to search and compare vacation rentals across different platforms.

3 'Couch-surfing' websites or P2P platforms that facilitate home exchanges/swaps without monetary transaction were not included in this study.

4 In the academic literature, the question of regulation was first addressed by North American legal scholars who analysed how local zoning codes and ordinances have been used, and legally challenged, in attempts to regulate STR (e.g. Gottlieb, 2013; Jefferson-Jones, 2014; Palombo, 2015). More recently, planning scholars have analysed the ways in which local planning regulations have been used to respond to the growth of STR in Australia and the UK (Gurran and Phibbs, 2017; Holman et al., 2017; Ferreri and Sanyal, 2018; Gurran, 2018). Existing studies that touch on the issue of regulation of STR mostly focus on one city or one country, with the exception of a series of European Commission-sponsored reports comparing regulations across EU cities in different member states (Dredge et al., 2016; Ranchordás, 2016; Rating Legis, 2016; Smorto, 2016; CEC, 2018b), and research by Wegmann and Jiao, 2017; Crommelin et al., 2018; APUR, 2018; and Nieuwland and van Melik, 2018.

5 Dr Thomas Aguilera is Assistant Professor of Political Science at Sciences Po Rennes, France. Dr Francesca Artioli is Assistant Professor of Urban Policies and Planning at the Ecole d'Urbanisme de Paris, Université Paris-Est Créteil, France.

6 Those three cities were chosen as they appeared to be 'most dissimilar cases' of types of regulation of STR in the EU context, both in terms of the level of stringency (weak in Milan, intermediate in Paris, strong in Barcelona) and choice of policy sectors (sharing economy and tourism in Milan, housing and land use planning in Paris, urban planning and tourism in Barcelona).

7 The field work involved on-site visits and face-to-face interviews in eight cities out of 12. In two cities (Brussels and Rome), the research was done remotely, based on documentary analysis. In the case of Paris and Milan, the report draws on the research carried out between 2015 and 2017 by Thomas Aguilera and Francesca Artioli respectively (see Aguilera et al., 2019a).

8 All semi-structured interviews lasted between 45 minutes and 2 hours. Their focus was adapted to the type of stakeholder being interviewed, with questions revolving around their organisation's position vis-à-vis STR; their demands in terms of regulation; their activities to support those demands; their opinion on existing regulations; and their relationships with other actors. Interviews were as much as possible carried out in the local language, as the combined language proficiency of the two authors included English, German, French, Spanish, Catalan, Dutch and Portuguese. For Prague, Czech-English simultaneous translation was kindly provided by Daniel Cohn, to whom the authors are very grateful. Informed consent was sought from the interviewees prior to and during the interview, following a detailed information e-mail presenting the researchers and the project.

9 Although the authors have primarily reviewed academic literature, data from other sources is also referred to when relevant (e.g. from independent researchers, activists, or platforms themselves). This is because a diverse set of

actors compete in the actual process of data- and knowledge-production on STR and their impacts, thereby seeking to influence public policy.

10 The data that Airbnb agrees to release upon request in an aggregate form is set out in its *Policy Tool Chest* (2016). Airbnb produces regular reports on different aspects of its activities. However, critics argue that ‘a public authority cannot rely on reports based on data it cannot check, and in particular if they are presented by a company with a vested interest who is unwilling to share the raw information’ (CEO, 2018a: 15).

11 *InsideAirbnb* (insideairbnb.com) was created by Murray Cox, a digital and community activist who, in 2014, began to compile data on the growth of Airbnb-mediated STR in New York City (Katz, 2017). Tom Slee, another activist based in Canada, had started a similar process (<http://tomslee.net/>). The two activists then expanded their data analytics activities to many other cities, helped by independent data activists and researchers who have used the open-source codes provided on the *InsideAirbnb* website.

12 The ways in which the data is gathered and analysed, the assumptions and approximations made, and the ‘occupancy model’ used by *InsideAirbnb* for data analytics are explained at <http://insideairbnb.com/about.html>. See also Gridale (2019) for a comparison of the data generated by *InsideAirbnb* and *AirDNA*.

13 Wachsmuth (2017) measured this gap in two ways: by estimating how much new housing revenue has been generated thanks to Airbnb-mediated STR (i.e. where the rent gap was created and then filled), and by identifying areas where new potential profit-making opportunities are still quite prevalent (i.e. where the rent gap is growing and not yet filled).

14 For the 2019-2024 period, HOTREC has made it clear that it will lobby the European Commission for a revision of the *E-Commerce Directive* (HOTREC, 2019) – see Section 5.3.

15 <https://www.airbnbcitizen.com/clubs/>.

16 The Airbnb website reads: ‘We recommend that you do your own research as this article isn’t comprehensive, and doesn’t constitute legal or tax advice. Also, as we don’t update this article in real time, please check each source and make sure that the information provided hasn’t recently changed’. See <https://www.airbnb.co.uk/help/topic/1246/responsible-hosting-for-places-to-stay-in-europe>.

17 See <https://www.vrbo.com/discoveryhub/tips-and-resources/guest-management/regulations-resources#advocacy-101> and their twitter page: <https://twitter.com/vrbopolicy?lang=en>.

18 <https://fairbnb.coop>.

19 We did not compare in detail the national and local regulations regarding consumer protection or health and safety in relation to STR uses of property.

20 In 2017, the *Sharing Cities Alliance* was officially launched at the Sharing Cities Summit hosted by New York City. Amsterdam was one of the founding partners and Barcelona hosted the Summit in 2018.

21 Very few cities in the world have taken such an approach, New York City being the most prominent: the *Multiple Dwelling Law* of 2010 prohibits renting out units that are part of buildings with three or more apartments for less than 30 days when the host is not present (effectively banning STR Type 1). In 2016 another local regulation was passed prohibiting the advertisement of units subject to the Multiple Dwelling Law via online platforms (see Hoffman and Schmitter Heisler, 2020).

22 A Private Members’ Bill introduced in the UK House of Commons by Karen Buck MP in December 2017 to require householders to notify local governments of an intention to register accommodation for short or holiday lets failed to complete its passage through Parliament (Cromarty and Barton, 2020).

23 <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1017>.

24 See <https://www.lisboa.pt/cidade/comercio-e-turismo/alojamento-local>.

25 He additionally reported that, as of September 2018, the planning department had not received any application for change of use from ‘residential’ to ‘short-term letting’ over the previous three years, although many full units were on offer on Airbnb for more than 90 days in the Borough.

26 See <https://meet.barcelona.cat/habitatgesturistics/en>.

27 To the authors' knowledge, no automatic 'pass-through registration system' as implemented by Airbnb in a small number of US cities has been set up in Europe. In the USA, in exceptional circumstances, Airbnb agreed to 'work directly with a city in order to help facilitate the registration process' (Airbnb, 2016). In San Francisco, in 2017 Airbnb and HomeAway settled their lawsuit with the city and agreed to collect data from hosts that is then passed on to the city's Office of Short-Term Rentals, a system referred to as 'pass-through registration' (Bay Area Council Economic Institute, 2018). This system blocks unregistered STR from being listed. Platforms also agreed to cancel reservations and deactivate listings if the city notifies them of an invalid registration. Airbnb notes that the pass-through registration system 'is an exception to our usual approach in which individual hosts are responsible for registering and securing any necessary licenses so their personal information is communicated directly to the jurisdiction, rather than via Airbnb. Pass-through registration can be difficult to implement, requiring significant technical cooperation between a city and a home sharing platform to share data regarding individual hosts' (Airbnb, 2016: 9).

28 The city government of New York was one of the pioneers in the legal fight to request access to the data held by Airbnb about 15,000 hosts in the city. In 2010, Airbnb lodged a court case against the city's request. The request was later downsized to obtaining information on the biggest players, which Airbnb agreed to, alongside anonymised data on 500,000 transactions. This fed into a report by the Attorney General that showed that 72% of Airbnb bookings had been in violation of the local law (Schneiderman, 2015). A new agreement for the sharing of individualised data (with the consent of the host) was reached in June 2020, see <https://news.airbnb.com/a-message-to-our-new-york-city-hosts/>. San Francisco and New York City now have some of the strictest laws on STR, which survived legal challenges by large platforms. Only primary residences can be rented out short-term (up to a maximum number of days per year for un-hosted stays). The tenant or owner-occupier must prove that the unit is his/her main home and obtain a permit from the relevant authorities. Airbnb and HomeAway agreed to implement the 'One Host, One Home' rule that limits individual hosts from advertising listings at more than one address. The platforms also agreed to permanently ban hosts who have been fined or sanctioned by state, local or federal law enforcement authorities at least three times in these two cities. Platforms must display the permit number on each listing. Such measures have subsequently been replicated in a number of other cities (such as Portland in 2017 and Vancouver in 2018).

29 In the case of Airbnb, such occurrences remain relatively infrequent. According to Airbnb's website, in the year 2018 only 3,071 law enforcement inquiries for user information were lodged globally. For 1,739 of those, some form of legal process was served; and for 811 of those at least some account information was disclosed (Airbnb, 2019c). The company describes the way in which it deals with data requests from law enforcement agencies here: <https://www.airbnb.co.uk/help/article/960/how-does-airbnb-respond-to-data-requests-from-law-enforcement>.

30 The Digital Single Market is defined as one in which 'individuals and businesses can seamlessly access and exercise online activities under conditions of fair competition, and a high level of consumer and personal data protection, irrespective of their nationality or place of residence' (CEC, 2015: 3).

31 Such stakeholders have also invoked the General Data Protection Regulation (GDPR) that came into force in May 2018. The GDPR stipulates that personal data may only be shared with third parties if a legal basis for this is determined. Such legal basis may exist if, first, the data subject has given consent to the data processing for a specific purpose. This means that platforms would have to request permission from individual hosts to share their personal data with public authorities at the stage when a host registers on the platform. The city government of Barcelona has negotiated with Airbnb for this to be the case from 2018 onwards. Second, a legal basis also exists if there is a legal obligation prescribed in EU or national legislation for specific operators to share certain personal data with public authorities. However, member States are only allowed to adopt such legislative measures where these are necessary and proportionate to safeguard certain recognised legitimate public objectives (for example public security or taxation matters), an issue further discussed in 5.3. Article 6 of the GDPR thus makes it clear that public authorities are not prevented from asking platforms for private customer data if it is in the public interest: the GDPR is not the major impediment for data sharing between platforms and public authorities.

32 The European Commission, however, has encouraged platforms to take voluntary action to fight illegal content, although this has mostly applied to social media in relation to issues such as hate speech or child pornography.

33 ISS providers established outside the EEA have to comply with national laws that may apply to their services and be subject to a wide variety of national (access) restrictions.

34 CEC (2020) Proposal for a Regulation of the European Parliament and of the Council on a Single Market for Digital Services and amending Directive 2000/31/EC of 15 December 2020. For an overview, see <https://ec.europa.eu/digital-single-market/en/digital-services-act-package>. It should be noted that the Digital Services Act will not repeal the E-Commerce *Directive*, but revise it.

35 See <https://www.legifrance.gouv.fr/juri/id/JURITEXT000043200274>.

36 Any measure that specifically (exclusively) affects a service provider is covered by the Services Directive, regardless of the policy field or instrument through which it is adopted. This can therefore include local urban planning measures or zoning restrictions taken for the purpose of controlling STR.

37 If an activity is ‘professional’, it also becomes subject to consumer protection rules (which only apply to business-to-consumer relationships in EU law) and to related tax or labour law obligations (Martínez Mata, 2017) – aspects of STR regulation not addressed in this report.

38 See <https://lobbyfacts.eu/>.

39 This internal document seems to have been reluctantly released by the Commission following multiple requests by the Corporate Europe Observatory (CEO, 2018b).

40 The power and discretion of the European Commission in monitoring compliance with Single Market rules and EU competition law to ensure a level playing field between economic actors is significant: it can carry out formal investigations in the member states, request a state to abolish or alter domestic rules deemed unlawful, prosecute a state in front of the CJEU for infringement of rules, and impose fines.

41 This type of formal complaint launches a period of mediation between the European Commission and the relevant member states (in this instance Germany, Spain, Belgium and France), starting with the issuing of a letter by the Commission to national governments, who have two months to respond to justify the regulations or propose modifications. If the Commission is not satisfied with the response, a second notification letter is sent. If this does not solve the issue, the European Commission can launch an ‘infringement procedure’ and ask the CJEU to make a ruling over the case (thus clarifying its interpretation of European law) and, if judged necessary, to impose a fine on the member state. National, rather than local, public authorities are usually targeted by such complaints, and it is national governments that have to respond to the Commission’s letters. This may generate challenges of coordination, or tensions, between tiers of government in case of divergent approaches (as mentioned in 4.2).

42 See <https://www.airdna.co/covid-19-data-center>.

43 See <https://www.lisboa.pt/cidade/habitacao/programas>.

44 Datasheet for Lisbon from 20/12/2020, downloaded from <http://insideairbnb.com/get-the-data.html>.



8. Appendices

DISCLAIMER

Tables 5.1 to 5.12 offer a digest of the regulations applying to the 3 types of STR in the 12 cities covered in this report. They were compiled by the authors based on a careful reading and analysis of policy and regulatory documents in multiple languages. While care has been taken to ensure that our interpretation of such highly complex documents is accurate, these tables are NOT a legally valid source of guidance: the only authoritative sources are the original legislative acts, regulations and official guidance published by the relevant public authorities.

Moreover, some city, regional and national governments were in the process of debating or drafting new regulations when the fieldwork for this report was carried out. Although efforts were made to ensure that the key features of the regulations mentioned here were accurate as of April 2021, STR-related policies and regulations are constantly evolving. Readers interested in the exact and up-to-date details of the regulations applicable in a particular city/region/country should therefore refer to the website or official publications of the relevant public authorities.

Table 1. Key statistics for the 12 cities: population, tourism flows and Airbnb offer (prior to the COVID-19 pandemic)

| | Population, millions (2019) | Area | Tourist arrivals, millions (2019) | Bed-nights millions (2019) | Number of Airbnb listings (2018/2019) | of which entire units | of which private rooms | of which shared rooms | Average booked nights/year/listing | Listings available > 60 days/year | Average price/night | Average income/month | Multi-listings |
|------------------|-----------------------------|------------------------------|-----------------------------------|----------------------------|---------------------------------------|-----------------------|------------------------|-----------------------|------------------------------------|-----------------------------------|---------------------|----------------------|----------------|
| Amsterdam | 0.86 | 219 km ² | 9.21 | 18.38 | 19,619 (6/05/2019) | 15,496 (79%) | 4,056 (20.7%) | 67 (0.3%) | 72 | 23.60% | € 156 | € 865 | 12.10% |
| Barcelona | 1.64 | 102 km ² | 9.47 | 19.85 | 18,302 (14/05/2019) | 8,912 (48.7%) | 9,192 (50.2%) | 198 (1.1%) | 102 | 67.10% | € 124 | € 743 | 65.30% |
| Berlin | 3.64 | 892 km ² | 13.96 | 34.12 | 22,552 (7/11/2018) | 10,722 (47.5%) | 11,534 (51.1%) | 296 (1.3%) | 102 | 28.20% | € 67 | € 550 | 23.60% |
| Brussels | 1.22 | 161 km ² (région) | 3.91 | 7.80 | 7,420 (12/11/2018) | 4,788 (64.5%) | 2,546 (34.3%) | 86 (1.2%) | 97 | 44.50% | € 69 | € 533 | 38.70% |
| Lisbon | 0.51 | 100 km ² | 5.89 | 13.82 | 22,242 (19/11/2018) | 16,481 (74.1%) | 5,383 (24.2%) | 378 (1.7%) | 103 | 84.90% | € 92 | € 603 | 67.00% |
| London | 8.90 | 1,572 km ² | 22.49 | 85.10 | 77,096 (8/12/2018) | 42,758 (55.5%) | 33,594 (43.6%) | 744 (1%) | 86 | 41.80% | £112 | £683 | 46.60% |
| Madrid | 3.27 | 604 km ² | 9.86 | 20.68 | 17,301 (7/11/2018) | 11,197 (64.7%) | 5,936 (34.3%) | 168 (1%) | 112 | 59.00% | € 92 | € 663 | 55.30% |
| Milan | 1.40 | 182 km ² | 8.02 | 12.95 | 17,659 (9/11/2018) | 12,809 (72.5%) | 4,500 (25.5%) | 350 (2%) | 70 | 70.00% | € 112 | € 444 | 39.70% |
| Paris | 2.21 | 105 km ² | 25.03 | 52.45 | 59,881 (7/12/2018) | 51,983 (86.8%) | 7,428 (12.4%) | 470 (0.8%) | 92 | 28.20% | € 111 | € 793 | 19.90% |
| Prague | 1.32 | 496 km ² | 8.04 | 18.48 | 13,591 (20/12/2018) | 10,637 (78.3%) | 2,723 (20%) | 231 (1.7%) | 113 | 65.80% | Kč 2,261 | Kč 16,118 | 64.80% |
| Rome | 2.82 | 1,285 km ² | 9.24 | 29.07 | 29,436 (9/11/2018) | 18,843 (64%) | 10,368 (35.2%) | 225 (0.8%) | 89 | 87.50% | € 98 | € 614 | 62.00% |
| Vienna | 1.90 | 415 km ² | 8.57 | 18.64 | 10,714 (15/11/2018) | 7,757 (72.4%) | 2,850 (26.6%) | 107 (1%) | 98 | 57.80% | € 72 | € 533 | 44.50% |

Sources: Eurostat; ECM Benchmarking Report 2018-2019; TourMIS tourism statistics project (<https://www.tourmis.info>)

Source: InsideAirbnb open source data tool, based on publicly available information about a city's Airbnb's listings. For details on the methodology and assumptions used by the InsideAirbnb project contributors to design the indicators referred to here, see <http://insideairbnb.com/about.html#disclaimers>

Table 5.1. Regulation of STR in AMSTERDAM (THE NETHERLANDS)

| REGULATIONS | | | |
|---|--|---|--|
| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> Housing Act 2014 (<i>Huisvestingswet</i>): establishes that a permit is needed if a housing unit is used for something else than habitation 'Tourist Rental of Residential Space' Act 2020 (<i>Wet toeristische verhuur van woonruimte</i>), amending Housing Act and Municipalities Act: allows municipalities to impose registration obligation for hosts, to set up a time limit for STR type ii, and to set up a permit system to control STR in designated areas in justified cases. Requires platforms to stop publishing ads that do not comply with time limits, and prohibits platforms from advertising listings without a registration number <p>Regional: n/a</p> <p>Municipal:</p> <ul style="list-style-type: none"> Amsterdam Housing Regulations 2020 (<i>Huisvestingsverordening Amsterdam</i>) Designation Decree for Prohibited Districts for Holiday Rentals in Amsterdam (<i>Aanwijzingsbesluit verbodswijken vakantieverhuur Amsterdam</i>) | | |
| Official guidance on STR | <p>https://www.amsterdam.nl/wonen-leefomgeving/wonen/shortstaybeleid/ https://www.amsterdam.nl/en/housing/holiday-rentals/ https://www.amsterdam.nl/en/housing/new-bed-breakfast-policy/</p> | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | <p><i>Shortstayverhuur</i> (short-stay rental)</p> <p>Temporary living in independent home for min. period of 7 nights and max. of 6 months. Intended for temporary stay of international business travellers and workers who come to Amsterdam for work, not to accommodate tourists</p> | <p><i>Vakantieverhuur</i> (holiday rental)</p> <p>Host/residents must be registered as living at the address (house, apartment or houseboat) with the City of Amsterdam</p> <p>Prohibited in second homes</p> | <p>Bed & Breakfast</p> <p>Host/residents must be registered as living at the address (house, apartment or houseboat) with the City of Amsterdam + have spent at least 6 months living at the address in previous 12 months</p> <p>Host must be present during guest's stay</p> |
| Authorisation/license requirements (for activity or for change of use) | <p>Yes permit.</p> <p>10-year permits for existing housing units to be used as short-stay rental were stopped in 2014 and will not be renewed</p> <p>Short stay rental apartments only allowed in new construction if permitted in local zoning plan</p> | <p>Yes permit (since 1 July 2020)</p> <p>Permits valid until 1 April of following calendar year</p> | <p>Yes permit</p> <p>Permits valid for 8 years</p> |
| Registration requirement | <p>Yes</p> <p>From 1/04/2021 operators must register with National Tourist Rental Registration System + include registration number in published listing</p> | <p>Yes</p> <p>From 01/04/2021 hosts must register with National Tourist Rental Registration System + include registration number in published listing</p> | <p>Yes</p> <p>From 01/04/2021 hosts must register with National Tourist Rental Registration System + include registration number in published listing</p> |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | <p>30 nights since 2019 (previously 60 nights in 2016-2019)</p> <p>Host must notify City authorities of each holiday rental period in advance, before guests arrive</p> | |
| Space limit / max. number of guests | <p>Max. 4 guests at a time</p> | <p>Max. 4 guests at a time</p> | <p>Maximum 4 guests at a time making use of max. 40% of property or 61m²</p> <p>Rooms cannot form an independent living space with own entrance, kitchen or toilet</p> |
| Safety and quality standards | <p>Compliance with fire regulations</p> <p>Use 'safely and honestly without causing nuisance'</p> | <p>Compliance with fire regulations</p> <p>Use 'safely and honestly without causing nuisance'</p> | <p>Compliance with fire regulations</p> <p>Use 'safely and honestly without causing nuisance'</p> |

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| Requirements for permission to use the property as STR from relevant private parties | | Yes, from: landlord (if host is a tenant); condominium / homeowners' association (VVE); and bank/insurer | Yes, from: landlord (if host is a tenant); condominium / homeowners' association (VVE); and bank/insurer |
| Guest reporting requirements (for public order, immigration or statistical purposes) | | Hosts required to keep guest register with information about guest's name & place of residence; arrival & departure date; type of guest's proof of identity | Hosts required to keep guest register with information about guest's name & place of residence; arrival & departure date; type of guest's proof of identity |
| Other requirements or restrictions | Prohibited in social housing | Prohibited in social housing Combining holiday rental and B&B in same calendar year at same address not allowed | Prohibited in social housing Combining holiday rental and B&B in same calendar year at same address not allowed |
| Subject to tourist or city tax | Yes | Yes | Yes |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | Yes Maximum number of permits per neighbourhood | Yes Holiday rentals were banned in 3 central districts in 2020 but on 15/03/2021 ban was overturned by Amsterdam Court with immediate effect | Yes A max. number of permits is available per district. Hosts can only apply for B&B permit if there are still permits available in their area |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Holiday Rental Team (Team <i>Vakantieverhuur</i>) of Housing Enforcement and Supervision (<i>Toezicht en Handhaving Wonen</i>) department is involved in monitoring and enforcement of illegal STRs. Approximately 70 members of staff working in street enforcement and judicial work + 3 in data analysis, including data scraping (figures from interview conducted in 2018) |
| Channels for reporting illegalities | Municipality of Amsterdam hotline + website to report illegal (holiday) rental or housing fraud: https://www.amsterdam.nl/veelgevraagd/?caseid=%7B5258fc6f-1dea-43ba-8c35-b49389226644%7D |
| Fines for non-compliance | Type i: not having a permit: €21,750; not having or not advertising registration number: €8,700 Type ii: not having a permit: €21,750; not having or not advertising registration number: €8,700; not declaring number of nights of holiday rental in advance: €8,700 Type iii: not having or not advertising registration number: €8,700 City authorities issued €6 million of fines in 2019 + reported that only 4,943 addresses submitted booking notifications that year (a quarter of required reporting) (Cox and Haar, 2020) |
| Other measures | Use of digital investigation techniques ("scraping") by municipal authorities |

AGREEMENT WITH PLATFORMS

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| Information display requirements | Since 1/01/2021, platforms are required by law to only advertise properties that have registration number |
| Data sharing with public authorities | |
| Time cap enforcement | The Municipality of Amsterdam entered an agreement with Airbnb (for 2017/2018) and Booking (for 2018) to block bookings once an advertised property was rented for 60 days per calendar year. The agreement ended after the Municipality decreased the maximum number of days to 30. Platforms do not suspend listings that are booked above that ceiling. But the 'Tourist Rental of Residential Space' Act 2020 requires platforms to stop publishing ads that do not comply with time limits (from 1/01/2021 onwards) |
| Tax collection agreement (tourist/city tax) | Yes. Tax collection agreement with Airbnb since 2014 |

Table 5.2. Regulation of STR in BARCELONA (SPAIN)

| REGULATIONS | | | |
|---|---|--|---|
| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> National Law of Urban Leases (<i>Ley de Arrendamientos Urbanos</i>) stipulates minimum of 31 days for normal rental agreements. From 2013 onwards, tourism accommodation was excluded from this law, and responsibility for it was transferred to regional governments National tax law (<i>Real Decreto 1070/2017</i>): contested in Court and in the process of being redrafted (see below) <p>Regional:</p> <ul style="list-style-type: none"> Law 13/2002 of Tourism of Catalonia + Decree 159/2012: define category of 'dwelling for touristic use' (<i>viviendas de uso turístico</i>), which is distinct from the category 'tourist accommodation establishments' (establecimientos de alojamiento turístico, which corresponds to hotels and other forms e.g. apart-hotels) Decree 75/2020 of Tourism of Catalonia: requires platforms to display registration number of STR + creates new legal category of 'shared home' (for which municipal governments have one year to develop their own regulation) <p>Municipal:</p> <ul style="list-style-type: none"> As part of the city's urban planning competences: Special Tourist Accommodation Plan (<i>Plan Especial Urbanístico de Alojamiento Turístico</i>, PEUAT) passed in 2017 (to be revised in 2021), which limits licences for new STR in the city | | |
| Official guidance on STR | http://ajuntament.barcelona.cat/pla-allotjaments-turistics/en/ https://seuelectronica.ajuntament.barcelona.cat/oficinavirtual/es/tramit/20080000487 | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | 'dwelling for touristic use' (<i>viviendas de uso turístico</i>): housing units rented furnished, in their entirety, on a recurrent and temporary basis (less than 31 days), in condition of immediate availability | 'dwelling for touristic use' (<i>viviendas de uso turístico</i>): housing units rented furnished, in their entirety, on a recurrent and temporary basis (less than 31 days), in condition of immediate availability In Catalan law there is no distinction between type (i) and (ii) STR (i.e. between the regular and occasional nature of the activity or whether it is a primary residence or not) | Until 2020: did not fall under the category of 'dwelling for touristic use' (<i>viviendas de uso turístico</i>) defined by Catalan law (which had to be "whole units") = a legal "void" Decree 75/2020 created new category of 'shared home': a primary residence in which rooms are rented to a max. of 4 guests for periods of less than 31 days, in the presence of the host. |
| Authorisation/license requirements (for activity or for change of use) | Yes. License (authorisation) for activity has to be granted by City government, following a report of conformity with the special plan regulating tourist accommodation (see below). | Yes License (authorisation) for activity has to be granted by City government, following a report of conformity with the special plan regulating tourist accommodation (see below) | Possibly The new regional Decree 75/2020 allows city governments to decide how to regulate this activity. A system of authorisation can be set up. In Barcelona: at the time of writing (April 2021) that regulation was in the process of being prepared. See below (section 'Quantitative or geographical restrictions') |
| Registration requirement | Yes Inscription on Tourism Register of Catalonia: registration number must appear on all adverts + posted within the rented unit + Communication of start of activity to Municipality (' <i>declaración responsable</i> ') | Yes Inscription on Tourism Register of Catalonia: registration number must appear on all adverts + posted within the rented unit + Communication of start of activity to Municipality (' <i>declaración responsable</i> ') | Yes Inscription on Tourism Register of Catalonia: registration number must appear on all adverts + posted within the rented unit |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | | |
| Space limit / max. number of guests | Maximum occupancy indicated in 'Certificate of Habitability' (up to 15) | Maximum occupancy indicated in "certificate of habitability" (up to 15) | Maximum 4 guests |
| Safety and quality standards | As per 'Certificate of Habitability' = standards required for normal residential homes | As per 'Certificate of Habitability' = standards required for normal residential homes | As per 'Certificate of Habitability' = standards required for normal residential homes |

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| Requirements for permission to use the property as STR from relevant private parties | Condominium/homeowners' association can vote for blanket ban on use of flats as STR in residential building (at 3/5 majority since Decree 7/2019 changed national law of <i>Propiedad Horizontal</i>) | Condominium/homeowners' association can vote for blanket ban on use of flats as STR in residential building (at 3/5 majority since Decree 7/2019 changed national law of <i>Propiedad Horizontal</i>) Tenants: authorisation from landlord | Tenants: authorisation from landlord |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Communication of guests' details to police (via online system) | Communication of guests' details to police (via online system) | Communication of guests' details to police (via online system) |
| Other requirements or restrictions | Phone number of landlord/operator available to all neighbours Make available to guests a guidance on civility and good behaviour in the building (in Spanish, Catalan, English and French). If guests do not respect rules, the operators must ask them to abide or leave accommodation immediately The revised PEUAT under public consultation in 2021 proposes to prohibit STR in social or publicly subsidised housing (<i>vivienda de protección oficial</i>) | Phone number of landlord/operator available to all neighbours Make available to guests a guidance on civility and good behaviour in the building (in Spanish, Catalan, English and French). If guests do not respect rules, the operators must ask them to abide or leave accommodation immediately The revised PEUAT under public consultation in 2021 proposes to prohibit STR in social or publicly subsidised housing (<i>vivienda de protección oficial</i>) | |
| Subject to tourist or city tax | Yes | Yes | Yes |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | Yes. In 2017 a 'Special Plan' (<i>Plan Especial Urbanístico de Alojamiento Turístico</i> , PEUAT) for all types of tourism accommodation (including STR and hotels) was approved by the City Council (under its urban planning competence). The plan aims to stop the growth of STR and re-balance their distribution away from the city centre through: a freeze in the total number of licenses for STR (to just under 10,000) and a system of zones in which only a decrease, maintenance, or limited growth, of STR licences is permitted. See details on above-mentioned URL. The PEUAT was under revision in 2021 and an updated version will be approved in the summer of 2021. | Yes. In 2017 a 'Special Plan' (<i>Plan Especial Urbanístico de Alojamiento Turístico</i> , PEUAT) for all types of tourism accommodation (including STR and hotels) was approved by the City Council (under its urban planning competence). The plan aims to stop the growth of STR and re-balance their distribution away from the city centre through: a freeze in the total number of licenses for STR (to just under 10,000) and a system of zones in which only a decrease, maintenance, or limited growth, of STR licences is permitted. See details on above-mentioned URL. The PEUAT was under revision in 2021 and an updated version will be approved in the summer of 2021. | The revised PEUAT to be approved in the summer of 2021 will include rules on room rental. The draft published for public consultation by the City Council in January 2021 prohibits the rental of rooms for less than 31 days (room rental for longer period is allowed for students or temporary workers). This was justified as a way to pursue the objective of the Special Plan (guarantee the social function of housing and avoid a saturation of tourist rooms that would cause problems of coexistence and impact on the housing market). This is a controversial proposal that will be subject to scrutiny and opposition during the public consultation. The final vote of the City Council on the revised PEUAT is due in July 2021. (There were about 7,600 ads for rooms at the end of January 2021) |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Inspection service of the City Council (part of the dep. of urban planning): 30 inspectors in 2020 + team of 40 staff analysing online listings to detect illegalities |
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| Channels for reporting illegalities | Yes - by phone or online, see https://meet.barcelona.cat/habitatgesturistics/en/ |
| Fines for non-compliance | For STR operators: letting a STR without license: €30,000 For platforms: €30,000-€600,000 for advertising illegal listings July 2014: Catalan government fined 8 platforms €30,000 euros for advertising non-licensed STR. December 2015: City government started proceedings to fine 2 platforms for advertising non-licensed STR and for not attending to information requirement. Nov. 2016: City government lodged proceedings to fine Airbnb and Homeway €600,000 each for advertising illegal listings (3,812 and 1,744 properties respectively) |
| Other measures | Online searchable register of all approved tourism accommodation establishments in Catalonia (including STR): http://establimentsturistics.gencat.cat/rtcwebguies/AppJava/index.jsp Online search tool set up by City government to check if a unit has a license to operate as STR: http://meet.barcelona.cat/habitatgesturistics/en/ Communication campaign (posters) to raise awareness of illegal STR among tourists (see photo on the cover of the report) |
| AGREEMENT WITH PLATFORMS | |
| Information display requirements | Platforms obliged to inform hosts of local rules + to check that any proposed unit has a registration number before listing it + publish this number on all listings (since Catalan decree of 2020). However, as of 8/12/2020: City Council estimates 524 flat without a number (or with false number) on Airbnb |
| Data sharing with public authorities | City government signed agreements in 2017 with Booking, HomeAway, Niumba, Rentalia and TripAdvisor and later with Airbnb to establish procedures to remove illegal listings from those platforms Airbnb agreed in August 2018 to provide the city government with detailed host data at regular intervals, an unusual move for the company. In late 2020, Cox and Haar reported that data provided by platforms have 60-70% of addresses missing or not accurate At the national level: according to a change in national tax law (<i>Real Decreto</i> 1070/2017), as of 1/01/2019, STR platforms had to send Spanish tax authorities details of all their operations in Spain, including: identity of owner of STR unit, address, number of days of occupation, revenues collected. This obligation was cancelled by a Supreme Court judgement of 23/07/2020 but will be reinstated again for the 2021 tax year through a new, duly approved, national law |
| Time cap enforcement | n/a |
| Tax collection agreement (tourist/city tax) | |

Table 5.3. Regulation of STR in BERLIN (GERMANY)

| REGULATIONS | | | |
|---|---|--|---|
| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> Regulation concerning the building use of land 26.06.1962, BGBl. I S. 1548 (<i>Verordnung über die bauliche Nutzung der Grundstücke</i>, BauNVO) Any short-term letting needs to be declared to the regional Trade Office, which forwards relevant documents to the regional Finance Office. As a rule, it is also necessary to apply for a building permit from the relevant authority (even if no new building is erected) if a property within an area originally built for residential purposes will be used for short-term rental purposes <p>Regional:</p> <ul style="list-style-type: none"> Law on the Prohibition of Misuse of Housing of 2013 (<i>Zweckentfremdungsverbot</i>) + associated decree of 2014: banned use of apartments for purposes other than permanent residence. 'Misuse' includes commercial use, long-term vacancy and short-term letting. Law included 2-year transition period for 'misuses' that were active before 1/05/2014, allowed until 1/05/2016. After that, STR only allowed if a permit was obtained from district (<i>Bezirk</i>) authorities Law modified on 20/04/2018 (following court rulings) to allow the STR of a primary or secondary residence subject to condition (see below) <p>Municipal:</p> <ul style="list-style-type: none"> Berlin is a city-state in the German Federal system and has the competences of a <i>Land</i> (region) and a city. See above | | |
| Official guidance on STR | https://www.stadtentwicklung.berlin.de/wohnen/zweckentfremdung_wohnraum/index.shtml | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | | | |
| Authorisation/license requirements (for activity or for change of use) | <p>Yes</p> <p>Permit necessary from district authorities (to get an exemption from the Law on Prohibition of Misuse of Housing). A permit can be granted:</p> <ul style="list-style-type: none"> 'if an overriding public interest or a legitimate private interest exists, which prevails over the public interest in preserving residential areas' (see CEC 2018b: 46-47 for details) when a proportionate replacement housing is offered as a compensation | <p>Yes</p> <p>For primary residence: authorisation is necessary. Normally automatically granted if host can prove that apartment is used a significant time of the year for his/her own housing needs</p> <p>For secondary residence: authorisation is necessary (will not be granted if host already has a main residence or another second home in Berlin)</p> | <p>No, if surface rented does not exceed 49% of floor space (including bathroom and kitchen considered to be co-used by the owner)</p> <p>Yes, if surface rented exceed 50% of floor space</p> |
| Registration requirement | <p>Yes, since 1 August 2018: registration number given as part of above-mentioned permit application process</p> <p>Must be published on all advertisements.</p> <p>Non-transferrable</p> | <p>Yes, since 1 August 2018: registration number given as part of above-mentioned authorisation process</p> <p>Must be published on all advertisements.</p> <p>Non-transferrable</p> | <p>Yes, since 1 August 2018: registration number can be obtained through simple notification of activity to district authority</p> <p>Must be published on all advertisements.</p> <p>Non-transferrable</p> |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | <p>None for STR of primary residence (though character of apartment as main residence should not be affected – proofs of that can be required. This has been liberally interpreted by courts as up to 182 days per year)</p> <p>Max. 90 days per year for STR of secondary residence</p> | None |
| Space limit / max. number of guests | | | No need for an authorisation if surface rented does not exceed 49% of floor space (including bathroom and kitchen considered to be co-used by the owner) |
| Safety and quality standards | | | |

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| Requirements for permission to use the property as STR from relevant private parties | | Yes, from: landlord (if host is a tenant) | Yes, from: landlord (if host is a tenant) |
| Guest reporting requirements (for public order, immigration or statistical purposes) | | | |
| Other requirements or restrictions | | Not allowed in social/public housing | Not allowed in social/public housing |
| Subject to tourist or city tax | Yes, only for private stays (not for business-related stays) | Yes, only for private stays (not for business-related stays) | Yes, only for private stays (not for business-related stays) |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | Between 2016-2018 there was a de facto quasi ban of STR under the provisions of the Law on the Prohibition of Misuse of Housing. After the Law was revised in 2018, there is still a very strict control of the quantity of STR type (i) through the system of permits. In practice, in many Berlin districts, the Bezirk authorities reject the majority of applications (<i>Mitte</i> : 95% rejections) | Between 2016-2018 there was a de facto quasi ban of STR under the provisions of the Law on the Prohibition of Misuse of Housing. After the Law was revised in 2018, STR type (ii) are possible subject to the above conditions | |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Enforcement of permit system: within the remit of 12 district (<i>Bezirk</i>) offices. As of April 2017: 64 inspectors |
| Channels for reporting illegalities | Website where users can anonymously report suspected illegal STR: https://ssl.stadtentwicklung.berlin.de/wohnen/zweckentfremdung_wohnraum/formular/adresswahl.shtml |
| Fines for non-compliance | Operating an STR with a permit: fine of up to €500,000. District office has power to evict occupants and require that unit be reinstated into residential market at owner's expense Lack of display of registration number (or false number): fine of up to €250,000 Room rental in more than 50% of apartment on short-term basis without a permit: fine of up to €100,000 |
| Other measures | |

AGREEMENT WITH PLATFORMS

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| Information display requirements | Since 1/08/2018: all platforms have to publish registration number on every listing. City government is planning to strengthen current regulations with obligation for platforms to remove listings without registration number + possibility to fine platforms if they refuse. 80% of Berlin Airbnb listings are still illegal (Cox and Haar, 2020) |
| Data sharing with public authorities | No. The Berlin Senat (government) has requested platforms to communicate individual host data but this has been refused (in the case of Airbnb, the company has referred to the 'Country of Origin' principle of the EU <i>E-Commerce</i> Directive, arguing that Irish law applies) |
| Time cap enforcement | No. Platforms are not asked to enforce the 90-day cap for second homeowners nor provide any data on the corresponding listings to the city authorities |
| Tax collection agreement (tourist/city tax) | |

Table 5.4. Regulation of STR in BRUSSELS (BELGIUM)

| REGULATIONS | | | |
|--|---|---|---|
| Tier(s) of government & relevant legislation or policies | <p>National: n/a. In the Belgian Federal system, tourism and housing are competences of the regions</p> <p>Regional: Région Bruxelles-Capitale:</p> <ul style="list-style-type: none"> • Ordinance on tourist accommodation of 8/05/2014 (modified by Ordinance of 28/05/2015 and Ordinance of 7/12/2017): defines different categories of tourist accommodation (see below) and makes them subject to preliminary declaration + registration (for all operators: self-employed individuals, businesses, private individuals) • Implementing Order of 24/03/2016 (modified by Ministerial Decree of 9/02/2018): time limit of 120 days/year for STR of primary residence • Ordinance of 23/12/2016 on taxation of tourist accommodation: Art. 12 requires intermediaries (platforms) to communicate detailed data on individual operators and bookings to regional tax office • Ordinance of 6/03/2019 modified Ordinance of 8/05/2014 [has not yet entered into force]: allows data collected as part of preliminary declaration/registration process and control activities to be transmitted to regional tax authorities <p>Municipal:</p> <ul style="list-style-type: none"> • Urban planning regulations of Municipality of Brussels | | |
| Official guidance on STR | <p>https://economy-employment.brussels/tourist-accommodation-registration https://economy-employment.brussels/tourist-accommodation-private-residence https://economy-employment.brussels/tourist-accommodation-private-furnished https://economy-employment.brussels/tourist-accommodation-private-homestay</p> | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | <p>2 sub-categories:</p> <ul style="list-style-type: none"> • Tourist residence: furnished villa, house, apartment, studio or room reserved exclusively for use of guest, where it is possible to cook • Furnished tourist lodging: same as above but where it is not possible to cook <p>Individual booking of duration between 1 and 90 days. Rentals above 90 days (e.g. to students) not falling into this category</p> | <p>2 sub-categories:</p> <ul style="list-style-type: none"> • Tourist residence: furnished villa, house, apartment, studio or room reserved exclusively for use of guest, where it is possible to cook • Furnished tourist lodging: same as above but where it is not possible to cook <p>Individual booking of duration between 1 and 90 days. Rentals above 90 days (e.g. to students) not falling into this category</p> <p>If main residence of operator: accommodation establishment should be open for max. 4 months/year</p> | <p>Homestay accommodation (<i>hébergement chez l'habitant</i>)</p> <p>Must be part of the operator's personal and usual living quarters - or adjoining annexes. Operator cannot run more than one homestay accommodation</p> <p>Operator 'must offer a high-quality, personal welcome', remain available through visitors' stay and give advice</p> <p>Max. 5 rooms with bathroom/toilets for sole use of guests</p> <p>For guest houses: breakfast must be included</p> <p>Accommodation establishment should be open for a minimum of 4 months/year</p> |
| Authorisation/license requirements (for activity or for change of use) | <p>Yes</p> <p>Planned activity must comply with building destination as mentioned in urban planning permit or applicable land use plans. Operator must obtain certificate of compliance with land management and urban planning standards from municipal urban planning service</p> | <p>Yes</p> <p>Planned activity must comply with building destination as mentioned in urban planning permit or applicable land use plans. Operator must obtain certificate of compliance with land management and urban planning standards from municipal urban planning service</p> | <p>Yes</p> <p>Planned activity must comply with building destination as mentioned in urban planning permit or applicable land use plans. Operator must obtain certificate of compliance with land management and urban planning standards from municipal urban planning service</p> |
| Registration requirement | <p>Yes</p> <p>Operator must send 'prior declaration' file with several key documents (incl. above certif. of compliance) to regional government's department for Economy and Employment. When file complete: issuing of registration number + logo/plaque to display near entrance of STR unit</p> | <p>Yes</p> <p>Operator must send 'prior declaration' file with several key documents (incl. above certif. of compliance) to regional government's department for Economy and Employment. When file complete: issuing of registration number + logo/plaque to display near entrance of STR unit</p> | <p>Yes</p> <p>Operator must send 'prior declaration' file with several key documents (incl. above certif. of compliance) to regional government's department for Economy and Employment. When file complete: issuing of registration number + logo/plaque to display near entrance of STR unit</p> |

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|---|---|--|---|
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | If main residence of operator: accommodation establishment should be open for max. 4 months (120 days)/year | No max., but a minimum: accommodation establishment should be open for min. 4 months/year |
| Space limit / max. number of guests | | | Max. 5 rooms for exclusive use of guests Max. 15 guests at any one time |
| Safety and quality standards | Compulsory fire safety certificate (renewed every 5 years) Law sets an extremely detailed list of compulsory fixtures and fittings For tourist residence: reception available on weekdays + phone contact at all other times | If total max. capacity < 10 people: compulsory inspection certificate for electrical installation, heating and gas (renewed every 5 years) Law sets an extremely detailed list of compulsory fixtures and fittings For tourist residence: reception available on weekdays + phone contact at all other times | Compulsory inspection certificate for electrical installation, heating and gas (renewed every 5 years) Law sets an extremely detailed list of compulsory fixtures and fittings |
| Requirements for permission to use the property as STR from relevant private parties | For landlords: written agreement needed from condominium/homeowners' association | For landlords: written agreement needed from condominium/homeowners' association For tenants: authorisation from landlord | For landlords: written agreement needed from condominium/homeowners' association For tenants: authorisation from landlord |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Communicate data to National Statistics Institute (number of arrivals, duration of overnight stays, number of accommodations units, country of origin of guests) | Communicate data to National Statistics Institute (number of arrivals, duration of overnight stays, number of accommodations units, country of origin of guests) | Communicate data to National Statistics Institute (number of arrivals, duration of overnight stays, number of accommodations units, country of origin of guests) |
| Other requirements or restrictions | Civil liability insurance Operator must present a clean Criminal Record certificate | Civil liability insurance Operator must present a clean Criminal Record certificate | Civil liability insurance Operator must present a clean Criminal Record certificate |
| Subject to tourist or city tax | Yes (regional tax on tourist accommodation establishments) Monthly online declaration | Yes (regional tax on tourist accommodation establishments) Monthly online declaration | Yes (regional tax on tourist accommodation establishments) Monthly online declaration |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | | | |
| IMPLEMENTATION AND ENFORCEMENT | | | |
| Control and enforcement resources | Inspectors from regional government's department of Economy and Employment monitor compliance with regulations on tourist accommodation. Within 12 months of registration of a STR: <i>in situ</i> control of compliance with legal requirements | | |
| Channels for reporting illegalities | | | |
| Fines for non-compliance | Fine for non-compliance with regulations on tourist accommodation: between €41.60 and €4,160 More serious offenses: suspension of activity for a certain period or withdrawal of registration number (prohibition of STR activity) | | |
| Other measures | | | |
| AGREEMENT WITH PLATFORMS | | | |
| Information display requirements | Not specified in the regional law. Many Airbnb listings do not display compulsory registration number | | |
| Data sharing with public authorities | Regional ordinance of 2016 requires intermediaries (platforms) to communicate detailed data on individual operators and bookings to regional tax office. If they refuse: fine of €10,000. Airbnb received several fines for not transferring required data. The platform lodged a court case against the regional ordinance in front of the Belgian Constitutional Court, which turned to the CJEU in Nov. 2020 to ask whether regional law is compatible with the EU <i>E-Commerce</i> directive | | |
| Time cap enforcement | | | |
| Tax collection agreement (tourist/city tax) | | | |

Table 5.5. Regulation of STR in LISBON (PORTUGAL)

| REGULATIONS | | | |
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| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> • Law 39/2008: defines different types of short-term rental accommodation (<i>Alojamento Local</i>). Modified by Law 128/2014 • Laws 62/2018, 71/2018 and 262/2020 modify above-mentioned laws and give more powers to local governments to control new establishments in designated 'containment areas' • National legislation defines 4 types of short-term (= less than 30 days) furnished accommodation in residential buildings (<i>Alojamento local</i>, a category which is distinguished from <i>empreendimentos turísticos</i> e.g. hotels): <ul style="list-style-type: none"> a. <i>Moradia</i> (single-family house) b. <i>Apartment</i> (flat in a larger building) c. <i>Estabelecimentos de hospedagem</i> (lodging establishments made of bedrooms in a house/flat. This includes hostels with dormitories) d) <i>Quartos</i> (bedrooms in a primary residence) <p>Regional: n/a</p> <p>Municipal:</p> <ul style="list-style-type: none"> • Regulations no. 17706-C/2019 and 17706-D/2019 create containment areas and establish the rules applicable to new registrations of short-term rental accommodation located in such areas (entered into force 8/11/2019) | | |
| Official guidance on STR | https://www.lisboa.pt/cidade/comercio-e-turismo/alajamento-local | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | <p>a. <i>Moradia</i> (single-family house)</p> <p>b. <i>Apartment</i> (flat in a larger building)</p> <p>c. <i>Estabelecimentos de hospedagem</i> (lodging establishments made of bedrooms in a house/flat. This includes hostels with dormitories)</p> | <p>a. <i>Moradia</i> (single-family house)</p> <p>b. <i>Apartment</i> (flat in a larger building)</p> | <p>d) <i>Quartos</i> (bedrooms in a primary residence)</p> <p>The host has to live in the premises + rent out a maximum of 3 rooms</p> |
| Authorisation/license requirements (for activity or for change of use) | Authorisation from City Council only required if STR is located in a containment area (see below) – very strict rules limit the possibility of getting an authorisation (which is personal and non-transmissible) | Authorisation from City Council only required if STR is located in a containment area (see below) – very strict rules limit the possibility of getting an authorisation (which is personal and non-transmissible) | Authorisation from City Council only required if STR is located in a containment area (see below) – very strict rules limit the possibility of getting an authorisation (which is personal and non-transmissible) |
| Registration requirement | <p>Yes</p> <p>Compulsory registration with city government's <i>Balcão Único Eletrónico</i> (Electronic One Stop Shop). Legal recognition is granted by default if no reply by city council within 10 days (or 20 days for hostels)</p> <p>Registration number to be displayed on advert + display of standard identification plaque at entrance of property or establishment</p> | <p>Yes</p> <p>Compulsory registration with city government's <i>Balcão Único Eletrónico</i> (Electronic One Stop Shop). Legal recognition is granted by default if no reply by city council within 10 days (or 20 days for hostels)</p> <p>Registration number to be displayed on advert + display of standard identification plaque at entrance of property or establishment</p> | <p>Yes</p> <p>Compulsory registration with city government's <i>Balcão Único Eletrónico</i> (Electronic One Stop Shop). Legal recognition is granted by default if no reply by city council within 10 days (or 20 days for hostels)</p> <p>Registration number to be displayed on advert + display of standard identification plaque at entrance of property or establishment</p> |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | | |

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| Space limit / max. number of guests | For a and b: maximum guest capacity = [number of bedrooms X 2] + [2 people in living room] + [2 additional beds for children under 12]. Maximum 9 bedrooms or 30 people For b: owner/operator can have a max. of 9 apartments in a building, if STR exceed 75% of number of units in building For c: no limits in terms of number of guests | For a and b: maximum guest capacity = [number of bedrooms X 2] + [2 people in living room] + [2 additional beds for children under 12]. Maximum 9 bedrooms or 30 people | Residents can rent max. 3 bedrooms in their homes Maximum number of guests: number of bedrooms X 2 + a maximum of 2 additional beds for children under 12 |
| Safety and quality standards | Have window or balcony facing exterior, with natural ventilation + shutters Fire extinguisher, fire blanket, first aid kit + national emergency number displayed in place visible to guests Make available an information book in Portuguese, English and at least two other foreign languages + a complaint book City authorities may require installation of noise measurement equipment Civil liability insurance | Have window or balcony facing exterior, with natural ventilation + shutters Fire extinguisher, fire blanket, first aid kit + national emergency number displayed in place visible to guests Make available an information book in Portuguese, English and at least two other foreign languages + a complaint book City authorities may require installation of noise measurement equipment Civil liability insurance | Have window or balcony facing exterior, with natural ventilation + shutters Fire extinguisher, fire blanket, first aid kit + national emergency number displayed in place visible to guests Make available an information book in Portuguese, English and at least two other foreign languages + a complaint book City authorities may require installation of noise measurement equipment Civil liability insurance |
| Requirements for permission to use the property as STR from relevant private parties | For hostels in category c: authorisation needed from condominium/homeowners' association For categories b and c (except hostels): condominium/homeowners' association may request Mayor to cancel registration of a STR based on 'the repeated and proven practice of acts that disturb the normal use of the building, as well as acts that cause discomfort and affect the rest of the tenants' Condominium/homeowners' association can ask STR owner for payment of additional contribution (max. 30% of annual fee), corresponding to expenses resulting from increased use of communal areas | For category b: condominium/homeowners' association may request Mayor to cancel registration of a STR based on 'the repeated and proven practice of acts that disturb the normal use of the building, as well as acts that cause discomfort and affect the rest of the tenants' Condominium/homeowners' association can ask STR owner for payment of additional contribution (max. 30% of annual fee), corresponding to expenses resulting from increased use of communal areas | Condominium/homeowners' association can ask STR owner for payment of additional contribution (max. 30% of annual fee), corresponding to expenses resulting from increased use of communal areas |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Operator must report guest information to Immigration & Borders Service (<i>Serviço de Estrangeiros e Fronteiras</i>) | Operator must report guest information to Immigration & Borders Service (<i>Serviço de Estrangeiros e Fronteiras</i>) | Operator must report guest information to Immigration & Borders Service (<i>Serviço de Estrangeiros e Fronteiras</i>) |
| Other requirements or restrictions | | | |
| Subject to tourist or city tax | Yes | Yes | Yes |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | In Nov. 2019, city council designated 'containment areas' (which have to be reviewed every 2 years): <ul style="list-style-type: none"> <i>Absolute containment areas</i>: where no. of registered STR equal or exceed 20% of permanent housing stock. No new STR registration allowed, except if it is part of the refurbishment of a building that had been entirely vacant for 3 years in a project that will combine STR with social housing and other social uses <i>Relative containment areas</i>: where no. of registered STR is between 10% and 20% of permanent housing stock. New STR registration can only be authorised in limited types of buildings that were not in residential use (e.g. totally vacant for more than 3 years) In both cases: single landlord cannot have more than 7 STR units in the containment areas | | |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | <p>Inspections can be carried out by:</p> <ul style="list-style-type: none"> the Food and Economic Security Authority (<i>Autoridade de Segurança Alimentar e Económica</i>, ASAE) <i>Tourism Portugal</i> can carry out inspections of STR upon request of ASAE when STR comprises 9 or more apartments owned or operated by the same entity within one building the city authorities. The 2019 municipal regulation specifies that the city government of Lisbon must create its own structure for inspection (if necessary with collaboration of other administrative departments and police) <p>Within 30 days of registration of a STR: local authority may inspect property to verify legal requirements (registration may be cancelled in case of any non-compliance)</p> |
| Channels for reporting illegalities | <p>ASAE website</p> <p>In some districts of Lisbon (e.g. <i>Santa Maria Maior</i>): telephone number for reporting illegal STR</p> |
| Fines for non-compliance | <p>Advertising or offering a STR without registration or outdated registration: €2,500-€ 4,000 for individuals, €25,000-€40,000 for businesses</p> <p>Advertising or offering a STR without title/document that authorises the activity or that breaches the rental agreement: €2,500-€ 4,000 for individuals, €25,000-€40,000 for businesses</p> <p>Having 'hostels' in residential buildings without authorisation of the condominium: €125-€3,250 for individuals, €1,250-€32,500 for businesses</p> <p>Breaking rules about max. capacity of STR: €2,500-€ 4,000 for individuals, €25,000-€40,000 for businesses</p> <p>Breaking safety, security, hygiene and other requirements: €125-€3,250 for individuals, €1,250-€32,500 for businesses</p> <p>Not following rules on identification and publicity (advertising): €50-€750 for individuals, €250-€7,500 for businesses</p> <p>+ suspension of registration or authorisation if repeated infractions</p> |
| Other measures | <p>Complaints from condominium/homeowners' association against STR need to be addressed to the Mayor</p> <p>Other complaints need to be made to the respective agency (waste, nuisance, etc.)</p> |
| AGREEMENT WITH PLATFORMS | |
| Information display requirements | Registration number must be displayed by platforms on all listings |
| Data sharing with public authorities | |
| Time cap enforcement | n/a |
| Tax collection agreement (tourist/city tax) | Yes. Agreement between the Municipality of Lisbon and Airbnb was signed in April 2016. Operators or hosts using other platforms have to register with the City Council's online portal for payment of tourist tax |

Table 5.6. Regulation of STR in LONDON (UNITED KINGDOM)

| REGULATIONS | | | |
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| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> Deregulation Act 2015, section 44 (amended the Greater London Council (General Powers) Act 1973 that prohibited use of a property as “temporary sleeping accommodation” without planning permission from local planning authority) <p>Regional:</p> <ul style="list-style-type: none"> <i>London Plan</i> (new version approved in March 2021) <p>Municipal:</p> <ul style="list-style-type: none"> Local plan of each the 32 London Boroughs + City of London (relevant policies on changes of use from residential to other uses) | | |
| Official guidance on STR | https://www.london.gov.uk/what-we-do/housing-and-land/improving-private-rented-sector/short-term-and-holiday-lets-london | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | Operator must be Council Tax or Business Tax payer associated with property | Host must be Council Tax payer associated with property (owner occupier or tenant) | Host must be Council Tax payer associated with property (owner occupier or tenant) |
| Authorisation/license requirements (for activity or for change of use) | Full planning permission needed to transform property used as permanent housing (class C3) into STR (class C1 or sui generis of the <i>Town and Country Planning (Use Classes) Order 1987</i>) | No | No |
| Registration requirement | No | No However: Mayor of London and Councils have called on central government to introduce registration system for STR of less than 90 days/year to protect housing for long-term residents (Mayor of London, 2019) | No |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | 90 days / year | |
| Space limit / max. number of guests | | | |
| Safety and quality standards | Normal gas, fire and safety checks applying to rental property | Normal gas, fire and safety checks applying to rental property | Normal gas, fire and safety checks applying to rental property |
| Requirements for permission to use the property as STR from relevant private parties | Yes From: mortgage provider; insurer; freeholder (if owner is on a leasehold) | Yes From: landlord (if host is a tenant); mortgage provider; insurer; freeholder (if owner is on a leasehold) | Yes From: landlord (if host is a tenant); mortgage provider; insurer; freeholder (if owner is on a leasehold) |
| Guest reporting requirements (for public order, immigration or statistical purposes) | | | |
| Other requirements or restrictions | Social housing providers (councils/housing associations) prohibit tenants from sub-letting and from letting short-term. Many also prohibit STR for leaseholders | Social housing providers (councils/housing associations) prohibit tenants from sub-letting and from letting short-term. Many also prohibit STR for leaseholders | ‘Rent-a-room’ scheme acts as incentive (UK government has set “tax-free” threshold below which owner-occupier (or tenant) does not have to declare income earned from room rental) |
| Subject to tourist or city tax | n/a | n/a | n/a |

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| Quantitative or geographical restrictions of STR at the city or neighbourhood level | A local authority (the 32 London Boroughs + the City of London) can include policies in its Local Plan that discourage the conversion of permanent housing into STR/holiday lets, e.g. Camden or Tower Hamlet Councils. In such cases, applications for conversion of residential properties into STR are often refused (GLA, 2020) | According to Section 44 of the <i>Deregulation Act 2015</i> , a local authority may apply to the Secretary of State for localised exemption from the 90-day rule if it is 'necessary to protect the amenity of the locality'. Westminster City Council is the only London Borough to have applied for this, which was met by rejection in May 2016 | No |
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IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Planning enforcement teams in each London borough (not specific to STR - have to control all suspected breaches of planning regulations). Often small and under-resourced in light of the tasks at hand |
| Channels for reporting illegalities | Different types of complaints can be made, by reporting (usually online): <ul style="list-style-type: none"> • suspected breaches of planning regulations (unit let for more than 90 nights a year) • a social housing tenant letting their flat as a holiday home • noise nuisance or anti-social behaviour |
| Fines for non-compliance | Local authorities can serve enforcement notices on property owners breaching planning law (e.g. by using property as STR more than 90 days/year without permission). Non-compliance with Enforcement Notice a criminal offence facing unlimited fine (previously £20,000) in Magistrates' or Crown Court. See GLA (2020) for data on Planning Contravention and Enforcement Notices served by 5 London boroughs in 2015-2019 |
| Other measures | |

AGREEMENT WITH PLATFORMS

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| Information display requirements | Platforms have to inform STR advertisers of the 90-day rule |
| Data sharing with public authorities | No. Platforms are not currently required to share data on individual properties that exceed the 90-night limit with public authorities |
| Time cap enforcement | Yes. Airbnb, HomeAway and TripAdvisor have agreed to suspend listings of primary residences rented out for more than 90 days/year |
| Tax collection agreement (tourist/city tax) | n/a |

Table 5.7. Regulation of STR in MADRID (SPAIN)

| REGULATIONS | | | |
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| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> National Law of Urban Leases (<i>Ley de Arrendamientos Urbanos</i>) stipulates min. of 31 days for normal rental agreements. From 2013 onwards, tourism accommodation excluded from this law and responsibility transferred to regional governments National tax law (<i>Real Decreto 1070/2017</i>): contested in Court and in the process of being redrafted (see below) <p>Regional:</p> <ul style="list-style-type: none"> Law 1/1999 of Tourism of the <i>Comunidad de Madrid</i> Decree 79/2014 regulating tourist flats and dwellings for tourist use, modified by Decree 29/2019: defined category 'dwelling for touristic use' (<i>vivienda de uso turístico</i>), distinct from category 'tourist flat' (<i>apartamento turístico</i>, which corresponds to managed serviced apartments in dedicated blocks, e.g. "apart-hotels") <p>Municipal:</p> <ul style="list-style-type: none"> As part of the city's urban planning competences: a special plan for the regulation of accommodation services (PEH, <i>Plan Especial de Hospedaje</i>, in full: <i>Plan Especial de Regulación del uso de Servicios Terciarios en la clase de Hospedaje</i>) was approved in March 2019. Following a change of municipal government, it is most likely going to be revised in 2021/2022. | | |
| Official guidance on STR | No dedicated information website. The above-mentioned plan is available at: https://transparencia.madrid.es/portales/transparencia/es/Medio-ambiente-y-urbanismo/Urbanismo/Planeamiento-urbanistico/Plan-Especial-de-regulacion-del-uso-de-servicios-terciarios-en-la-clase-de-hospedaje/?vgnnextfmt=default&vgnnextoid=b71cbc8d3c9f4610VgnVCM1000001d4a900aRCD&vgnnextchannel=eae9508929a56510VgnVCM1000008a4a900aRCD | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | Category of 'dwelling for touristic use' (<i>vivienda de uso turístico</i>): furnished flats or houses regularly rented out in their entirety for tourist accommodation purposes, in condition of immediate availability | Initially, regional law (Decree 79/2014) spelled out a 90-day threshold to distinguish between STR type (i) and (ii), but this temporal specification was abolished with Decree 29/2019. This means that the occasional rental of a primary residence (as a whole unit) for less than 90 days is subject to same rules as professional STR (type i) | Legal void. This practice is not recognised or defined in the regional law that categorises different forms of tourism accommodation |
| Authorisation/license requirements (for activity or for change of use) | Yes: considered a "tertiary (service) use – accommodation category" (in the 2019 Special Plan for Tourism Accommodation) and thus subject to a license of activity The Special Plan defines where and under which conditions such a use can be allowed (see below) | Yes: considered a "tertiary (service) use – accommodation category" (in the 2019 Special Plan for Tourism Accommodation) and thus subject to a license of activity The Special Plan defines where and under which conditions such a use can be allowed (see below) | |
| Registration requirement | Yes: "declaration of responsibility" that states compliance with the regulations+ possession of necessary licenses/authorisations Registration with the regional Register of Tourism Enterprises is optional | Yes: "declaration of responsibility" that states compliance with the regulations+ possession of necessary licenses/authorisations Registration with the regional Register of Tourism Enterprises is optional | |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | Initially, regional law (Decree 79/2014) spelled out a 90-day threshold to distinguish between STR type (i) and (ii), but this temporal specification was abolished with Decree 29/2019. This means that the occasional rental of a primary residence (as a whole unit) for less than 90 days is subject to same rule as professional STR (type i) | |

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| Space limit / max. number of guests | <p>a) For homes of less than 25 m², up to 2 people, in at least 1 room</p> <p>b) For homes between 25 m² and 40 m², up to 4 people, in at least 2 rooms</p> <p>c) For every additional 10 m² in at least 1 more independent room, 2 more people</p> | <p>a) For homes of less than 25 m², up to 2 people, in at least 1 room</p> <p>b) For homes between 25 m² and 40 m², up to 4 people, in at least 2 rooms</p> <p>c) For every additional 10 m² in at least 1 more independent room, 2 more people</p> | |
| Safety and quality standards | <p>The Regional Decree 2019 requests a Certificate of Conformity (<i>Certificado de idoneidad para las viviendas de uso</i>, CIVUT) prepared by an architect, that guarantees: at least one direct source of ventilation open to the outside; one manual fire extinguisher; signage for emergency fire evacuation</p> <p>Phone number of landlord/operator + of emergency services posted in the unit in English and Spanish</p> <p>Official complaint book</p> <p>Civil liability insurance</p> | <p>The Regional Decree 2019 requests a Certificate of Conformity (<i>Certificado de idoneidad para las viviendas de uso</i>, CIVUT) prepared by an architect, that guarantees: at least one direct source of ventilation open to the outside; one manual fire extinguisher; signage for emergency fire evacuation</p> <p>Phone number of landlord/operator + of emergency services posted in the unit in English and Spanish</p> <p>Official complaint book</p> <p>Civil liability insurance</p> | As per 'Certificate of Habitability' = standards required for normal residential homes |
| Requirements for permission to use the property as STR from relevant private parties | <p>Condominium/homeowners' association can vote for blanket ban on use of flats as STR in residential building (at 3/5 majority since Decree 7/2019 changed national law of <i>Propiedad Horizontal</i>)</p> | <p>Condominium/homeowners' association can vote for blanket ban on use of flats as STR in residential building (at 3/5 majority since Decree 7/2019 changed national law of <i>Propiedad Horizontal</i>)</p> | |
| Guest reporting requirements (for public order, immigration or statistical purposes) | <p>Communication of guests' details to police (via online system)</p> | <p>Communication of guests' details to police (via online system)</p> | |
| Other requirements or restrictions | <p>Make available to guests guidance on civility and good behaviour in building. If guests do not respect rules, operator must ask them to abide or leave accommodation immediately</p> | <p>Make available to guests guidance on civility and good behaviour in building. If guests do not respect rules, operator must ask them to abide or leave accommodation immediately</p> | |
| Subject to tourist or city tax | n/a | n/a | n/a |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | <p>Jan. 2018: Madrid city government declared moratorium on granting of new licenses. Special Accommodation Plan (PEH, <i>Plan Especial de usos del Hospedaje</i>) approved in March 2019 to regulate conditions under which use of a unit as STR can be allowed in a building. Plan creates 3 concentric zones (<i>anillos</i>) in which different rules apply. In 2 central ones (historic centre and surroundings): STR unit in a residential building must have a separate access (entrance and lift) 'without using common elements of the building'. In a city made of apartment blocks, this only allows ground-floor STR and <i>de facto</i> turned 95% of the existing online STR listings in Madrid (approximately 10,000 flats) into illegal ones.</p> <p>This Plan is currently being revised after a change of local government in May 2019. New plan will probably be less restrictive</p> | <p>Jan. 2018: Madrid city government declared moratorium on granting of new licenses. Special Accommodation Plan (PEH, <i>Plan Especial de usos del Hospedaje</i>) approved in March 2019 to regulate conditions under which use of a unit as STR can be allowed in a building.</p> <p>When Plan was prepared, it was meant to apply only to STR that are let out more than 90 days according to regional legislation. But that legislation was modified by Decree 29/2019 two weeks after Municipal Plan was approved (see above): occasional rental of a primary residence (as a whole unit) for less than 90 days is now subject to same rules as professional STR (type i) – see column on the left</p> | |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Agency of Economic Activities (<i>Agencia de Actividades</i>) of city government: in charge of processing license applications and inspecting flats suspected of illegality. Team of 22 inspectors recruited in mid-2018 to start special campaign of STR inspections (continued in 2019 and 2020). 932 flats inspected in 2020, leading to 278 proceedings for closure |
| Channels for reporting illegalities | Through contact with the above-mentioned agency. |
| Fines for non-compliance | No fines, but inspectors can start proceedings for the closure of any unlicensed business activity |
| Other measures | |

AGREEMENT WITH PLATFORMS

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| Information display requirements | Regional law does not explicitly make registration number compulsory on listings advertised by platforms |
| Data sharing with public authorities | None at the local or regional level At the national level: according to change in national tax law (<i>Real Decreto 1070/2017</i>), as of 1/01/2019, STR platforms had to send Spanish tax authorities details of all their operations in Spain, including: identity of owner of STR unit, address, number of days of occupation, revenues collected. This obligation was cancelled by Supreme Court judgement of 23/07/2020 but it is foreseen that it might be reinstated for the 2021 tax year following a newly approved national law. |
| Time cap enforcement | |
| Tax collection agreement (tourist/city tax) | |

Table 5.8. Regulation of STR in MILAN (ITALY)

| REGULATIONS | | | |
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| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> • Law of 9/12/1998 + art. 53 of Tourism Code (Legis. Decree 79/2011) + art. 1571 of Civil Code: define concept of 'tourist rental' without services to guests (<i>Locazione Turistica - locazione pura</i>, short lets, <i>affitti brevi</i> or <i>affitti liberi</i>) • Decree 50/2017: clarifies fiscal regimes for 'tourism rental' (allowing 21% flat tax) • Decree 113/2018: obligation to communicate guests ID to national police • Decree 34/2019: introduces a national database for identification of tourist rental (but not implemented so far) <p>Regional:</p> <ul style="list-style-type: none"> • In Italy, tourism is exclusive competence of regions. Regional regulations define different types of tourism hospitality establishments (both professional and non-professional) • In Lombardia: Regional Law no. 27 of 1/10/2015 on Tourism (modified in 2018) <p>Municipal:</p> <ul style="list-style-type: none"> • Implementation of regional tourism regulations + municipal notification/communication of activity scheme | | |
| Official guidance on STR | http://normelombardia.consiglio.regione.lombardia.it/NormeLombardia/Accessibile/main.aspx?exp_coll=lr002015100100027&view=showdoc&iddoc=lr002015100100027&sel-node=lr002015100100027 https://fareimpresa.comune.milano.it/strutture-ricettive | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | <p><i>Case e Appartamenti per Vacanze</i></p> <p>Furnished accommodation (+ possibly complementary services, such as cleaning) in residential units, or parts of them</p> <p>Can be professional or non-professional. Considered as a non-professional activity if operator rents out less than 3 units in the region on a non-continuous basis (observing a period of interruption of at least 90 days a year). Professionals must register with Chamber of Commerce</p> | <p><i>Alloggi per uso turistico</i></p> <p>(not more than 30 days per guest)</p> <p>Allowed in primary and secondary residences, as far as conducted without providing any services to guests (e.g. no food, no-daily cleaning)</p> | <p><i>Alloggi per uso turistico</i></p> <p>(not more than 30 days per guest)</p> <p>Allowed in primary and secondary residences, as far as conducted (without providing any services to guests (e.g. no food, no daily cleaning)</p> |
| Authorisation/license requirements (for activity or for change of use) | No | No | No |
| Registration requirement | Yes Communication of start/end of activity to Municipality + Requirement to apply for a Regional Identification Code for each rented unit (<i>Codice Indentificativo di Riferimento</i> , CIR) that must be displayed on all advertising | Yes Communication of start/end of activity to Municipality + Requirement to apply for a Regional Identification Code for each rented unit (<i>Codice Indentificativo di Riferimento</i> , CIR) that must be displayed on all advertising | Yes Communication of start/end of activity to Municipality + Requirement to apply for a Regional Identification Code for each rented unit (<i>Codice Indentificativo di Riferimento</i> , CIR) that must be displayed on all advertising |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | For rentals by non-professional providers, regional regulations prescribe max. number of 3 apartments + period of inactivity of at least 90 days a year | | |
| Space limit / max. number of guests | | | |
| Safety and quality standards | Standard construction and hygiene rules applying to residential units Compulsory insurance | Standard construction and hygiene rules applying to residential units | Standard construction and hygiene rules applying to residential units |

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| Requirements for permission to use the property as STR from relevant private parties | No (unless prohibition through modification of bylaws by condominium/owners' association) Rent to rent agreements are possible | No (unless prohibition through modification of bylaws by condominium/owners' association) Rent to rent agreements are possible | No (unless prohibition through modification of bylaws by condominium/owners' association) Rent to rent agreements are possible |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Obligation to communicate guests ID to national police (via online portal <i>Alloggiatiweb</i>) | Obligation to communicate guests ID to national police (via online portal <i>Alloggiatiweb</i>) | Obligation to communicate guests ID to national police (via online portal <i>Alloggiatiweb</i>) |
| Other requirements or restrictions | Obligation to communicate statistics on tourist flows to the Regional Tourism Observatory | Obligation to communicate statistics on tourist flows to the Regional Tourism Observatory | Obligation to communicate statistics on tourist flows to the Regional Tourism Observatory |
| Subject to tourist or city tax | Yes (for a max. of 10 consecutive days) | Yes (for a max. of 10 consecutive days) | Yes (for a max. of 10 consecutive days) |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | | | |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Inspections Staff: ~10 inspectors from the Budget and Revenues Dep. (in 2017) |
| Channels for reporting illegalities | Third parties can comply to the municipality about illegal rentals (no specific channel for STR) |
| Fines for non-compliance | €2,000-€20,000 for operators that do not communicate the start of the activity to the municipality €2,000 -€10,000 for operators that do not comply with other CAV requirements €500-€2,500 for non-visible or fake display of identification code (CIR) € 250-€ 2,500 for each month of omitted or incomplete communication of tourist flows € 250 for unjustified refusal of access to inspectors |
| Other measures | Online searchable regional register of registered STR |

AGREEMENT WITH PLATFORMS

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| Information display requirements | Regional Identification Code must be displayed on all listings |
| Data sharing with public authorities | Decree 50/2017 requires intermediaries (platforms) to communicate data on individual (non-business) STR operators and their activities to national tax authorities, and to automatically deduct (and transmit), via the platform, a 21% flat tax on the rental income generated. Airbnb has refused to comply and started legal proceedings to contest the law. In Sept. 2019 the Italian Council of State referred the matter to the CJEU to establish whether obligations introduced by Italian law are compatible with EU legislation |
| Time cap enforcement | n/a |
| Tax collection agreement (tourist/city tax) | Yes: agreement between Municipality of Milan and Airbnb (signed in March 2018 and following a first agreement signed in November 2015) |

Table 5.9. Regulation of STR in PARIS (FRANCE)

| REGULATIONS | | | |
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| Tier(s) of government & relevant legislation or policies | <p>National: various pieces of legislation on tourism, on housing and on the digital economy</p> <ul style="list-style-type: none"> • National Tourism Code (art. L. 324-1-1 defines STR Type i) • National Code for Construction and Housing (art. L 631-7-L. 631-9 on change of use; art. L 652-1 and 2) + definition of a primary residence (more than 8 months/year) • National Code of Urban Planning (art. R151-27-R151-29 + R421-17 on 'destinations' of buildings) • Law 2009-888 (<i>Meublés Touristiques/ Location meublée de courte durée</i>): obligation of declaration of STR type i • Law 2014-366 (<i>ALUR Accès au Logement et Urbanisme Rénové</i>): residential property rented on a short-term basis deemed a commercial operation that requires authorisation for change of use • Law 2016-1321 (<i>République Numérique</i>): allows cities over 200,000 inhabitants to set up registration system for STR and require STR platforms to include registration number in listings • Law 2018-1021 (<i>ELAN Evolution du Logement, de l'Aménagement et du Numérique</i>) + Law 2019-1461 (<i>Engagement et Proximité</i>): require platforms to share list of individualized STR with city governments where registration system is in place (details clarified in Decree 2020-1479) <p>Regional: n/a</p> <p>Municipal:</p> <ul style="list-style-type: none"> • Municipal rules on 'changes of usage' of a residential unit + local urban planning document (PLU) (Code of Construction and Housing, Section 2, chapter 1, III) • Municipal rules on registration system for STR type (ii) • Compensation mechanism (Code of Construction and Housing, art. R111-2) | | |
| Official guidance on STR | <p>https://www.paris.fr/pages/meubles-touristiques-3637</p> <p>*Compensation mechanism: https://pro.parisinfo.com/reglementations-et-qualite/hebergements-et-restauration/meubles-de-tourisme/reglementation-des-meubles-de-tourisme</p> | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | <p><i>Meublé de tourisme</i>: furnished, whole unit rented out to 'transient customers' on a short-term basis (any duration below 90 consecutive days for one guest)</p> <p>Second homes rented short-term fall under this category</p> <p>A special 9-month contract exists for students ("<i>bail mobilité</i>")</p> | <p><i>Meublé de tourisme</i>: furnished, whole unit rented out to 'transient customers' on a short-term basis (any duration below 90 consecutive days for one guest)</p> <p>Prohibited for second homes</p> | <p><i>Chambre chez l'habitant</i></p> <p>Allowed in primary residence</p> <p>If the rental of rooms is a professional, commercial activity accompanied by a service (usually breakfast) + a private bathroom for guests, it falls under the long-standing regulations of "chambres d'hôtes" (professional B&B) with a specific declaration</p> |
| Authorisation/license requirements (for activity or for change of use) | <p>Yes.</p> <ul style="list-style-type: none"> • If unit was residential before start of STR, 2 authorisations: <p>1) <u>Authorisation for change of 'usage'</u> from 'residential' to 'commercial' (under Code of Construction & Housing). Subject to compensation/off-setting requirement = purchase of equivalent surface area of commercial space that will be transformed into residential space.* Surface area to be 'compensated' varies across districts (in special zones, compensation has to be double)</p> <p>2) <u>Authorisation for change of 'destination'</u> from housing to commercial - 'hotel accommodation' (under Local Urban Plan (PLU) and Code of Urban Planning)</p> <ul style="list-style-type: none"> • If unit was commercial (not residential) before start of STR (former retail or office unit): only the authorisation for change of destination is compulsory (e.g. from 'office space' to 'hotel accommodation') | <p>No (if primary residence, rented out less than 120 days a year)</p> | <p>No</p> |

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| Registration requirement | Yes Compulsory online declaration with city government + registration number to be displayed on advert | Yes Compulsory online declaration with city government + registration number to be displayed on advert | No |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | Primary residence only: allowed up to 120 days per year Secondary home: prohibited (subject to Type 1 requirements if rented out short-term) | |
| Space limit / max. number of guests | | | No But if <i>chambre d'hôtes</i> (professional B&B): < 5 rooms / < 15 guests |
| Safety and quality standards | Minimum standards for 'decent housing' set by national law + smoke detector + minimum standards of furnishing | Minimum standards for 'decent housing' set by national law + smoke detector + minimum standards of furnishing | Minimum standards for 'decent housing' set by national law + smoke detector |
| Requirements for permission to use the property as STR from relevant private parties | For landlords: authorisation needed from condominium/homeowners' association. Many <i>copropriétés</i> prohibit the exercise of any activity in residential buildings | For tenants: authorisation from landlord For landlords: authorisation needed from condominium/homeowners' association | For tenants: authorisation from landlord |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Operators have to request guests who are not French nationals to fill in an 'individual police form', to be retained for 6 months | Operators have to request guests who are not French nationals to fill in an 'individual police form', to be retained for 6 months | Operators have to request guests who are not French nationals to fill in an 'individual police form', to be retained for 6 months |
| Other requirements or restrictions | Prohibited in social housing | Prohibited in social housing + Prohibited in second homes (which are subject to Type i requirements if rented out short-term) | Prohibited in social housing |
| Subject to tourist or city tax | Yes | Yes | Yes if <i>chambre d'hôtes</i> (professional B&B) |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | No [but "offsetting" principle + mechanism to prevent net loss of permanent residential space] On 13/04/2021, City Council discussed idea of implementing quotas in neighbourhoods with concentrations of STR | | |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Digital scraping, inspections Staff: 35 inspectors from municipal Housing Department - Office for the Protection of Housing (<i>Bureau de la Protection des Locaux d'Habitation</i>) 2017: 212 proceedings against illegal STR |
| Channels for reporting illegalities | Yes (via email to above-mentioned office) |

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| Fines for non-compliance | <p>For landlords/hosts:</p> <p>For Type 1</p> <ul style="list-style-type: none"> • Lack of registration, or lack of display of registration number on listing: fine of €5,000 • Operating an STR without authorisation for 'change of usage': fine up to €50,000 per unit + up to €1,000/day/m² until regularization of the situation. In case of fake declaration or dissimulation of the unit: jail up to one year and fine of €80,000 • Operating an STR without authorisation for change of destination: up to 25,000 per unit <p>For Type 2:</p> <ul style="list-style-type: none"> • Lack of registration, or lack of display of registration number on listing: fine of €5,000 • STR more than 120 days of year: fine of up to €10,000 <p>For platforms:</p> <ul style="list-style-type: none"> • Lack of display of registration number on listings: €12,500 per listing (In February 2019 the Mayor of Paris lodged a court case in order to fine Airbnb €12.625 million for the publication of 1,010 listings that did not display a registration number) • Lack of transfer of legally required annual data on listings (see below) or lack of suspension of STR Type 2 listings above 120 days: up to €50,000 per listing |
| Other measures | Public register of authorized STR Type 1 in Paris: https://opendata.paris.fr/explore/dataset/registre-des-autorisations-de-changement-dusage-pour-les-meubles/information/?disjunctive.ondissement |
| AGREEMENT WITH PLATFORMS | |
| Information display requirements | <p>Platforms obliged to: ask hosts to declare if the advertised unit is their primary home + require hosts to include registration number in their listing and to suspend listings that do not show a registration number. To date this was unevenly applied (at the end of 2020 more than 60% of listings on Airbnb did not have a registration number (Cox and Haar, 2020)). In 2019 the city government fined Airbnb €12.5m in court for continuing to advertise 1,010 listings without a registration number (fine contested by the company)</p> <p>But Airbnb announced on its website that:</p> <ul style="list-style-type: none"> - as of 30/03/2021, new entire home listings available for short term rentals will have to display a registration number - as of 30/06/2021, entire home listings already published that do not have registration number will no longer be available for STR. However, they will still be available to be rented with 'mobility leases' or for long stays (min. 365 days) |
| Data sharing with public authorities | Since 1/12/2019: in French cities where registration system is in place, all platforms must supply the city government with a list of whole units advertised/rented the previous year (with host's name, address, email address, status of the property (primary or secondary home), STR registration number, number of nights rented out, total gross income earned). But: reports of data being incomplete, with missing information in individual entries |
| Time cap enforcement | Yes: platforms have to block any Type ii listing (hosts renting primary residence) after 120 days. In January 2019 Airbnb set up an automatic limit to block listings when they reach 120 days of reservation per year, but only for those in the 1/2/3/4 th arrondissements. Hosts can easily claim exemption without validation |
| Tax collection agreement (tourist/city tax) | Yes: agreement with Airbnb (in 2015) for tourist tax collection via platform |

Table 5.10 Regulation of STR in PRAGUE (CZECH REPUBLIC)

| REGULATIONS | | | |
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| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> Trade Licensing Act 455/1991 Coll.: §17(4) allows a business (e.g. provision of accommodation services) in an apartment, if the establishment complies with specific legal regulations such as safety, hygiene and building rules. Spatial Planning and Building Regulations Act 183/2006 Coll.: building permit stipulates use of a building. Change in use only permissible with permission of building authority. Act distinguishes between residential apartment building, accommodation facility (hotel) or other uses. Community activists argue that this does not allow the location of an ‘accommodation services’ establishment in a residential building approved for housing without permission (this is an area of debate) Act 189/2020 Coll. amending Act 159/1999 Coll., on the Performance of Certain Activities in the Field of Tourism: platforms (as intermediaries of tourist accommodation) are obliged to share information on concluded contracts (within 30 days) with municipal trade licensing office (accommodation provider, no. of concluded contracts, total price, address of apartment). Trade licensing offices will be able to transfer data to ‘another body exercising public power on the basis of its request’ <p><u>Note:</u> in 2020, two bills were submitted to the Czech parliament. As of April 2021, neither of these bills had yet been discussed:</p> <ul style="list-style-type: none"> a proposal by Prague City Council to modify the Trade Licensing Act to give more powers to municipalities to regulate STR (e.g. by setting a max. number of guests and max. number of nights up to which a primary home can be rented out) a proposal by a group of MPs setting out conditions for platform-mediated STR accommodation: giving municipalities power to set conditions for STR; giving condominium/homeowners’ association power to accept or prohibit STR; setting a 30 days/year threshold beyond which an operator/host would be defined as an ‘entrepreneur’ under the Trade Licensing Act (regardless of whether the STR unit is his/her primary residence). <p>Regional: n/a</p> <p>Municipal:</p> <ul style="list-style-type: none"> Prague City Council Building Regulations + Spatial Plan of the capital of the City of Prague (defines areas zoned ‘residential’, with implications for allowed land uses) The City Council has set up a Commission for Short-Term Accommodation in 2019, which is working on developing regulatory proposals. Any proposal will require new national legislation to empower local governments. | | |
| Official guidance on STR | | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | Provision of an accommodation service is a ‘free trade’ under the Trade Licensing Act. It is defined as field of business activity No. 55 in Decree 278/2008 Coll.xiv: “Providing accommodation in all accommodation facilities (such as hotel, motel, camp, hostel) and in apartment buildings, family houses or in buildings for family recreation. In the case of accommodation in apartment buildings, family houses or in buildings for family recreation with a capacity of up to 10 beds (including extra beds), breakfast is served to guests.” | No specific regulations for this category for the moment | If this is a regular, commercial activity (= B&B), Trade Licensing Act provisions apply |

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| Authorisation/license requirements (for activity or for change of use) | Yes: trade license. Providing accommodation services on a regular basis is a business. Owner/operator must declare establishment to local Trade Licensing Office + identify establishment with a visible sign Establishment has to comply with safety, hygiene, building and other regulations. In theory: building regulations do not allow location of 'accommodation services' establishment in a residential building previously approved for residential use. Community activists argue that a STR (type i) operator would have to apply for permission to local building authorities. In practice, this often does not happen | No | Yes if a business No if occasional |
| Registration requirement | No | No | No |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | | |
| Space limit / max. number of guests | | | |
| Safety and quality standards | In theory: standards applying to the relevant 'trade' category under the Trade Licensing Act Some campaigners want to increase the standards for STR Type i to those expected of hotels | | |
| Requirements for permission to use the property as STR from relevant private parties | City councillors have pushed for a revision of the Civil Code to make the operation of a STR subject to consent of condominium/homeowners' association For a tenant: authorisation from landlord to run a business in the flat | | |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Obligation to keep guest register / notify Aliens Police of foreign guests | | |
| Other requirements or restrictions | | | |
| Subject to tourist or city tax | Yes. Obligation to register with municipal tax department to pay city tax | Yes. Obligation to register with municipal tax department to pay city tax | Yes. Obligation to register with municipal tax department to pay city tax |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | | | |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | Municipal trade licensing authorities: can verify whether STR operator has relevant trade license and establishment is duly registered and signposted. However: they do not examine compliance of establishment under building regulations and other sectorial laws Building department of local (district) authorities: responsible for assessing whether STR use is valid according to building permit and national/local planning and building regulations. According to Prague community activists: insufficient resources/lengthy response |
| Channels for reporting illegalities | Residents can report disturbances caused by occupants of STR flats to municipal police |
| Fines for non-compliance | Not having registered for appropriate trade licence: up to CZK 1 million Failing to register for payment of city tax: CZK 500,000 For platforms (since Act 189/2020): failing to communicate host and booking data to public authorities (see below): up to CZK 1 million |
| Other measures | |

| AGREEMENT WITH PLATFORMS | |
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| Information display requirements | |
| Data sharing with public authorities | Yes, in theory: Act 189/2020 (see above) requires platforms to share host and booking data with municipal trade licensing office. At the time of writing, it was not clear whether this is actually done by the various platforms active in the city |
| Time cap enforcement | n/a |
| Tax collection agreement (tourist/city tax) | No. In 2018, the city government discussed with Airbnb the possibility of a Memorandum of Cooperation for the collection and remittance of the city tax. To comply with Czech tax legislation, city authorities required the platform to communicate detailed information about hosts. The company argued that they could not communicate that data and the negotiations stopped in 2019. However, Airbnb agreed to provide individual host data to the Czech national tax authority (for VAT and income tax purposes), which has reportedly agreed to transfer the data to Prague City Council |

Table 5.11. Regulation of STR in ROME (ITALY)

| REGULATIONS | | | |
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| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> • Law of 9/12/1998 + art. 53 of Tourism Code (Legis. Decree 79/2011) + art. 1571 of Civil Code: define concept of 'tourist rental' without services to guests (<i>Locazione Turistica - locazione pura, short lets, affitti brevi or affitti liberi</i>) • Decree 50/2017: clarifies fiscal regimes for 'tourism rental' (allowing 21% flat tax) • Decree 113/2018: obligation to communicate guests ID to national police • Decree 34/2019: introduces a national database for identification of tourist rental (but not implemented so far) <p>Regional:</p> <ul style="list-style-type: none"> • In Italy, tourism is in exclusive competence of regions. Regional regulations define different types of tourism hospitality establishments (both professional and non-professional). • In Lazio: Regulation no. 14 of 16/06/2017 modifying Regulation no. 8 of 7/08/2015 (<i>Nuova disciplina delle strutture ricettive extralberghiere</i>) <p>Municipal:</p> <ul style="list-style-type: none"> • Implementation of regional tourism regulations + municipal notification/communication of activity scheme | | |
| Official guidance on STR | http://www.regione.lazio.it/prl_turismo/?vw=contenutidetail&id=126 https://www.comune.roma.it/web/it/servizi.page?stem=suar | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | <p><i>Case e Appartamenti per Vacanze</i></p> <p>Furnished accommodation, offered for use by tourists, that does not entail centralized services nor the administration of food and drinks. Cannot host permanent residents</p> <p>Can be professional or non-professional. Considered as a professional activity if operator runs 3 units or more in the same municipality (this has implications in terms of taxation). Professionals must register with Chamber of Commerce</p> | <p><i>Alloggi per uso turistico</i> (not more than 30 days per guest)</p> <p>Allowed in primary and secondary residences, as far as conducted in 'occasional, non-organised and non-entrepreneurial' way without providing any services to guests (e.g. no food)</p> <p>Each operator ('owners, tenants or those who in any way dispose of them regularly') can rent out a max. of 2 apartments in the same municipality</p> | <p><i>Alloggi per uso turistico</i> (not more than 30 days per guest)</p> <p>Allowed in primary and secondary residences, as far as conducted in 'occasional, non-organised and non-entrepreneurial' way without providing any services to guests (e.g. no food)</p> <p>Each operator ('owners, tenants or those who in any way dispose of them regularly') can rent out a max. of 2 apartments in the same municipality</p> |
| Authorisation/license requirements (for activity or for change of use) | No | No | No |
| Registration requirement | <p>Yes</p> <p>Certified Notification of start/end of the activity to Municipality (<i>Segnalazione Certificata Inizio Attività, SCIA</i>), then transferred to Region. SCIA has a duration of 3 years</p> <p>+ Requirement to apply for a Regional Identification Code (obtained after SCIA) that must be displayed on all advertising</p> | <p>Yes</p> <p>Simple Communication form to Municipality (see below), then transferred to Region</p> <p>+ Requirement to apply for a Regional Identification Code (obtained after Communication) that must be displayed on all advertising</p> | <p>Yes</p> <p>Simple Communication form to Municipality (see below), then transferred to Region</p> <p>+ Requirement to apply for a Regional Identification Code (obtained after Communication) that must be displayed on all advertising</p> |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | | |
| Space limit / max. number of guests | | | |
| Safety and quality standards | Standard construction and hygiene rules applying to residential units | Standard construction and hygiene rules applying to residential units | Standard construction and hygiene rules applying to residential units |

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| Requirements for permission to use the property as STR from relevant private parties | No (unless prohibition through modification of bylaws by condominium/owners' association) Rent to rent agreements are possible | No (unless prohibition through modification of bylaws by condominium/owners' association) Rent to rent agreements are possible | No (unless prohibition through modification of bylaws by condominium/owners' association) Rent to rent agreements are possible |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Obligation to communicate guests ID to national police (via online portal <i>Alloggiatiweb</i>) | Obligation to communicate guests ID to national police (via online portal <i>Alloggiatiweb</i>) | Obligation to communicate guests ID to national police (via online portal <i>Alloggiatiweb</i>) |
| Other requirements or restrictions | Obligation to communicate statistics on tourist flows to Regional Tourism Agency | Obligation to communicate statistics on tourist flows to Regional Tourism Agency | Obligation to communicate statistics on tourist flows to Regional Tourism Agency |
| Subject to tourist or city tax | Yes (for a max. of 10 consecutive days) | Yes (for a max. of 10 consecutive days) | Yes (for a max. of 10 consecutive days) |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | | | |
| IMPLEMENTATION AND ENFORCEMENT | | | |
| Control and enforcement resources | Information not found | | |
| Channels for reporting illegalities | Third parties can notify the municipality about suspected illegal rentals | | |
| Fines for non-compliance | | | |
| Other measures | €5,000-€10,000 for non-compliance with the regional registration requirement + immediate termination of the activity in question | | |
| AGREEMENT WITH PLATFORMS | | | |
| Information display requirements | Regional Identification Code must be displayed on all listings | | |
| Data sharing with public authorities | Decree 50/2017 requires intermediaries (platforms) to communicate data on individual (non-business) STR operators and their activities to national tax authorities, and to automatically deduct (and transmit), via the platform, a 21% flat tax on the rental income generated. Airbnb has refused to comply and started legal proceedings to contest the law. In Sept. 2019 the Italian Council of State referred the matter to the CJEU to establish whether obligations introduced by Italian law are compatible with EU legislation | | |
| Time cap enforcement | n/a | | |
| Tax collection agreement (tourist/city tax) | Yes: agreement between Municipality of Rome and Airbnb (starting 1 July 2020) | | |

Table 5.12. Regulation of STR in VIENNA (AUSTRIA)

| REGULATIONS | | | |
|--|---|---|---|
| Tier(s) of government & relevant legislation or policies | <p>National:</p> <ul style="list-style-type: none"> National legislation on tax reporting and on Trade, Commerce and Industry Regulation National law on social housing (<i>Wohnungsgemein-Nützigkeitsgesetz</i>), 2019: explicit ban on STR in cooperative housing <p>Regional:</p> <ul style="list-style-type: none"> Vienna Tourism Promotion Act (<i>Wiener Tourismus-Förderungsgesetz</i>, WTFG), 2016: reporting obligation for hosts and platforms for city tax (entry into force in Feb. 2017 with transitional period until Aug. 2017) Vienna Building Regulations (<i>Bauordnung</i>), 2018 revision, § 7a(3): in Residential Zones, STR type (i) not allowed <p>Municipal:</p> <ul style="list-style-type: none"> Vienna is a region in the Austrian Federal system and has the competences of a <i>Land</i> and a city. See above | | |
| Official guidance on STR | https://www.wien.gv.at/wirtschaft/standort/share-economy/privat-vermieten.html | | |
| Type of STR | (i) Professional STR of a property not used as a primary/secondary residence | (ii) STR of (whole) primary/secondary residence (on an occasional basis) | (iii) STR of one or more rooms within primary residence |
| Definition | Short-term accommodation (less than 30 days) is covered by Trade Regulation Act: applies to all commercial activities that are carried out 'independently, regularly and with the intention of achieving a profit or economic advantage' | | If it is a regular activity with breakfast served: category guesthouse (<i>Freies Gastgewerbe</i> , not more than 10 beds) If it is a 'side activity' and breakfast is not served: category 'private room rental in a home as a side activity' which has a long tradition in Austria (<i>Privatzimmervermietung als häusliche Nebenbeschäftigung</i>) (not more than 10 beds); no persons from outside the household are employed in the activity |
| Authorisation/license requirements (for activity or for change of use) | Yes. Trade license (<i>Gewerbeberechtigung</i>) for hospitality industry (a regulated trade) is generally required | No | No, trace license not necessary if it is a private room rental as per above (registration with district authority) Yes, trace license necessary if it is a guest house as per above |
| Registration requirement | Yes For payment of city tax | Yes For payment of city tax | Yes For payment of city tax |
| Time limit (max. cumulative number of days allowed for STR Type ii and iii) | | | |
| Space limit / max. number of guests | | | Up to 10 beds |
| Safety and quality standards | Specific conditions set in the trade licence | | Specific conditions set in the trade licence |
| Requirements for permission to use the property as STR from relevant private parties | Yes, from: landlord if host is a tenant (sub-letting often not allowed); condominium/owners' association if host is a homeowner in a multi-unit apartment block (Supreme Court judgement of 2014) | Yes, from: landlord if host is a tenant (sub-letting often not allowed) | Yes, from: landlord if host is a tenant (sub-letting often not allowed) |
| Guest reporting requirements (for public order, immigration or statistical purposes) | Obligation to maintain a guest register (in paper or digital) Obligation to report number and nationality of guests every month for tourism statistics (online) | Obligation to maintain a guest register (in paper or digital) Obligation to report number and nationality of guests every month for tourism statistics (online) | Obligation to maintain a guest register (in paper or digital) Obligation to report number and nationality of guests every month for tourism statistics (online) |
| Other requirements or restrictions | Prohibited in public city-owned flats (<i>Gemeindewohnungen</i>) and flats run by co-operative housing associations under section 11 of Tenancy Act (<i>Mietrechtsgesetz</i>) | Prohibited in public city-owned flats (<i>Gemeindewohnungen</i>) and flats run by co-operative housing associations under section 11 of Tenancy Act (<i>Mietrechtsgesetz</i>) | Prohibited in public city-owned flats (<i>Gemeindewohnungen</i>) and flats run by co-operative housing associations under section 11 of Tenancy Act (<i>Mietrechtsgesetz</i>) |

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| Subject to tourist or city tax | Yes STR operators liable to collect and pay city tax by 15 th day of following month for paid stays in previous month (done through an online account following registration) | Yes Hosts liable to collect and pay city tax by 15 th day of following month for paid stays in previous month (done through an online account following registration) | Yes Hosts liable to collect and pay city tax by 15 th day of following month for paid stays in previous month (done through an online account following registration) |
| Quantitative or geographical restrictions of STR at the city or neighbourhood level | Yes Since December 2018, in specific Residential Zones (<i>Wohnzonen</i>), the regular, commercial letting of residential space for short-term accommodation is prohibited. The zones are indicated in the local zoning and urban development plan (mostly inside the Ring, the historic centre) Exceptions can be permitted if 'in residential areas the used area in the building for dwellings is not less than 80% of the sum of the usable areas of the main floors, but excluding the first floor' (Art 7(3) of Vienna Building Regulation) | No Municipal guidance specifies that prohibition of STR in Residential Zones does not apply to people who occasionally rent out their own living space in order to "earn some extra money", if in terms of time and space their own use for residential purposes continues to predominate and the living space is therefore not withdrawn from the housing market. But there is no threshold of time and space specified in the regulation to distinguish, so case-law will be needed to clarify that in contentious cases | |

IMPLEMENTATION AND ENFORCEMENT

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| Control and enforcement resources | City tax: Municipal Department 6 (Accounting Services, Duties and Charges) has a task force for enforcing payment. Number of STR providers in private homes dutifully reporting to Municipal Department 23 for tax purposes has risen significantly (from 61 in 2013 to about 2,300 in March 2018) Prohibition of STR type (i) in Residential Zones: building control team (<i>Baupolizei</i>) of Municipal Department 37 is responsible for control of suspected reported illegalities. As of Jan. 2020: 80 buildings had been inspected, leading to some sanctions. But no fine had been paid yet as the affected parties have contested the sanctions in from of the Administrative Court Wien ORF, 2020) |
| Channels for reporting illegalities | Citizens can contact the building control team (<i>Baupolizei</i>) |
| Fines for non-compliance | Non-compliance with obligation to report details of bookings to tax authorities: €2,100 Illegal letting of a commercial STR in a Residential Zone (<i>Wohnzone</i>): up to €50,000 |
| Other measures | |

AGREEMENT WITH PLATFORMS

| | |
|--|---|
| Information display requirements | |
| Data sharing with public authorities | City authorities sent a list of illegal STR located in municipal (social) housing to platforms, asking them to remove those listings. Airbnb refused to comply – in 2020 the city took the platform to court for failure to meet its obligation. The Commercial Court of Vienna (<i>Handelsgericht</i>) has ruled in a first-instance decision – which is not yet final – that municipal (social) housing apartments may not be offered for rent through the platform Platforms are required to report details of all bookings (provider's name and addresses of rented units) each month to the City's tax authorities, or to collect and remit the tourist tax. As at October 2020, 12 platforms were reporting data, but others, including Airbnb, refused to do so, claiming exemption under the <i>E-Commerce</i> Directive's country of origin principle. In 2019 the city started legal proceedings against Airbnb From January 2021, Airbnb has agreed to communicate data about the income made by individuals hosts (in the previous tax year) to the national Ministry of Finance (hosts' identity, address of the listing(s), number of nights booked during previous year) |
| Time cap enforcement | n/a |
| Tax collection agreement (tourist/city tax) | Platforms are required to report details of all bookings (provider's name and addresses of rented units) each month to the City's tax authorities, or to collect and remit the tourist tax on behalf of the city. Only HomeAway collects and remits tax to city authorities (agreement has been prolonged until end of 2021) |

9. References

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