

Legal Aspects of Short-term Lease Agreements – on a Comparative Background

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Abstract: *Short-term rental has become extremely popular in recent years. It is important to distinguish the functioning of the two main real estate markets: the investment market, which includes the transfer of property rights and ownership-like rights, and the rental market, relating to the conclusion of contracts specifying mutual rights and obligations related to the ownership of a real estate. Booking or Airbnb websites, used to book accommodation, after selecting the basic search parameters allow you to find not only hotels and guesthouses, but also private apartments in competitive locations. This note argues that cities should adopt an enforceable ordinance that addresses health and safety, zoning, licensing and taxation by drawing on ideas already implemented in other cities.*

Key Words: *Civil Law; Short-term Lease Agreements; Rental; Real Estate; Contract; Regulations; Condo Hotel; Aparthotel; the United States of America; Poland; Germany; France; Spain.*

Introduction

Short-term rental has been a popular form of investment for years. Sooner or later, virtually every city will have to face the problems of short-term rental. Online platforms like Booking, Airbnb, FlipKey and HomeAway have made short-term rentals easier and more popular around the world. In fact, short-term rental platforms make huge profits from turning a blind eye to unregulated, commercialized short-term rental. In order to develop an appropriate short-term rental policy, each city should be able to adopt short-term rental laws in line with its social and economic circumstances and priorities. The ideal solution would be a policy ensuring the protection of public interests, while maintaining the freedom and safety of the city's inhabitants.

1 Short-term rental in Europe

Although the importance of this market has changed with the advent of the internet and mobile applications, short-term rental has existed to some extent for centuries. The condo system, which is a different form of

home ownership, was already known in ancient Egypt and Greece where it served people who could not afford to buy their own home.¹ In the Western Europe, this system gained popularity after WWII due to the increased demand for housing and the need to look for more economical solutions. The most dynamic development of the condo system took place in the United States of America,² where it is an alternative to the dominant model in which the entire building has one owner and individual apartments are rented.³ Condominium is a combination of two laws. The first one is the right to separate ownership of a part of the building (premises in the building) and the second one is the joint ownership right to the common parts (e.g. corridors, elevators, roof, areas surrounding the building).

In Europe, there are two most common legal systems regarding condominiums. In the first one, each landlord acquires two separate, but directly related rights.⁴ One of them is the ownership of the premises and the other one is the joint ownership of the common parts of the building and land (Poland, Belgium, Greece, Portugal or Italy). In the other system, all apartment owners are co-owners of the building and the land, and everyone has special rights to the premises (Austria, the Netherlands, Germany or Switzerland). As a rule, in both systems, common parts are managed by joint owners. The aparthotel system consists in the purchase of a studio apartment by an investor who concludes an apartment rental agreement with the developer.⁵ Under this agreement, the property owner receives income. Apart from that, the system applies equally to

¹ See ARMSTRONG, G. M. Jr. Louisiana Condominium Law and the Civilian Tradition. *Louisiana Law Review*. 1985, vol. 46, no. 1, pp. 71-72. ISSN 0024-6859.

² See PARETS, R. T. Why Condo Hotels Are a Hot Concept. In: *National Real Estate Investor* [online]. 2005-05-01 [cit. 2020-09-20]. Available at: <https://www.nreionline.com/mag/why-condo-hotels-are-hot-concept>.

³ See CHRABAŚSZCZ, K. Condoinvestycje jako alternatywna forma alokacji kapitału [Condo Investments as an Alternative Form of Allocation of Capital]. *Zeszyty Naukowe Małopolskiej Wyższej Szkoły Ekonomicznej w Tarnowie* [The Małopolska School of Economics in Tarnów Research Papers Collection] [online]. 2014, vol. 24, nr 1, p. 49 [cit. 2020-09-20]. ISSN 2658-1817. Available at: <https://doi.org/10.25944/znmwse.2014.01.4758>.

⁴ See LU, M. C. K. *The Causes and Consequences of Condo Hotel Conversion in Waikiki, Hawaii*. 1st ed. Cambridge, MA: Massachusetts Institute of Technology, 2005, pp. 30-36.

⁵ See DOWNEY, J. F. The Aparthotel: A Useful Tool for Investors and Developers. *The Cornell Hotel and Restaurant Administration Quarterly* [online]. 1991, vol. 32, no. 2, pp. 53-55 [cit. 2020-09-20]. ISSN 0010-8804. Available at: [https://doi.org/10.1016/0010-8804\(91\)90078-6](https://doi.org/10.1016/0010-8804(91)90078-6).

hotels, catering facilities and spa services as well as typical residential buildings with a reception, but without restaurant and recreational areas.

Condo and apartment systems in Europe operated initially in the Mediterranean countries and then developed in other areas of the continent. These systems as alternative investment methods have been popular on the international market for over twenty years. Condo and apartment systems are based on the concept of concluding two agreements: a real estate purchase agreement and a real estate rental agreement. However, these systems differ from each other. The “condo” system describes ownership issues, the “apart” system concerns functional issues; therefore, for example, on the Polish market, additional sub-categories of these products, such as condo-apartments and condo-hotels, can also be distinguished.

2 Short-term rental platforms

Booking platforms, such as Booking or Airbnb, have revolutionized the short-term rental market. They influenced both the way of traveling and booking, but also forced the adoption of appropriate changes in legal regulations. Innovative short-term rental platforms have changed the way in which millions of people travel around the world. They connect travellers with local property owners. Short-term rentals have been around for decades, but platforms have contributed to their growth in popularity, facilitating access to affordable accommodation options around the world.

Today, short-term rental platforms offer all kinds of properties, from beach houses, town apartments and chalets in the mountains to less traditional properties, such as tree houses or garage accommodation.⁶ Short-term rental guests stay longer in a given location and spend more than those staying at the hotel. Short-term rental platforms also provide the property owners with a new source of additional income which is often used to pay off their mortgage or to finance property renovations.

⁶ The difference between the condo and the apart systems concerns, among others, property management. Condo rooms are usually managed by the developer. The apartments, on the other hand, are usually not managed by a developer, but by a specialized external company. The difference between these systems also applies to costs.

3 Regulations of short-term rental in selected countries

There are numerous restrictions on short-term rentals in many cities around the world. These regulations are often local in nature and vary from country to country, and even from city to city. The laws governing the short-term rentals in the United States of America vary greatly from state to state. This is because there is a big difference in how the short-term rental is perceived and how the short-term rental platforms work.

3.1 United States of America

In the case of the United States of America, the rules for this type of tenancy vary widely by state and city.⁷ New York has some of the strictest short-term rental laws.⁸ Even before Airbnb's popularity, regulations banned renting an apartment for fewer than 30 days in most apartment buildings, unless a "permanent" tenant was present at the same time. In practice, even advertising such a rental is illegal and is subject to a fine of up to 7,500 USD. Although this regulation does not cover single-family houses, they are relatively rare in New York. Thus, in New York, the owner (or other host) can rent a spare room, provided that he/she himself/herself lives in it. Additionally, the owner cannot install any locks on this property, as guests must have free access to all rooms.

San Francisco, where Airbnb is headquartered, was one of the first cities to introduce short-term rental regulations. The city imposed limits on the number of days that property can be rented for short periods. In addition, owners are required to register a business with an indication of the subject of activity in the form of short-term rental. The city, therefore, has a list of all registered landlords who report the condition of their accommodation on a quarterly basis. If property owners want to rent the entire property, they can only do so for a maximum of 90 nights per year. They can rent a free room for an unlimited number of nights if they are also staying in the facility at the same time.

⁷ See SWOR, R. W. F. Long Term Solutions to the Short-term Problem: An Analysis of the Current Legal Issues Related to Airbnb and Similar Short-term Rental Companies with a Proposed Model Ordinance. *Belmont Law Review* [online]. 2018, vol. 6, no. 1, pp. 278-316 [cit. 2020-09-20]. ISSN 2688-0792. Available at: <https://ssrn.com/abstract=3330700>.

⁸ See SIMMONS, A. Short-term Rental Laws in Major U.S. Cities (Updated 2/5/2020). In: *2nd Address* [online]. 2020-02-05 [cit. 2020-09-20]. Available at: <https://www.2ndaddress.com/research/short-term-rental-laws/>.

In Los Angeles, it was only at the end of year 2019 when regulations regarding the rules of short-term rental were passed. Property owners can only rent it if they live there themselves. Violation of these regulations is subject to a daily penalty of at least 500 USD. Landlords are required to register the rental, to pay taxes and to keep records. Short-term rental is allowed for a period not longer than 120 days a year. Exceeding this limit is subject to a daily fine of at least 2,000 USD.

Also in the capital of the country – Washington D.C., there are quite restrictive regulations regarding the use of Airbnb. The real estate owners can only rent one house which is their place of residence. Landlords are required to register their rental activity. Those wishing to rent the entire property must obtain an additional “for vacation” endorsement. The maximum number that can be rented in a given facility is 90 nights a year. Fines start at 500 USD for violations of these regulations and can go up to 6,000 USD for a repeat violation.

3.2 Poland

In the Polish system, the basic legal problem on the short-term rental market is the lack of a definition of “condo hotel” and “aparthotel”. The legal separation of specific premises or hotel units is of significant importance for the definition of the condo system. It can, therefore, be concluded that condo hotels fall in this sense within the definition of an independent dwelling or premises for a different purpose, in accordance with the provisions of the Polish Act on the Ownership of Premises.⁹ In turn, in the case of the apart system, the provisions of the Polish Civil Code may apply to the ownership or co-ownership of a real estate.¹⁰ The separation of a hotel unit (premises) as premises with a different purpose (business premises) is associated with certain obligations and limitations.¹¹ Although it is possible to freely trade in such premises, it is not possible to register for a permanent residence in such a property. Moreover, usually these real estates are burdened with higher real estate taxes

⁹ See Article 2 of the *Act of June 24, 1994, on the Ownership of Premises* [1994-06-24]. *Journal of Laws*, 2019, item 737, as amended [in the Polish original *Ustawa z dnia 24 czerwca 1994 r. o własności lokali* [1994-06-24]. *Dziennik Ustaw*, 2019, poz. 737 ze zm.]

¹⁰ See KAŻMIERCZYK, A. *Nieruchomość wspólna właścicieli lokali: Problematyka prawno-rzeczowa* [Property Shared by Owners of Premises: Legal and Material Issues]. 1. wyd. Warszawa: C. H. Beck, 2015. 539 p. ISBN 978-83-255-7069-9.

¹¹ See KAŻMIERCZYK, A. *Zaświadczenie o samodzielności lokalu* [Certificate of the Independence of the Premises]. *Rejent* [Notary]. 2013, vol. 23, nr 1, pp. 11-38. ISSN 1230-669X.

than in the case of independent dwellings and higher perpetual usufruct fees if the land is covered by such right.

The “condo hotel” and “aparthotel” categories have not yet been identified in the statistics of the Central Statistical Office of Poland.¹² By contrast, such establishments are usually included in statistics on construction of dwellings or in statistics on hotel operations. They are also not regulated by the provisions specifying the conditions for the provision of hotel services and the principles of categorizing hotel facilities,¹³ i.e. the Polish Act on Tourist Events and Related Tourist Services¹⁴ and the Regulation of the Minister of Economy and Labour on Hotel Facilities and Other Facilities Where Hotel Services Are Provided.¹⁵ The possible division of condo facilities into categories is, therefore, related to the fulfilment of the criteria set out in the above-mentioned regulations, which in the case of facilities based on a typical housing program is in practice very difficult. The investment nature of the purchase of the right or shares in a condo hotel has not yet been regulated in the provisions on investments in the financial market in Poland. In this respect, buyers are entitled only to protection rights under the general principles of the Polish Civil Code.

Currently, the Polish legal regulations do not define basic requirements, such as, for example, the type of real estate that can be rented for a short term.¹⁶ The local governments where the real estate is located have no legal basis to control the level of security related to such activity.

¹² See *Act of June 29, 1995, on Public Statistics* [1995-06-29]. Journal of Laws, 2020, item 443, as amended [in the Polish original *Ustawa z dnia 29 czerwca 1995 r. o statystyce publicznej* [1995-06-29]. Dziennik Ustaw, 2020, poz. 443 ze zm.]; and *Główny Urząd Statystyczny* [Statistics Poland] [online]. 2020 [cit. 2020-09-20]. Available at: <https://stat.gov.pl/>.

¹³ These hotel facilities include: 1) hotels and motels; 2) guesthouses; 3) campsites (campgrounds), camping sites; 4) excursion homes; 5) youth hostels; 6) hostels.

¹⁴ See *Act of November 24, 2017, on Tourist Events and Related Tourist Services* [2017-11-24]. Journal of Laws, 2019, item 548, as amended [in the Polish original *Ustawa z dnia 24 listopada 2017 r. o imprezach turystycznych i powiązanych usługach turystycznych* [2017-11-24]. Dziennik Ustaw, 2019, poz. 548 ze zm.].

¹⁵ See *Regulation of the Minister of Economy and Labour of August 19, 2004, on Hotel Facilities and Other Facilities Where Hotel Services Are Provided* [2004-08-19]. Journal of Laws, 2017, item 2166, as amended [in the Polish original *Rozporządzenie Ministra Gospodarki i Pracy z dnia 19 sierpnia 2004 r. w sprawie obiektów hotelarskich i innych obiektów, w których są świadczone usługi hotelarskie* [2004-08-19]. Dziennik Ustaw, 2017, poz. 2166 ze zm.].

¹⁶ See STRZELCZYK, R. *Prawo nieruchomości* [Real Estate Law]. 6. wyd. Warszawa: C. H. Beck, 2019, pp. 415-423. ISBN 978-83-8128-795-1.

This often results in the formation of the so-called “wild hostels” that are not even covered by the fire control.¹⁷ This can pose a serious threat to both landlords and other residents of the building. Another important issue is frequent tax avoidance by the building owners, which brings tangible losses to municipal budgets. In addition, the lack of control of such premises affects building residents who may be at risk of renters disturbing the peace, and thus the intervention of security services. Therefore, the need for regulation in this area results primarily from the lack of control over the rented premises. A separate issue is the uncertainty surrounding tax interpretations and justified doubts regarding the settlement of income from the rental of investment apartments.

3.3 Germany

The situation in Germany is completely different than in Poland with regard to this issue. According to the regulations in force, the German federal states (lands) were authorized under the 1971 Act on the Improvement of Tenancy Law¹⁸ to adopt regulations prohibiting the use of apartments for non-residential purposes when the adequate supply of housing for the local population would be threatened.¹⁹ As a rule, such regulations may be introduced if there is a shortage of housing in a given local area for its residents. Therefore, many years ago, a countermeasure was introduced in the event that too much residential property was used for short-term letting. In a landmark judgment, the German Federal Constitutional Court ruled that the above-mentioned reason justifies granting such a power to individual federal states (in German *Länder*).²⁰

In year 2013, Berlin adopted the “ZwVbG” Act, the Law Prohibiting the Misuse of Dwellings,²¹ which prohibited the abuse of housing. Under

¹⁷ See *Act of August 24, 1991, on Fire Protection* [1991-08-24]. *Journal of Laws*, 2019, item 1372, as amended [in the Polish original *Ustawa z dnia 24 sierpnia 1991 r. o ochronie przeciwpożarowej* [1991-08-24]. *Dziennik Ustaw*, 2019, poz. 1372 ze zm.].

¹⁸ See *Gesetz zur Verbesserung des Mietrechts und zur Begrenzung des Mietanstiegs sowie zur Regelung von Ingenieur- und Architektenleistungen* [1971-11-04]. BGBl. I S. 1745, last amendment as of April 19, 2006.

¹⁹ See KAŻMIERCZYK, A. Issues of Short-term Rental in Light of EU and Member States' Regulations. *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego* [Review of International, European and Comparative Law] [online]. 2019, vol. 17, pp. 192-193 [cit. 2020-09-20]. ISSN 1730-4504. Available at: <https://doi.org/10.26106/5gev-2c68>.

²⁰ See *Judgement of the Bundesverfassungsgericht Ref. No. 2 BvL 5/74* [1975-02-04].

²¹ See *Gesetz über das Verbot der Zweckentfremdung von Wohnraum* [2013-11-29]. GVBl. I S. 626, last amendment as of April 9, 2018.

this law, short-term rentals were banned entirely in Berlin from year 2014 to year 2016. However, this ban was found unconstitutional and as of May 1, 2016, Berlin has only been banned from renting entire apartments via booking platforms.²² Only individual rooms may be rented, provided that the rental accounts for less than 50 % of the entire apartment. It is also imperative that the landlord lives in the apartment at the same time. The obligation to have an appropriate rental permit was also introduced. Non-compliance can result in an eviction order and resettlement of people who do not use their apartment lawfully or with fines of up to 500,000 EUR.²³

3.4 France

In France, the Law for a Digital Republic²⁴ of October 7, 2016, granted municipalities the right to establish the rules and procedure for registering short-term rentals.²⁵ This right applied to cities with more than 200,000 inhabitants and such regulations were introduced, inter alia, in Paris. The rules for short-term rental were made dependent on the classification of the apartment as the main residence, the second place of residence (in French *résidence secondaire*) and the tourist accommodation (in French *meublés de tourisme*).²⁶

According to the regulations in force, short-term rental of a real estate that is also the permanent residence of its owner is allowed for a pe-

²² See KAŹMIERCZYK, A. Issues of Short-term Rental in Light of EU and Member States' Regulations. *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego* [Review of International, European and Comparative Law] [online]. 2019, vol. 17, p. 193 [cit. 2020-09-20]. ISSN 1730-4504. Available at: <https://doi.org/10.26106/5gev-2c68>.

²³ See Article 7 (4) of *Gesetz über das Verbot der Zweckentfremdung von Wohnraum* [2013-11-29]. GVBl. I S. 626, last amendment as of April 9, 2018.

²⁴ See *Loi n° 2016-1321 du 7 octobre 2016 pour une République numérique* [2016-10-07]. Journal Officiel de la République Française, 2016, n° 0235.

²⁵ Rules for short-term rental as well as penalties for non-compliance with short-term rental limits were introduced in year 2018 by the Law on the Evolution of Housing, Land Management and Digital Technology Act, the so-called ELAN. See *Loi n° 2018-1021 du 23 novembre 2018 portant évolution du logement, de l'aménagement et du numérique* [2018-11-23]. Journal Officiel de la République Française, 2018, n° 0272 (Loi ELAN). This law also defines the new type of short-term rental called "mobile rental".

²⁶ See KAŹMIERCZYK, A. Issues of Short-term Rental in Light of EU and Member States' Regulations. *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego* [Review of International, European and Comparative Law] [online]. 2019, vol. 17, p. 189 [cit. 2020-09-20]. ISSN 1730-4504. Available at: <https://doi.org/10.26106/5gev-2c68>.

riod of up to 120 days a year; by exceeding the limit of 120 days a year the owner is subject to a fine of up to 5,000 EUR, and in some cases even to 10,000 EUR. The owner must live in the property for the remainder of the year. Such apartments are subject to registration as short-term lease. If the landlord has not lived in the property for 8 months, this place loses the status of a dwelling. Then it is treated as the so-called second home with different regulations. In this case, registration of such an apartment for short-term rental is associated with obtaining consent to convert the residential part into a business part.²⁷ Renting a second apartment without such a permit is punishable by a fine as much as 50,000 EUR.

The most stringent restrictions on short-term rental apply to the rental of apartments intended solely for the tourism purposes, i.e. meublés de tourisme. These types of properties are reserved for the exclusive use of the tenant, but have no reception and no additional accommodation services are provided. In this case, it is also necessary to obtain the appropriate consent for transformation of living space in economic activity. Obtaining such consent costs from 1,500 to 2,000 EUR per square meter and these permits are temporary.

In France, on the basis of the Act of November 23, 2018, on Changes in Housing, Land Management and Digital Technology, a new type of short-term rental agreement has been developed – the so-called “mobile rental”. This regulation applies to the rental of a furnished apartment, where the contract is concluded for a fixed period of one to even ten months. In the event that there is no explicit provision for the registration obligation, the apartment intended for this type of short-term rental will not be registered.²⁸

²⁷ See KAŻMIERCZYK, A. Issues of Short-term Rental in Light of EU and Member States' Regulations. *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego* [Review of International, European and Comparative Law] [online]. 2019, vol. 17, p. 190 [cit. 2020-09-20]. ISSN 1730-4504. Available at: <https://doi.org/10.26106/5gev-2c68>.

²⁸ See KAŻMIERCZYK, A. Issues of Short-term Rental in Light of EU and Member States' Regulations. *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego* [Review of International, European and Comparative Law] [online]. 2019, vol. 17, p. 191 [cit. 2020-09-20]. ISSN 1730-4504. Available at: <https://doi.org/10.26106/5gev-2c68>.

3.5 Spain

In Spain, new regulations on short-term rental entered into force in year 2019. The amended provisions of the *Ley de Arrendamientos Urbanos*²⁹ provide tenants with additional protection measures and also give property owners greater powers to influence the rental of holiday properties.

With the entry into force of Royal Decree 7/2019 in March 2019, the regulations of the property law (in Spanish *Ley de Propiedad Horizontal*)³⁰ have changed. According to the adopted regulation, the majority of three-fifths of the building's owners may decide to limit or to ban the operation of tourist apartments in this building. Until this amendment, this decision had to be unanimous. Condominium may also impose additional fees on landlords as co-ownership for the operation of tourist apartments.

Additionally, as of January 1, 2019, travel rental platforms must submit detailed information to the Spanish tax authorities about all their activities in Spain. The 2018 tourist rental income was, therefore, the first to which the regulations applied. For each tourist rental, booking platforms (Airbnb, HomeAway, Booking, etc.) are required to provide the tax authorities with the following information via the declaration: identity of the owner of the apartment, legal title to the property, identity of the tenants and their number, indication of the property to which the rental relates, rental income obtained, contact information, starting date, payment dates, and even payment methods.

Barcelona was the first city in the world to impose a heavy 600,000 EUR fine on Airbnb in November 2016. It is also the first city in Spain to regulate short-term rentals for tourism purposes (in Spanish *pisos turísticos*). In March 2017, the municipality of Barcelona approved a special urban planning program for tourism construction, the so-called PEUAT (in Spanish *Especial Plan Urbanístico de Alojamientos Turísticos de Barcelona*).³¹ According to this program, Barcelona has been divided into four main areas. According to the Catalan municipality, the implementation of this regulation has led to a reduction in the number of apartments

²⁹ See *Real Decreto-ley 7/2019, de 1 de marzo, de medidas urgentes en materia de vivienda y alquiler* [2019-03-01]. BOE-A-2019-3108.

³⁰ See Artículo 3 de la Ley de Propiedad Horizontal. In: *Conceptos Jurídicos* [online]. 2020 [cit. 2020-09-20]. Available at: <https://www.conceptosjuridicos.com/lph-articulo-3/>.

³¹ See About the PEUAT. In: *Ajuntament de Barcelona* [online]. 2020 [cit. 2020-09-20]. Available at: <https://ajuntament.barcelona.cat/pla-allotjaments-turistics/en/>.

for tourism in Barcelona to 9,600 units, reducing it by 6,000 illegally rented apartments to tourists. The municipality imposed 6,500 fines on owners and operators.

In turn, in March 2019, the municipality of Madrid approved the *Plan Especial de Regulación del Uso de Hospedaje*,³² which only applies to accommodation facilities rented for more than 90 days a year. The plan distinguishes four zones in Madrid. There were 10,500 tourist properties in Madrid before the enactment of the municipal law in March 2019. It can, therefore, be assumed that many of them will disappear.

Valencia introduced restrictions on short-term rental in June 2018. The new Tourism and Hospitality Act (in Spanish *Ley de Turismo y Hospitalidad*)³³ was approved by the municipality of Valencia in June 2018. It introduced a number of restrictions on the possession of a tourist license. It is imperative that the tourist base is situated on the ground or the first floor. The rented apartment must not be above or on the same floor as other private apartments. The building must not contain more than 50 % of the tourist apartments. In conclusion, it can be said that the ground floor or the premises above a store may be a place intended for short-term rental for tourist purposes. In some neighbourhoods in Valencia, renting an apartment through booking platforms is even more complicated and subject to additional restrictions on tourist rentals. For example, in the city center (in Spanish *Ciutat Vella*), the maximum period of renting apartments to natural persons for tourist purposes is 60 days. In the coastal Town of Cabanyal, the housing stock for tourists is limited to 10 % of the total stock, with the exception of seaside homes where this ratio can be up to 30 %. In addition, in January 2019, a new municipal decree was introduced in Valencia which requires the renewal of tourist permits every 5 years.

³² See Plan Especial de regulación del uso de servicios terciarios en la clase de hospedaje. In: *Portal de transparencia del Ayuntamiento de Madrid* [online]. 2020 [cit. 2020-09-20]. 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&vgnextoid=b71cbc8d3c9f4610VgnVCM1000001d4a900aRCRD&vgnnextchannel=eae9508929a56510VgnVCM1000008a4a900aRCRD>.

³³ See *Ley 15/2018, de 7 de junio, de turismo, ocio y hospitalidad de la Comunitat Valenciana* [2018-06-07]. BOE-A-2018-8950.

Conclusions

The issue of short-term rental has become very interesting in recent years. It contributed to the development of new technologies and the popularity of booking platforms as well as the development of a new socio-economic phenomenon of the “sharing economy”.³⁴ While there are many different aspects of short-term rental that require new regulations, there exist five main issues that are most relevant, regardless of city or country. The first problem is connected with health and safety. Health and safety are a broad category which covers issues such as cleanliness, parking, fire protection and other aspects that would likely be regulated if someone were renting a hotel room rather than a short-term rental property.

Another problem is the sub-division of a real estate into short-term rentals. While some cities allow short-term rental properties with virtually no restrictions, others restrict these properties to specific zones. Additionally, some of them only allow the owner to live in certain zones. Some cities do not allow short-term rentals at all. The third problem is putting in place an appropriate permit system to limit the number and the potential location of properties for short-term rental. The fourth problem concerns the taxation of a real estate intended for short-term lease and, therefore, used for business purposes.

The last problem, which also serves to link all these elements together, is the issue of the feasibility of the applicable regulations. While all of these areas may not seem too difficult to regulate on their own, cities need to create restrictions that are actually enforceable. It also means that these restrictions cannot conflict with other legal regulations in force in a given area. Moreover, the adopted regulations should not be overly complex or excessively burdensome. The lack of enforcement of the law in force in this respect allows these commercial ventures to weaken the economic and social fabrics of residential neighbourhoods in many different ways.

To conclude, despite its advantages, short-term rental of residential properties for tourism purposes poses a serious risk to everyone. Often, the hosts are in many cases not adequately protected, including due to

³⁴ See HAMARI, J., M. SJÖKLINT and A. UKKONEN. The Sharing Economy: Why People Participate in Collaborative Consumption. *Journal of the Association for Information Science and Technology* [online]. 2016, vol. 67, no. 9, pp. 2047-2059 [cit. 2020-09-20]. ISSN 2330-1643. Available at: <https://doi.org/10.1002/asi.23552>.

the lack of adequate insurance. Property owners are at risk from their business activities and do not take any action to remedy this. Other tenants and their neighbours are exposed to noise and other disruptions caused by additional charges or a higher rent. Due to the lack of appropriate regulations in many legislations and the emergence of so many problems and risks, it seems necessary to adopt a new and comprehensive approach to the issues related to short-term rental.

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