

A GAME-CHANGER TO SHORT-TERM RENTALS IN SPAIN

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ABSTRACT

Usually, when it comes to short-term rentals (STRs), there are three approaches: prohibition, limitation or laissez-faire. Using experimental data on STRs from the National Statistics Institute, we analyse the fluctuations in their figures in all municipalities in Spain to determine whether there is a link between the type of regulation and its effects. Plus, we discuss the most recent sentence, which allows a new way of regulating STRs and becoming a game-changer in the near future.

Keywords: Regulation; short-term rentals, Spain, tourism

Data availability statement

The data that support the findings of this study are openly available in *National Statistics Institute. Estadística experimental. Medición del número de viviendas turísticas en España* y su capacidad, at https://www.ine.es/experimental/viv_turistica/experimental_viv_turistica.htm

1. INTRODUCTION

The outbreak of short-term rentals (STRs) – commonly referred to as Airbnb – thanks to the development of technology (Gössling & Hall, 2019) has entailed several drawbacks as increases in housing prices (Clancy, 2022; Garay-Tamajón et al., 2022) and living standards (Dolnicar, 2019) for residents. Thus, tourist destinations have had to develop regulations to prevent them (Prayag & Ozanne, 2018) and also for additional issues inevitably linked to this phenomenon, such as security, zoning, and tax collection (Edelman & Geradin, 2015).

In this context, the extant literature shows three approaches to regulating STRs activities: prohibition, limitation, or *laissez-faire* – the latter the lack of regulation (Nieuwland & Van Melik, 2020). Since prohibiting involves its elimination (Clancy, 2022), limitation measures are generally applied. Among them are many policies - such as licensing - and requirements regarding aspects like safety, habitability, and health standards (Prayag & Ozanne, 2018). Four strategies apply, depending on their scope, according to Furukawa & Onuki (2022): a general approach, a host or residence one or a combination.

Consequently, regulations differ from each territory, even within the same region or country. That is the case of Spain, a well-known and mature tourist destination, but in which the legislation regulating STRs is transferred to the regions – also known as Autonomous Communities – according to the Urban Leasing Law (LAU) (Frías, 2020). Generally, the regional regulations revolve around setting requirements before granting a license and, after it, through inspections and sanctions (Comendador-Sánchez et al., 2021). However, there is no common standard, and the regulatory body is characterised by heterogeneity (Martín-Martín et al., 2019). This issue is worsened as some cities have particular circumstances, which have led specific regulations at the municipality level, approaching the same problems from different perspectives (Frías, 2020).

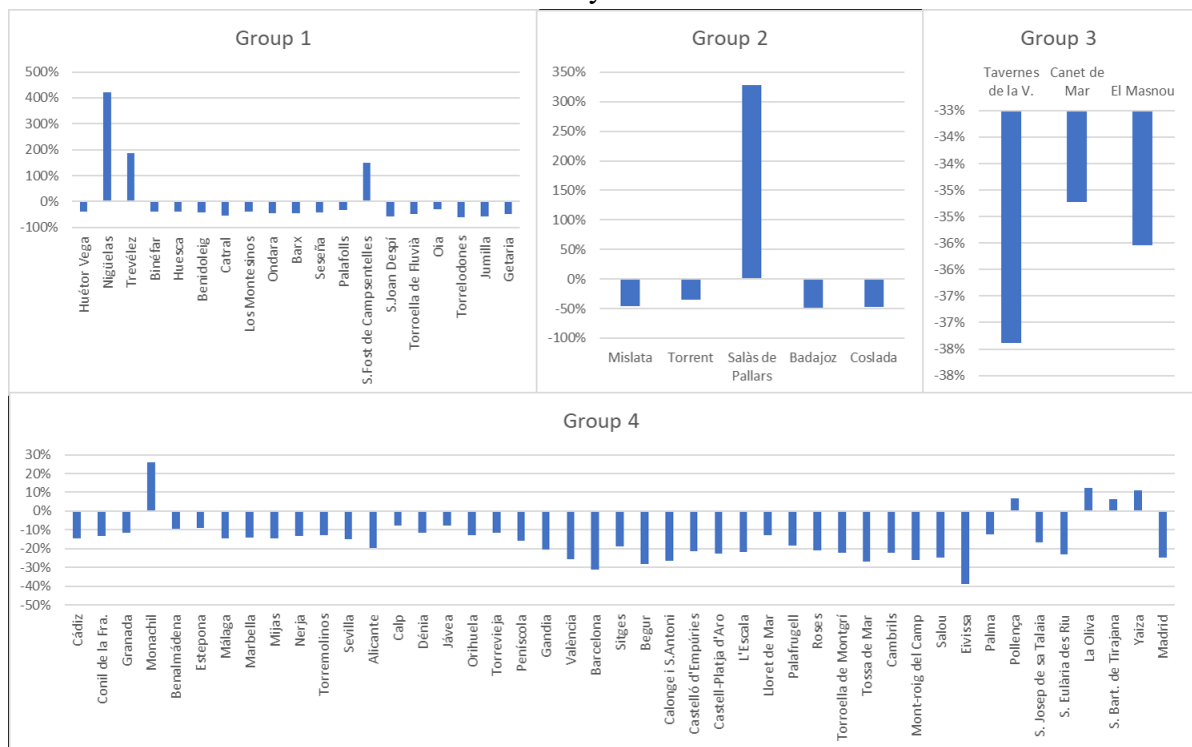
Examples in the Spanish context of these particular cases are known worldwide. For instance, Barcelona (Garay-Tamajón et al., 2022) - one of the strictest ones - has implemented zoning and even halted licenses from 2015 to 2017 (Wilson et al., 2022). Similarly, Palma halted them in 2017 and zoned too, but removed the latter due to pricing problems. In 2018 it became the first one in Spain to only allow STRs in detached houses (González-Pérez, 2020).

Lastly, another example of strict regulation took place in Valencia, where the need for certifications and similar rules to hotels, and a halt in licensing from 2018 to 2020, reduced the number of STRs (García-Amaya et al., 2021). Unfortunately, in Spain, there are still *laissez-faire* examples, such as the coastal city of Pollença, which has indeed been enhanced by the city council (Müller et al., 2021).

2. MATERIALS AND METHODS

Data from the National Statistics Institute about STRs were analysed at the municipality level to explore those fluctuations, covering the available period (August 2020 – February 2022), considering only the number of accommodations from the variables included in this database. Thus, the whole database accounted for 8,131 municipalities. After filtering those with no STRs in the period or at the end of it and discarding those with less than 10 STRs because of no significant changes, the final dataset accounted for 1,605 municipalities, divided into four groups according to the number of STRs they have: 10 to 29, 30 to 49, 50 to 99 and 100 or more, respectively. From this basic filtering and ordering, we identified the outliers in each group through Box and Whiskers diagrams applied to the percentual changes in the whole period for each municipality in each group, which highlighted 72 of them. Their distribution among groups, percentual variation in the period and regional assignment are shown in Figure 1.

Figure 1. Short-term rentals' evolution in percentual change in the period August 2020 – February 2022.



Source: Authors

Plus, to further identify possible trends among these outliers, a last analysis was carried out. For that, simple linear graphs helped explain how interannual changes occurred, which allowed us to identify seasonality in 24 municipalities, a downward trend in 29 of them, and 19 without a particular pattern.

2. RESULTS

For analysing policies, those municipalities affected by seasonality were discarded. Thus, starting with the ones with a downward trend, they clearly gather into Málaga and Barcelona provinces and Comunitat Valenciana region. Regarding the case of Málaga, no specific regulations within its municipalities seem to be the cause of that decrease but might be attributed to the foreseen regulatory changes (Junta de Andalucía, 2022) at the local and regional level – Andalucía –, in which the city of Málaga has a leading role, and that may be preventing STRs investors from increasing or maintaining them.

On the contrary, Barcelona's strict policy since 2017 through the PEUAT (2022) established zoning and an active policy for decreasing STRs through the limitation of the activity and prohibition under certain circumstances may be directly linked. Similarly, the region of Comunitat Valenciana showed a marked drop after passing a law prohibiting the rental as STRs of individual rooms (Decree 10/2021).

Then, the rest of the municipalities had different behaviours not attributable to specific patterns, but some belong to the provinces and regions above. Apart from them, the case of the Canary Islands stands out since its figures raised may be due to less strict regulation and a subsequent shift in their tourist model (Decree 113/2015). Besides, there are two territories in the province of Granada – Nigüelas and Trevélez – which have recently arisen within the tourist brand “Spain's most beautiful villages”, and Salàs de Pallars in Lleida, which have increased their figures due to tourist reasons. Conversely, there are other municipalities which remain unexplained, even if their figures grow Sant Fost de Campsentelles – since it is a satellite territory of a bigger city – or they decrease, even lacking regulation at the local level in this regard – Seseña (Toledo), Binéfar (Huesca), Jumilla (Murcia) and Torreldones (Madrid).

Finally, Madrid and Sevilla are cases in which regulation diminished STRs' impact. In the first one, its Land-Use Planning only permitted STRs on the ground or first floors over non-residential ground floors (PGOU Madrid, 2022). Regarding the latter, its Land-Use Planning (PGOU Sevilla, 2022) obliged STRs to fulfil the hotels' requirements, even for environmental ones, which are very difficult to get in old buildings. Despite these regulations lacking retroactive power, they seem to have worked as dissuasive, diminishing STR figures.

3. DISCUSSION & CONCLUSIONS

The above results have shown the effects of limitation policies as halting licenses, zoning and licensing, strict requirements, equating with hotels – as in Sevilla – and partial prohibitions as in Madrid or the Balearic Islands. Finding an equilibrium between residents' quality of life for rental prices and acquisition power and the economic benefits of the tourism private sector is a crucial point in the STRs problem.

Usually, regulation of the STRs activity is a lengthy and time-consuming process through Land-Use Planning modifications and use to end up in court. Apart from the mentioned cases, the passing of the sentence STS 238/2023 by the Supreme Court of Spain in January 2023 - which allows some prohibitions of the STRs activities in cases of general interest -, supporting the Balearic Government ban to STRs everywhere apart from detached houses. This sentence creates jurisprudence and may be applied in other massified tourist destinations in which STRs have widely spread and risen in long-term rentals. It could therefore be a game changer in the short term, as most of the complex limiting regulations that already apply, or are in process, could be simplified by transposing STS 238/2023 into regional legislation. If all regions transpose this measure, it would eventually lead to a virtual ban of STRs as we know them nowadays. Now is the time for research to take action and look for solutions to mitigate the socio-economic impacts that an eventual change could have on short-term rentals by analysing why landlords choose to offer short-term rental housing and looking for other appropriate regulatory alternatives.

Despite the complex regulatory context regarding STRs in Spain makes it difficult to apply the result to other specific contexts, the findings of this study may be of interest to stakeholders in Spain and abroad for developing policies.

REFERENCES

- Clancy, M. (2022). Tourism, financialization, and short-term rentals: the political economy of Dublin's housing crisis. *Current Issues in Tourism*, 25(20), 3363-3380. <https://doi.org/10.1080/13683500.2020.1786027>
- Comendador-Sánchez, A., Santos-Pavón, E.L. & Hernández-Ramírez, J. (2021). Players, interests and public policies in relation to tourist rental housing in Spain (2010-2019). Complexity and multiple conflicts. *Journal of Tourism Analysis: Revista de Análisis Turístico*, 28(1). <https://doi.org/doi.org/10.53596/jta.v28i1.373>
- Decree 10/2021, de 22 de enero, del Consell, de aprobación del Reglamento regulador del alojamiento turístico en la Comunitat Valenciana. Diari Oficial de la Generalitat Valenciana 9015 de 8 de febrero de 2021. https://dogv.gva.es/porta/ficha_disposicion_pc.jsp?sig=001092/2021&L=1
- Decree 113/2015, de 22 de mayo, por el que se aprueba el Reglamento de las viviendas vacacionales de la Comunidad Autónoma de Canarias. Boletín Oficial de Canarias 101 de 28 de mayo de 2015. <http://www.gobiernodecanarias.org/boc/2015/101/001.html>
- Dolnicar, S. (2019). A review of research into paid online peer-to-peer accommodation: Launching the Annals of Tourism Research Curated Collection on peer-to-peer accommodation. *Annals of Tourism Research*, 75, 248-264. <https://doi.org/10.1016/j.annals.2019.02.003>
- Edelman, B.G. & Geradin, D. (2015). Efficiencies and regulatory shortcuts: How should we regulate companies like Airbnb and Uber. *Stanford Technology Law Review*, 19, 293.
- Frías, M.J.L. (2020). Una aproximación a las viviendas con finalidad turística desde el punto de vista urbanístico y desde la perspectiva de las comunidades de propietarios/An approach to housing for tourism purposes, from the urban point of view and from the perspective of the communities of owners. *Revista de Derecho Civil*, 7(4), 99-135. <http://hdl.handle.net/10481/64033>
- Furukawa, N. & Onuki, M. (2022). The design and effects of short-term rental regulation. *Current Issues in Tourism*, 25(20), 3245-3260. <https://doi.org/10.1080/13683500.2019.1638892>

- Garay-Tamajón, L., Lladós-Masllorens, J., Meseguer-Artola, A. & Morales-Pérez, S. (2022). Analyzing the influence of short-term rental platforms on housing affordability in global urban destination neighborhoods. *Tourism and Hospitality Research*, 22(4), 444-461. <https://doi.org/10.1177/14673584211057568>
- García-Amaya, A.M., Temes-Cordovez, R., Simancas-Cruz, M. & Peñarrubia-Zaragoza, M.P. (2021). The Airbnb effect on areas subject to urban renewal in Valencia (Spain). *International Journal of Tourism Cities*, 7(2), 361-390. <https://doi.org/10.1108/IJTC-03-2020-0041>
- Gössling, S. & Hall, M.C. (2019). Sharing versus collaborative economy: how to align ICT developments and the SDGs in tourism? *Journal of Sustainable Tourism*, 27(1), 74-96. <https://doi.org/10.1080/09669582.2018.1560455>
- Junta de Andalucía (2022) Decreto de los establecimientos de apartamentos turísticos y de las viviendas con fines turísticos. Junta de Andalucía. <https://alojamientosturisticos.uma.es/wp-content/uploads/2022/09/Primer-borrador-decreto-establecimientos-apartamentos-turisticos.pdf>
- Martín-Martín, M.J., Ostos-Rey, M.S. & Salinas-Fernández, J.A. (2019). Why regulation is needed in emerging markets in the tourism sector. *American Journal of Economics and Sociology*, 78(1), 225-254. <https://doi.org/10.1111/ajes.12263>
- Müller, N., Murray, I. & Blázquez-Salom, M. (2021). Short-term rentals and the rentier growth coalition in Pollença (Majorca). *Environment and Planning A: Economy and Space*, 53(7), 1609-1629. <https://doi.org/10.1177/0308518X211033307>
- Nieuwland, S. & Van Melik, R. (2020). Regulating Airbnb: how cities deal with perceived negative externalities of short-term rentals. *Current Issues in Tourism*, 23(7), 811-825. <https://doi.org/10.1080/13683500.2018.1504899>
- Plan General de Ordenación Urbana (PGOU) de Madrid (2022) Modificación de las normas urbanísticas del Plan General de Ordenación Urbana (PGOU) de 1997. Ayuntamiento de Madrid de 9 de junio de 2022. https://www.bocm.es/boletin/CM_Orden_BOCM/2022/06/09/BOCM-20220609-47.PDF
- Plan General de Ordenación Urbanística (PGOU) de Sevilla (2022) Modificación puntual del texto refundido del PGOU de los artículos 6.3.1, 6.5.1, 6.5.19 y otros para su adecuación a la normativa en materia de turismo. Ayuntamiento de Sevilla de 28 de abril de 2022. https://web.urbanismosevilla.org/planeamientopgou/pdfs/TR_MP/TR_MP_2022_04/TR_MP_2022_04.PDF
- Prayag, G. & Ozanne, L.K. (2018). A systematic review of peer-to-peer (P2P) accommodation sharing research from 2010 to 2016: progress and prospects from

the multi-level perspective. *Journal of Hospitality Marketing & Management*, 27(6), 649-678. <https://doi.org/10.1080/19368623.2018.1429977>

Sentencia del Tribunal Supremo 238/2023 de 31 de enero de 2023. <https://www.poderjudicial.es/search/TS/openDocument/8589b534aa0ad66ca0a8778d75e36f0d/20230210>

Wilson, J., Garay-Tamajon, L. & Morales-Perez, S. (2022). Politicising platform-mediated tourism rentals in the digital sphere: Airbnb in Madrid and Barcelona. *Journal of Sustainable Tourism*, 30(5), 1080-1101. <https://doi.org/10.1080/09669582.2020.1866585>