



WE ARE NOT GOING TO ALLOW THE END OF LOCAL ACCOMMODATION AND THE LOCAL ECONOMY

OUR FIGHT NEEDS YOUR SIGNATURE



Your Excellency the President of Parliament, Your Excellency the Prime Minister, Your Excellency the Minister of Finance, Your Excellency the Minister of the Economy, Your Excellency the Minister of Housing.

SUMMARY:

This petition stems from the concern of people working in Local Accommodation (hereinafter also referred to as AL), and related activities that depend on it. We have come together in this petition to draw attention to the threat that legislative and fiscal instability poses to the work and livelihood of our families, which has been accentuated by the disclosure of the proposed amendments to the Legal Regime for the Operation of Local Accommodation Establishments (RJEEAL), approved by Decree-Law No. 128/2014, of 29 August, in its current wording, and presented in the Plus Housing Programme, embodied in Draft Law No. 71/XV/1st that the Government has presented to Parliament. We are concerned that, if these propositions are not modified or removed, they will kill AL in the short and medium term.

This petition is submitted under the conditions and for the purposes laid down in Law No. 43/90, of 10 August, as amended.

We have divided this petition into four parts:

- I. Summary of the changes to RJEEAL resulting from the Government's proposed law;

- II. Clarification of the reality of the AL and its holders, its economic and social importance, and also the related activities that make up this ecosystem;
- III. Negative consequences that will result for the AL should the proposed changes be approved by the Parliament;
- IV. Presentation of our propositions.

I - RATIONALE BEHIND OUR MOTIVES:

This Draft Law is of great concern to us. It contains measures which, if implemented, will jeopardise the future of families and companies that directly or indirectly involved in this activity:

1. This Draft Law amends, among other diplomas, the Legal Regime for the Operation of Local Accommodation Establishments (RJEEAL) and the Municipal Property Tax Code (CIMI), and creates the Extraordinary Contribution for Local Accommodation Establishment (CEAL);
2. The changes to the RJEEAL that most concern us are the following:
 - a) It establishes a new regime of non-transferability of the ownership of the registrations of AL establishments, which in the current legislation was limited to the AL containment areas and to the house and apartment modalities, now applying to the generality of the national territory of the continent and to all the modalities of AL establishments¹;
 - b) In those cases where the AL activity is exercised in an autonomous unit of the building, the general assembly of the condominium may oppose the exercise of the AL activity in the said autonomous unit, by a resolution passed by more than half of the perimeter of the building². It is sufficient for the general assembly of the condominium to notify the Mayor of their decision in order for the latter to order the cancellation of the registration and the immediate cessation of the establishment's activity;
 - c) The inspection of AL establishments will now be the responsibility of the parish councils and not just the Town Council and ASAE³;
 - d) The registration of new AL establishments, where possible, will be for a period of five years, renewable for equal periods⁴;

¹ If the owner of the AL establishments is a legal entity, the title of opening to the public of these establishments shall expire in the event of the transfer of any part of the company's share capital, regardless of the percentage of such change;

² Unless the constitutive title expressly provides for the use of the autonomous unit for commercial letting purposes, or there is an express resolution by the condominium assembly authorising the use of the autonomous unit for this purpose.

³ The investigation of the respective administrative offence proceedings and the application of fines and accessory penalties are limited to the Municipal Councils and the ASAE.

⁴ Registration renewals will now require an explicit decision by the Mayor, who may object on the grounds of the establishment's operational requirements or, where applicable, on the provisions of the relevant Municipal Housing Charter.

- e) The registration of local accommodation establishments in the form of apartment and local guesthouse integrated into an autonomous unit of a building shall be suspended throughout the national territory, with the exception of the inland territories identified in the Annex to Ministerial Order No 208/2017, of 13 June, since this suspension does not apply to the Autonomous Regions⁵;
 - f) The registrations of AL establishments that have been issued on a date prior to the entry into force of this Diploma will be reviewed during the year 2030, and the renewal of the registration shall now require an explicit decision by the Mayor⁶, unless the real estate that serves as support for the exercise of the activity constitutes a real guarantee of loan agreements, entered into with a bank until 16 February 2023, and that have not been fully settled by 31 December 2029⁷;
 - g) Within two months from the date of entry into force of this law, the AL owners will also be obliged to prove, by submitting a tax return, the maintenance of the exploration activity⁸;
3. Regarding the changes to the CIMI, this Law modifies the age coefficient for buildings where local accommodation activity is exercised, which will now be 1, regardless of the age of the building.
 4. Finally, a new Extraordinary Contribution for Local Accommodation Establishments (CEAL) will be created, as follows:
 - a) The owners of the exploitation of all AL establishments will be liable to pay the extraordinary contribution;
 - b) The owners of real estate, other than the owners of the property, in which the accommodation is operated, are subsidiarily liable to pay the contribution for the properties concerned;
 - c) The CEAL is levied on the allocation of residential properties for letting purposes as at 31st December of each calendar year, residential properties being considered as their autonomous units and the parts or divisions of urban buildings that can be used independently for residential purposes, and which have a valid letting licence;
 - d) Excluded from the objective scope of the CEAL are properties located in inland territories, as well as properties located in parishes which cumulatively meet the following criteria:
 - i. Are covered by a Municipal Housing Charter in force that demonstrates an adequate balance of supply of housing and student accommodation supply in the municipality;
 - ii. Are located in municipalities that do not have a declared housing need;
 - iii. Have no part of their territory as an urban pressure zone.

⁵ In order to allow the termination of the suspension of LA registrations, municipalities will have to expressly define in the Municipal Housing Charters the adequate balance of housing supply and student accommodation in their territory.

⁶ They may object based on the operating requirements of the establishments or, where applicable, on the provisions of the respective Municipal Housing Charter, and from that date onwards the registrations of AL establishments will be re-examined every five years.

⁷ The first reappraisal will only take place after full repayment of the loan initially contracted.

⁸ Communicating the effectiveness of the exercise on the platform of the National Registry of Local Authorities, through the electronic one-stop shop, under penalty of the failure to do so, the respective registrations will be cancelled by decision of the Mayor.

- e) Residential properties which do not constitute autonomous unit or parts or divisions that can be used independently are exempt from the CEAL;
- f) The CEAL taxable amount is obtained by applying the economic coefficient of the property and the urban pressure coefficient to the gross private area of the residential property, on which the CEAL is levied, which is calculated as the quotient between;
 - i. The presumed average annual income per available room in a residential property, calculated by the National Institute of Statistics, I. P., in relation to the year preceding to the taxable event;
 - ii. The minimum gross surface area of a one-bedroom apartment.
- g) The rate applicable to the taxable base is 20%;
- h) The contribution is paid by the taxpayer⁹;
- i) If the contribution is not assessed, it shall be assessed to the owner of the property registered in the tax records at the date of the taxable event by the Tax and Customs Authority, based on the information at its disposal;
- j) The assessed contribution shall be paid until June 25, of the year following the taxable event, at the legally authorised collection points;
- k) If the contribution is not paid by the end of the due date, interest on arrears shall be charged immediately and the collection of the debt shall be promoted by the Tax and Customs Authority;
- l) The revenue generated by the CEAL is consigned to the Housing and Urban Rehabilitation Institute, I. P., for the purposes of the programmes established by the Government in the areas of housing, housing rental and rehabilitation.

II - CONTEXT:

Considering that the Government, contrary to the provisions of the Rules of Procedure of the Assembly of the Republic, has not presented any studies, documents or opinions proving the existence of a cause and effect relationship between the installation of AL establishments and the lack of housing, it is incumbent on us to put the issue into context and to present the truth of the facts:

1. The holiday accommodation sector accounts for 42% of tourist overnight stays by in Portugal, with Lisbon accounting for 48%, Oporto for 62% and the Algarve for 60%;
2. Tourism has been a fundamental activity in the Portuguese economy, generating income, creating jobs and balancing our external accounts. It employs around 8% of the population, while domestic tourism

⁹ By means of an official model declaration, approved by an ordinance of the Government member responsible for the financial sector, which is sent annually to the Tax and Customs Administration, by electronic data transmission until June 20, of the year following the taxable event.

consumption contributes around 11% to GDP, and the weight of tourism in exports is around 14%, making it the largest exporting economic activity in our country;

3. By its very nature, countryside tourism provides a truly unique, authentic, and distinctive experience, in many cases at prices that middle-class families can afford. To put an end to holiday homes is to put an end to the places where many Portuguese spend their holidays;
4. On the other hand, as a result of the changes we have seen in the last ten years, with the democratisation promoted by AL, we now have an offer that meets international demand trends and is close to the local population and its traditions, at affordable prices for young people, among others, without this implying a lack of quality, either in the product or in the service provided;
5. The AL offers accommodation in regions that are not large enough to justify the existence of tourist developments, thus making real estate investment productive. In cities, the tourism sector has been largely responsible for urban rehabilitation;
6. Residential accommodation accounts for only 3% of the number of dwellings in Portugal. Due to its size, it can hardly be the only and main cause of the housing shortage, and therefore it is not a solution to this problem;
7. Residential accommodation directly provides employment for more than 60,000 families and indirectly supports the activity of more than 10,000 companies, which are dedicated to the management of residential accommodation establishments and the provision of a wide range of services related to this activity;
8. Above all, the destruction of AL means the destruction of a structural pillar of the tourism industry, with a dramatic weakening of the local economy, without providing in a solution to the housing problem;
9. There are a number of activities that depend on the local tourism industry for their survival and that will suffer if the local tourism industry goes into decline: laundries and dry cleaners, cleaning companies, restaurants and bars, local commerce, tourist entertainment and tourist transport companies, taxis and TVDE, tourist information professionals, interpreter-guides, construction companies, and building repair and maintenance companies, among others that make up the local tourism ecosystem;
10. The legal and fiscal framework of the tourism sector has made it possible to professionalise the small operators, who make up the overwhelming majority of the market, and to achieve the quantitative and qualitative growth that has led us to have the best short-term rental offer in the world today;
11. The prohibitionist nature of the Government's propositions will lead to a return to informality for this sector, which today operates legally, pays taxes and generates tourism tax. If there are no standards to be met and no healthy and regulated competition, we will all lose: The State, the Economic Agents and, ultimately, the Clients;

12. The hosting of major events in our country will be jeopardised if a significant part of the hospitality offer disappears, since the installed hotel capacity is insufficient to meet the increase in demand that these events generate;
13. More than 70% of the holiday accommodation establishments are second homes, i.e., holiday homes that cannot therefore be part of the permanent housing supply;
14. In the main urban centres, a large proportion of the rental establishments resulted from the rehabilitation of houses that were in ruins or in a poor state of repair and therefore did not remove houses from housing supply. Rather than dispossessing people, they have rehabilitated a large proportion of the empty housing stock in cities, towns and villages, using their own capital, without state or European Union support, often using their life savings or resorting to bank loans;
15. In 2018, the small entrepreneurs involved in AL¹⁰ were excluded from Social Security, and since then, have been prevented from making social security contributions, even if voluntarily, placing in a precarious situation those who work in local accommodation, when facing a situation of unemployment, illness or retirement;
16. The AL was one of the few activities in which equal work opportunities were a reality. More than 50% of AL owners are women, who have managed to create and run their own business, and reconcile their professional activity with their family life. Killing AL will condemn thousands of people, mostly women, to unemployment, which will be a civilisational setback, and will have an incredibly significant impact on their lives and the livelihoods of their families;
17. With the advent of the AL, historic centres have been revitalised, long-closed businesses have reopened and new ones have appeared, bringing additional income to many Portuguese;
18. The dignity of historic centres has been restored and, where there was once rubble, houses have now been built to welcome those who want to discover our country. Where once we saw gardens devoid of people and vegetation, we now hear laughter and joy;
19. For all these reasons, we appeal to you not to kill the dreams of those who restored, renovated, rebuilt, innovated and recreated spaces that were once degraded, and who have seen in AL the opportunity to welcome in a unique, creative and innovative way, offering their guests the possibility of staying at home away from home, in a familiar and informal environment, inviting visitors to experience our country in its everyday atmosphere, from the bell that rings in the church, in the heart of this or that place, through the voice of those who know and share the traditions, of those who tell the stories of the monuments, the legends, the delicious typical dish or the stork that nests in front of the windows.

¹⁰ In the villa and flat modalities.

20. We are talking about guests who shop in the traditional shops, cafés and restaurants, who stroll through the streets, filling them with life and a multiculturalism, and who come to spend a few days with their families, enjoying peace and leisure;
21. The propositions presented by the Government will not solve the problem of the lack of housing that has existed in our country for decades, but they will certainly put an end to one of the most dynamic and entrepreneurial activities in our country – the local accommodation.

III - CONSEQUENCES:

Contrary to what has been conveyed, the consequences of many of these measures will not only be felt in the medium and long term, but will also produce immediate effects that will force the closure of many AL establishments, particularly in the apartment and guest house modalities, if they are installed in buildings subject to the horizontal property regime. Therefore, it is important that we identify the main consequences that will result from the approval of this legislative amendment:

1. The Government intends to authorise condominiums to prohibit the activity of letting of apartments, even if there is no history of problems with neighbours, by means of a resolution adopted by the majority of the building's perimeter, and without us even having the possibility of defending ourselves in a prior hearing of interested parties¹¹;
2. This solution turns the neighbours into judges in their own name, without guaranteeing the impartiality and fairness that, in a decision of this gravity, would at least recommend the existence of a mediation or arbitration process under the aegis of the municipal councils, in which the final decision would always be taken by its president;
3. This proposition, if implemented, could eliminate 70% of the AL supply in our country;
4. In the event that we are forced to cancel the reservations accepted by us, due to compulsory closure of our holiday homes, as a result of a decision taken by the condominium or an administrative authority, for whatever reason, we will be obliged to refund all the sums previously paid by the guests, as well as to find them alternative accommodation and also to pay the difference in the price of those stays;
5. The only exception, which will not lead to the re-registration in 2030, occurs when the owners of a property have signed a loan agreement with a bank and the property is used as a real guarantee for the loan, at least until the loan is not fully repaid. However, the legislator has forgotten that there are countless loan agreements, such as those signed during pandemic between the holiday home owners and

¹¹ By establishing that the decisions of the Condominium Assemblies determine the immediate cancellation of the registrations of Local Accommodation establishments, without guaranteeing the possibility of defence to their holders, the rules set out in articles 121.º and 122.º of the Administrative Procedure Code are violated.

Turismo de Portugal I.P., in which the home owners undertook to operate their establishments for at least four years, and if they were forced to close them down, they would be in breach of contract and would have to repay the full amount of the loan immediately¹²;

6. This Law does not provide for any kind of financial or fiscal compensation, in case we are forced to close our establishments, nor any kind of help to face the resulting losses, namely the payment to our suppliers or the compensation to our workers, in case we are forced to lay them off;
7. As far as CEAL is concerned, we are faced with a penalisation and double taxation, since this contribution does not exempt the AL holders from paying tax on the income and profits derived from their activity, in accordance with the IRS and IRC;
8. In the mainland Portugal, the CEAL is not calculated on the basis of actual income, but on the basis of the estimated average income per room, for the whole country, according to the area of the establishments, on the basis of the INE's statistics for the previous year, without taking into account whether the establishment is open to the public all year round or only for a few weeks. In many cases, the amount payable for this contribution may be higher than the total income resulting from the exploitation of the AL;
9. We therefore consider that the sole purpose of this contribution is to force us to close our AL, or to enter into bankruptcy or insolvency proceedings;
10. We consider it unacceptable that this levy should be imposed on those who have restored buildings that are in ruins or in an advanced state of disrepair, while at the same time exempting from paying of the same contribution hotels located across the street that have hundreds of rooms, in buildings that were taken from housing, but which do not appear to have any externalities on housing;
11. Inexplicably, this contribution is imposed only on the AL, as if it were responsible for the said externalities, and the only economic activity to be penalised for them. At the same time, hotels¹³, non-regular residents, hairdressers, lawyers' , accountants' and architects' offices, among many other activities that are also located in residential buildings, are exempted from the paying this contribution.

IV - OUR PROPOSITIONS:

For all the above reasons, we submit the following propositions for your consideration, which we believe may contribute to a fairer and more effective solution to the housing problem that has existed in our country for decades:

¹² Which leads us to ask whether the exception created to safeguard bank loans is only aimed at solving the problem of the banks and not of the owners of AL establishments.

¹³ Which essentially provide the same type of temporary accommodation service to tourists.

1. Our first and main proposition is the immediate abolition of the CEAL - Extraordinary Contribution for Local Accommodation Establishments, since it constitutes double taxation and, moreover, because the Government has not presented a single study showing a clear cause and effect relationship between the creation of AL establishments and the reduction in housing supply, which grossly violates the principle of freedom of economic initiative, which is considered a fundamental right and an objective to be protected, according to the CRP (articles No. 61 and No. 62), and also the Treaty of the European Union;
2. We also propose that, instead of revoking the current condominium opposition system, created by the Assembly of the Republic in 2018, it should be improved by introducing a mediation or arbitration system, or by creating the figure of the municipal ombudsman of the AL, so that AL registrations can only be cancelled in situations of repeated and proven non-compliance with the rules of use of the building, with the final decision on closure always having to be taken by the city council;
3. In accordance with what was suggested by the Supreme Court of Justice's Unified Ruling Decision of last year, on the installation of AL establishments in condominiums, instead of opting to maintain the ambiguous and unclear regime that currently exists, which has given rise to diametrically opposed judicial decisions in recent years, we request that this opportunity be taken to clarify that the urbanistic uses and, by extension, the uses provided for in the titles constituting horizontal property, which are compatible with the activity of the local authority, are residential and/or service uses;
4. Contrary to what is proposed by the Government, we request that the new AL registrations are not suspended in a large part of the country, maintaining the legal mechanisms currently in force and which were created for this purpose, in the legislative amendment to the legal regime of the AL operated in 2018, which provides for the creation of AL containment areas, or, if this is not understood, perfecting these mechanisms. This is because we consider that local authorities are, par excellence, the entities with the competence to manage their municipalities and to articulate housing policies with the development of the different economic activities that share the same territory;
5. As an alternative to establishing periods of validity for AL registers and dates for the reviewing the validity of the registers, we propose, as is already the case for tourist resorts, the creation of a system of periodic inspections, possibly every five years, of existing AL establishments, to verify whether or not they continue to meet the legal and regulatory requirements to which they are subject;
6. We propose that the regime of non-transferability of ownership of holiday home registration should be a mechanism used only in exceptional cases and that, contrary to what is now proposed, further exceptions to this rule should be created, namely in situations of divorce or separation of unmarried couples, changes in the corporate structure of companies, division of assets during a lifetime or when ownership of the holiday home registration reverts to the owner of the property where the activity was carried out.

Ladies and gentlemen, we are aware that you are the interpreters and representatives of the feelings and the will of our people, and therefore we appeal to your conscience. These propositions presented by the Government hurt our nature and our sense of justice, our ability to overcome adversity, as well as ignoring the AL's work to project the image of a welcoming and modern country beyond its borders. These propositions are an affront to free competition, investment, and private initiative. They go against everything that makes our cities what they are today, cosmopolitan, authentic and a source of pride for our country.

We believe that our concerns and propositions will be accepted by you, as they are fair and because we consider that, in this way, the objectives of the More Housing Programme will be better defended, contributing to the solution of the housing problem in our country, without having to destroy such an important activity for Portugal as that of local accommodation.

Lisbon, May 15, 2023

The Petitioners



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