

IMPACT IN THE CREATION OF A REAL MARKET FOR URBAN LEASES - PBBR

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On August 14th, 2012, Law 31/2012 was published, amending the legal lease regime on urban leases. Such Law entered into force in November 2012.

The objectives were clear: to motivate the market for urban leases; to allow such market to provide Portuguese people with a housing solution (as an alternative to acquisition), which will allow a

reduction of the families' indebtedness; to stimulate families' savings; to promote the mobility of people in their search for jobs; and, to promote urban rehabilitation.

In order to reach the above referred objectives, changes of the core regime regarding the contracts for habitation purposes have been implemented, as well as changes in rent increases procedures.

Impact

Six months after the Law entered into force, it is time to verify its impact on current lease agreements, namely in respect of the rent level increase. In doing so, we should analyse separately the impact on the lease contracts for habitation purposes and the other ones, for purposes other than habitation.

In what concerns lease contracts for habitation purposes, the new lease regime foresees mechanisms to protect lessees with economical problems and/or who are 65 years of age or more, or with a deficiency with a degree of 60 percent or more of incapacity.

For the above special cases, there is a transitional period during which the rent may only be updated with reference to the value of the leased premises.

The increase of the rents in such cases is facing some obstacles. In fact, to implement the above mentioned protection, concerned lessees must get documents from tax authorities certifying the existence of the referred economical problems. However, due to the inefficiency of the tax authorities, a large number of procedures for rent increase have been suspended.

Apart from the above referred, and in particular regarding leases for purposes other than habitation, we conclude that the impact on current lease agreements is positive and that communication between the parties to reach an agreement regarding the new amount of the rent and also regarding the application of this new regime seems to produce positive results.

Therefore, the new law is reaching the objective of solving one of the historical problems of the Portuguese lease market: the unrealistic value of the rents in the older lease contracts and its rigidity.

Taking in consideration all the above, we conclude that the law in analysis is contributing to the promotion of investment in the lease market and therefore is reaching the objectives foreseen.

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