MANAGING OVERTOURISM TO PRESERVE URBAN LIVEABILITY: TRADITIONAL SOLUTIONS AND NEW GOVERNANCE APPROACHES

Davide Testa, Giorgia Nolfi**, Shasa Calì**, Magloire Fopokam***

Abstract

The article addresses the issue of overtourism from a legal and economic perspective. In particular, the phenomenon is analysed based on Weitzman's economic theories, considering which more traditional regulatory approaches are criticized. The analysis relies mainly on Italian case studies, such as the restrictions and taxes imposed on access to certain cities, including Venice, and some seaside destinations, also comparing the different regulatory choices made by some of Italy's major cities and the outcome of the judgments involving them before the Administrative Courts. Ultimately, the hypothesis is that there is a need for a collaborative governance approach to tourism as a third way, in addition to the "Weitzman" approach, to be implemented through partnership models. Examples of this include Community Land Trusts, which are beginning to establish themselves in Italy as participatory foundations, and innovative solutions tested in public policy programs such as Smarter Italy. Finally, the issue of overtourism is addressed from a comparative perspective, also in relation to areas that have recently become tourist destinations, such as Africa, highlighting how similar solutions are emerging in this case too, starting with Community Land Trusts.

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* Postdoctoral Researcher, Luiss Guido Carli University.
** Junior Researcher, LabGov ETS & Luiss Guido Carli University.
*** Research Fellow, Luiss Guido Carli University.

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1. Introduction: overtourism and urban liveability

There is a close and well-studied correlation between the development of the physical territory, the evolution of economic relations, the usability of the territory and ultimately the well-being of the people who, for various reasons, relate to it. In general, it can be observed, for example, that a tendency towards concentration is inherent to the process of urbanization that has been ongoing since the Industrial Revolution and leads the UN to estimate that 70% of people worldwide will live in cities by 2050[1], increasing territorial disparities and giving rise to social, economic and environmental problems in the absence of careful planning that also takes global phenomena into account[2].

It is precisely the evolution of economic relations that has turned tourism, once an elite activity, into a veritable mass industry. As a result, the concentration experienced in urban centres in many other respects, including primarily that of vehicular traffic[3], is also emerging critically in this sector, creating the phenomenon known as overtourism.

A reliable definition could be the one provided in a study commissioned by the European Parliament, where overtourism is described as "the situation in which the impact of tourism, at certain times and in certain locations, exceeds physical, ecological, social, economic, psychological, and/or political capacity thresholds"[4], underlying overall the negative impact of the crowding effect and the lack of readiness to tackle the consequences.

The European Parliament's Committee on Transport and Tourism (TRAN) dealt with the problem of excessive tourism due to prominent legal, social and environmental concerns: overtourism, in fact, poses issues that have an impact on EU Treaty principles, including residents' quality of life, the access to housing and public spaces and the environmental integrity[5], which are linked to obligations under EU environmental law and sustainable development goals (SDGs). TRAN observed that this phenomenon has outpaced policy making, and that national and local authorities struggle to regulate its effects. The strategies that public authorities are called upon to implement to combat the negative effects of

[1] United Nations, Department of Economic and Social Affairs, *Population Division, World Urbanization Prospects 2018: Highlights* (2019).
[2] C. Iaione, L. Kappler, *Governing the extreme: self-sustainable diverse co-cities for just adaptation*, 66 Riv. Giur. Edil. 373 (2025).
[3] C. Iaione, *The tragedy of urban roads: saving cities from choking, calling on citizens to combat climate change*, 37 Fordham Urb. L. J. 889 (2010).
[4] P. Peeters et al., *Research for TRAN Committee - Overtourism: impact and possible policy responses*", European Union (2018).
[5] J-P. Lozato Giotart, F. Dallari, *Geografia del turismo: dallo spazio consumato allo spazio gestito* (2008).

overtourism should therefore take into consideration several additional aspects, including, for instance, the following.

Firstly, scholars and policy-makers shall consider the intensification of tourism flows and the emulative attitude of the emerging economies, arising from the technological advances, the low-cost flight industry, and the spread of digital booking platforms, thereby making travel accessible and affordable, also considering developments in digital marketing and social media, which have shown to produce a wide-reaching impact and therefore to encourage mass tourism in specific destinations. Secondly, the tendency of tourists to gather in the same popular and iconic global locations is another factor to consider, resulting in overcrowding that disrupts urban life, increases living costs and diminishes residents' quality of life. Thirdly, governance aspects should be addressed – and this is the focus of this research – as inefficient policies and regulations can lead uncontrolled growth and prevent long-term sustainability, giving priority to immediate tourism revenues rather than to local well-being. Lastly, seasonality can also be considered another negative factor in distressing local environments and economies.

The main issues caused by overtourism, in a nutshell, from the perspective adopted in this research, can be summarized essentially in the following three categories.

The first problem is overcrowding, an intrinsic feature of overtourism, which causes irremediable inefficiency in public services and serious difficulties in private economic activities, affecting citizens first and foremost, but also workers and ultimately tourists themselves. In urban centres, overcrowding due to tourism exacerbates existing problems caused by urbanization, with well-known issues such as traffic congestion, while in natural areas where seasonal tourism is concentrated, it creates significant risks for the environment and biodiversity, which is severely endangered.

The second concern this phenomenon raised has to do with the cost of living, and, *in primis*, with housing, leading to the displacement of the most vulnerable segments of the population. The increase in demand for specific tourism goods and services caused increment in prices and reduction in the availability of the latter, making housing emerge as a veritable problem, resulting in the marginalization and social isolation of residents. Social inequalities multiplied, as a consequence of an unequal access to benefits coming from tourism, and gentrification surfaced, as a broad middle-class reshaping of a place, enwreathing the whole transition from low-level neighbourhoods to upper-class spaces and frequently resulting into a situation in which higher-income groups displace lower-incomes ones causing, among the many, a decline of social diversity.

Thirdly, overtourism has a negative impact, which also encompasses and summarizes the two situations described above, on the liveability of places – primarily cities, but also, as we shall see, small villages and mountain or seaside tourist destinations – causing depopulation and, in any case, a significant deterioration in the quality of life.

Liveability has recently emerged as an autonomous legal category also in case law, albeit with different nuances due to the varying sensibilities expressed by the constitutional principles of different legal systems. The case Garib v. The Netherlands[6] is a leading example of the emersion of liveability as a proper legal category. On that occasion, the European Court of Human Rights (ECHR) had to rule in the context of freedom of movement and right to choose one's place of residence under Article 2 of Protocol No.4 of the European Convention on Human Rights, since the applicant argued the violation of these two rights after a Dutch municipality denied a housing permit for a specific district in Rotterdam in the light of a national legislation, namely the Inner City Problems Act, which identified areas of the city where statutory requirements have to be satisfied in order to move in, among them all the income one, not satisfied by the applicant.

The refusal and the measure, built to guarantee a fair and balanced allocation of housing, have been recognized as legitimate by the Court, which underlined that the rights guaranteed under Article 2 of Protocol No.4 of the ECHR can be legitimately limited by reasons of public policy pointing at managing social housing distribution. "The restriction here in issue – according to the Chamber – was intended to reverse the decline of impoverished inner-city areas and to improve quality of life generally. There can be no doubt that this is an aim which it is legitimate for legislatures

[6] European Court of Human Rights, Application n. 43494/09. *Garib v. The Netherlands*. 6 November 2017

and city planners to pursue"; the decision, nonetheless, demonstrates the tension existing between the freedom to determine one's residential location and national or regional policies on social housing and welfare, raising the question about whether such policies aimed at preserving liveability of urban centres could be indirectly discriminatory for vulnerable populations.

The relevance of such an intersection among overtourism and liveability has furthermore been recognized by the Italian Administrative Court, which last April delivered a judgment suggesting a change in direction of public policies.

Appealed a sentence of an administrative court, the public administration was required, by the appellant, to obey to the sentence imposing the construction of adequate structures on the touristic attraction of the city wall to prevent views on its adjacent property from tourists, order not fully accomplished and creating a situation of conflicting interests among the valorisation of the touristic site and the protection of the neighbour privacy.

The Supreme Authority intervened, highlighting the need to mitigate the impact of tourism on quietness and discretion, finding a reasonable balance. The realization of work of cultural heritage enhancement must consider, under the principle of reasonableness, the impact tourists have on community life, fully keeping in mind the actual global and local economic and socio-cultural context harmed by the phenomenon of overtourism.

For the first time in the history, an Italian Court utilized the English word 'overtourism' to refer to that issue so spoken, but at the same time so forgotten. As described by the Authority, this topic does not have mere socio-environmental relevance, but relevant are the legal profiles as well, having serious effects on public administrations and public policies. In front of this "endemic and physiological phenomenon of overtourism", the necessity for the administration of a new type of interests' balance comes to light and the conservation of the tourism resource, the citizens and resident businesses safeguard and the macro-impact on the territory gain more relevance now than before. This activity of interests counterbalancing requires the adoption of "new administrative and regulatory instruments that are equally themselves of a new type"[7]

[7] Consiglio di Stato, sez. IV, 15 aprile 2025, no. 3258.

and that have the potential to guarantee the so familiar right to the city[8], involving all city inhabitants in the urban creation and transformation, as to advocate democratic control over urban development and to empower inclusivity, creativity and social justice as the pillars of future policies.

If, as stated above, today's overtourism is also a negative product of technological innovation, caused by the proliferation of digital booking facilities such as Airbnb, which are now widespread in relation to a range of additional services, from food delivery to car rental with driver, it is precisely innovation, primarily economic and social, as well as administrative, that can help solve the problems posed by the rush with which technical evolution has overtaken the current legal framework[9], leading towards new paradigms of liveability.

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[8] H. Lefebvre, *Le droit à la ville* (1968).

[9] Such is the impact of digital platforms on cities, that a whole new field of "platform urbanism" has recently developed. *Ex multis*, see: S. van der Graaf, P. Ballon, *Navigating platform urbanism*, 142 Tech. Forecasting & Soc. Change 364 (2019); F. Caprotti, I.C.C. Chang, S. Joss, *Beyond the smart city: a typology of platform urbanism,* 4 Urb. Trans. 4 (2022); P. J. Sabatini-Marques, T. Yigitcanlar, D. Sell, E. Costa, *The Evolution of City-as-a-Platform: Smart Urban Development Governance with Collective Knowledge-Based Platform Urbanism*, 10(1) Land 33 (2021); O. Söderström, A.C. Mermet, *When Airbnb Sits in the Control Room: Platform Urbanism as Actually Existing Smart Urbanism in Reykjavík*, 2 Front. Sustain. Cities (2020); F. Bignami, N.C. Hanakata, *Platform urbanisation, infrastructures and techno-politics: The turn towards urban citizenship*, 54(1) J. Eur. St. 42 (2024); S. Bauriedl, A. Strüver, *Platform Urbanism: Technocapitalist Production of Private and Public Spaces*, 5(4) Urb. Plan. 267 (2020); B. B. Arcila, *How law enables platform urbanism: the case of municipal power and platform regulation*, in A. Smets, P. Ballon (eds.), *Handbook of Platform Urbanism* (2025). Closely related to the literature on platform urbanism, albeit focused on other aspects of the legal and sociological analysis of smart cities, *ex multis* can be cited: C. Iaione, *Legal Infrastructure and Urban Networks for Just and Democratic Smart Cities*, 11 IJPL 747 (2019); C. Buzzacchi, P. Costa, F. Pizzolato (eds.), *Technopolis* (2019); S. Ranchordás, C. Goanta, *The New City Regulators: Platform and Public Values in Smart and Sharing Cities, 45* Gron. Law Res. (2019); F. Dughiero, A. Michieli, E. Spiller, D. Testa, *Governing with urban big data in the smart city environment: an italian perspective*, 1 Ius Pub. Net. Rev. (2021).

2. Methodology

The present article dynamically combines a technical-juridical and economic approach, empirically analysing case law and case studies to evaluate whether and how multistakeholder governance could offer efficient and incisive solutions to the dominating issue of overtourism.

In the first place, a doctrinal legal analysis, grounded on overcrowding and administrative and urban law, has been conducted, followed by a doctrinal economic analysis, investigating tourism and externalities referring to the theories of Pigou and Weitzman to explore governance and common-pool resources as potential responses. Being the identification of legal interpretations, normative limits and applicative criteria of traditional quantitative measures the main objective, a systematic exam of relevant case law and EU and municipal regulations has been then run, enriching this analysis through a selection and a compared description of Italian case studies proposing traditional solutions - e.g. access fees and reservation systems - and others regarding innovative governance - e.g. CLTs and national policies as Smarter Italy. The criteria guiding this selection have been the relevance with regards to the problem of overtourism, the available documentation, the observable impact on liveability and the social inclusion. Tackling the weaknesses of existing policies, a research hypothesis has been developed: a solution rooted in multistakeholder governance capable of mitigating negative externalities of the issue, clarifying the conceptual variables of inclusion, environmental sustainability, social accessibility and administrative efficiency. Thereafter, a critical comparison among outcomes of both traditional policies and co-governance cases allowed the verification of the hypothesis, resorting to qualitative analysis, documental evidence, secondary data and, where available, ex-post projects' assessments. To broaden the research and test the transferability of the model and its institutional limits, a confrontation with instruments and pratiques in the African context has been lastly conducted.

This article intends to contribute to the scientific debate on rules and governance of overtourism, offering moreover an operative contribution for practitioners and policy-makers interested in participatory governance - such as local authorities, development agencies and planning bodies - to preserve urban liveability.

3. Tourism as an Externality: Rethinking Regulatory Techniques outside Price and Quantity

From a legal perspective, there is an urgent need for new regulatory and administrative instruments, and corresponding practices, to manage the recent challenges arising from the increase in tourism as a consumption good, firstly in the hospitality sector. Equally, it is essential to guarantee that local communities have adequate safeguards against phenomena such as rising central-area prices and the expanding use of residential soil for hospitality purposes to meet short-term overnight demand.

From the policy maker's standpoint, it raises a need to understand the economic mechanisms that serve as the theoretical basis for choices undertaken by governments, public administrations, local authorities, or regulatory bodies of different nature.

In the following chapters, a wide variety of models and theoretical approaches will be discussed and examined. In line with Ostrom's beliefs against overly rigid classifications, it would be ineffective to reduce all interventions to narrow or mutually exclusive categories. Nevertheless, for the sake of clarity, the paper refers to five broad families of policy solutions: (i) economic regulatory models, including externalities, taxes, tariffs, and quotas; (ii) economic–juridical models, such as access limits, contingencies, and administrative measures; (iii) polycentric and participatory governance approaches; (iv) models based on collective and anti-speculative property; and (v) sustainable and distributed tourism models.

3.1. An economic critique of overtourism based on Weitzman's theories

The problem of overtourism, from an economic point of view, can be traced back to the theory of externalities[10]: the price is a signal that reflects the informational content of a good at a given

[10] A. Capocchi, C. Vallone, M. Pierotti & A. Amaduzzi, *Overtourism: A Literature Review to Assess Implications and Future Perspectives*. 11 Sust. 3303 (2019).

point in time. If this informational content does not consider the hidden and sometimes future costs of a good and its corresponding use, then the price of the good will be lower than its optimal amount. In the case of negative externalities, because of information asymmetries, there is a divergence between social and private returns such that the private optimum results in an excessively high level of production of that good, which must be discouraged from returning to the social optimum.

A simple illustration is provided by pollution. When firms produce CO_2 carrying out their activities, the environmental and health consequences are borne by society and the ecosystem rather than by the producer. The private cost of production is therefore lower than the social cost. Since these external and hidden costs are not incorporated into the market price: the goods are produced and consumed in quantities greater than the socially optimal level.

To "internalize" all the negative effects due to excessive consumption of that good, a so-called Pigouvian tax[11] is imposed to compensate for the hidden cost inherent to the nature of the good. The purpose of taxation is to reduce the optimal quantity of the goods produced and purchased, thereby contributing to the goal of reducing the harm caused by the production and consumption of that specific good.

Among the hidden costs of unregulated, frantic tourism, we can once again invoke the definition provided by the European Commission, citing all the costs, monetary and non-monetary, borne by those who habitually reside in areas affected by overtourism. These costs specifically include excessive strain and a higher rate of obsolescence for infrastructure, environmental damage, alienation of residents, and increased costs driven by tourists' greater spending power relative to residents[12].

Overtourism is, as result, a pressing issue requiring efficient management to preserve urban liveability, turning necessarily the discourse to existing policy approaches, which remain broadly anchored around the Weitzman dichotomy of price *versus* quantity.

The alternative examines a key issue in policy design: whether harmful externalities should be regulated using a price or

[11] A.C. Pigou, *The Economics of Welfare* (1920).
[12] P. Peeters et. al., *Research for TRAN Committee - Overtourism: impact and possible policy responses*", cit. at 4, 26.

a quantity remedy, a question that becomes even more central in the context analysed, where costs and benefits are clearly uncertain.

Price remedies, such as taxes, fix price and allow firms to decide the corresponding level of output, whereas quantity remedies such as caps or quotas, operate by setting a cap and let the market determine the price.

Under the theoretical condition of full and perfect information about costs and benefits, quantity and price instruments are interchangeable, as fixing one automatically determines the level of the other. In the real world, policy makers operate under uncertainty, and their goal is to adopt an instrument capable of minimizing the expected loss from policy errors while maximizing the spread between benefits and costs. The Weitzman rule guides the choice, suggesting that price remedies should be used when marginal cost curves are uncertain and steep and marginal benefits are relatively flat. In contrast, quantity instruments are adopted when marginal benefits are not known and steep and marginal costs comparatively flat[13.]

Considering tourism policies, this rule indicated that taxes provide cost predictability, but they may lead to uncertain social, environmental and economic outcomes, while caps guarantee fixed and certain SDG outcomes, but may entail unforeseen costs if conditions shift. The decision thus will depend on which type of error is more dangerous: negative impacts higher than expected, or higher costs?

Jurisdiction that prioritizes fiscal revenue and administrative simplicity prefers, of course, taxes, while those with specific performance targets tend to adopt caps. Despite this divergence, both behaviours share the adoption of a micro-policy approach[14].

Alongside the uncertainty and the difficulties in precisely measuring the costs associated with overtourism, which are a primary reason for the non-adoption of price and quantity-based regulation, redistributive and civic implications that such regulation can entail are not lacking as well. Stiglitz states that a Pigouvian tax leads to production efficiency and optimal market outcomes if the Diamond-Mirrlees conditions are satisfied, and

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[13] M.L. Weitzmann, *Prices vs. Quantites*, 41 Rev. Econ. Stud. 477 (1974).

[14] K.T. Mideksa, M. L. Weitzman, *Prices versus Quantities across Jurisdictions*, 6 JAERE 883 (2019).

these conditions are very stringent and difficult to meet. If these conditions are not met, restrictive taxation could cause a shift in income distribution or surplus, both through direct price effects and through general-equilibrium effects that operate via wages and relative wages[15]. An example of a negative externality that works through general equilibrium is the composition of the workforce and its productivity: since tourism is a sector notoriously characterized by low value added, it can slow overall economic growth if not accompanied by an appropriate set of public policies.

Capping access can have immediate effects on the regeneration of ecosystems and on their use, thereby correcting the externality, but it may harm private profits and thus private welfare, without delivering any kind of redistributive benefit. Indeed, quantity reductions can pass through to price increases, which may, for example, be borne by civil society. Paranab Bardhan writes: "however, straightforward privatization of common property resources often has serious distributional consequences, particularly in the form of disenfranchisement of the poor […]. Private property may not succeed in internalizing all the externalities. Time discount rates of private users of resources may be higher (and therefore resource exploitation rates larger. Since privatization may also be perceived as unfair by the dispossessed […]. Although privatization has its equity and efficiency problems, nationalization of the local common property resource and its management by a distant bureaucracy is rarely any better, and in some cases actually much worse)[16]. Ostrom, Janssen, and Anderies, in the context of combating climate change, caution against the use of simplistic recipes, identifying them as "panacea" solutions—understood as "a blueprint for a single type of governance system" that is applied to all environmental problems[17]. A public policy that approaches a complex problem through a binary solution such as caps-and-price measures can be seen as a kind of panacea. Moreover, there is abundant economic empirical evidence

[15] J. E. Stiglitz, *Addressing Climate Change through Price and Non-Price Interventions*, NBER WP No. 25939 (2019).

[16] Bardhan, P., *Symposium on Management of Local Commons*, 7 J. Econ. Persp. 87 (1993).

[17] E. Ostrom, M.A. Janssen & J.M. Anderies, *Going Beyond Panaceas*, 104 Proc. Nat'l Acad. Sci. U.S.A. 15176 (2007).

showing that Weitzman-style regulation often does not produce hoped-for results[18].

We can identify, in the context of the tourism economy, certain types of goods (beaches, nature trails, historic centres) that exhibit the characteristics of non-excludability and rivalry (Ostrom uses the term "subtractability")[19] and therefore, if not subject to careful regulation, can be prone to problems such as congestion and exploitation, typical of Common Resources Pool[20].

Beyond purely economic assessments, Ostrom offers valuable lessons on the failure of centralized, top-down models for managing CRPs, first and foremost the problem of information asymmetry raised by Wietzman and the externalities theorized by Pigou: a top-down decision in the absence of perfect information risks being a non-optimal solution. Moreover, according to Ostrom, top-down operations do not capture the polycentric complexity of communities, overlooking their capacity for self-organization. According to Ostrom, externalities are internalized through shared rules, social sanctions, and community management, grounded in the principle of shared responsibility and the definition of common rights and limits.

The results coming from Ostrom literature and teaching suggest us that we should escape from the simplicist and often binary policy solutions offered by simple models trying to enlarge our vision towards governance tools that help us to reason in terms of polycentric governance intended as system of multiple, overlapping centres of decision-making operating at different scales, coordinating through shared rules, mutual monitoring, and iterative learning, with authority matched to local knowledge and accountability distributed across actors.

3.2. Regulatory instruments through the lens of Weitzman's model

Moving into the bowels of the analysis of traditional regulatory techniques, which are currently being utilized by

[18]L.S. Karp & C.P. Traeger, *Prices versus Quantities Reassessed*, CESifo WP No. 7331 (2018).

[19] E. Ostrom, *Beyond Markets and States: Polycentric Governance of Complex Economic Systems*, 100 Am. Econ. Rev. 641 (2010).

[20] E. Ostrom, *Common-Pool Resources and Institutions: Toward a Revised Theory*, in *Handbook of Agric. Econ.*, Vol. 2, Pt. A (2002).

municipalities as a tool to manage congestion[21], micro policy measures consist of quantity limits and pricing policies.

Quantity limits, known as quantitative caps or quotas, i.e. policy instruments setting upper limits on the number of tourists allowed to access or stay in a destination within a certain time window, are designed to protect local ecosystems, infrastructures and the community itself from the pressure that overtourism and overcrowding, consequently, bring.

This tool can, anywise, affect the demand or the supply side: the first one will experience a reduction in the number of visitors per unit of time, whereas the second one will instead experience a reduction in the availability of amenities. In this way, the target can be clearly demarcated, but certainly a determination of the carrying capacity of the area in question is required, not an effortless task due to its dependence on physical, user, ecological, social-psychological and supply capacities.

Pricing policies, fiscal tools in the form of taxes or fees based on the causative principle, are directed instead at rectifying market failures resulting from the divergence of private and social costs, at externalizing the costs of tourism, e.g. environmental damage, social inequity and pressure on services.

The model based on the travel cost method (TCM) results in being the most employed for determining the use value or price of a natural resource, with the assumption that the demand for a public resource decrease with increasing travel costs[22]. Two are the main fiscal measures employed by municipalities: the Tourist Tax and the Access Fee[23].

In Italy, the tourist tax can be imposed by municipalities, provincial capitals, unions of municipalities and cities listed in regional registers of tourist destinations on non-resident guests staying in accommodation facilities. This fee is viewed as a potential Pigouvian tax, a measure capable of internalizing the negative externalities of tourism.

Established by Legislative Decree No. 23/2011, it recognizes the autonomy of municipalities in setting the rate, duration,

[21] G. Menegus, *Appunti per un governo della città turistica*, 1 It. Pap. fed. 79 (2024).
[22] E. Smerald, *Overcrowding of tourism destinations*, in H. Pechlaner et al. (eds.), *Overtourism* (2019).
[23] S. Giorgi, *La fiscalità per la destinazione dei flussi turistici nelle città d'arte: il ruolo delle nuove tecnologie,* 4 Flor. Law Rev. 46 (2023).

exemptions and collection procedures through a municipal regulation, accordingly to Article 119 of the Italian Constitution. The rate is variable; essential is nonetheless the provision of earmarking, often consisting of the use of revenues for the improvement of tourism services, the support for accommodation structures, the maintenance and enhancement of cultural and environmental heritage and public services used by tourists[24].

The second measure - the Access Fee, hard regulatory measure based on monetary charge levied on visitors, especially those not staying overnight, for entering into determined high-pressure tourist zones, such as historic city centres or natural sites – is supposed to act as a deterrent to mass tourism, to encourage higher-value tourism and, most important, to generate public revenue for infrastructure maintenance, environmental protection and crowd management.

Despite the potential these traditional regulatory tools have in preserving the quality of life for residents and in fostering infrastructures relief by reducing consequences of overcrowding, rare is evidence of full effectiveness in terms of improvement of liveability.

Rather than preventive, these systems are qualified as reactive; they often serve to cure the symptoms of overtourism, instead of addressing the causes of the phenomenon, listing, among them, the unsustainable infrastructure planning.

Affecting disproportionately certain groups, the principle of equal access highly risks being violated, especially when permits or access rights are distributed in a way favouring established commercial operators over local workers and residents. Accordingly, the freedom of movement, potentially limited by inappropriate fees introduced to condition access[25].

Standalone quantitative limits, if not embedded in wider sustainability plans, can be revealed to be ineffective and unintended legal and social consequences are just around the corner.

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[24] C. Ferrario, *L'imposta di soggiorno: vincolo od opportunità per il settore turistico?*, 2 Dir. Aff. 176 (2021).

[25] G. Menegus, *Appunti per un governo della città turistica*, cit. at 21.

4. Traditional approaches and regulatory attempts in Italy: case studies and case law

The rising phenomenon of overtourism in Italy has led to the adoption of regulatory remedies both at national and local level with the overall aim to mitigate its negative impacts on historical cities, nature and local households. These measures have triggered legal and administrative challenges that must be faced by local authorities. The following section examines some of the most relevant case studies together with their respective judicial remedies in the Italian context, highlighting how municipalities have attempted to preserve liveability of the affected areas.

4.1. Cities and coastlines with limited access

In the Italian peninsula, Venice represents the first significant example of congestion management through a restrictive access policy applied to an entire urban centre. The city, which has been severely struggling with the liveability of its historic centre, introduced an access contribution fee, pursuant to national law[26], on day-trippers who are not paying the tourist accommodation tax. Residents, workers, students and other defined categories are exempted from payment.

Within this framework, the amount ranges are modulated by the predicted daily tourist flow, and the city council has attributed the power to adjust the access fee[27] on high-intensity days, to set thresholds and caps based on real-time data and to establish exemption on periods or different rates for certain islands. All visitors, exempted included, are required to register online and these collected data are utilized to inform the daily application and fee levels, acting as a real-time crowd management tool.

Despite the municipality of Venice's aim to build an innovative strategy to reduce pressure on the overcrowded historic centre, several legal and operational criticisms have emerged. Firstly, by conditioning the access to the city, the fee risks to conflict

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[26] Law 30 December 2018, no. 145 "Bilancio di previsione dello Stato per l'anno finanziario 2019 e bilancio pluriennale per il triennio 2019-2021".

[27] Resolution of the City Council of the Municipality of Venice 12 September 2023, no. 51 "Regolamento per l'istituzione e la disciplina del contributo di accesso, con o senza vettore, alla Città Antica del Comune di Venezia e alle altre isole minori della laguna, ai sensi e per gli effetti dell'art. 1 comma 1129 della legge n. 145 del 30/12/2018".

with Article 16 of the Italian Constitution, which admits limitations to the freedom of movement exclusively by law for health or security purposes. In addition, it increases privacy and data protection risks as well, as the mandatory pre-registration and the data collection from individuals who are not liable to pay the fee appear to exceed what is necessary, ending up being disproportionate and raising concerns under the principle of data minimization stated by Article 5 and 6 of the GDPR. Lastly, equity and symbolism are significant issues, forasmuch the fee could be perceived discriminatory based on income and, transforming Venice into a privatized or commodified space, it could clash with democratic values of free access to public goods[28].

Another example of regulating tourist flows by limiting access to a public place is that of limited access to beaches, exemplified by the northern coast of Sardinia. This set of measures acted as a reaction to the stress and risks to nature conservation to which these places are subjected, as well as for the same reasons of liveability that have led to similar measures in urban centres.

In this context, a variety of solutions have been adopted, all of which involve restricting access: these range from booking a spot on the beach via an app or website, sometimes combined with an access fee[29], up to more complex real-time tourist flow monitoring systems.

Among the latter, it should be mentioned the so called "Baunei model", i.e. the digital system for managing tourist flows by sea to beaches experimented in Baunei (NU) starting from summer 2025[30]. It was developed by the Sassari-based tech company Eager, which produced an algorithm for the "dynamic allocation of landing quotas"[31]. From 2025, therefore, access by the sea at Cala dei Gabbiani, Cala Mariolu, Cala Biriala, Cala Sisine and Cala Luna will be regulated not only by a booking app, as was already in the previous years, but also by an algorithm that aims at ensuring that the restriction is strictly observed throughout the day. Making use of Starlink's satellite connection, therefore, this digital

[28] G. Menegus, *Appunti per un governo della città turistica*, cit. at 21.
[29] This is the case, for instance, of the Canniglione swimming pools in Arzachena, La Rena Bianca in Santa Teresa di Gallura, and La Pelosa in Stintino.
[30] P. Ardovino, *Stop all'assalto dei turisti alle cale: a Baunei l'algoritmo decide chi entra*, La Nuova Sardegna (08.02.2025).
[31] *Ibidem*, unauthorized translation.

tool has been integrated into the monitoring system, enabling real-time verification of the amount of people getting on and off the boats, with an AI assistant providing real-time assistance to both operators and tourists.

All these cases, motivated as much by a desire to protect the territory as by a desire to make the place realistically accessible to citizens and workers alike or, in the case of beaches, to tourists, demonstrate a series of significant critical issues.

The case regarding Sardinian beaches, while undoubtedly solving the problem of functional efficiency, allowing for better service to users and, above all, preserving natural heritage, presents itself several problems. Throughout the summer season, for example, beaches become essentially inaccessible, or at least have very limited access, even for residents who are prevented from benefiting from a significant, if not essential, part of their territory.

From another point of view, it becomes extremely difficult for tourists themselves to visit these places due to the obstacles that stand in their way: beach reservations, for example, are often limited to one person per device, making it very difficult for families to find a spot. In this way, in the name of tourism that is undoubtedly more sustainable from an environmental point of view, social relations and, to some extent, related economic activities are significantly sacrificed, although their quality does increase. A significant balancing is therefore conducted between environmental protection and economic and social demands, in addition to a change of direction in the approach to tourism, favouring higher quality but lower quantity services. In this regard, it is not possible to speak of balancing, even though it may give rise to conflicting interests.

4.2. Different approaches in municipal regulations on short-term rentals and case law

Overtourism particularly affects the most attractive urban areas even indirectly, for example due to the advent of the digital economy, characterized by services offered by digital platforms that tend to evade taxation systems and compromise the capacity of local authorities to manage tourist flows[32].

[32] See the literature cited in note no. 9.

This phenomenon is becoming so serious and evident these days that it has been discussed in terms of "airification of cities"[33], meaning the transformation of a huge number of residential properties from long-term housing to short-term tourist rentals[34]. Overtourism and the aerification of cities, especially in the historic centres of the most attractive sites and in places subject to seasonal tourism, produce negative impacts that go well beyond the scale of the issue itself: from the inefficiency of essential services, such as public transport, to the replacement of local businesses with shops intended exclusively for non-residents, or the dramatic increase in house prices and rents. These consequences, in turn, make it impossible for the most vulnerable communities to continue living in areas affected by overtourism, leading to their displacement towards the suburbs, and finally also push all other citizens to emigrate elsewhere, due to the sudden deterioration in the quality of life for residents.

This scenario stands in clear contrast to the very existence of a "right to the city"[35], implying a collective management of the city by the inhabitants: on the contrary, the city is increasingly treated as a mere asset, neglecting that assets are not habitable.

The attempts to regulate these phenomena involve multi-level competences belonging to national, regional and local authorities, so that most of the regulatory attempts concerning short-term rentals gave rise to judicial proceedings, starting with the first national law aimed at recovering taxation from short-term rental platforms - so-called "Airbnb Law"[36] - which gave rise to proceedings that were brought before the Council of State and the CJEU[37]. Beyond taxation concerns, the first national provision

[33] S. Picascia, A. Romano & M. Teobaldi, *The airification of cities: making sense of the impact of peer to peer short term letting on urban functions and economy*, Proc. of the Annual Congress of the Association of European Schools of Planning (2017); M. E. Bucalo, *I servizi delle piattaforme online fra giurisprudenza sovranazionale e interna e necessità di regolazione dell'economia collaborativa. Riflessioni a partire dal caso Airbnb*, 22 Federalismi.it 66 (2020).

[34] M. E. Bucalo, *I servizi delle piattaforme online fra giurisprudenza sovranazionale e interna e necessità di regolazione dell'economia collaborativa. Riflessioni a partire dal caso Airbnb*, cit. at 33.

[35] H. Lefebvre, *Droit a la ville*, cit. at 8.

[36] Art. 4 of Decree-Law no. 50/2017.

[37] According to Airbnb's defensive argument, the platform shouldn't comply with such provisions, because of the classification of its service as an

directly aimed at containing overtourism has been the requirement for a National Identification Code (CIN), provided for by Decree-Law no. 145/2023. Apart from this specific provision, however, both national and, above all, regional authorities, despite their significant regulatory powers, have been largely absent in addressing the negative impacts of short-term rentals, despite some recent efforts[38], such as the participatory process involving all the interested parties to draft a regional law on short-term rentals taking place in Emilia-Romagna[39].

The first attempts of municipal regulation, built upon regional legislation and depending on that, show diverging approaches, which can essentially be classified into two categories: planning-centred and tourism-centred. An example of the first gender, for instance, are the measures taken by the municipality of Bologna, that amended the General Urban Plan (PUG) and the Building Regulation, relying on the municipal authority over urban planning to provide some regulations governing the size and healthiness of flats and their administrative classification. This regulatory choice was approved by the regional administrative court which, also based on previous constitutional case law, in judgment TAR Emilia-Romagna no. 308/2025 upheld the regulatory provisions.

"information society service" under Directive 2000/31/EC and the Uber Test developed by the CJEU (C-390/18). Airbnb appealed to the Regional Administrative Tribunal of Lazio and then to the Council of State, which filed a preliminary reference to the CJEU (C-83/21; Cons. di Stato no. 9188/2023), questioning whether the law violated the EU principle of free movement of services under art. 56 TFEU: the Court confirmed the law's validity, declaring proportionality between the contested law provisions and the State's duty to fight tax evasion (F. Pizzolato, D. Testa, *Libertà economiche ed autonomia locale: strumenti e lacune della tutela giurisdizionale*, in M. Bertolissi, C. Pagliarin (eds.), *Il destino delle risorse pubbliche. Reperimento gestione giurisdizione* (2023).

38 D. Tumminelli, *Le "locazioni brevi" e il (mancato) ruolo svolto da Regioni ed enti locali nella materia del "governo del territorio"*, 1 Istituzioni del Federalismo 247 (2023); F. Fracchia, P. Pantalone, *Salvaguardia delle identità locali, corretto uso del territorio ed esigenze del mercato: il caso delle locazioni brevi ai tempi della sharing economy*, 1 Consulta Online 115 (2022).

39 For further information, see: https://www.regione.emilia-romagna.it/notizie/2025/aprile/casa-via-al-percorso-verso-una-legge-regionale-per-disciplinare-gli-affitti-brevi-a-uso-turistico-il-primo-tavolo-entro-maggio (accessed 28 November 2025).

Conversely, an example of a more tourism-focused approach to regulating short-term rentals occurred in Lombardy, in Sirmione, where the municipal regulation disciplining BnBs on the basis of regional tourism legislation was first upheld by the TAR of Brescia and then rejected by the decision of Council of State no. 2928/2025, stating that non-commercial tourist rentals fall outside the scope of local authorities' powers, according to Lombardy's regional law.

The City of Florence, furthermore, adopted an intermediate approach: on one side, it amended the General Urban Plan – which was the matter of a ruling by TAR Toscana no. 858/2024, decided on procedural grounds – according to its urban planning authority, addressing the issue as a potential harm to the preservation of the city centre as a UNESCO World Heritage Site, and on the other, on 31 May 2025, it approved the Regulations for short-term rentals, which make extensive reference to regional legislation and therefore, at present, have not been subject to the same judicial complaints as in the case of Sirmione.

5. Governance as the third option to escape the Weitzman dichotomy

The management of overtourism to preserve urban liveability, as demonstrated by the cases analysed above, requires a stronger action, grounded in a policy-making process which is urged to move away from the traditional reliance on the quantitative instruments of price and quotas, to shift the attention towards governance as an instrument for public policy, relying on new, less hierarchical and more relational models.

Historically, classic mechanisms like taxes and command-and-control regulations ended up being associated with government failures, demonstrating a scarce and insufficient capability to govern the increasingly complex contemporary society and several are the limitations and failures empirically recognized.

Firstly, as mentioned before, the traditional approach increasingly experienced challenges regarding the State control and the scarce ability to govern differentiated societies, challenges which resulted in evasion by authors, who found a way to escape the pressure of these policy instruments in creating their own rules[40].

Secondly, these traditional legislative and regulatory instruments have been often identified as being of the command-and-control type, which is generally perceived as cumbersome and abstract and criticized for its tendency to reduce accountability. In addition, the rigidity that characterizes this set of tools and its universality often leads to impasse. Today, societies in most of the world seek more and more for permanent normative autonomy, which relies on participatory and flexible modes of regulation, on agreements as incentive forms presupposing the State retreating from its traditional functions of constraint and becoming instead involved in contractual exchange as promoter of innovative solutions, making a strategic use of procurement as a new, contemporary way to address public policy[41].

The recognition of these criticisms, which becomes even more alarming in contexts characterized by unsustainable tourism and deteriorated conditions of life, is the action accompanying the shift toward a new governance paradigm, including a search for new or innovative policy instruments capable of promoting less interventionists, but more participatory form of public regulation.

Through this research, therefore, we will attempt to identify governance strategies capable of transcending traditional paradigms to tackle overtourism and determine whether these strategies are more effective than traditional ones, referring to relevant Italian case studies, as well as preliminary exploration of economic and legal literature.

Governance, according to this hypothesis, becomes thence the third option, i.e. the new possible paradigm for the mitigation of the negative externalities of overcrowding and for the construction of a method focused on infrastructure, urban planning and resident and stakeholder engagement.

Utilizing governance as an instrument means prioritizing devices that organize political relations in the name of communication and consultation, renewing the foundations of

[40] P. Le Galès, *Policy instruments and governance*, in M. Bevir (ed.), *The SAGE Handbook of Governance* (2010).

[41] P. Lascoumes, P. Le Galès, *Introduction: Understanding public policy through its instruments – From the nature of instruments to the sociology of public policy instrumentation*, 20 Governance: Int. J. Pol. Admin. and Inst. (2007).

legitimacy, rebuilding a strong relationship between the governing and the governed.

Multiple are the forms governance can assume: one of them is nonetheless the concept the whole new framework grounds on, that is the right to the co-city, a rights-based urban paradigm which reimagines the city as a commons[42], guaranteeing citizens the right to participate in city governance, the right to pooling and the right to co-produce and co-manage public spaces[43].

Proposing an exemplification, resources re-appropriation for the inclusion of vulnerable communities is one of the shades in which the new paradigm can introduce itself and it contributes to the extension of benefits to the entire local community by transforming neglected urban assets - such as vacant lots or deteriorating and deteriorated public spaces - into urban commons through collective action, governance and stewardship. The co-management of urban green spaces emerged as representative case[44], case based on the re-appropriation of space and use value, traditionally market-driven and afterwards attributed to the community, strategically addressing displacement, since it claims certain public spaces as shared common resources by using vacant public property, and aligning with environmental justice principles, while addressing pre-existing economic, social and political inequalities. This collaborative management requires however specific mechanisms capable to engage and empower marginalized communities in the governance, among them social pooling serves as an example, accompanied by the presence of the State in its form of Enabling State.

At this point, considered the urban decline, and in particular the "tragedy of commons"[45] caused by overtourism, the governance instruments capable to have a veritable impact on the liveability result to be the ones characterized by a strong community participation, by a veritable inclusion of local groups, by efficient innovation.

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[42] S. R. Foster et C. Iaione, *The City as a Commons*, 34 YLPR 281 (2016); S. R. Foster et C. Iaione, *Co-cities: Innovative transitions toward just and self-sustaining communities* (2025).

[43] C. Iaione, *The right to the Co-City*, 9 IJPL 80 (2017).

[44] S. R. Foster et C. Iaione, *Co-cities: Innovative transitions toward just and self-sustaining communities,* cit. at 42, 69.

[45] G. Hardin, *The Tragedy of the Commons*, 162 Science 1243 (1968).

Community Land Trust (CLT) and public policies based on a multi-stakeholder governance pointed at enhancing public-private-community partnerships[46] and innovation partnerships act as a means of valorisation of cultural heritage and enhancement of economic and touristic areas of historic and artistic relevance in this framework, solidly fulfilling the right to inhabit and the right to the city.

Urban development aligns with justice and equity goals by virtue of this redistributive legal structure and administrative power and countervailing power find themselves united in achieving this mission.

Born in the Gargantua model[47], where a single government established and manages city services, building hence a hierarchical or bureaucratic structure, characterized by a scarce efficiency and responsiveness to local issues, the administrative power comes in a qualified version in this model, as a flexible and discretional power capable to go beyond the conventional administrative law tools, to build the so-called Enabling State, an institutional platform where to convene and connect the different actors of the city. Contextualized into the proposed framework, it has the duty to activate city users as active participants of the co-governance of the city, it produces the utility needed, consisting of the latter of producing policies capable of preventing overtourism. Another power comes, however, in action, which is the countervailing power, consisting of the capacity of structurally disadvantaged groups to collectively exercise influence over both the State and the private sector actors, players which make critical ordering decisions[48]. It serves hence in actively counteracting existing power disparities, in building mechanisms and processes aimed at challenging, balancing and redistributing concentrations of power within vulnerable urban environments, it aims at transforming territory governance into its more inclusive version.

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[46] C. Iaione, *Urban sustainable development and innovation partnerships*, 14 IJPL 521 (2022); C. Iaione, *Partenariato e finanza di progetto di comunità*, 6 Riv. Giur. Edil. 433 (2024).

[47] R. Wood, *The New Metropolis: Green Belts, Grass Roots or Gargantua*, 52 APSR 108 (1958).

[48] A. Kapczynski, J. Michaels, *Administering a Democratic Industrial Policy*, 18 HLPR 279 (2024).

It is the balance between these two sets of powers that elevates liveability as a priority.

6. Innovative Public Policies based on shared and collaborative governance models

Expressed in Paragraph 4 the necessity to draw upon governance instruments for the management of overtourism in the light of urban regeneration and social exclusion, it becomes hereby crucial to explore in depth the set of innovative policy tools and institutional arrangements capable of operationalizing these principles within real contexts.

Building on the call for participatory, polycentric governance mechanisms previously outlined, the following paragraphs explore how collaborative governance models can concretely transform into effective regulatory strategies, giving particular attention to the Community Land Trust - as an instrument pointed at regenerating urban property and mitigating the exclusionary effects of overtourism – as well as to emerging public innovation programs, such as Smarter Italy, mobilizing public procurement as a means of inclusive territorial management.

6.1. New governance paradigms for housing and neighbourhood facilities: the Community Land Trust

Leaving the discussion on how the CLT can help with the housing crisis to another place, a premise on its structure is required.

Legal and normative instrument grounded on a nonprofit, community-governed organization, capable of enacting a fully participatory governance, its operation mode stands on the acquisition and holding of land in perpetuity for the benefit of a local community and the subsequent lease of the land to residents or cooperatives, typically through a 99-year renewable lease[49].

The CLT's governance property model, committing a set of goods to an entity and building an autonomous earmarked asset, avoids the incurrence of anti-democratic and closed governance models, it guarantees the permanent affordability of housing, while

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[49] A. Vercellone, *Il Community Land Trust: Autonomia privata, conformazione della proprietà, distribuzione della rendita urbana* (2020).

simultaneously embodying the idea of an organization working into a community and the whole community having a certain control over funds governance.

This institution, creating public-private synergies and ensuring flexibility and justiciability, represents a transformative model to reclaim urban spaces as a commons, to embed participation, equity and sustainability, to realize social justice against the criticisms generated by overcrowding, leaving behind and preventing eviction, displacement and gentrification[50]. It is a model of anti-displacement and community well-being, as it emerges by the Dudley Street CLT, referring nonetheless to a common law version of the model, and by the very first European experimentation: the CLT Bruxelles.

After the cost of living doubled between 2000 and 2010, Brussels-Capital Regional Government decided to support the establishment of the CLT of Brussels (CLTB) in 2012, aimed at offering affordable housing for low- and medium-income households in the Region. Given its foundation on the traditional four elements of collective land ownership, detachment of land and building ownership, anti-speculative mechanisms and collective participatory governance, it provides an alternative to traditional ownership models.

Diving deeper into the specific functioning of this Belgian model, the acquisition of housing is based on income eligibility criteria, and, after a selection process, successful applicants will purchase the house at a price lower than the market value, and they will sign a ground lease with the CLTB for the land beneath their home.

The governance, based on a tripartite board in which each group has equal voting rights, ensures residents empowerment and accountability to the community[51].

Despite being the project mostly subsidized by the Brussels-Capital Region and EU urban innovation programs, the government subsidized, in addition, two pilot projects *Arc-en- Ciel* and *Le Nid*, and the conclusion of the project *L'Escluse*, by reason of

[50] A. Vercellone, *Urban commons e modelli di governo: Il Community Land Trust*, in A. Quarta et M. Spanò (eds.), *Beni Comuni 2.0 - Contro-egemonia e nuove istituzioni* (2016).

[51] C. Simonneau, *Le Community Land Trust aux États-Unis, au Kenya et en Belgique. Canaux de circulation d'un modèle alternatif et jeu d'intertextualité*, 6 RIURBA (2018).

the strong agreement among citizens, local associations and government, creating the very first European inhabited CLT, comprehending apartments at low energy impact, in line with the ecologist policy of the Brussels-Capital Region.

This is a concrete demonstration of the different forms a CLT can assume, not only urban centres regeneration or construction of buildings, but also maintaining residents in their original neighbourhood[52].

Understood, through this application case, the general conformation of the institution as a polycentric experience capable to enhance the governance of traditional public policies, it should be hereby contextualized in the Italian system, affirming that several legal instruments can serve this form formally lacking in the proper Italian legal framework, although only one, among the latter, is the most suitable to the mission: the Participatory Foundation.

Meaningful evolution, confirmed and influenced by the impact of special legislation on private autonomy, it overcame the traditional model of foundation, admitting the law a simple "possible and lawful"[53] purpose and then introducing the same the concept of special foundations in the Third Sector Legislation. The institution emerged as a foundation-organization, a foundation enriched by organs borrowed from associative and corporate models, e.g. assemblies or steering bodies, concretized thus as an association which has to potential to become a place for individuals to express their personality, although remaining teleologically bound to its indispensable, pre-defined purpose[54].

For what concerns the suitability of the model to be a hypothetical transposition of the CLT model in Italy, allowing a plurality of founders and participants, all of them contributing to the entity's purpose, it perfectly embraces the plurality of personalities participating in the CLT[55]. This hybrid organizational

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[52] C. Iaione, M. Bernardi et E. De Nictolis, *La casa per tutti: Modelli di gestione innovativa e sostenibile per l'adequate housing* (2019).

[53] Decree of the President of the Republic 10 February 2000, no. 361 "Regolamento recante norme per la semplificazione dei procedimenti di riconoscimento di persone giuridiche private e di approvazione delle modifiche dell'atto costitutivo e dello statuto (n. 17 dell'allegato 1 della legge 15 marzo 1997, n. 59)".

[54] D. Giurato, *Per una definizione attuale di fondazione*, 4 Jus Civ. 859 (2023).

[55] G. Sicchero, *Le fondazioni di partecipazione* (2024).

model, synthesizing elements characteristic of both traditional foundations and associations, is an evolution in social organization, it is the democratic and inclusive scheme of proprietary cooperativism capable to realize stable partnerships[56] among the ″public as a person″, i.e., the State apparatus, and the ″public as a subject“, i.e. the State community, offering a dignified condition of life in congested urban centres.

In the light of the possibility to implant the CLT model in a context as the Italian one, significant is the case of CLT Porta Palazzo, in the process of experimentation in Turin.

This initiative, driven by the *Fondazione di Comunità di Porta Palazzo* and announced in 2024, was launched with the aim of revitalizing the Aurora neighbourhood in the northern part of Turin, an area with significant urban, social and economic challenges.

Acting from below, the foundation's mission is to influence urban transformations while, contextually, preventing gentrification and displacement of vulnerable populations, reason justifying the decision to evaluate applicant families according to criteria based on economic vulnerability, social inclusion potential and generational and ethnic diversity.

Financed firstly by *Compagnia di San Paolo* Foundation, which provided the initial capital and supports the operation costs of *Terreno Comune*, the foundation managing the whole model, it occurred then to public institution contribution and to the role future residents will play, who are expected to contribute moderate financial input to access to housing and who will be involved in community co-financing initiatives[57].

The structure grounds on the same four elements mentioned while discussing the CLTB case, it differs however from a legal point of view. CLT Porta Palazzo is established as a ETS foundation

[56] C. Iaione, *Urban sustainable development and innovation partnerships*, cit at 46; C. Iaione, *Participatory governance in EU cities and its potential implementation in the cultural sector: the urban science and innovation partnerships as an enabling tool*, 1 Riv. Giur. Edil. 37 (2023).

[57] *Community Land Trust: corso Giulio Cesare 34*, Fondazione Porta Palazzo (04.22.2024). See: https://www.fondazioneportapalazzo.org/wp-content/uploads/2025/04/Presentazione-CLT-Torino_-2025.pdf (accessed 28 November 2025).

under Italian Third Sector regulation[58] and this structure ensures the non-profit status, since the revenues must be reinvested into the trust's activities.

Guiding a tripartite board the decision-making processes, CLT Porta Palazzo is a pioneering Italian experiment of inclusive territory governance, it is a system attempting to foster democratic control and shared management of decisions in urban regeneration and liveability preservation.

6.2. Innovative and collaborative ways to manage tourism in Italian villages and coastal areas: Smarter Italy and other case studies

Despite the CLT suitability to serve as a response mechanism when tourism reaches damaging levels, introducing measures to manage urban pressures in a sustainable and community-controlled way, other instruments are thus required to be adopted by PAs to obtain a systemic response to the phenomenon, and finally to realize an even more inclusive governance of the territory.

Another perspective worth considering is hence one that proposes promoting slow, widespread and sustainable tourism as a policy response to overtourism. This result can also be achieved through the strategic use of public procurement, and a particularly interesting case study in the Italian context is that offered by Smarter Italy[59]. This is a national innovation programme promoted by the Department for Digital Transformation and the Agency for Digital Italy (AgID)[60], which adopts the innovation procurement as a strategic tool to address local-scale challenges — including those related to tourism pressure — by transforming municipalities into "living labs" where public administrations, as contracting authorities, do not ask the market for a product or service, but define societal needs that require to be met, and the contractors - companies, start-ups, research centres - experiment through an

[58] A. Couvert, *Community Land Trust: Terreno Comune ETS, una pratica di investimento solidale e autogestito*, Labsus (16.07.2024).

[59] F. Dughiero, A. Michieli, E. Spiller, D. Testa, *Governing with urban big data in the smart city environment: an Italian perspective*, cit. at 9, 7.

[60] Smarter Italy was born with the Decree of the Ministry of Economic Development January 31, 2019, made operational with the agreement between MISE and AgID, and joined by the Ministry of University and Research and the Minister for Technological Innovation and Digitization in 2020.

essential R&I effort aimed at producing innovative and replicable solutions. This approach privileges a collaborative public–private-community governance model, based on multi-stage procedures - such as pre-commercial procurement or innovation partnerships[61,] - where the public administration participates from the outset in the co-design of the service or product to be created that simultaneously address mobility, cultural heritage, environmental management, and citizen services, while steering public demand toward more sustainable tourism practices.

Within the "*Borghi del futuro*" ("Villages of the Future") initiative — involving, among others, Otranto, Pantelleria, and Sestri Levante — calls for tenders promoted under Smarter Italy have supported projects aimed at mitigating overtourism through digital platforms for on-demand cultural experiences, systems for monitoring and managing tourist flows, routes promoting slow mobility and season extension, and engagement tools for residents and local operators.

In practice, Otranto has implemented projects integrating digital itineraries and smart mobility platforms across the Salento area, encouraging modal diversification and inland tourism to relieve coastal pressure; Pantelleria, as an insular municipality, has developed solutions combining environmental preservation with experiential tourism, including spatial regeneration and digital tools to better distribute tourist demand; Sestri Levante has leveraged the programme to promote sustainable "outdoor" tourism, integrating environmental quality (Blue Flag initiatives) with diffuse, off-season experiential offers.

From a theoretical and policy standpoint, Smarter Italy illustrates how the innovation partnership can be used not only to introduce new technologies, but also to reorient local governance and incentives toward distributive and resilient tourism models[62]

[61] B. Lazarotto, P. De Hert, *Public-Private Partnerships in smart cities and the privatization of citizenship*, in A. Smets, P. Ballon (eds.), *Handbook of Platform Urbanism* (2025); C. Iaione, *Urban sustainable development and innovation partnerships*, cit. at 46; C. Iaione, *Participatory governance in EU cities and its potential implementation in the cultural sector: the urban science and innovation partnerships as an enabling tool*, cit. at 56.

[62] C. Iaione, *Participatory governance in EU cities and its potential implementation in the cultural sector: the urban science and innovation partnerships as an enabling tool*, cit. at 56.

— that is, preventive and systemic responses to overtourism based on data, participation, and public procurement as a transformative lever.

Even regarding maritime tourism management, there are numerous cases that buck the trend described above, particularly in terms of the decision to rely on governance solutions shared with citizens and users and tailored to the specific characteristics of the area[63]. In Sardinia itself, which, as we have seen, is an area particularly affected by overtourism in maritime tourism destinations and therefore subject to measures restricting access to beaches, a series of innovative solutions are currently being trialled in a number of areas, aimed at extending the tourist season (deseasonalisation), promoting slow and sustainable tourism, and redeveloping less attractive areas with a view to distributing tourists more evenly across coastal areas, with economic and social benefits, while also preserving and enhancing the environmental and cultural riches of the territories.

In contrast to traditional solutions, therefore, we can mention a series of virtuous practices that are gradually characterizing all Italian coastlines. In Carloforte, Sardinia, the Tunèa project aims to restore the link between the town and the disused tuna fishery, promoting a maritime heritage that is not limited to the beach but transforms the regenerated site into a cultural hub, in which the inhabitants have been involved from the outset[64]. Similar projects, usually public or community initiatives, can be seen, for example, in Procida, a small island whose habitability is increasingly challenged by logistical, environmental and socio-economic issues: in 2022, it was declared the Italian Capital of Culture thanks to a cultural enhancement system extended throughout the entire calendar year, which is based, from the planning stage onwards, on a process of co-creation with residents and is designed to respond

[63] On the fragility and recent transformations of the Italian coastline, see for example: A. Giuzio, *La linea fragile. Uno sguardo ecologista alle coste italiane* (2002). M. Zanchini, M. Manigrasso, *Vista mare. La trasformazione dei paesaggi costieri italiani* (2017).

[64] M. P. Usai, *Out of season. The Tunèa project and the re-connection between the community of Carloforte (Sardinia) and the decommissioned trap*, 2 Seascape 58 (2023).

to their needs, as well as to the natural characteristics of the island[65]. The same approach, based on the need to promote green and seasonally adjusted tourism, ultimately characterises a series of initiatives involving the Adriatic beaches between Veneto, Emilia-Romagna and Marche[66].

In a somewhat similar way, but in the absence of virtuous public governance strategies, there are also examples of reappropriation of public space and reconnection between cities and the sea, such as those currently underway on the coast of Naples, from which the coastline was effectively separated due to past urban planning decisions. In this case, the enhancement work is based on spontaneous initiatives from civil society, through informal civic uses, which respond to the need to make a neglected part of the territory usable again[67].

Finally, among these efforts to rethink Italy's coastlines and their tourist function, with a view to promoting free and sustainable use, it is worth mentioning a case in which collaboration between civic forces, public administration and, in some cases, the private social sector, extends more explicitly to knowledge institutions: this is the DISCOV.ER project, which, thanks to PR-FESR Emilia-Romagna 2021-2027 funding, involves stakeholders and citizens in the creation of a digital twin that can be used both by experts for monitoring and predicting climate change and biodiversity, and by the public, who will be able to access the data in an immersive and engaging way, increasing the influx of tourists interested in eco-tourism[68].

The case studies above effectively demonstrate that there are solutions to overtourism that go beyond a purely quantitative approach, which limits tourism activities considered harmful. These cases undoubtedly have significant points in common, first

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[65] N. Martinelli, F. Montalto, *Territorial heritage as a driver for redemption and seasonal adjustment processes. The case of Procida, from small island to Italian capital of culture 2022,* 2 Seascape 38 (2023).
[66] R. Baiocco, M. D'Ambros, *Climate change, green tourism and deseasonalisation. The Italian adriatic beaches ecological project,* 2 Seascape 28 (2023).
[67] K. Pica, V. R. Zucca, *Città ribelli. Esperienze lungo la costa napoletana, tra fratture e riappropriazioni*, in M. Ranzato, B. Badiani (eds.), *Il progetto di urbanistica tra conflitto e integrazione* (2023).
[68] C. Prandi, *DISCOV.ER: Digital Twin e Citizen Science per la Salvaguardia del Delta del Po*, in Aa. Vv., *Nuovi orizzonti per la citizen science in Italia. Book of Abstracts* (2025).

and foremost being a consideration of public spaces and, ultimately, of cities themselves as commons[69]. The natural consequence of this approach, which is also cultural, is the management of the problem in terms of governance and, therefore, first and foremost, the direct involvement of communities affected by the concentration of tourists, the resulting inefficiencies and the risk to their territory.

This has led, for example, to an increasingly widespread trend towards the recovery of areas with a tourist vocation that were previously neglected or even subject to urban development projects that led to their gradual separation from inhabited areas and substantial abandonment, while at the same time, in many places, attempts are being made to co-manage tourist flows in order to deseasonalise them and make them more compatible with the socio-economic function of tourism, capable of having a positive impact on the community and not endangering, but rather enhancing the natural and cultural value of the territory.

6.3. Governing Overtourism in Africa, Land Tools, Community Tenure and Coastal Management

Tourism is expanding rapidly also in many African countries, so that a brief comparison could be useful for the purpose of this research. This growth in the number and destinations of visitors clearly contributes to job creation and revenue generation, but also creates increasing strains on local environments, infrastructures, and daily life.

Research from Southern and Eastern Africa demonstrates that when tourism development outpaces a destinations receptive ability, that is, the capability of its societal, environmental, and structural systems to accommodate tourists without degradation, negative effects emerge, such as road congestion, pressure on housing and public services, and competition over land and resources[70]. When such demands exceed this local capability limit, the situation evolves into "over-tourism", that also the aforementioned African literature is beginning to address as such.

[69] S. Foster, C. Iaione, *City as a commons*, cit. 42, 23.

[70] R. Musavengane, L. Leonard, *Conservation, Land Conflicts and Sustainable Tourism in Southern Africa: Contemporary Issues and Approaches* (2022).

Within this scope, that limit has been defined as "limits of acceptable change" (LAC). The LAC structure delineates how much modification people and ecosystems can endure before the standard of living, and the visitor experience begins to diminish[71].

Employing LAC transforms a general expansion narrative into a precise diagnosis of stress and a foundation for activity. Overtourism, also in African literature, can consequently be seen as, tourist impact that exceeds the limits of acceptable change for the surroundings, residents, and tourists. Negative impacts on residents, common goods, and ecosystems, nonetheless, must be translated into specific, rule-based instruments rather than expressed as general aspirations, according to the literature that interpret overtourism as a negative externality that demands measurable thresholds and clearly defined governance triggers, with an approach consistent with the LAC and RCC[72] frameworks applied here[73].

In Eastern and Southern Africa, research show that overtourism clusters near major attractions (e.g., the *Maasai Mara* during the wildebeest migrations), causing problems on community amenities, increasing local costs , and intensifying friction between residents and tourists; aligned proposals stress measurable local limits, a brief overview of resident's quality of life, binding regulations linked to licenses, targeted instruction for tourists and operators, and structured local involvement in decisions[74]. Simultaneously, literature underlines that results rely on local governance: where communities possess authority over territory (e.g., reserves, locally governed protected areas, and community land grants), side effects are kept nearby and grants are

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71 M. Okello, S. Yerian, *Tourist satisfaction in relation to attractions and implications for conservation in the protected areas of the Northern Circuit, Tanzania*, *17*(5) J. Sust. Tour. 605 (2009); M. Muganda, A. Sirima & P. M. Ezra, *The role of local communities in tourism development: Grassroots perspectives from Tanzania*, 41(1) J. H. Ecol. 53 (2013).

72 Recreation Carrying Capacity (RCC) is a concept used in tourism and environmental management to determine how much tourist/visitor use an area can sustain without causing unacceptable degradation to the environment, local communities, or the visitor experience.

73 A. Capocchi, C. Vallone, M. Pierotti & A. Amaduzzi, *Overtourism: A Literature Review to Assess Implications and Future Perspectives*, cit. at 10, 4.

74 S. W. Maingi, *Sustainable tourism certification, local governance and management in dealing with overtourism in East Africa*, 11 W. Hosp. Tour. Th. 532 (2019).

distributed; where access is restricted or unique, displacement, fencing of routes and waterfronts, extraction through exclusive grants, and rezoning-led erosion of customary use recur[75].

Given that the dispossession issue linked to overtourism fundamentally operates through land control[76], the corresponding remedy also necessitates a land-based administration system. Expanding the structure already examined, the Community Land Trust (CLT) approach offers a workable organizational solution: In fact, a CLT assures joint proprietorship of land within a local trust while granting households secure, long-lasting, transferable usage of rights and privileges through long leases, holding down prices, limiting speculative flips, and giving residents a formal role in decisions about land.

In the African context, CLTs have been adjusted to conditions of informal tenure, rapid urbanization, and high market pressure, such as in the Voi (Bondeni) case in Kenya, where they operate as anti-displacement measures that formalize societal involvement in land governance while preserving shared ownership of the base asset. The case represents a concrete application of this framework for low-income housing in areas subject to strong market pressures[77]. As in most of CLTs, the State granted a head-lease to the CLT, and the CLT issued sub-leases to households as proof of property, while daily regulations in Voi connect governance to anti-displacement; a nine-member board of trustees and a residents' committee, with reserved positions for women, administers the trust and accounts are audited and adopted at the annual assembly.

In the case study examined, key stipulations limit ownership by non-residents, grant the trust a pre-emptive right to acquire houses before external purchasers, and schedule payments to align

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[75] R. Musavengane, L. Leonard, *Conservation, Land Conflicts and Sustainable Tourism in Southern Africa*, cit. at 70.

[76] *Ibid.*

[77] E. Midheme, F. Moulaert, *Pushing back the frontiers of property: Community land trusts and low-income housing in urban Kenya*, 35 Land Use Policy 73 (2013). According to the Author, "The Voi record, represents the legal set-up step by step. Residents first organized and registered a settlement society under the Societies Act; a trust deed established administrative guidelines; trustees were subsequently appointed and registered as the Tanzania-Bondeni Community Land Trust under the Trustees (Perpetual Succession) Act".

with income; the head-lease also binds the local administration to recognize existing houses "as-is," with gradual compliance to building by-laws. According to Midheme, these features lower the possibility of forced relocations and desperate sales when land values increase[78]. Some critical governance-related issues cannot be ignored, such as lengthy implementation periods, statutory bias toward individual titling, legal technicalities including the rule against perpetuities, and the cost of surveying and registration. Nonetheless, the CLT model seems to point effectively to enabling directions, acknowledging the positive impacts of promoting the societal function of property, collective property models and urban collaborative governance patterns, which would facilitate the replication of CLTs in tourism-exposed sectors where demand can quickly price out local populations.

A parallel institutional path emerged across Eastern and Southern Africa during the 1990s: community-based natural resource management (CBNRM) joined with market-based systems like concessions and joint ventures. Van Wijk, Lamers, and van der Duim demonstrate that these setups ensured vast territories for preservation and tourism while creating governance issues, specifically benefit-sharing consistency, participation, and dispute settlement, proving once more that legal and administrative structure - trusteeship, pre-emption, eligibility rules, gender representation, review – is the enabler of fair results. CLTs (urban/coastal) and CBNRM/conservancies (rural/wildlife) thus operate as institutional complements that divide use rights from speculative trade rights and install local decision power[79].

According to Neef, furthermore, these land instruments correlate with warnings from the broader tourism-and-displacement literature, to be proven through two regional governance tests. Primarily, rights-and-revenue tests: studies from Southern Africa underline that concession and lease terms ought to mandate collective access rights and clear profit-sharing with local

[78] E. Bassett *Tinkering with tenure: The community land trust experiment in Voi, Kenya*, 29 Habitat International 375 (2005).

[79] J. Van Wijk, M. Lamers & R. van der Duim, *A Dynamic Perspective on Institutional Arrangements for Tourism, Conservation and Development in Eastern and Southern Africa,* in R. van der Duim, J. van Wijk & M. Lamers (eds.), *Institutional Arrangements for Conservation, Development and Tourism in Eastern and Southern Africa* (2015).

supervision; where these are weak, enclosure and extraction recur[80]. Secondly, adaptive-stability tests: comparative reviews highlight conflict-resolution forums and review clauses to keep agreements resilient to market and policy shocks[81].

Portraying overtourism just as an unfavourable side effect, further supports pairing LAC/RCC[82] limits with automatic licensing starts when indicators are exceeded[83]. Where isolated developments and exclusive grants drive enclosure and appropriation or extraction, though, CLTs socialize appreciation and maintain decision locally; they help in preventing the dispossession patterns mapped in comparative studies and give cities a tangible mechanism to balance preservation, access, and livelihoods in tourist path.

On the coast, the capacity issue becomes very tangible also for African beaches, exceeding the physical and ecological limits of these sites and endangering coral reefs, with a pattern spread throughout the world. At Tavarua (Fiji), restricting usage to roughly 10–14 surfers per session at key breaks safeguarded security and satisfaction, and sustained the attraction's viability, while at Lagundi Bay (Indonesia), open access that surpassed about 15 users at the main take-off led to disputes in the line-up, reduced visitor satisfaction, and environmental stress. The decision to establish a site-specific limit, enforce it fairly, and align operator licenses and concessions with those numbers therefore seems to have paid off[84].

In Southern and East Africa, wildlife and heritage concessions already link site-specific use limits to license

[80] R. Musavengane & L. Leonard, *Conservation, Land Conflicts and Sustainable Tourism in Southern Africa: Contemporary Issues and Approaches*, cit. at 70.
[81] J. Van Wijk, M. Lamers & R. van der Duim, *A Dynamic Perspective on Institutional Arrangements for Tourism, Conservation and Development in Eastern and Southern Africa*, cit. at 79.
[82] RCC helps define limits and thresholds, for example, the maximum number of tourists, facilities, or activities that a site can handle before negative impacts (like overcrowding, pollution, or cultural disruption) occur. It is often used alongside the Limits of Acceptable Change (LAC) framework, which focuses on identifying the *acceptable levels of change* in environmental or social conditions, and then managing tourism accordingly.
[83] A. Capocchi, C. Vallone, M. Pierotti, A. Amaduzzi, *Overtourism: A Literature Review to Assess Implications and Future Perspectives*, cit. at 10, 7.

conditions, linking RCC figures to permit quotas, session durations, or seasonal closures. Relevant literature, nonetheless, recommends a brief indicator of dashboard, certification aligned with local regulation, targeted education for tourists and operators, and regular reviews with civil society and the industry to maintain rules current and fair[85], establishing administrative consistency familiar to operators and communities, and improving compliance and enforcement.

Culture also plays a crucial role in governance: African aquatic traditions, for instance, reveal long-held proficiencies in swimming, canoe-building, and the use of water, clarifying how water has served as a space for autonomy and cultural continuity in the diaspora. For tourism planning, this implies protecting everyday access points, working beaches, and ceremonial areas, engaging local custodians in decisions, and designing codes of conduct that respect practice and place, to mitigate conflict and keep destinations genuine and inclusive[86].

Collectively, the exposed measures move from reactive control to collaborative, rule-based governance that keeps places habitable while tourism expands. To maintain legitimacy, authorities ought to release benefit-sharing records, access-way maps, and closure-trigger indicators on a fixed annual cycle, so local groups can examine performance and initiate planned reviews when limits are breached. Finally, Community Land Trusts (urban/coastal), that proved to be an effective instrument to avoid eviction and an extractive use of land, should be placed within a regional toolkit that also includes conservancies, community concessions, and post-restitution agreements, each tailored to its setting but grounded in clear limits, due-diligence on rights, and local decision power[87].

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[85] S. W. Maingi, *Sustainable tourism certification, local governance and management in dealing with overtourism in East Africa*, cit. at 74, 3.

[86] T. Green, review of Kevin Dawson, *Undercurrents of Power: Aquatic Culture in the African Diaspora* (2018), 124 Amer. Hist. Rev. 1998–1999 (2019).

7. Discussion and limitations of the research hypothesis

Despite its promising prospects, this research hypothesis nevertheless faces certain limitations, and, in any case, still leaves room for further discussion of the arguments presented.

First of all, especially in the most fragile areas – such as Venice, due to its architectural and natural characteristics as a lagoon city built on stilts, or certain coastlines or other particularly delicate natural sites – the policies discussed above, despite the profusion of efforts by all the actors involved, may not be sufficient to preserve a sufficient degree of territorial integrity. From this point of view, the governance perspective that is offered, in translating into an operational strategy to support policy-makers, requires constant dialogue with scholars from other disciplines, such as architecture, engineering, or biology.

Secondly, not all communities – especially the most vulnerable ones – nor all public administrations are ready to act for effective co-management of the city and the territory: the results presented here, in fact, can certainly be integrated and explored in greater depth in almost two directions, both supported by an amount of scientific literature. First and foremost, it is necessary to ensure the definitive empowerment of vulnerable communities through a variety of tools, ranging from redistributive and welfare instruments to specific training and information strategies; secondly, with regard to local public administration, it is also possible to address in greater depth the issue of the administrative and contractual tools that a city could use to implement collaborative pathways to social innovation, even beyond the case studies presented on tourism issues.

For sustainable management of tourist flows, as in other areas, therefore, the implementation of innovative solutions based on co-governance requires a strong culture of collaboration, but also a propensity for administrative innovation on the side of public entities, as well as a connection with the local area that encourages private tourism operators to participate in this process despite some obvious risks of an immediate reduction in revenue. The public administration, on its side, should therefore be aware of its prominent role in empowering local communities, influencing the choices adopted by private operators, and ultimately driving this democratic and just form of innovation.

8. Perspectives and insights for future research

Many of the topics covered in this paper, whose common thread concerns the liveability of places affected by overtourism, can be explored in greater depth individually. Furthermore, the word overtourism can be used to address and depict a variety of phenomena that often overlap, creating a complex problem for the urban system conceived as a whole.

One of these is undoubtedly the issue of housing, which is not limited to the critical issues posed by the distorting effects of excessive tourist flows, but also involves several other factors, from demographic ageing to the mobility of workers and students or climate migration, which deserve adequate consideration. Many solutions, from social housing to intergenerational co-housing, have not been covered in this article and may well be the subject of study elsewhere.

Another issue underlying some of the innovative policies used as case studies is, for example, the reuse and enhancement of abandoned sites for the purpose of promoting tourism and culture in the area, as well as the environmental impact of tourism, which also deserves further consideration.

From an economic standpoint, a key challenge lies in measuring the real impacts of overtourism, since it is strongly linked to an undefined number of other phenomena and variables that can differ significantly from one city to another. In economic terms, this represents not only a problem of information asymmetries, but also problem of causal identification: is it challenging to isolate the effects attributable specifically to tourism pressure from those linked to housing market dynamics, demographic trends, changes in local labour structures. The social and environmental costs are increasingly visible, but still the economic benefits of tourism are often significant and capable of outweighing the perceived negative externalities. As a result, local economies may be reluctant to adopt restrictive policies, in many cases tourism represents one of the few viable alternatives, especially in post-industrial or mono-economic regions.

Moreover, the hospitality sector is typically labour intensive with a low value added per worker, meaning that the contribution to overall productivity growth is limited and thus not well suited for long-term growth strategies of urban areas.

This further reinforces the need to investigate hybrid governance models, which do not aim simply at reducing tourist flows, but rather at redistributing value, strengthening community capacity, enhancing territorial resilience aiming to raise the value added given from the hospitality sector. The crucial question that is still unanswered is how to shift from a low value tourism model to a high value one. According to the TRAN report on Overtourism there is a "need for a rebalancing of the growth paradigm" thus focusing on tourism quality and its connections to local employment, profitability and fair pay and not merely on visitors' arrivals. Still there is a persistent lack of reliable and detailed data and evaluation methods and procedures should be developed towards commonly accepted performance indicators.

Finally, from a more strictly legal perspective, the contractual instruments mentioned above will need to be examined in detail – in particular partnerships, which are now more than ever promoted by the European Union and are well suited to the collective management of territories – as well as the impacts, including in terms of the inclusion of the most vulnerable communities, of a new tourism economy based on co-governance and partnership.