



QUADERNS D'HABITATGE

THE NEW HOUSING ACT

No. 1

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The background of the entire page is a detailed architectural floor plan of a residential building. It shows various rooms, corridors, and furniture layouts in a light green line-art style. The plan is oriented diagonally, with the top-left corner of the image being the top-left of the floor plan. A large, solid green rectangle is overlaid on the top-left portion of the floor plan, containing the title and subtitle text.

No. 1

QUADERNS D'HABITATGE








THE NEW HOUSING ACT



Ajuntament
de Barcelona

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THE CURRENT CHALLENGE IS HOUSING



Jaume Collboni
Mayor of Barcelona

It is a pleasure and an honour to present this new issue of *Quaderns d'habitatge*, an IMHAB publication with all the new developments and activities relating to the Spanish Housing Act. Housing is the municipal government's top priority, and any communications that help inform citizens about public policy at every level are always very beneficial.

Housing in the city is in a critical situation in terms of both access and price. This is why all stakeholders must become actively involved. The housing crisis is also a crisis of democracy: failing to guarantee a constitutional right opens the doors to questioning the legitimacy of institutions. And this, amid the current rise of extreme right-wing populism, is a particularly serious concern. We must act against this significant threat.

This is why we must all strive to implement the right to housing. In Barcelona,

this is embodied in two principles: treating housing as a social infrastructure, as the fifth pillar of the Welfare State; and ensuring that it is universally applied, i.e. that the right to housing is acknowledged and guaranteed for every citizen. In view of this, we are carrying out a number of measures never before seen in Spain – such as a cap on rent for primary homes – or in the world – such as terminating all tourist letting licences by 2028.

This change to the rules of the game must take place at every level, including the European one. This was recently argued by 12 European cities (including Paris, Rome, Amsterdam, Budapest and Athens) before EU institutions, at Barcelona's request, at a conference recently held in Brussels. We demonstrated that the measures and regulations that have led to the current situation are inadequate and that the problem is too substantial to be left to market forces.

Continuing with the same approaches will not lead to solutions. This is why we need a clear and substantial change to housing policy.

Barcelona is firm and determined in its commitment to lead this change. We will continue to ensure that housing is for people to live in, to uphold the right to a home and to independent living, rather than for speculation.

To do this, we need everyone's commitment (including public officials, private and social developers, property owners, tenants and the general public) to move housing policies forward so that we can go from conflict to consensus in order to ensure that all stakeholders get actively involved in providing housing as a basic need under fair prices and conditions. Barcelona has over 700,000 homes. Of these, 230,000 are rented, which is double the figure of 2010. Rent has risen not only due to growing demand but also because of barriers to ownership and insufficient construction.

We are now seeing the initial results of Barcelona's designation as an area of high residential market pressure and the implementation of the reference price system: we have successfully curbed the rise in rental prices while giving property owners legal and economic certainty and favourable tax rules to encourage them to rent out their properties to provide new rental homes.

There is still a lot to be done to ensure a balance between supply and demand while preserving the diversity and social fabric of Barcelona's neighbourhoods. This is the main challenge involved in the implementation of the new Spanish Housing Act: how to ensure access to housing by striking a balance between rental and ownership and between public intervention and giving new impetus to private initiatives, all this while preserving Barcelona's identity as a city for living and working in.

As a society, in our recent history we have successfully built a public pension, healthcare and education system that collaborates with the private sector. We now face the challenge of housing, and we need the commitment of all public and private stakeholders in order to overcome it.



Municipal housing development in Torre Baró

FROM THE EMERGENCY TO THE RIGHT TO HOUSING

Joan Ramon Riera
Commissioner for Housing at
Barcelona City Council



The notion of the *housing emergency* is often mentioned in the social debate and, given pre-pandemic data, its use is clearly justified: rents have surged (by nearly 70% since 2013) and the influx of foreign capital into the real estate market has made housing in Barcelona (particularly rental housing) unaffordable for an increasing number of people.

We also know from experience that, while focusing strictly on the emergency can help mitigate the effects of the housing crisis to some extent, it will not help us find a definitive solution. We need more decisive, comprehensive and, above all, coordinated action from all housing stakeholders. In other words, they must take a broader look at the issue and, above all, many more people need to work together on a daily basis to find effective solutions.

A good starting point was the approval of Act 12/23 on the Right to Housing, an

Act whose purpose, summarised in a single paragraph, is to uphold the constitutionally recognised right to housing. It has taken close to five decades to implement this right. Democracy was missing this key foundation for people to build a life under equal conditions. And even today, there is still much to be done before the right to housing can be fully guaranteed. Society must be educated on the implications and significance of the changes that its full implementation could entail. What is meant by the notion that everyone has a right to housing? What does it entail? Who should guarantee it, and how?

Municipal action can be split into two main areas of intervention:

- Addressing the emergency;
- And establishing a “public housing system,” i.e. putting in place the necessary structures and conditions to enable every citizen to build a viable life in society without housing as a barrier.

Addressing the emergency is not the same as working to overcome it. And city councils, as the public administrations closest to citizens, focus heavily on addressing the emergency, vulnerability and poverty, but more policies to overcome these issues in the long term are needed.

Barcelona City Council has been addressing the need for housing, particularly for disadvantaged groups and young people, for nearly a century (the Housing Board was founded in 1927). However, there was no legal framework recognising the universal right to housing or outlining strategies to uphold it.

Our history includes notable exceptions with a more universal approach, such as the development of the 10HJ project for youth housing (in the late 1990s and 2000s) and the development of the Olympic Village, among others. However, municipal action – particularly in the past decade – has focused on addressing the housing emergency, an approach that was more than justified by the high number of evictions and people losing their homes during that time.

A strict focus on ensuring universal access to housing started to be applied in May 2023. Since then, public authorities have had a duty to guarantee the right to housing for all – previously, housing policies had always been aimed at specific groups.

Let us therefore set ourselves the goal of establishing the right to housing as a new pillar of the Welfare State, with the role of public authorities as a "system" to guarantee it, just like we now have pensions, education and healthcare systems.

This approach is not merely wishful thinking. It has already been done before, when the General Health Act driven by the Spanish minister Ernest Lluch established universal access to healthcare services in 1986. The healthcare structures in existence at the time (1986) were also largely welfare-oriented and formed the basis for the public health system. It is worth noting, as an anecdote, that in 1986 after the Health Act was passed, hospitals were still partly staffed by nuns. The hospitals of the time bore little to no resemblance to today's.

Upholding the right to housing for all entails creating a system, a structure with which to build on the starting point for people's lives: housing.

This tells us how to reach our housing goals, but knowing the path we need to take is not the same as taking it. We must now manage, promote and push forward policies for years to establish a public housing system based on the historic healthcare model.

To achieve this, Barcelona City Council has launched the Pla Viure [Living Plan], a metaplan that brings together all the municipal services and departments involved in the provision of affordable housing, from the land acquisition stage to the handover of keys. In addition, the City Council is currently in the middle of a participatory process for the drafting of the new 2025-2032 Housing Plan, which will set out the priorities that will apply in relation to grant policies, the housing stock, the new social contract between the institution and the users of public housing, and the renovation strategy.

**Let us set ourselves
the goal of
establishing the right
to housing as a new
pillar of the Welfare
State, with the role of
public authorities as
a "system"
to guarantee it**





Public rental development at Carrer Ulldesona, 2-10

A CHANGE OF DIRECTION

THE SPANISH RIGHT TO HOUSING ACT OF 2023 TESTS FOR THE FIRST TIME THE USE OF RENT CONTROL AS A WAY TO REBALANCE THE MARKET



Oriol Pàmies
Journalist

Forty-five years since the Spanish Constitution came into force, the constitutional right to decent housing can start transitioning from theory to reality: an Act has been in place since May 2023 to implement and regulate this right in order to give effect to it while ensuring that it remains compatible with other basic principles, such as the right to private property and freedom of enterprise. The first Housing Act passed since the start of Spain's democracy is the response of the Spanish government's parliamentary majority during the country's 14th legislature (2020-2023) to a major social issue, one that particularly affects the city of Barcelona.

With its population of 1.7 million, Barcelona is the largest municipality in which Act 12/2023, of 24 May, on the Right to Housing, is being applied following the Catalan Government's implementation of its provisions through the designation of areas of high market pressure. It is therefore acting as a

testing ground for a public policy shift that will take time to yield tangible results. Without ignoring the framework of the market economy, the Act highlights the role of housing as "a core pillar of social welfare, a setting for private and family life and the foundation of all urban policies". What it regulates is therefore a "constitutionally recognised basic asset" that enables or affects basic rights such as physical and moral integrity, personal and family privacy, health and the environment.

This is recognised in major international declarations and human rights charters, starting with the Universal Declaration of Human Rights adopted and proclaimed at the 183rd UN General Assembly on 10 December 1948. This Declaration has been followed by many solemn covenants and manifestos in which adequate housing is considered key to a decent life.

INTERNATIONAL RECOGNITION

The EU has also moved forward in the recognition of the universal right to housing, which was first included in the European Social Charter of 1961 and later reinforced in the European Social Charter (Revised) of 1996. Article 19 of the European Pillar of Social Rights also includes housing among the principles and rights deemed to be essential for the operation of welfare systems. Finally, Article 34.3 of the Charter of Fundamental Rights of the European Union, approved by the European Parliament, the Council and the Commission on 7 December 2000, states that “the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices”. The European Parliament made a similar statement in its resolution of 21 January 2021 on access to decent and affordable housing for all.

International urban agendas also place significant emphasis on housing. Specifically, the Spanish urban agenda advocates for new measures and the adoption of policies in the field of housing that support the gradual implementation of the right to decent and adequate hous-

With its population of 1.7 million, Barcelona is the largest municipality in which price restriction regulations are being applied

ing for all at affordable prices; combat all forms of violence and discrimination, particularly on the grounds of gender; prevent arbitrary forced evictions and focus on the needs of the homeless, eradicating homelessness, for those in vulnerable situations, low incomes or suffering from particular hardship and people with disabilities; all this while encouraging communities and all stakeholders to get involved and work together.

The housing issue has gradually climbed up the priority list on the political and social agenda, mainly as a result of the continuous rise in housing costs far beyond the increase in people's income and the absence of updated tools for public intervention in this area.

The CIS barometer of January 2025 ranked this as Spain's most serious issue and the one with the second greatest personal impact on its people, after the economic situation.

As for Barcelona, the municipal barometer of December 2024 identified access to housing as the city's most serious issue. In addition, 35.3% of respondents said that the cost of housing was a “major problem” for them personally.



For decades, since the 1950s under Franco's rule, Spain's housing policies have focused on increasing supply, which has always lagged behind population growth and migration linked to the successive stages of economic development. At the same time, government intervention has aimed to encourage construction at an industrial scale and boost the construction sector as a driver of employment. This sector has traditionally accounted for 10% of Spain's GDP, until it was cut in half by the global economic crisis of 2008, and at its peak (in the third quarter of 2007) it employed 2.7 million people, 13% of the country's workforce.

On the social front, policies have focused on various forms of official social housing, under

In Spain, social rental homes account for less than 2% of all housing, compared to 7.5% in developed countries

which 6.8 million homes have been built since 1952. However, many of these are now privately owned, and the public sector has not been provided with sufficient affordable homes to meet the needs of future generations.

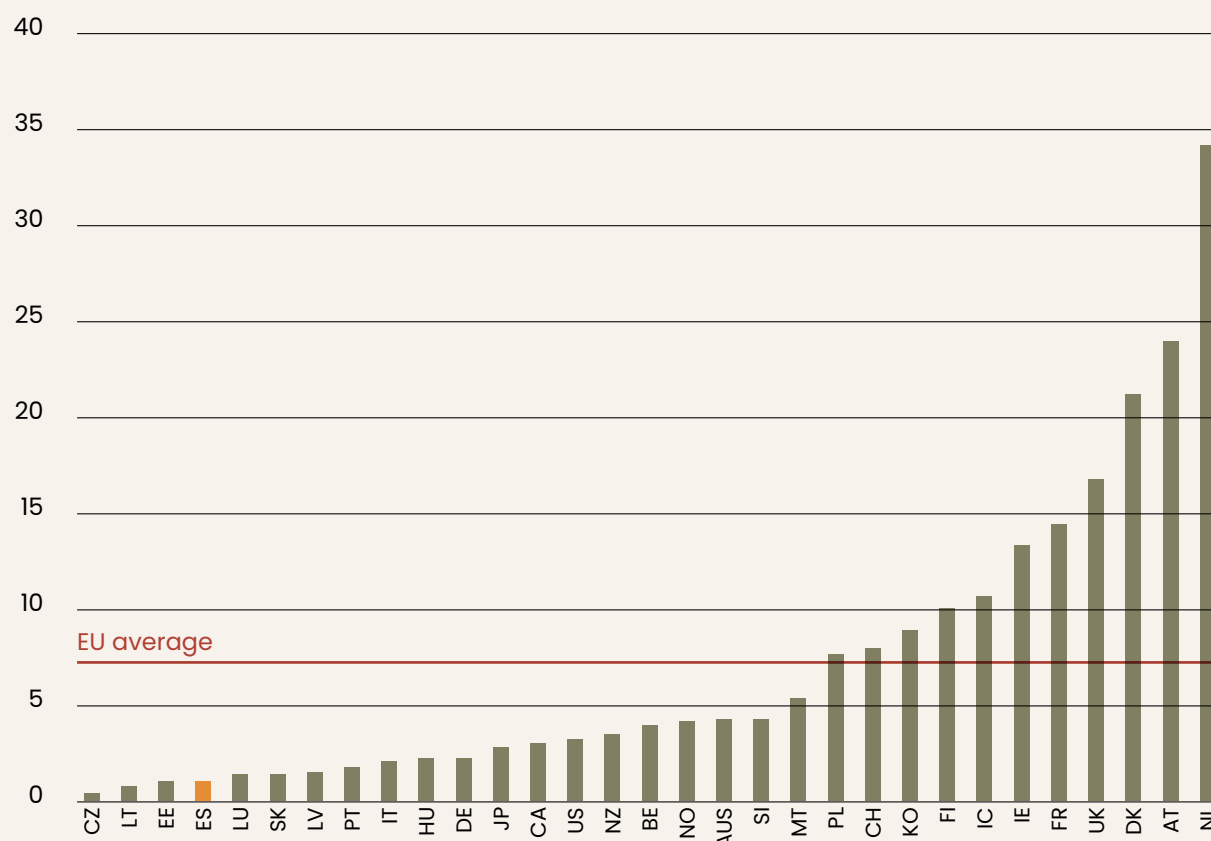
In addition, public interventions have historically prioritised access to home ownership with far greater emphasis on the sale of social housing than rental schemes.

This has left Spain with only around 276,000 social rental homes, just 1.5% of the country's

housing stock, far from the European average of 7.5%. Only Estonia, Lithuania and the Czech Republic rank behind Spain in this regard.

In the Netherlands, this type of housing accounts for 36% of all stock. This is consistent with the fact that, whether they were acquired as social housing or purchased on the free market, 76% of Spanish citizens – more than the European average of 69.1% – own their own homes. In France, the figure is 64.3%, and in Germany it is 46.5%, less than half the population.

Rental housing stock in developed countries (%)



Source: OECD. Figures from 2022 or the most recent available year

CATALONIA AND BARCELONA: HIGHER RENTAL AND TOURISM FIGURES

Catalonia's housing system has its own unique characteristics: according to 2023 data, the proportion of home ownership for the region is in line with the European average (69%) but lower in Barcelona (50.9%). Far from remaining stable, this distribution is constantly evolving, with the

proportion of home ownership following a downward trend: in Barcelona, it has dropped by 16 percentage points over the past 12 years. At the same time, the proportion of rental homes has risen significantly, going from 30% in 2011 to 44.1% in 2023.



Photograph of a façade in the Eixample Shutterstock

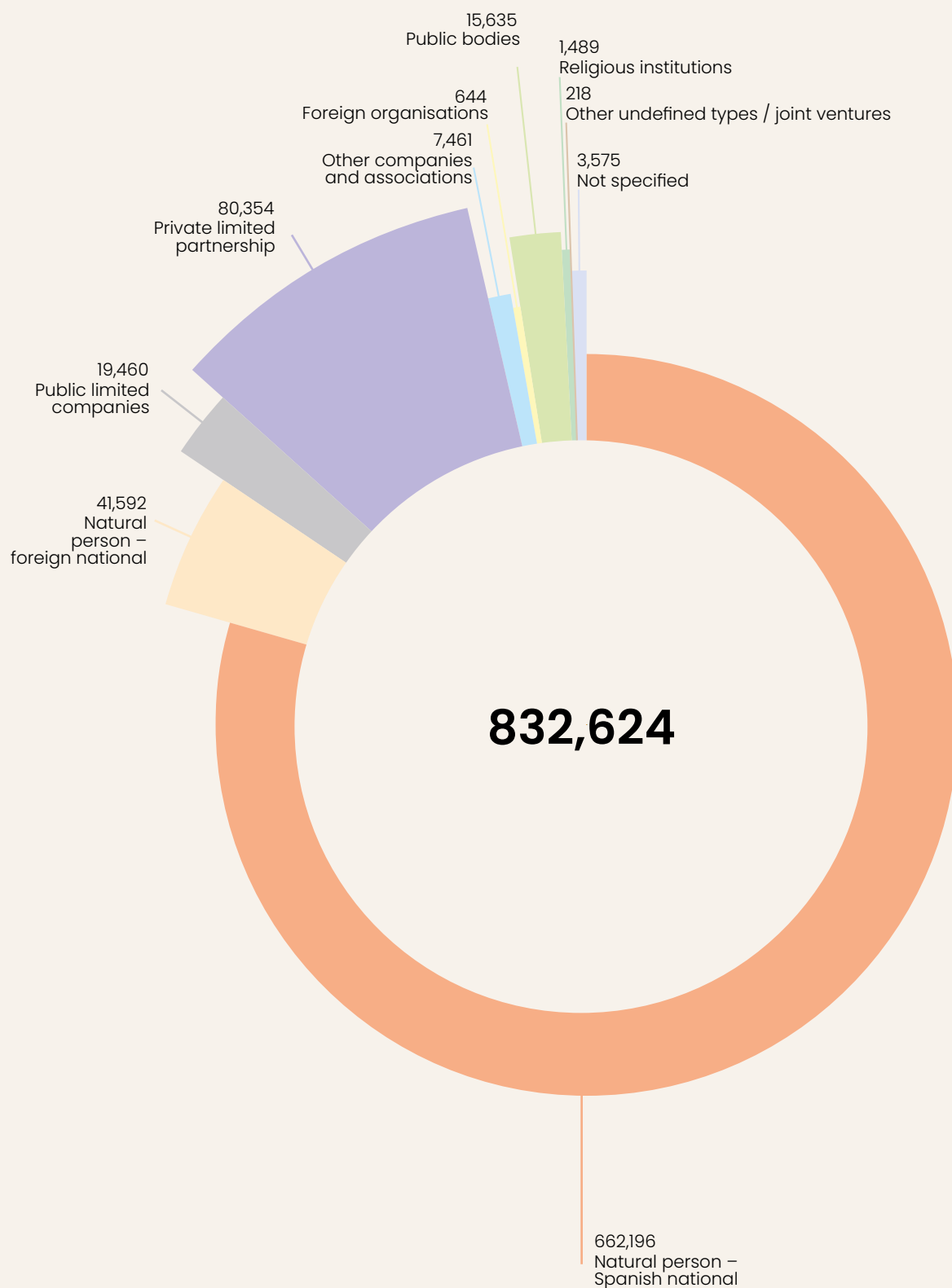
Another unique feature of Catalonia and Barcelona is the impact of tourism, leading to growing demand for accommodation, which includes hotels and campsites but is increasingly shifting toward flats and apartments. From the point of view of property owners, tourist lets are significantly more lucrative than leasing their properties as primary homes – by up to four times, according to some estimates. This reduces the supply of homes and drives up rent. In 2016, Barcelona had around 16,000 tourist flats, of which around 10,000 were licensed and the rest unlicensed.

In 2024, the municipal government announced its plan not to renew any of the 10,101 tourist rental licences in force at the time, with a view to fully phasing out this type of accommodation by November 2028, in order to increase the supply of properties available to rent as primary homes. The decision was taken under Decree 3/2023, of 7 November, on urgent measures regarding the urban planning regime for tourist flats, under which the Catalan Government seeks to prioritise housing needs over economic activity. The decree applies to 262 municipalities, including Barcelona, that have more than five tourist apartments per 100 inhabitants or whose housing market is classified as an area of high market pressure.

The Catalan Government has exercised its legal authority to identify the areas of high market pressure in which price caps are to be applied



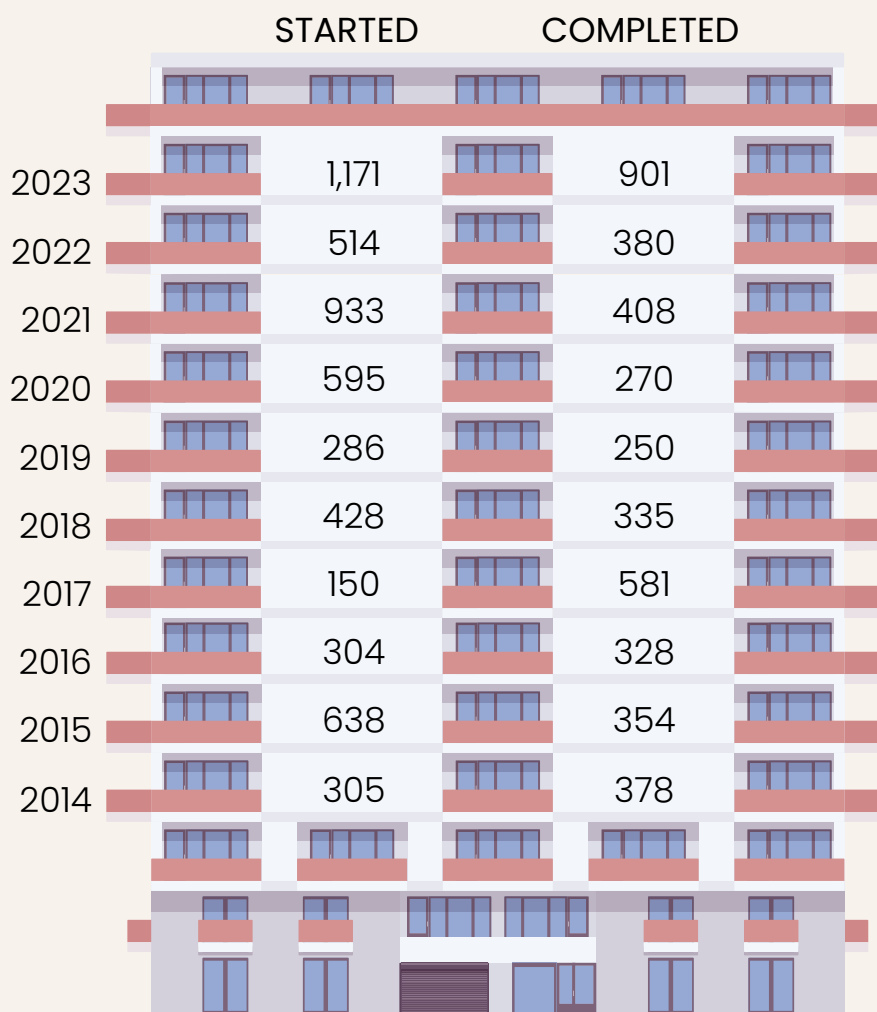
Number of homes in Barcelona by ownership type February 2024



Source: Barcelona City Council. Municipal Data Office (OMD) based on property tax data provided by the Directorate-General for the Cadastre and the Municipal Tax Office (IMH)

As mayor Jaume Collboni explained, this measure by the City Council, which has been strongly criticised by members of the tourist flat owners' association Apartur, seeks to "increase supply so that the working middle class is not forced out of the city by unaffordable housing costs".

Social housing units started and completed in Barcelona



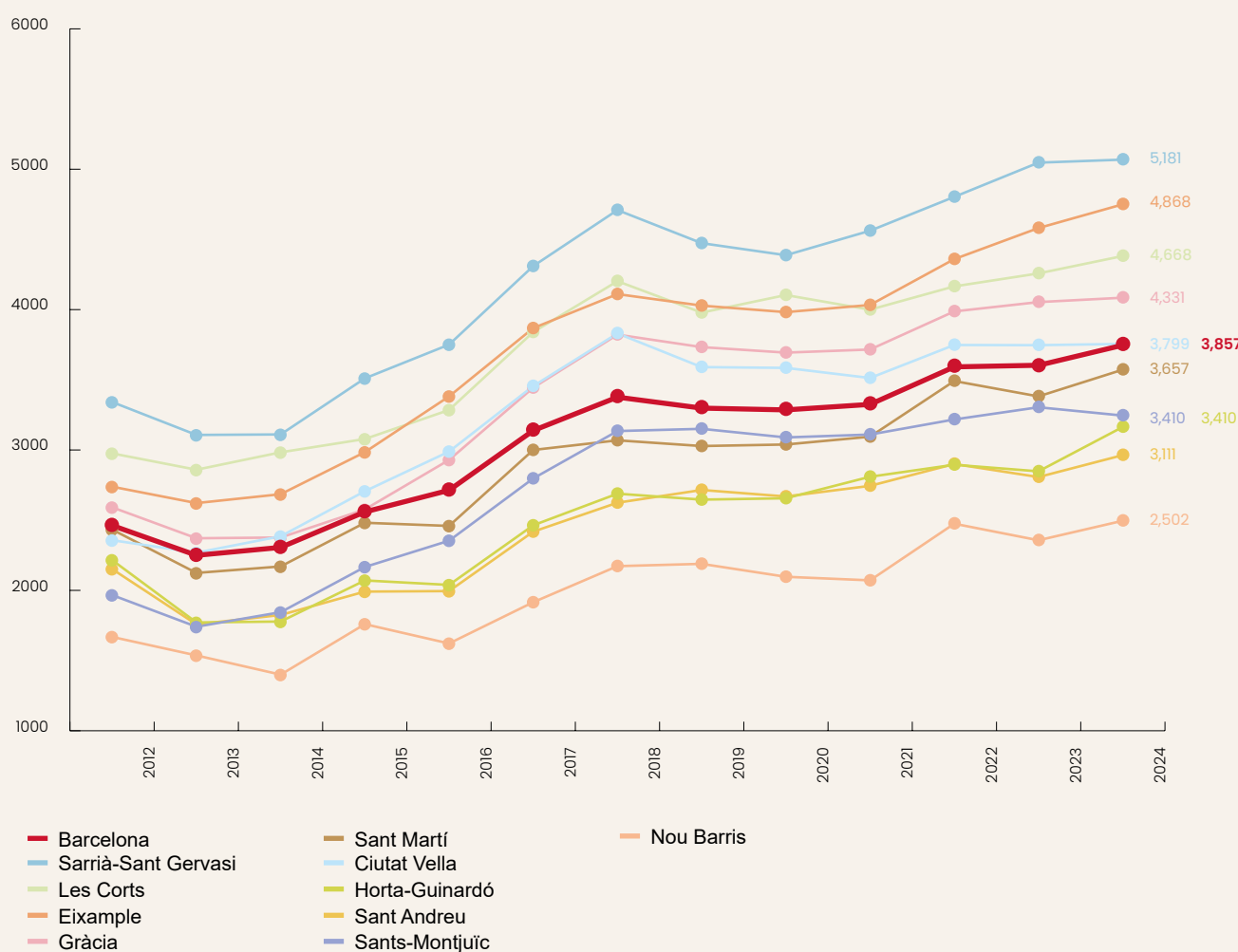
Source: Government of Catalonia. Housing Secretariat

THE BUBBLE THAT BURST

A combination of factors have got together to create a perfect storm in the housing system. In the late 1990s, Spain and other countries started to face speculative pressures in the housing market, causing prices to skyrocket, with increases of over 30% per year between 1997 and 2007. Social and demographic factors, such as population growth linked

to migration, coincided with economic factors, such as a lack of adequate housing, and land liberalisation policies were introduced in an attempt to address this shortage. This was compounded by the ease with which mortgage loans could be secured, something that would ultimately be the Achilles' heel of what was dubbed the property bubble, the weak point that

Evolution of the average price by surface area (€/m²) of homes sold in Barcelona



Source: Barcelona City Council. Municipal Data Office (OMD) using data from notaries' records on sales of real estate in Barcelona

would start to unravel following the collapse of Lehman Brothers in the United States in September 2008.

The financial crisis, considered the worst recession since the 1929 crash, led to the collapse of banks and businesses, caused unemployment to skyrocket and put serious pressure on the public sector due to a combination of reduced income and the deficit rules to which it was subject. In the field of housing, the situation also revealed a shift in the playing field and a new challenge for Western governments: not only did they now have to strike a balance between the right to housing and its role as an economic or industrial asset but they also had to contend with its emerging status as a lucrative financial asset for the world's investors in search of the highest and safest returns.

This change of cycle had very serious consequences. Many indebted families (half of which had outstanding loans in the first quarter of 2009, with an average debt of €36,000) without income stopped making their rent or mortgage payments. A total of 323,705 people were evicted in Catalonia between 2008 and 2019, a figure that exceeded 1.7 million for the country as a whole, according to a report by the DESC Observatory.



Homes in the neighbourhood of Gràcia Getty

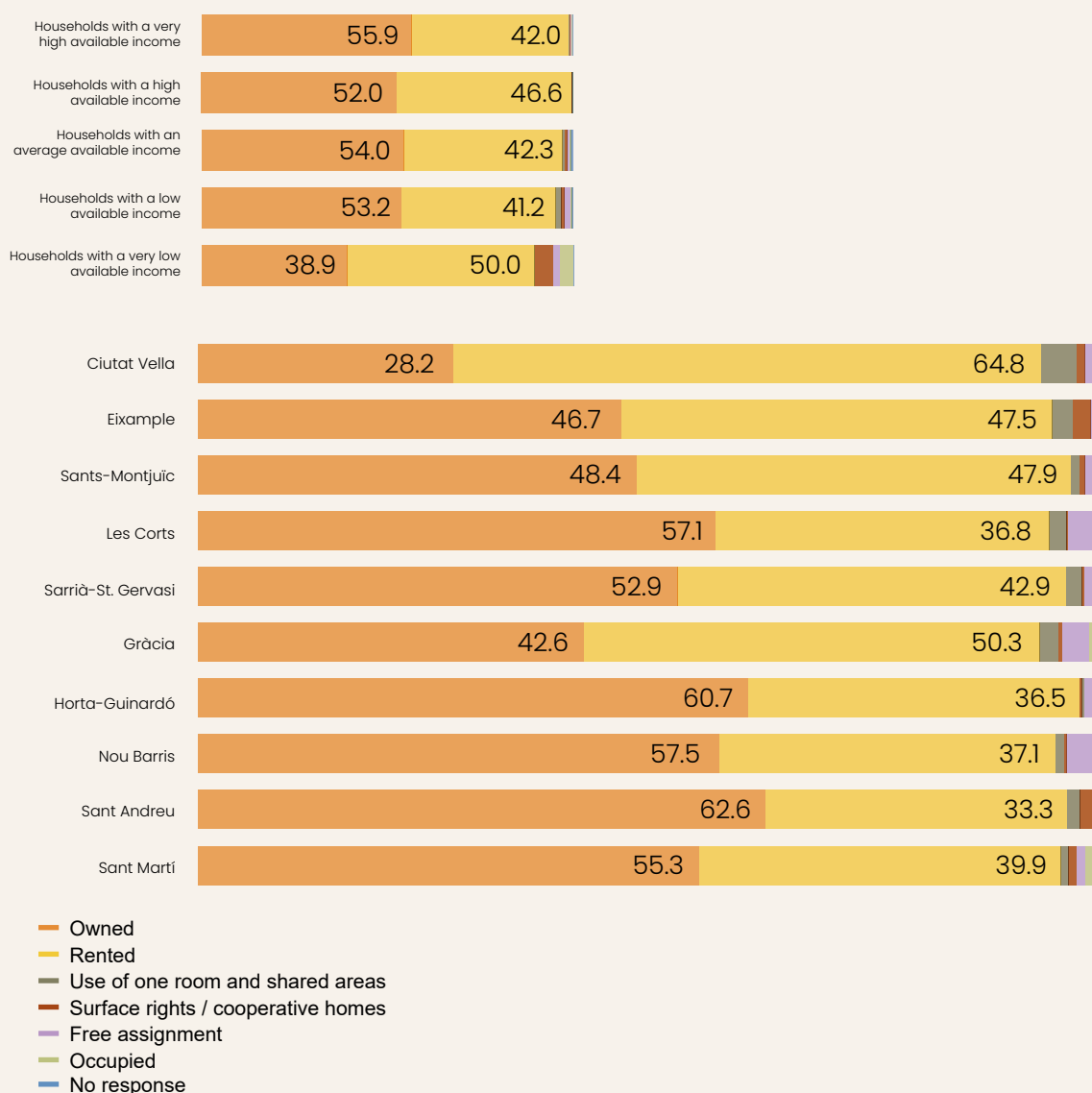
Since the burst of the property bubble and the global financial crisis, housing affordability issues have got worse, particularly in the rental market, both in Catalonia and Spain and in nearly every other European country. The rental market continues to expand, especially among the younger generations, who have to rely on inheriting in order to buy their own homes. The economic recovery has improved the macroeconomic figures and created employment, but the gap between housing prices and wages has increased inequality.

UNEMPLOYMENT AND FALLING WAGES

Despite a fall in prices after the crash, the situation worsened due to a sudden rise in unemployment and a decrease in wages, all this amid high mortgage debts for many households. According to Eurostat data, in 2015 Spain had the EU's highest rate of

tenants having to spend a higher proportion of their income on rent. In addition, with a significantly higher risk of poverty among renters than in the general population, of the families who did not lose their homes, many were left in a vulnerable position.

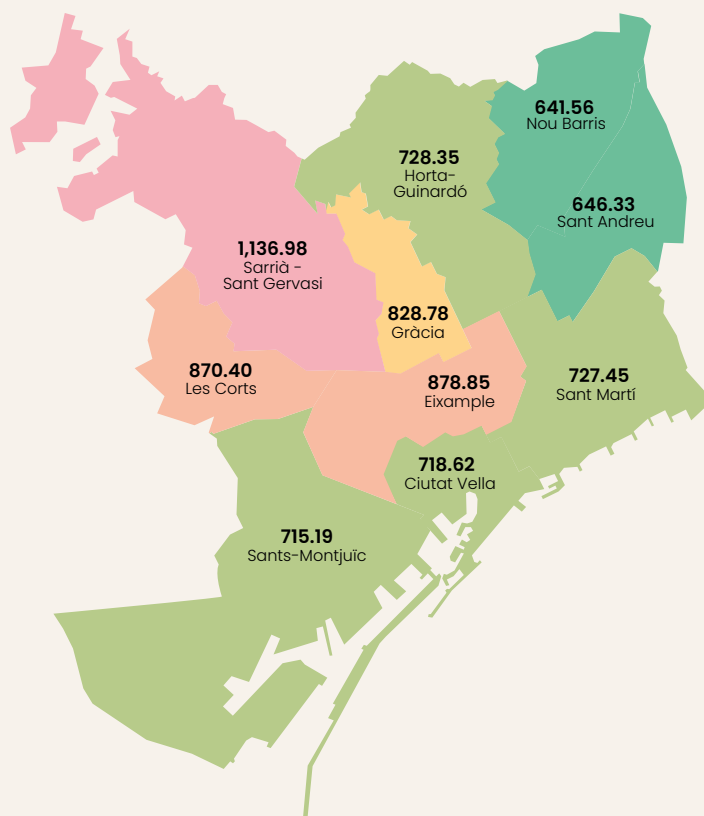
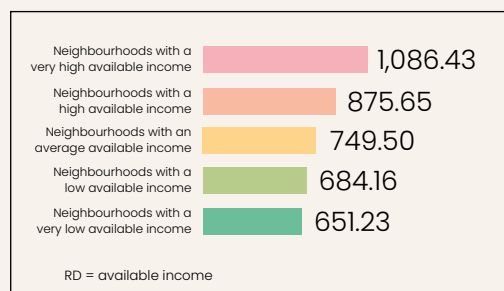
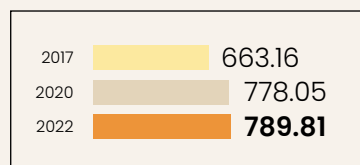
Home tenure status by household income and district in 2022



Source: Barcelona City Council. Barcelona Socio-Demographic Survey

Household budget allocated to rent or mortgage payments by income level and district

Average monthly cost in €



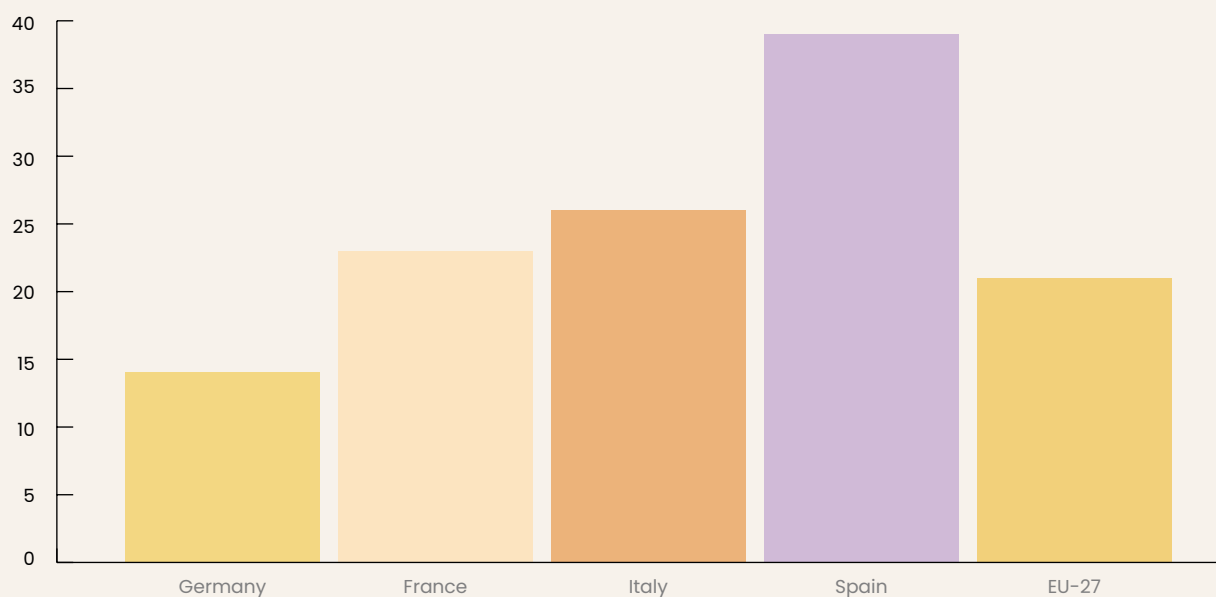
Source: Barcelona City Council
Barcelona Socio-Demographic Survey

Out of all the families with the lowest incomes, 38.4% are in a situation of overburden, i.e. having to spend 40% or more of their income on housing.

A household is considered to be overburdened by housing costs when it is spending over 40% of its members' total income on housing (rent or mortgage payments).

Based on this indicator, and splitting the population into five income groups, 38.4% of households with the lowest incomes in Spain are in this situation of overburden – more than the European average. Conversely, for households in the next income bracket, this rate is only 11%, below the European average. An analysis of the rental market shows that, on average, tenants in Spain spend 43% of their gross salary on housing. This increases to 58% in Catalonia and 65% in the province of Barcelona, according to the study *Relación de salarios y vivienda en alquiler en 2023* [Relationship between wages and living in rented accommodation in 2023], produced based on data from Infojobs and Fotocasa.

Households overburdened by rent* in Spain in 2022

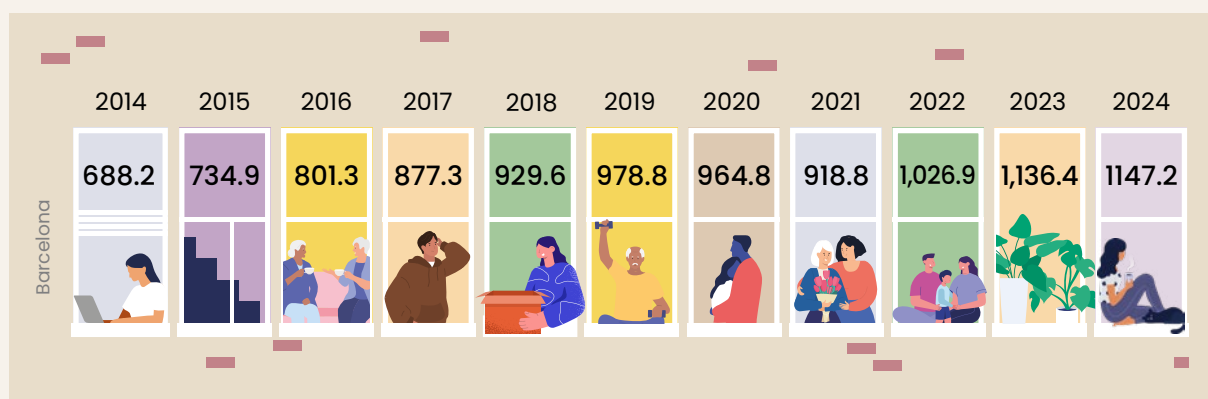


*Spending over 40% of gross income on rent
Source: Bank of Spain using Eurostat figures

For a more comprehensive overview, the Spanish Government's Housing and Land Observatory has confirmed that Spain invests less in social housing policies than most of its European neighbours: between 2007 and 2017, it spent €35.40 per person per year

on housing, only a quarter of the EU average of €148.20. Due to limited resources, it has been difficult to advance policies that have already been in place for years in other countries, such as grants, social housing developments for rent and rent control measures.

Evolution of rental property prices in Barcelona (€) – annual average



Source: Government of Catalonia. Secretariat of Housing, based on deposits paid into Incasòl.

CATALONIA, THE FIRST REGION TO ENACT LEGISLATION

Public authorities have made several attempts to intervene in the housing sector in the last few decades. In 2007, before the financial crisis, the Catalan Parliament passed the Right to Housing Act, under which 20% of land in private developments of more than 5,000 m² had to be used for social housing. The Act also introduced mechanisms to use vacant flats for social rental housing. These and other provisions were later ruled unconstitutional.

In 2020, amid a more volatile market, serious social issues and an uncertain

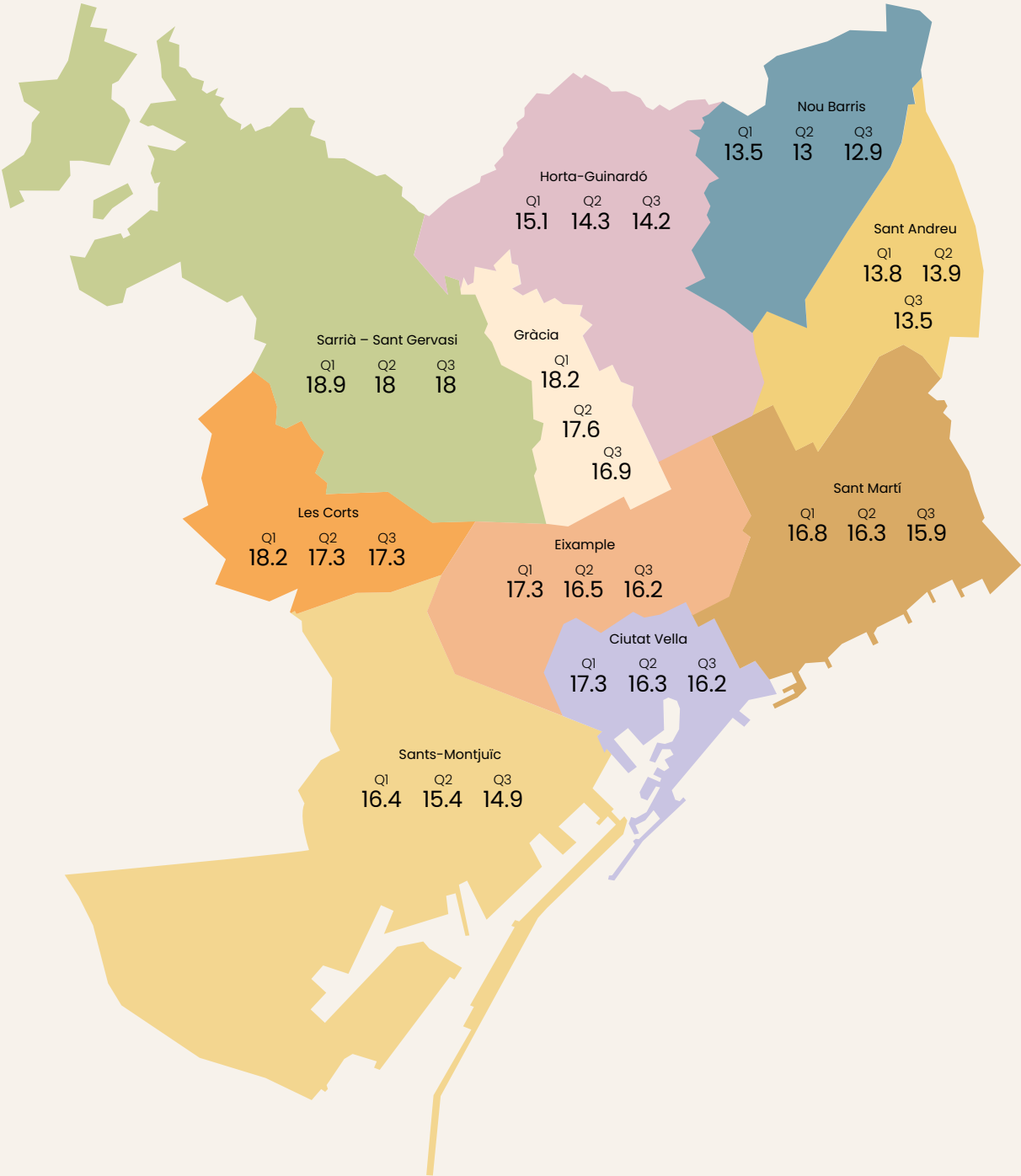
situation as a result of the Covid pandemic, the Catalan Parliament passed a more ambitious Act introducing urgent rent control measures in residential leases. This included rent caps in areas of high market pressure, but it was later challenged and repealed on the basis that it allegedly overstepped the central Government's authority.

According to the Metropolitan Housing Observatory, while the Act was in force, "it helped achieve a slight reduction in rent in cities within Barcelona Province, particularly in its first few months".



Evolution of average rental prices by surface area (€/m²) by district in 2024

	Q1 2024	Q2 2024	Q3 2024
Barcelona	16.7	16.0	15.7



Source: Government of Catalonia. Secretariat of Housing, based on deposits paid into Incasòl.

THE BARCELONA RIGHT TO HOUSING PLAN

The Observatory was jointly established by Barcelona City Council and the Metropolitan Area, with the added participation of Barcelona Provincial Council and the Government of Catalonia, to monitor the housing system and obtain data for shaping public policies. This was in 2016, when Barcelona City Council was working on the 2016-2025 Right to Housing Plan to "guarantee the social purpose of housing and make progress in building a public housing service on a par with the best practices of other European cities".

The Plan outlines seven key challenges, some of them relating to current issues such as difficulties paying rent and the need for more public housing, and others to long-term problems, such as young people's struggle to find a flat and the use as tourist accommodation of properties previously available for residential use.

The Act seeks to expand the public housing stock and prevent it from becoming privatised over time

The 2016-2025 Right to Housing Plan revolves around four strategic pillars: preventing and addressing the housing emergency, ensuring the proper use of housing, increasing the number of affordable flats and renovating the existing housing stock.

The Plan had an estimated cost of €2.9732 billion, €1.6662 billion of which would be provided directly by the City Council. In its aim of preventing the loss of homes alone, between 2016 and 2022 the municipal government spent €316.22 million on 188,473 housing cost grants and emergency accommodation. The Municipal Institute of Housing has invested an additional €234 million in the development of social housing.

Other initiatives carried out under the Plan include increasing the number of public housing units and homes covered by public programmes (5,008 between 2016 and 2022), acquiring 1,718 private homes to provide affordable housing for around 4,300 people, introducing a rental price reference index in 2017, declaring Barcelona an area of high market pressure in 2021, and establishing a rental price regulation commission.

A LONG DEVELOPMENT PROCESS

Some of these mechanisms were revisited by legislators during the preliminary work for a nationwide Act, which started to take shape in 2021 and became an official bill in the Council of Ministers on 1 February 2022. It soon became clear that the drafts included for the first time measures to improve access to housing in line with the social democratic principles of curbing speculation, increasing the public housing stock and protecting tenants that have influenced Western European social policy in recent decades.

The goal was to build a “fifth pillar” of the Welfare State to supplement the three foundational pillars of education, health and pensions and the more recently added fourth pillar of care for dependants. The timing seemed just right, at the tail end of the global health crisis due to Covid and against the backdrop of the reforms set forth in the EU-funded Recovery, Transformation and Resilience Plan.

The parliamentary debate was lengthy and tense. The new wording was not approved by Congress until 27 April 2023, with votes in favour by 176 members of Parliament (from the two coalition parties in government – PSOE and Unidas Podemos – plus ERC, EH Bildu (who played a key role in negotiating its content) and Más País and Teruel Existe). The members of Parliament repre-

senting PP, Vox, Cs, PNB, Junts, PdCAT, CUP, UPN and Coalició Canària voted against (167 votes), and BNG abstained.

That day, the Spanish Prime Minister, Pedro Sánchez, celebrated this legislative milestone and its significance “for the social majority”, especially young people. The president of PP, Alberto Núñez Feijóo, stated that he would repeal the Act if he won the next election. However, although he did win, at least in terms of the popular vote, he was unable to secure the necessary alliances to be invested prime minister.

Due to its timing, the parliamentary debate took place right in the middle of the pre-campaign period for the local elections of 28 May of that year. The final steps were taken during the official

campaign: the bill was approved by the Senate on 17 May, and Act 12/2023 on the Right to Housing was finally published in the Spanish Official Gazette (BOE) on 24 May.

The Act remains in force, despite the filing of up to eight appeals before the Constitutional Court by political parties and regional governments challenging some of its articles and provisions mainly on the grounds that they encroach into regional powers.

The Act is in force, despite the filing of eight appeals with the Constitutional Court by political parties and regional governments



KEY ASPECTS



Boosting public housing

Regulating public housing to prevent its sale to investment funds, categorising social housing as such indefinitely in order to ensure that it retains that status for at least 30 years, a requirement that at least 50% of land reserved for social housing be allocated to rental housing, and increasing the percentage of land reserved for social housing from 30% to 40% on land for development and from 10% to 20% on unconsolidated urban land.



Rent restrictions

Tax breaks for landlords who provide affordable rental housing, designating areas of high residential market pressure, a maximum annual rent increase of 3% for contracts in force in 2024, and a new reference index for annual rent updates to replace the CPI in order to prevent excessive rent hikes.



Designation of areas of high market pressure

In these areas, large property owners are prohibited from concluding new rental contracts for prices above the reference index for the area or from applying rent increases to existing contracts beyond the maximum rent increase allowed. Small owners may only apply rent increases in new contracts equal to the permitted annual increase percentage based on the previous contract. Furthermore, rental prices for homes that have not been rented out for the past five years may be capped at the maximum price established in the reference index.



Striking a balance in landlord-tenant relations

An extraordinary one-year contract extension for tenants in proven socially or financially vulnerable positions, with the landlord bearing the property management and contract formalisation costs.



Protection against evictions

Improvements to ensure effective communication between the courts and social services to assist individuals in vulnerable situations, provide accommodation for victims of evictions and extend eviction suspension periods. Where the claimant is a large property owner and the eviction claim affects vulnerable individuals, proof that a conciliation or mediation procedure has been carried out must be provided.



Definitions of "large property owner" and "vacant housing"

A "large property owner" is a person or organisation that owns more than ten properties. This term may also include, at the regional government's request, owners of five or more residential properties located within the same area designated as an area of high market pressure. City councils may apply a property tax (IBI) surcharge to homes that have been vacant for over two years, provided that the owner has at least four properties in the same situation.

The Right to Housing Act is made up of five titles and 36 articles, as well as six additional provisions, four transitional provisions, one repealing provision and nine final provisions. According to the Government's description, the Act sets out measures to “increase the supply of housing at affordable prices, prevent high pressure in the rental market and help young people and vulnerable groups to access housing”.

The Act also provides tools for regional and municipal governments to help control or reduce rental prices and increase the amount of social rental housing. The passing of the new Act was met with moderate satisfaction by the movement for decent housing, tenants' unions and organisations of those affected by mortgages and evictions, who saw it as a good step forward but pointed out some of its shortcomings and limitations. The property business sector, for its part, predicted that the Act would cause a reduction in the supply of rental homes,

reduced income for agencies, layoffs and greater interest in property sales and seasonal rentals.

Regarding seasonal rentals, which have been mentioned as a possible mechanism to bypass the effects of the new Act, the Spanish Ministry of Housing has established a new working group to work on “the regulation of non-residential leases”, as provided in the Fifth Additional Provision. The aim is to introduce measures to ensure that temporary housing remains available to those who need it (such as students and displaced workers) while, in the words of the Spanish Minister Isabel Rodríguez, “fighting fraud”. The first outcome has been the creation of a single national register listing all homes rented under temporary contracts, providing reasons for their temporary nature. Registration will be mandatory from 1 July.

FIRST REDUCTIONS IN AVERAGE PRICES

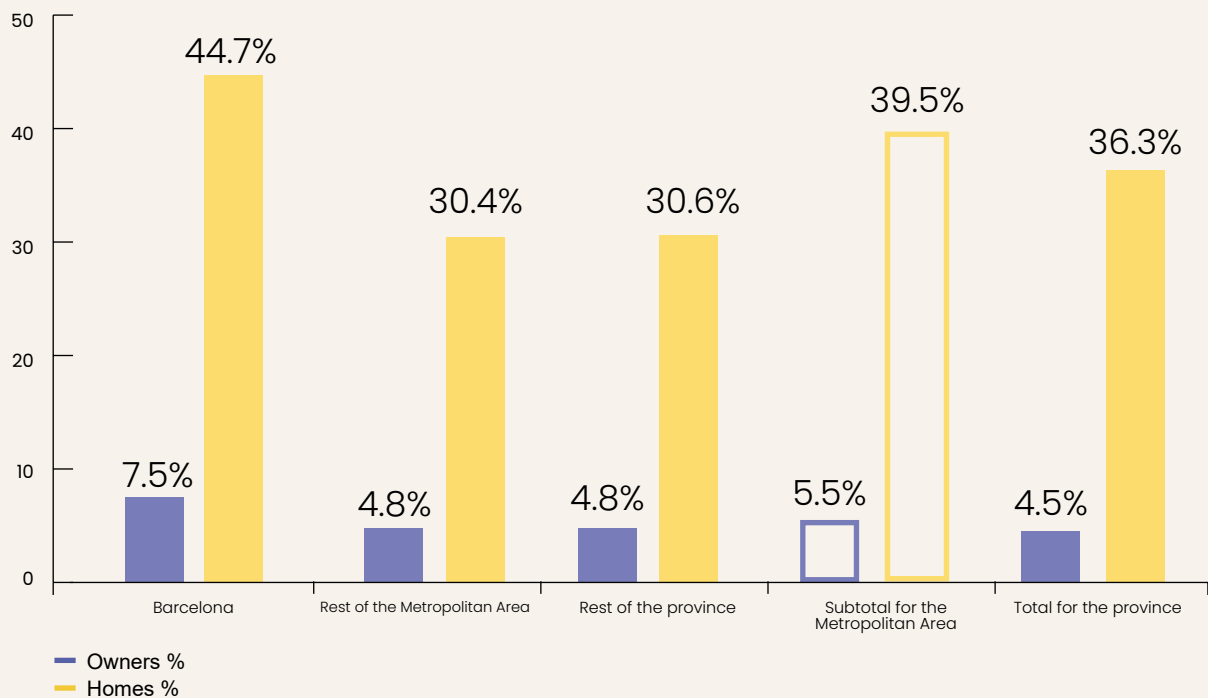
Regarding the impact of the entry into force of the Right to Housing Act in Barcelona, figures from the fourth quarter of 2024 show a downward trend in the average price of new rental contracts (6.4% compared to the first quarter of 2024 and 5.1% year-on-year, according to the Secretariat for Housing based on the security deposits paid into the Catalan Land Institute.

There will be a single national register listing all homes rented under temporary contracts

These figures are preliminary and do not take into account the impact of the enactment of Decree 1/2025 by the Government of Catalonia last January, which establishes fines of €90,000 to €900,000 for owners, professionals and property platforms for serious or very serious breaches in the management of leases. In addition, the City Council has reported that the first year after the rent caps came into effect ended with 780 more contracts in force than 2023, with 416 of them added since the first "highly stressed market" designation. This sug-

gests that, far from reducing the supply of rental housing, the Act has stabilised the market. What has declined, however, is the number of contracts concluded in 2024, which dropped by 15% compared to the previous year. This drop was already noticeable, and in a more pronounced manner, in 2023 (-19.3%), before the rent control provisions came into force. The decline started in 2022, and there is a good reason for this: that year saw the expiry of three-year rental contracts that

Owners and rental homes belonging to owners of five or more homes in Barcelona



Source: Structure and concentration of ownership of rental homes in Barcelona Province
Barcelona Metropolitan Housing Observatory

had been extended to five or seven years as a result of a change in the law in 2019.

As for the change in supply towards short-term rentals, Barcelona saw a 40.8% surge in such contracts in 2024 compared to the previous year. This increase was more pronounced than that seen in the municipalities with high market pressure, which saw an increase of 31.5%. The impact of the entry into force of the mandatory national registration system remains to be seen, along with the long-term effects of the changes to the General Metropolitan Plan current-

After nine months of application in Barcelona, the average rent for new rental contracts has fallen by 5.1% year-on-year

ly being made by Barcelona City Council to prioritise in its urban planning the use of properties as permanent primary homes over temporary uses.



IMHAB public housing development at Carretera de Ribes, 53-65 (Porta Trinitat)

RENT CAPS AND THE NEW HOUSING POLICY CHALLENGES



Elga Molina
Legal adviser

The caps on rental prices came into force on 16 March 2024 in 140 municipalities across Catalonia designated as "areas of high market pressure" by the Government of Catalonia in Resolution TER/800/2024, of 13 March. This designation is currently at the scrutiny phase for a further 131 Catalan municipalities that meet the criteria under Act 12/2023 on the Right to Housing.¹

While tenants are welcoming the long-awaited rent caps, mainly to prevent rent increases when renewing their contracts, many people still argue against market intervention, predicting a significant decline in supply as a result. However, it is still too early to assess the effects of this measure. The "area of high market pressure" designation is a temporary and exceptional measure with an initial duration of three years. This period will be used to assess its effect and decide whether or not the measures should continue to apply or whether

modifications should be proposed to improve the functioning of the market.

Just like any other public policy, its approval has both positive and negative effects for the market. As a result, we must assess whether this measure is necessary and supplement it with other policies to mitigate any potential negative impacts. The housing policies carried out so far have clearly failed to ease pressure in the rental market, increase the supply of housing, or reduce or stabilise rental prices. Furthermore, despite operating without restrictions for many years, the market has clearly failed to achieve a balance without external regulation, just like in all the other European countries that are now putting similar measures in place. And, conversely, the number of homes on the market continues to decline, and the gap between household incomes and rental prices continues to grow.

This shows that rent restrictions are not enough on their own: we must ensure that the system is effective and agreed by all parties, that it has democratic legitimacy and that it is capable of putting a stop to abusive rent increases. Secondly, this measure must be supplemented with other policies to provide an adequate structural and long-term housing policy that helps mitigate any possible collateral or adverse effects.



REGULATING STARTING RENTS IN RENTAL CONTRACTS

The primary goal of a price regulation policy is to prevent abusive price increases. Between 2016 and 2022, rental prices in the municipalities designated as areas of high residential market pressure in Catalonia rose by 31.6%, with an increase of over 45% in 2022. This compares with an average increase of 23.7% across the rest of Catalonia during that time (2016-2022). Given that, according to data provided by Eurostat, Spain ranks among the worst countries in Europe for affordable housing with families spending over 39% of their income on rent², finding ways to curb these increases is key to guaranteeing access to housing for citizens.

In view of this, many European countries (such as Austria, Germany, Switzerland, France, Belgium, the Czech Republic, Denmark, Italy, the Netherlands and Sweden) have introduced rent restrictions. Bearing in mind that the housing budget is limited (€3.472 billion in 2023)³, we need a housing policy that can help balance the private rental market at minimal cost to the Government and direct the available public funds towards a different type of high-cost public policy,

such as creating enough public and social housing, providing grants and subsidies for the most vulnerable groups or renovating an ageing housing stock.⁴

By requiring rental contracts to maintain the rent most recently paid under current agreements, the Act prevents landlords from applying disproportionate rent increases (beyond the legally permitted renovation increases or up to 10% in specific cases) on renewal or in new contracts. This results in more stable rental prices and encourages tenants to stay in their rented homes, helping them settle into the area and build a life for the long term.

Furthermore, while this legislation has been assumed to be of benefit only to tenants, its advantages for landlords have been overlooked: more objective pricing can lead to more stable contracts and a more transparent market. As a result, both parties will understand the actual cost of the home, and landlords can relax in the knowledge that their tenants are less likely to leave because alternative options are similar in price.

¹ As stated in the press release issued by the Ministry for Territory of the Government of Catalonia. Available at: [7d78916a-f1d8-4e79-9d4d-99351dbcd9fc.pdf \(govern.cat\)](#) (document viewed on 21/5/2024).

² Eurostat: Housing cost overburden rate, analysed by tenure status, 2022. Available at: [Statistics | Eurostat \(europa.eu\)](#) (document viewed on 14/5/2024).

³ Act 31/2022, of 23 December, on General State Budgets for 2023.

⁴ In Catalonia, 60% of homes were built before 1980, as stated in the article "Com renovar un parc d'habitatges envellit i poc eficient" [How to renovate an ageing and inefficient housing stock] published in La Vanguardia on 29 September 2021. Available at: [Cómo renovar un parque de viviendas envejecido y poco eficiente \(lavanguardia.com\)](#)

**While this
legislation is
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Homes in Barcelona's Eixample district Unsplash

Using a reference index to regulate prices also offers advantages by ensuring that rent is never out of date or misaligned with the market because landlords will always charge a similar rent to other owners of similar homes in the same area. To achieve this, it is

important to establish an appropriate statistical system for the characteristics of the property, kept up to date based on the latest figures and agreed with the various stakeholders in the market in order to endow the system with democratic legitimacy.

IMPROVEMENT POLICIES TO SUPPLEMENT THE RENT RESTRICTION POLICY

In my view, the problem with the effectiveness of the rent control system in improving the rental market is not about restricting starting rents but about the legal uncertainty resulting from its implementation due to existing legal loopholes and the lack of consensus in the sector about the establishment of the national reference index system for rental prices adopted. This is why, from now on, these three years of validity of the Act must be used to assess the feasibility of the system and make the necessary improvements to ensure an effective system that leads to greater affordability, stability and certainty in the rental market. In my view, at least the following measures should be ensured.



IMHAB public housing development at Carrer Binèfar, 22.

The rent control system provided for in the Act should be modified to address the following unspecified issues, whose application is not clear and which could lead to legal disputes in relation to the measure:

I.

There should be clear criteria on what constitutes a "large property owner", as certain matters are not addressed in the definition of this term. For instance, the Act should clarify whether the owner's primary residence is included, how ownership of an undivided share of property, jointly held property or rights *in rem* might be counted, and whether a physical or cadastral registration criterion should be used to identify such owners.

II.

There should be a specific exclusion system similar to the one that used to apply under the Rent Control Act of Catalonia (Act 11/2020) allowing certain homes (such as those in social programmes, social housing or those under old rent-controlled contracts) to be regulated solely based on the reference index rather than based on the previous applicable rent.

III.

It must be clarified whether it applies to tacitly renewed contracts, i.e. those that automatically renew after the end of their agreed term or minimum legal term based on the agreed rent payment period (monthly or annual) unless they are terminated by either party.

IV.

As for the calculation of rent, it should be clarified whether the applicable rent is the last amount set in the contract or the one most recently paid by the tenant. It should also be established whether expenses such as property tax (IBI) or owners' association fees are also limited when applying the index, due to being lower than the most recent rent, in contracts concluded by large property owners.

Several aspects of the reference index system for rental prices approved by the Spanish Ministry of Housing and the Urban Agenda could also be improved⁵:

I.

It should be based on net rather than gross floor area.

II.

Vague terms such as "furnished" and "with a special view" should be defined.

III.

The characteristics of the property should be assessed using price tables weighted by reference to the initial index. These should be agreed with owners' and tenants' associations and the public administration to ensure the system has democratic legitimacy and is transparent and objective, like in Germany.



IMHAB public housing development at Carretera de Ribes, 53-65 (Porta Trinitat)

⁵ See Molina Roig, E., "El nuevo sistema estatal de referencia de precio del alquiler de vivienda, ¿y ahora qué?" in *Diario La Ley*, no. 10469, 2024. Available at:

The following additional measures are proposed to make the rental price cap system provided for in Act 12/2023 more effective:

I.

An inspection and sanctioning procedure should be put in place to penalise those who infringe these measures.

II.

A streamlined court procedure should be available to enforce compliance through oral proceedings, regardless of the amount claimed.

III.

A free and quick preliminary out-of-court process, such as mediation or conciliation, should be available to avoid taking disputes to court.

IV.

Non-residential leases and single-room rental agreements should be regulated at the national level. Although Catalonia has passed Decree-Law 6/2024, of 24 April, on urgent housing measures, it is yet to be seen whether it will be ratified by Parliament. Additionally, it could be held to be unconstitutional on the grounds argued in Constitutional Court Judgment STC 38/2022, of 11 March 2022, under which certain provisions of Act 11/2020 were held to be unconstitutional.

Furthermore, it is worth noting that improving the rental market requires the implementation of a different type of housing policy, such as:

I.

Increasing public investment to foster the development and renovation of social and affordable housing, and making it available to the most vulnerable groups. To achieve this, public-private collaboration with non-profit and limited-profit organisations must be encouraged, establishing a favourable legal framework and facilitating the funding of transactions.

II.

Establishing suitable controls to address and fight the black rental market, which in 2021 accounted for 40.8% of the market.⁶

III.

Putting in place measures to foster renting and encourage owners to place vacant housing on the market through positive incentives such as grants and tax breaks.

IV.

Regulating other aspects of rental contracts to encourage, in addition to affordability, stability and flexibility for tenants. In addition to certainty, a fair profit and the ability for owners to quickly recover their property⁷.

⁶ Study on the evolution of undeclared leases in Spain by the group of experts at the Tax Office (Gestha), based on personal income tax figures from 2021 (2022).

⁷ For more information, MOLINA ROIG, E., *Una nueva regulación para los arrendamientos de vivienda en un contexto europeo*, ed. Tirant lo Blanch, Valencia, 2018.

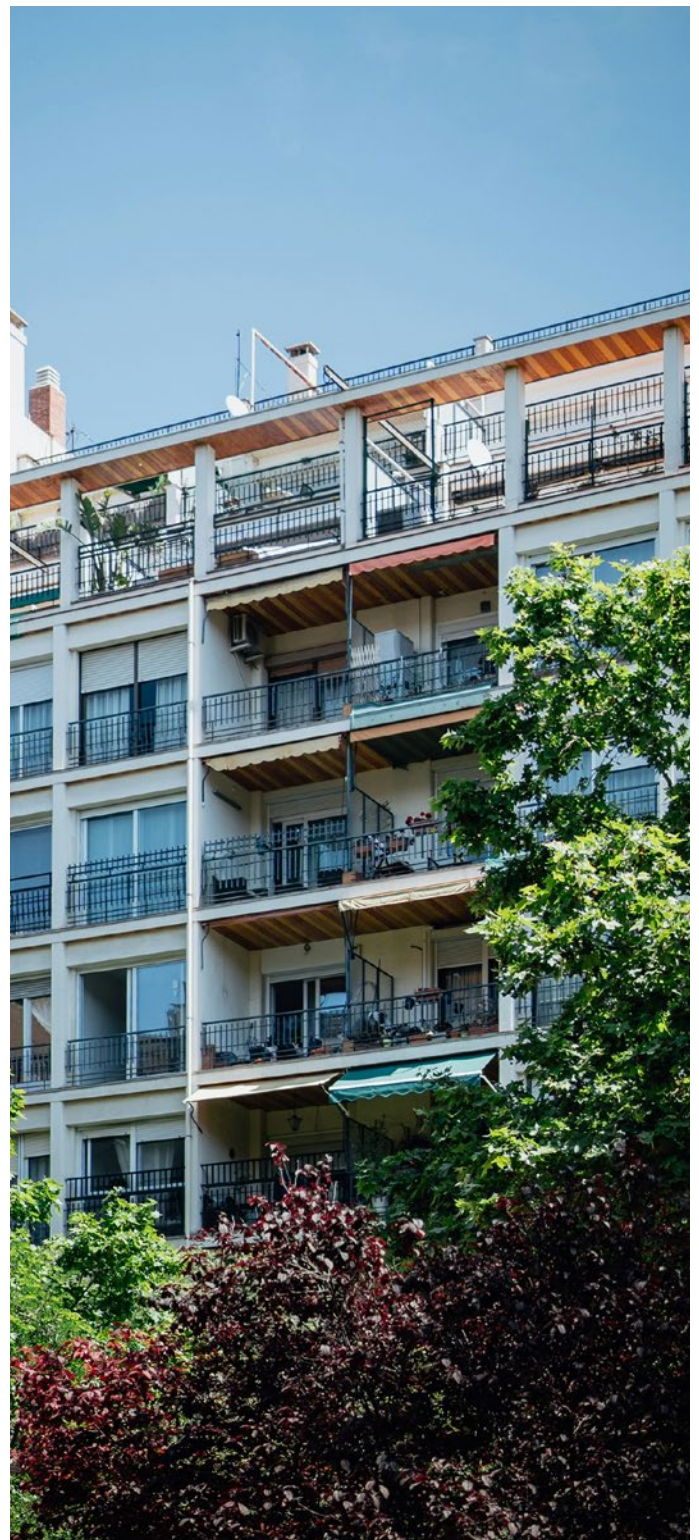
CONCLUSION

In summary, the starting rent in rental contracts must be regulated in order to restore the balance in a rental market that is clearly incapable of self-regulation. This is why the private market must be regulated, with policies to help narrow the gap between housing prices and typical salaries so that the limited housing budget does not have to be used to uphold the right to housing for average citizens with financial resources.

The proposed measures should be examined in these first three years of implementation, mainly to decide whether they should be renewed, as well as to agree on improvements to address the current legal loopholes, facilitate inspections and sanctions under the Act, ensure a quick claims system to enforce it and prevent owners from moving to the temporary, tourist or single-room markets.

Furthermore, we must carry out housing policies to increase the public budget, mitigate any potential adverse effects of the measure and address the current shortages in the housing market by means of long-term measures to increase the supply of housing and improve its quality and maintenance. And we must do this essentially by increasing the amount of social and affordable housing, and introducing policies for the renovation and use of

existing housing, controlling and fighting the black market and appropriately regulating the rental market.



TAX BREAKS UNDER ACT 12/2023 ON THE RIGHT TO HOUSING

Spanish Act 12/2023, of 24 May, on the Right to Housing, has introduced two tax measures to encourage renting and made changes to both personal income tax (IRPF) and property tax (IBI). An explanation of these measures is provided below:

IN RELATION TO PERSONAL INCOME TAX:

This measure (amending Article 23.2 of the Personal Income Tax Act (Act 35/2006, of 28 November)) regulates the reduction of earnings from property to encourage owners to rent out housing at affordable prices.

When a natural person owns a property and rents it out, they are required to declare the income received from it and may deduct the related expenses from their personal income tax (IRPF). If this does not qualify as a business activity, the income is declared as earnings from property.

The owner can apply a reduction to the positive net earnings declared in their tax



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return, but only if the property is being rented out for residential use.

Under the previous version of the Personal Income Tax Act, the reduction was set at only 60%, but the new Act 12/2023 has changed this to:

- a.** 90% if the owner has concluded a new rental contract for a residential property located in an area of high residential market pressure and the starting rent has been reduced by over 5% compared to the last applicable rent under the previous contract for the same property.
- b.** 70% if the criteria for the previous case are not fulfilled and at least one of the following two requirements is met:
 - The taxpayer has rented out the

property for the first time, provided that it is located in an area of high residential market pressure and the tenant is between 18 and 35 years of age.

- The tenant is either a public administration or a non-profit organisation that is subject to the special system established by Act 49/2002, of 23 December, on the tax system for non-profit organisations and tax incentives for patronage (only the special system under Title II).

Furthermore, the property must be used: for social rental housing with a monthly

rent below the threshold set in the State Housing Plan's rent-payment grant programme; to house financially vulnerable people (as referred to in Act 19/2021, of 20 December, setting the minimum living income); or if the property is covered by a public housing programme or classification under which there is a rent restriction imposed by the relevant authority.

C. 60%: if the conditions for the above cases are not fulfilled and the property has undergone a renovation project that was completed within the two years leading up to the date of signing of the contract.

d. And 50% in all other cases.





To take advantage of these tax reductions, the requirements must be fulfilled at the time of signing the rental contract and must continue to apply for its entire duration.

It is worth noting that the reduction applies only to the positive net earnings declared by the taxpayer in their standard personal income tax self-assessment, which must therefore be submitted before the start of the verification process, the limited verification or the audit of the financial earnings.

The Act further specifies that this reduction cannot be applied to contracts

that do not fulfil the requirements of Article 17.6 of the Urban Leases Act (Act 29/1994, of 24 November), which governs rent for properties in areas of high residential market pressure.

It is also worth noting that these new reduction percentages apply to contracts entered into from 1 January 2024, i.e. tax year 2024, and that contracts concluded before the Right to Housing Act came into force (26 May 2023) are covered by a set of transitional provisions with an applicable reduction of 60%.

In summary, the previous legislation only established a general percentage of 60%, whereas the new legislation has increased the range of reduction percentages (90%, 70%, 60% and 50%) based on the lessor's circumstances and the type of contract..

On the one hand, this is good because it increases the percentage; but, on the other, while the general reduction was previously 60%, the general reduction is now 50%, which is 10% less.

IN RELATION TO PROPERTY TAX (IBI)

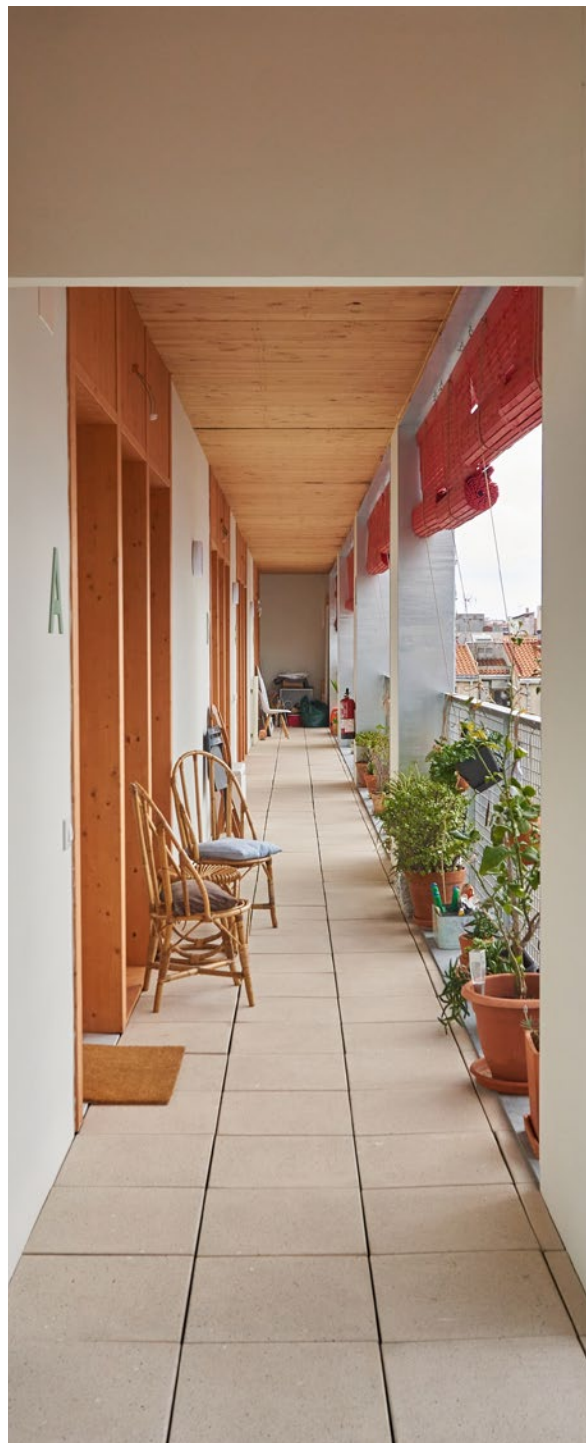
The measure defines what constitutes vacant housing and adjusts the related surcharge contained in the Act regulating

Local Tax Offices (Royal Legislative Decree 2/2004, of 5 March) to increase its effect on the optimisation of the use of residential buildings and give city councils greater power to deal with vacant housing through taxation (as explained in the preamble to Act 12/2023).

The earlier legislation did not define the concept of vacant housing, merely stating that properties qualified as permanently vacant if they remained unoccupied according to the applicable sectoral housing regulations (regional or national) with the force of law. Act 12/2023, on the other hand, amends Article 72.4 of the Act regulating Local Tax Offices and introduces the following concept at the national level: vacant housing is a dwelling that remains unoccupied without interruption for more than two years for no justified reason, in

accordance with the requirements, means of evidence and procedures established in the tax byelaw, and whose owner owns four or more residential properties.

**Empty housing
is a dwelling that
remains vacant
without interruption
for more than two
years and for
no justified reason**



La Balma, co-housing building built on municipal land

It also lists the grounds that can be used to justify the vacancy (something that had not been addressed in the previous legislation, leaving it to be regulated at the regional level, which could lead to regional variations):

- Temporary moves for work or education.
- Change of address due to situations of dependency or for health or social emergency reasons.
- Properties being used as second homes that have remained empty without interruption for a maximum of four years.
- Properties undergoing construction or renovation works or affected by other circumstances hindering their effective occupation.
- Properties forming the subject of litigation or involved in a legal dispute pending a court judgment or administrative resolution that precludes their use or disposal.
- Or properties whose owners try to sell (for up to one year) or rent them out (for up to six months) under market conditions.
- And in cases of properties belonging to public administrations, being in the process of sale or rental also constitutes valid justification.

Regarding the surcharge on vacant housing, while the previous regulation imposed a 50% surcharge on property tax in all cases, the new regulation both retains and increases this by stating that the surcharge can increase to up to 100% for properties that have been vacant for more than three years. Furthermore, city councils are authorised to raise this to up to 150% for properties whose owner owns two or more vacant residential properties in the same municipality.

This surcharge is due on 31 December of each year and requires the City Council to carry out an administrative action to confirm that the property is indeed vacant.

Since 2024, there has been a new tax framework designed to encourage affordable rental

This will require a meeting to be held with the IBI taxpayer, as well as proof that the property is vacant, which can take the form of municipal register information or utility bills (e.g. water, electricity or gas).

In summary, the surcharge has been raised and now ranges from 50% to 150%, depending on how long the property has been vacant for and the number of vacant homes belonging to the same owner in the same municipality. This will always be specified in the City Council's relevant IBI byelaw. Otherwise, it would be impossible to collect it.

The Right to Housing Act, a civil regulation, has thus modified how residential rental contracts are taxed under personal income tax and the treatment of vacant properties under property tax. In other words, since 2024 there has been a new tax framework designed to encourage affordable rent (including substantial reductions in areas of high residential market pressure) and discourage owners from holding onto vacant properties.



THE RIGHT-TO-HOUSING LEGISLATION AND THE FIGHT AGAINST FRAUD

Pablo Feu Fontaiña

Lawyer and member of the Barcelona
Metropolitan Housing Observatory and
the Barcelona Housing Studies Chair



More than a year has passed since Act 12/2023, of 24 May, on the Right to Housing (henceforth, the "LDH") came into force. It is a national Act that, in summary, governs rent restrictions on leases of properties for use as primary and permanent homes, as well as making significant amendments to Act 29/1994, of 24 November, on Urban Leases (henceforth, the "LAU"), and to Act 1/2000, of 7 January, on Civil Procedure (henceforth, the "LEC").

The rent restriction measure introduced by the LDH for the whole of Spain is based on the prior designation of what it refers to as "areas of high residential market pressure" (ZMRT), which are those in which rent prices are rising at a significantly higher rate than personal income. The LDH has amended Article 17 of the LAU to impose rent restrictions in rental contracts of primary and permanent homes in any areas designated as ZMRTs. It provides for

two alternative rent caps: either the rent applicable to the property under the contract most recently in force in the last five years or the price set for the same property based on a reference index established for this purpose.

If the landlord qualifies as a large property owner, the lower of the two options must be applied; and, if no contract has been signed within the last five years, the amount of rent to be applied must be based on the reference index in any case.

This measure has faced criticism from economic operators working in this field, who oppose any restrictions on the market, whether they are based on time or on a non-current value. The market can only work under the economic principles of supply and demand. As a result, eight appeals have been filed against the LDH on the grounds that it is unconstitutional. The Constitutional Court has issued a judgment on one of them, with no significant impact on the substantive provisions of the Act, at least for now.

However, and for the same reason, economic operators have devised strategies to circumvent the law while awaiting a potential ruling repealing the Basic Act on the grounds of unconstitutionality, at least in relation to the rent restrictions. One of these strategies has been to replace rental contracts for primary and permanent housing (the only ones affected by the rent restriction) with seasonal rental agreements (which are not affected by this measure).

As a result, the number of seasonal rental agreements in Barcelona has skyrocketed in just one year, with a corresponding fall in the number of rental contracts for primary and permanent housing.

Figures from the Barcelona Metropolitan Housing Observatory show that, in the second quarter of 2023, just before the LDH came into force, 72% of all rental

Economic operators have devised strategies to circumvent the law

contracts concluded in Barcelona were for permanent homes, whereas seasonal rentals accounted for 18% of the total, with tourist rentals lagging behind at under 10%.

These figures remained almost completely unchanged since the second quarter of 2022. In only one year, seasonal rental agreements rose by 3.7%, but at the expense of tourist rentals, which fell by nearly 5%. Conversely, rental listings for primary and permanent homes saw only a slight decline of 0.2% in the same period.

This trend suddenly changed when the LDH came into force. According to property portals, rental contracts for permanent homes in Barcelona dropped by 45% in only one year, while the number of seasonal rental agreements rose by 48%. This trend is reflected in other major Spanish cities.

It is clear that neither Barcelona nor the other major cities in Spain have gone from being places where people have their permanent homes to places of transit in just one year. What has happened is that

economic operators who did not want to comply with the LDH's rent restrictions have exploited a legal loophole to bypass it but, in doing so, have done something they cannot do, which is alter the cities' urban planning models, turning them into places of transit and forcing over half their permanent residents to move out.

The rental housing market is in effect deciding who can live in the city (or in specific areas of it) based solely on the expectation of profit and, in doing so, has effectively usurped city councils' urban planning powers in relation to the choice of planning and development model for the city (or parts of it). This is explicitly forbidden because Article 4 of Royal Legislative Decree 7/2015, of 30 October, approving the revised text of the Act on Land and Urban Renovation (TRLSRU) gives public authorities sole responsibility for choosing cities' urban planning models by establishing that this is a public

Cities' urban planning models cannot be altered in a way that turns them into places of transit and forces residents out

function "not subject to negotiation that organises and defines the use of land in accordance with the general interest" rather than based on the interests of any given economic player.

Furthermore, the same Act stipulates that this power to choose the applicable planning model (which is not open to negotiation) must be exercised in accordance with the criterion of sustainable urban development, which is defined both in Article 3 of the TRLSRU and in Article 3 of Legislative Decree 1/2010, of 3 August, approving the revised text of the Urban Planning Act (TRLU). Thus, under Articles 3.1 and 3.3 a), b) and g) of Royal Legislative Decree 7/2015, public authorities must form public policies in the urban environment and within their own authority to ensure social sustainability and territorial cohesion and enable the residential use of properties designated as primary homes in a socially integrated urban setting.

As for Catalan legislation, Article 3.2 of the TRLU stipulates that sustainable urban development requires the establishment of land use models that prevent geographic dispersion and promote social cohesion. Similarly to the Spanish legislation, Catalan law (Article 3.3 of the TRLU) requires administrations with urban planning powers (therefore including City Councils) to ensure sustainable urban development in the exercise of these powers.



IMHAB public housing development at Carrer Palamós, 70.

**The revised
text of the Act on
Land and Urban
Renovation gives
public authorities
sole responsibility
for choosing
cities' urban
planning models**

Sustainable urban development requires land use models that prevent geographic dispersion and promote social cohesion

This means that Barcelona is not a place of transit and that no public administration with urban planning authority can establish a planning model

aimed at making it so, as there is a legal obligation to "enable the residential use of properties designated as primary homes in an urban setting". If not even the relevant public administrations are allowed to move towards this type of planning model, much less is the property market allowed to achieve the same effect by introducing seasonal rentals *en masse* as the predominant type of legal transaction for the use of housing in the city.

This illegal dysfunction must be immediately rectified by the public administrations with urban planning



IMHAB public housing development at Carretera de Ribes, 53-65 (Porta Trinitat)

authority, and the way to do so is by restricting the ability to enter into seasonal rental agreements in the city, as their sudden and extensive proliferation is quickly changing its planning model.

The way to achieve this, which has been provided for in the planning legislation for years, is by means of a Special Plan, a planning tool created for this purpose (among others) under Article 67 of the TRLU.

There is a legal obligation to "enable the residential use of properties designated as primary homes in an urban setting"



Inside an IMHAB public housing unit

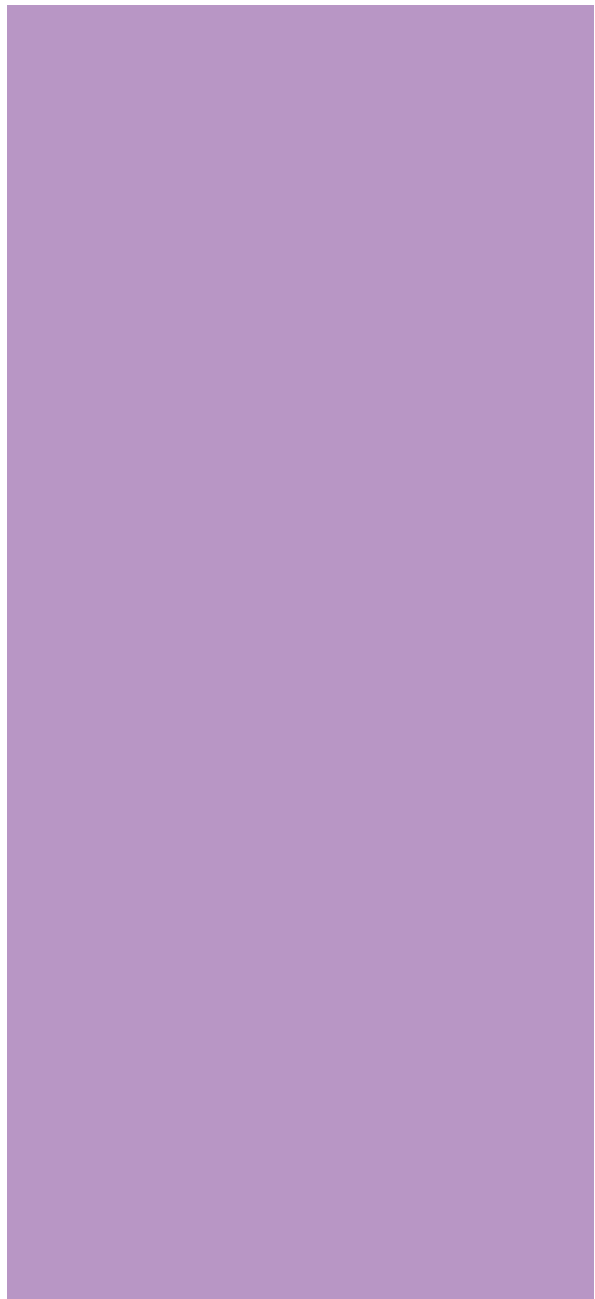


IMHAB public housing development at Carrer Uldecona, 2-10, in Marina del Prat Vermell

Special use plans regulate the impact and urban and environmental effects and the effects on urban heritage in the territory

And in the case of Barcelona, this restriction is also permitted by two other urban planning provisions. One of them is Article 67.2 of Act 22/1998, of 30 December, on the Barcelona Municipal Charter, which states that “special use plans seek to regulate the impact and urban and environmental effects and the effects on urban heritage of the activities carried out in the territory by regulating their intensity and the physical conditions under which they are carried out based on distances, the type of urban street involved and similar factors”.

The other one is Article 102.1 of the Urban Planning Rules of the General Metropolitan Plan, which states that “on urban land, the location and characteristics of uses (including residential uses) (...) may be restricted



by approving a Special Plan driven by public authorities or establishing an appropriate byelaw".

This means that urban planning methods can already be used to restrict the property market's attempts to circumvent the LDH's rent restriction provisions

applicable to primary and permanent homes by imposing restrictions on residential use to prevent the overnight replacement of residential rental contracts with seasonal rental agreements, thus altering the city's planning model.



Inside an IMHAB public housing unit

REGULATING PUBLIC HOUSING: A MISSED OPPORTUNITY OR THE FIRST STEPS TOWARDS THE FUTURE OF MANAGEMENT?

Griselda Fernández Madrid
Head of the IMHAB Public Housing Stock



Act 12/2023, of 24 May, on the Right to Housing has been the subject of much discussion and scrutiny since it was approved. However, discussions have focused mainly on the regulation of rent and other matters relating to the private housing market.

Against this backdrop, other similarly significant elements have been slightly overlooked, including the fact that the entirety of Title III of the Act is dedicated to the public housing stock. This is quite a new development considering that it is the first time that this concept has been regulated to establish which basic legal system should apply throughout Spain.

Indeed, the mere existence of Act 12/2023 is an interesting new develop-

ment in itself. This is because no similar efforts to regulate the constitutional right to housing had been made at the national level before.

While the need to legislate for this at the national level may not have been recognised in the past, given that housing matters fall under the sole remit of regional governments, any legislation can be useful, and having a national regulatory framework reinforces the idea that any housing policy aiming to be effective and efficient must be managed in partnership with all the sectors and stakeholders involved and at every possible level.

Many adjustments will be necessary if we want to successfully achieve what is



Visit to the public rental development at Carrer Ulldecona, 2-10

being required by the Act. However, the mere fact that an effort has been made to include it in a national Act is significant in itself and further highlights the ongoing challenge of how to ensure universal access to housing.

A RIGHT JUST LIKE ANY OTHER

It is perplexing that, at a time when the right to decent housing is no longer questioned by anyone, it is still not being placed on an equal footing with the right to health or education and does not enjoy comparable services and resources to those allocated to these and other rights and essential needs of citizens.

It is here that the creation of public hous-

ing with adequate resources to manage and maintain it becomes crucial, because the public housing stock is the true cornerstone of a public housing service.

Other measures and housing policies are also essential, especially because they can be implemented immediately. Examples include rent-payment grants and all the other tools applicable to the private sector, but it is by creating and managing public housing that we can ensure a stable and secure way for those facing the greatest challenges to access housing in the medium to long term.

In recent years, housing policy has placed significant focus on increasing the ad-hoc supply of affordable rental housing in the private market through rental mediation policies and rent restrictions. This was probably the right decision to address the housing emergency. However, this housing policy must be accompanied by measures to provide a more stable and consolidated supply of social housing so that everyone can have a home with expectations of long-term security and well-being.

This is where the gradual deployment of public housing can play a crucial role, as well as helping to shift the current mindset from housing as merely an asset for doing business with at any price and under any conditions to housing as an essential asset to be guaranteed above all else.

This is why it is important to note the existence – finally! – of a national Act that tackles the creation, funding and reinforcement of the public housing stock.

Some may argue that an opportunity has been missed with the new Act, as it could have been more ambitious by further developing Title III, which only contains three articles¹. However, since this matter does not fall entirely within the central Government's remit, everything that is highlighted in this Act is already an achievement and represents the first steps towards the future of public housing management.

Furthermore, Title III is not the only part of the Act that addresses public housing stocks: relevant concepts appear throughout the Act. A few of these are discussed below.

Firstly, the starting point is set very early on, in Article 2 of the Act, which states that one of the aims of public housing policies must be "to promote the development, management and maintenance of public housing stocks to ensure a significant and stable supply of decent and adequate housing for the segments of the population facing the greatest challenges when it comes to



Fully renovated IMHAB public housing stock building at Carrer Trueba, 27

¹ The first of these (Article 27) develops the concept and purposes of public housing stocks; the second (Article 28) provides an outline of some basic management criteria; and finally, the last article of Title III (Article 29) establishes in very general terms how this housing stock should be used.

accessing housing on the market by making the necessary investment in each annual budget".

It remains to be seen whether this clear but underdeveloped statement will end up reflected in future budget pre-allocations as noted by Professor Juli Ponce in a recent article in the magazine *Papers*. According to him, Act 12/2023 does not require a specific percentage of the country's housing budgets to be reserved – i.e. a budget pre-allocation – to ensure the adequacy and stability of public investment by the central Government, but there is nothing to prevent regional legislators from adopting this approach in the future, as recommended in the Human Rights Plan drawn up in partnership with the Catalan Ombudsman's Office².

Secondly, this view of the strategic importance of public housing stocks is further emphasised in Article 4 of the Act, which states that taking the necessary actions to create, increase, maintain and improve public housing stocks by both the relevant public authorities and their affiliated or dependent bodies, as well

Finally there is a national Act that tackles the creation, funding and reinforcement of the public housing stock

managing them to ensure that they are used effectively under affordable conditions, qualifies as a service of general interest, as it is key for economic, social and territorial cohesion.

The fact that the Act so clearly states that the creation and management of public housing stocks is a service of general interest is not insignificant: the European Commission defines such services as those that are subject to specific public-service obligations. It specifically mentions social housing services as an example of this (among others)³.

² Ponce, J. (2024). *La Llei estatal 12/2023, de 24 de maig, pel dret a l'habitatge: les novetats més destacades i la seva incidència sobre el lloguer d'habitatges a Catalunya*. (I. Metropoli, Ed.) *Papers* 66, 137-161

At least as important as adding new homes is having the necessary resources to maintain, renovate and adapt them.

In practice, this means ensuring the provision of this service, as it is considered a basic societal function, and doing so in a stable manner over time, ensuring that it is affordable, accessible and of high quality.

The concept itself is not a new one, as it had already appeared in previous housing regulations.

For instance, Act 18/2007 on the Right to Housing – interestingly, also in Article 4 – addresses the concept of service of general interest. However, the difference between this and the Spanish Act of 2023 is that the Catalan Act takes a more general approach, without express reference to public housing stocks⁴, which the Spanish Act does include. Hence its significance for the future

development of public housing stocks as a service of general interest.

Thirdly, and at least as importantly – if not more – as adding new homes to public housing stocks is having the necessary tools and resources to maintain, renovate and adapt them. The new Act expressly acknowledges this: Article 2 itself states that, in addition to its other aims, it seeks to boost the renovation and improvement of existing housing, in both the private and public sectors, and ensure access to housing for all through measures to cover emerging needs.

The maintenance and renovation of properties, together with the search for solutions and resources to arrange and adapt homes to new users and the needs of residents, is one of the greatest challenges in the management of the public housing stock. This is what makes its inclusion in this Spanish Act so significant. The true management of the public housing stock starts when the end of the housing allocation process gives way to the constant daily work of monitoring each property, each community and each group of residents.

This is what makes the acknowledgement and express inclusion of this fact by the Spanish Act so noteworthy. What is truly innovative about this Act is that it gives citizens shared responsibility for this task: Article

³ European Commission: (Corporate Service of the Publications Office of the EU; n.d.)

⁴ The current wording of Article 4 of the LDH only states (Article 4.1) that “the activities linked to the provision of housing under social policies are a service of general interest to ensure decent and adequate housing for all citizens”.

9 e) establishes a duty for citizens "with respect to the public housing stock, to acknowledge its special importance as a tool for upholding the right to housing and ensuring its proper maintenance and upkeep, so that it can be used by those households that face the greatest difficulties".

Finally, Article 32, which introduces the second chapter of the Act, requires the central Government – albeit without providing a specific timeframe – to draw up and keep up to date an inventory of its public housing stock. This may seem less relevant, as it will not apply to other public housing stocks belonging to municipal or regional governments but, if the register is eventually created, it will

provide a valuable source of information and will establish methods and criteria for a potential extension of this obligation to inventory and document the public stock to other levels of the administration.

In conclusion, Act 12/2023 lays the groundwork for making future regulatory progress in relation to the public housing stock. This does not mean that nothing has been achieved:

the public housing stocks already in existence in major cities and autonomous regions, which are constantly being expanded and improved, bear witness to this progress. However, it is still not enough, and a widespread public housing stock management service cannot be said to exist throughout the



La Balma, co-housing building built on municipal land

territory. Even where such services do exist, they still face challenges, such as achieving true administrative streamlining and significantly reducing bureaucracy and procedures, increasing and improving public-private collaboration for a better management of housing stocks, and exploring innovative approaches under which residents take shared responsibility for the upkeep and maintenance of their homes, in order to ultimately achieve true co-management by the communities involved.⁵

It is also worth noting that this is no longer merely about managing the housing units themselves but is also about better addressing the needs and expectations of residents and working harder to deliver high-quality services.

To achieve this, until the concept of 15-minute cities has been fully realised⁶, we must continue to consider introducing new housing allocation criteria based not only on income levels or household size but also on the specific needs and stage of life of each person and each family to establish whether they need to live near schools, medical facilities or public transport, to name but a few examples. The funding of public housing stocks has

also been left with many questions that remain unresolved in the current regulations, as it requires a significant amount of financial and human resources and is very complex to manage. As a result, true political commitment to ensure the allocation of the necessary public funds will be required.

Finally, innovating in the management of public housing will also be key, because the housing stock is still insufficient and must be used efficiently. This will require great creativity when deciding how to allocate and rotate homes, identify necessary improvements, and successfully adopt new methods to identify and address residents' needs in real time.

How can all this be achieved? One of the most effective ways to do this could be by developing municipal regulations on the management of the public housing stock. This is because local regulations already provide a foundation for the regulatory development of public housing stock management by local bodies, which they consider to be within their remit⁷, and because having a municipal plenary-approved management regulation that sets out the service-

⁵ Article 4.2 of Act 12/2023 mentions the possibility of providing these services through public-private partnerships

⁶ This concept was created by the Colombian urban planner Carlos Moreno in 2016. He proposed a city model in which most essential services and establishments used by citizens on a daily basis (such as their workplace, shops, educational establishments, healthcare facilities and leisure spaces) should be within a 15-minute walk or bicycle ride so that they can live locally within their neighbourhoods and reduce the need for commuting and other travel. https://www.barcelona.cat/infobarcelona/ca/tema/smart-city/es-barcelona-una-ciutat-dels-15-minuts_1271948.html

provision obligations and clearly defines the resources to be allocated for this purpose would make the public housing stocks themselves more stable and consistent over time.

Until now, regulatory efforts have focused mainly on defining allocation criteria. In fact, there are already regulations about this both in Catalonia (as part of the current regional legislation⁸) and at the municipal level (such as the regulations applicable to the city of Barcelona⁹).

We must now build on this progress by starting to work on defining these management regulations to clearly establish how public housing is to be managed and implemented, helping to restore the role of public housing in the creation of public value and making it a central tool in the guarantee of the universal right to housing.



Communal parts of the La Clota social housing development

7 Article 25 of Act 7/1985, of 2 April, on Local Government Regulations, establishes that responsibility for promoting and managing public housing based on financial sustainability criteria, as well as the upkeep and renovation of buildings, lies with municipal governments.

8 Decree 106/2009, of 19 May, on the Social Housing Applicants Register in Catalonia and the procedures for allocating such housing.

9 <https://www.habitatge.barcelona/ca/acces-a-habitatge/registre-sollicitants>

