

Scientific articles

Las políticas de vivienda en España: de la propiedad a la precarización

Housing policies in Spain: from ownership to precariousness

Políticas de habitação em Espanha: da propriedade à precariedade

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Resumen

La vivienda es un pilar básico del sistema de bienestar, pues es una condición necesaria para el desarrollo de otros derechos fundamentales como la intimidad, la educación, la dignidad humana y la salud. La crisis financiera mundial de 2007 sigue teniendo un grave impacto en los ciudadanos de nuestro país, que ahora se combina con los efectos de las crisis derivadas de la COVID-19 (2020-2021) y la inflación (2022). En efecto, el proceso constante de urbanización, junto con el proceso de vaciamiento del espacio rural y la falta de viviendas sociales y asequibles, ha contribuido a que la vivienda sea inasequible en las principales zonas urbanas de nuestro país para las familias con menor poder adquisitivo. Sin embargo, las políticas públicas de vivienda multinivel han sido erráticas en los últimos años, sin proveer alternativas reales de acceso a la vivienda en propiedad (de la cual están excluidos los jóvenes y las familias con menos ingresos) o en alquiler (que sigue sin ser una alternativa realmente deseada a la propiedad de la vivienda), al tiempo que los intentos por aumentar el parque de vivienda social y asequible (por ejemplo, a través de expropiaciones o sanciones a los propietarios de viviendas vacías) han tenido un éxito limitado. Esto ha provocado una precarización progresiva de la tenencia y un aumento (e, incluso, su promoción por parte de los poderes públicos) de



las situaciones de sinhogarismo oculto, como la okupación, la vivienda compartida, la sobreocupación o la infravivienda, sin que la Ley estatal de vivienda 12/2023 haya adoptado ninguna medida estructural para subsanar las lagunas existentes en el desarrollo del derecho a una vivienda digna y adecuada. El presente artículo analiza esta problemática y posibles soluciones estructurales en el problema de la vivienda, como la cohesión territorial o la diversificación de las tenencias de la vivienda.

Palabras clave: Políticas públicas, Derecho a la vivienda, Estado del bienestar, Tenencias de la vivienda, Cohesión territorial

Abstract

Housing is a basic pillar of the welfare state, as it is a necessary condition for the development of other fundamental rights, such as privacy, education, human dignity or health. The global financial crisis of 2007 continues to have a serious impact on the citizens of our country, which is now combined with the effects arising from the COVID-19 (2020-2021) and inflation (2022) crises. Indeed, the constant process of urbanization, coupled with the process of rural depopulation and the lack of social and affordable housing, has contributed to making housing unaffordable in the main urban areas of our country for less well-off families. Multilevel public housing policies, however, have been erratic in recent years without providing real alternatives to ownership (which excludes young people and low-income families) or rental housing (which is still not considered a truly desirable alternative to ownership), while attempts to increase the stock of social and affordable housing (for example, through expropriations or penalties for owners of empty homes) have had limited success. This has led to an increasing precariousness of tenure and the increase and, even, its promotion by public authorities, fostering hidden homelessness situations, such as squatting, shared housing, overcrowding or substandard housing, without the State Housing Law 12/2023 having implemented any structural measures to cover the existing gaps in the development of the right to decent and adequate housing, a function that corresponds to public authorities and not to private owners. This article analyzes this problem and possible structural solutions to the housing problem, such as territorial cohesion or the diversification of housing tenures.

Keywords: Public policies, Right to housing, Welfare state, Housing tenures, Territorial



Resumo

A moradia é um pilar básico do sistema de bem-estar social, pois é uma condição necessária para o desenvolvimento de outros direitos fundamentais, como privacidade, educação, dignidade humana e saúde. A crise financeira global de 2007 continua a ter um impacto sério sobre os cidadãos do nosso país, que agora é agravado pelos efeitos das crises decorrentes da COVID-19 (2020-2021) e da inflação (2022). De fato, o processo de urbanização em curso, somado ao esgotamento das áreas rurais e à crescente falta de moradias sociais, tem contribuído para tornar a moradia inacessível nas principais áreas urbanas do nosso país para famílias com menor poder aquisitivo. No entanto, as políticas de habitação pública multinível têm sido erráticas nos últimos anos, não conseguindo fornecer alternativas reais à aquisição de habitação própria (da qual os jovens e as famílias de baixos rendimentos são excluídos) ou à habitação para arrendamento (que continua a não ser uma alternativa verdadeiramente desejável à aquisição de habitação própria), enquanto as tentativas de aumentar o stock de habitação social e acessível (por exemplo, através de expropriações ou sanções para os proprietários de casas vazias) tiveram sucesso limitado. Isso levou a uma precariedade progressiva da posse e a um aumento (e até mesmo promoção por parte das autoridades públicas) de situações de falta de moradia oculta, como ocupação ilegal, moradia compartilhada, superlotação ou moradia precária, sem que a Lei Estadual de Habitação 12/2023 tenha adotado quaisquer medidas estruturais para suprir as lacunas existentes no desenvolvimento do direito à moradia digna e adequada. Este artigo analisa este problema e possíveis soluções estruturais para a questão habitacional, como a coesão territorial ou a diversificação da posse da habitação.

Palavras chave: Políticas públicas, Direito à moradia, Estado de bem-estar social, Posse de moradia, Coesão territorial

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Introduction



Housing is a basic pillar of the welfare system, as it is a necessary condition for the development of other fundamental rights such as privacy, education, human dignity, and health. To make this effective, it is necessary to develop Article 47 of the Spanish Constitution (CE) ¹, which provides for the right to decent and adequate housing, a programmatic principle (not a fundamental right ²) that basically involves facilitating access to it, ensuring that housing is decent, and reconciling the tension between financial assets and fundamental rights. Likewise, in cases of vulnerability, it must be guaranteed that the person is not dispossessed of their home or that they are assigned an adequate alternative (Nasarre Aznar, 2017, 48). This contribution will focus primarily on the first aspect, that is, facilitating access to housing and how this contributes to family well-being. Reducing the difficulties in accessing quality housing is crucial to improving birth rates and promoting household consumption and savings capacity, thereby avoiding an increase in inequality in both income and wealth ³. The hypothesis underlying this paper is whether the housing policies adopted in Spain in recent years have contributed to achieving this objective. To this end, the impact of these policies will be described and analyzed, and structural solutions, where appropriate, will be proposed.

Methodology

This paper adopts the exegetic method, a characteristic of legal sciences, as its main methodology. It analyzes legal texts related to the development of the right to housing in Spain from a doctrinal and jurisprudential perspective. This approach is complemented by the provision of quantitative and qualitative empirical evidence (such as the results of surveys or the analysis of court rulings through data science) derived from the research projects of the UNESCO Chair in Housing. It also provides the most relevant reports collected from various regional, national, and European institutions, prioritizing sources from official bodies.

Results

In the current context, we continue to suffer the consequences of the 2007 global

¹Housing jurisdiction has been assumed by the Autonomous Communities based on Article 148.1.3 of the Spanish Constitution.

²Judgment of the Spanish Constitutional Court (STC) 79/2024, of May 21 (Official State Gazette -BOE. No. 152, June 24, 2024).

³As noted in the report "Spain 2050", 262. Available at: <https://futuros.gob.es/nuestro-trabajo/espana-2050> (accessed 10-1-2025).



financial crisis, which is now combined with the effects of the crises derived from COVID-19 (2020-2021) and inflation (2022). Indeed, constant urbanization ⁴, together with the process of emptying rural areas and the lack of social and affordable housing, has contributed to making housing unaffordable in the main urban areas of our country for families with lower purchasing power. Unfortunately, multi-level public housing policies have been erratic over the last seventeen years, carried out without a scientific basis. This has been empirically demonstrated by the "Data Science" project. of judicial decisions for evidence-based housing policies in Spain (DaSiHo)" ⁵by systematically analyzing 26,000 court decisions related to housing issues using data science methodology (Garcia Teruel and Nasarre Aznar, 2022, 183-224) ⁶. This has led to a progressive precariousness of tenure: we have gone from promoting home ownership to considering squatting as a means of access to housing, encouraged by the public authorities.

Indeed, the difficulties in accessing home ownership after the real estate crisis (due to credit restrictions, a situation aggravated by Law 5/2019 ⁷), has led to a progressive decrease in home ownership since 2008, as certified by the National Statistics Institute (INE).

Figure 1. Households by housing tenure and age and sex of the reference person

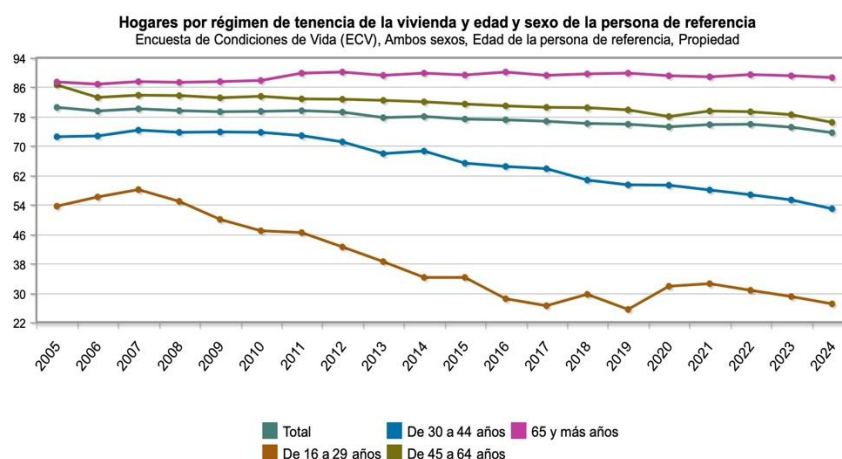
⁴The urbanization process has occurred primarily in medium-sized cities, especially during the real estate boom (1998–2008). Thus, the urban areas of these cities have gone from being the paradigm of the compact city to becoming larger, more dispersed cities, with lower land density, greater spatial fragmentation, and greater complexity (see the conclusions of Olazabal and Bellet, 2017, 168–169).

⁵ <https://housing.urv.cat/es/dasiho/>.

⁶As these authors argue, "the development of some key housing regulations has not considered (and, where appropriate, has ruled out) legislative alternatives to the one adopted and, in most cases, has not provided data on the need for the measure," p. 214.

⁷Law 5/2019, of March 15, regulating real estate credit contracts (BOE No. 65, February 16, 2019). This law stipulates that mortgage loans will only be granted for homes that are likely to be repaid, which means that many families with precarious contracts or little savings to make a down payment on the purchase of a home will be excluded from the mortgage market. This was already considered a possibility by the Bank of Spain (Banco de España, 2019, 24). In fact, while more than 60% of home purchases in 2007 were financed with credit, the ratio fell below 45% in 2023 (Lajer Baron, López Rodríguez, and San Juan, 2024, 22 and 23).





Source: National Statistics Institute, 2024 ⁸.

These homes have been acquired by individuals or legal entities with the most resources. In this sense, it is estimated that those with more than ten properties represent 4.3% of the total housing stock and 8.9% of available properties. Regarding ownership, it is estimated that 60% of homes are owned by private legal entities (companies, funds, and other private entities), 23% by the public sector, and the remaining 17% by individuals. Furthermore, foreigners will already acquire 14.98% of homes on average in 2023 (31.5% in Palma ⁹), and there is a correlation between purchasing power and the homeownership rate in cities ¹⁰, which has turned those who could not afford to buy into permanent tenants. The ultimate effect is the concentration of property ownership in a few hands, which is undesirable, whether in public or private hands.

Figure 2. The map of the major holders in Spain

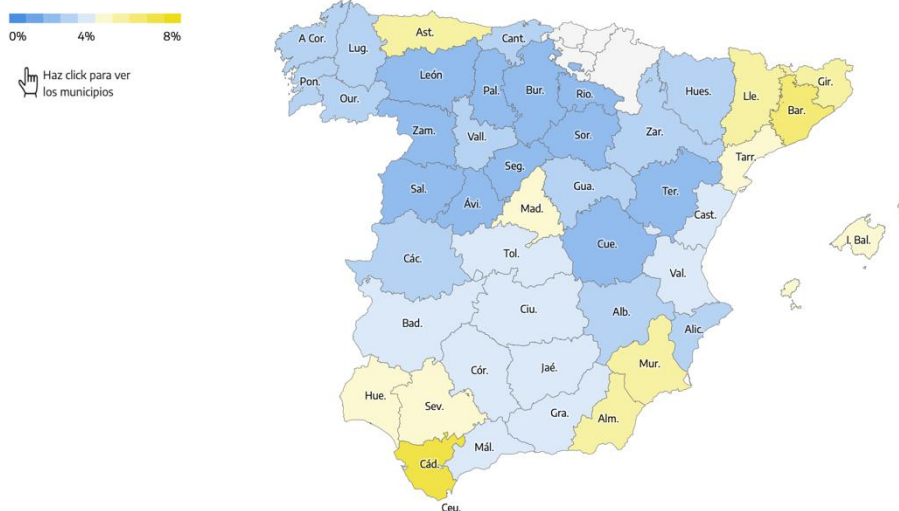
⁸INE, Living Conditions Survey. Base 2004 (<https://www.ine.es/jaxiT3/Tabla.htm?t=4583&L=0>, consulted 15-3-2025).

⁹Property Registrars, *Real Estate Registry Statistics*, Yearbook 2023, pp. 71 et seq. Available at: <https://www.registradores.org/actualidad/portal-estadistico-registral/estadisticas-de-propiedad> (accessed 10-1-2025).

¹⁰INE, *Households/individuals by housing tenure, nationality of their members and level of monthly net household income* (<https://www.ine.es/jaxiT3/Tabla.htm?tpx=61873&L=0>; consulted 10-1-2025).

El mapa de los grandes tenedores de vivienda, municipio a municipio

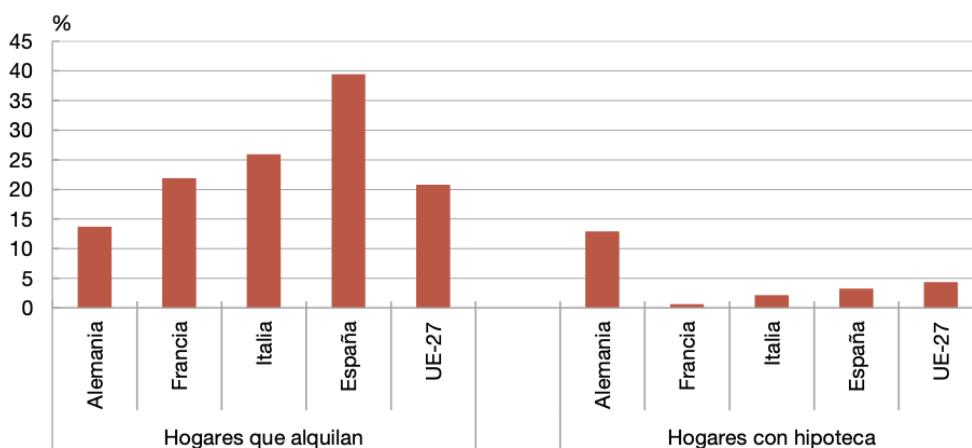
% de viviendas en manos de propietarios con más de 10 viviendas en cada provincia y municipio. Haz click en cada provincia para ver los datos por municipio



Source: El Diario.es, 2024¹¹

This context has led, firstly, to the fact that the least economically favoured households have been forced to rent, which has caused a bubble in the private rental market since 2016 in large cities (between 2015 and 2022, the accumulated growth in rental income per square metre of the rental housing stock exceeds 28.5%, Banco de España, 2023, 240), with indicators of economic effort much higher than that of owning a home, with or without a mortgage;

Figure 3. Spanish households that spend more than 40% of their income on housing in 2022



¹¹Based on data from the Land Registry. See Raúl Sánchez / Victòria Oliveres / Yuly Jara / David Noriega, Spain has more than one million homes owned by large landlords, El Diario.es (https://www.eldiario.es/economia/mapa-grandes-tenedores-10-viviendas-municipio-municipio_1_11844214.html , accessed 10-3-2025).

Source: Bank of Spain (2023, p. 269)

Furthermore, there has also been a progressive precariousness of access to housing with the use of euphemisms such as collaborative housing (it is difficult for housing cooperatives in transfer of use to be a viable alternative to owned and rented housing since they are difficult to replicate without public support, while they do not have a social purpose *per se* - which can question public support through the transfer of public land -; Simón Moreno, 2020, 31 ff.), and the increase in situations of hidden homelessness, such as renting rooms ¹², substandard housing or overcrowding. In this sense, the most visible face of residential exclusion is the homeless. The INE only considers as such those who use shelters and food resources: an average of 21,684 people per day use shelter services and an average of 51,379 meals served each day (2022) ¹³. However, these figures hardly reveal the true magnitude of the problem, since the homelessness phenomenon includes not only the homeless and those living in homeless shelters, but also other types of temporary accommodation and those living in unsafe or inadequate housing, which includes the phenomenon of squatting . The lack of reliable data is a constant in these situations of hidden homelessness. However, it is estimated that around 78,800 homes in Spain will be squatted in 2023 , and the ¹⁴Foessa Foundation (Fernández Mañillo, 2019, 252) estimates that in Spain there are more than 4.5 million people living in inadequate housing and more than 2 million in unsafe housing. At the local level, the " Liquid Housing " ¹⁵ It shows that , for 33% of respondents, there are squatted homes in the area

¹²The price of a room in Spain costs an average of 488 euros per month, that is, 57.3% more than 5 years ago (since 2019) and 89.4% more than 9 years ago (2015), according to the study "Shared housing in Spain in 2024" prepared by Fotocasa (<https://blogprofesional.fotocasa.es/una-habitacion-en-espana-cuesta-un-90-mas-que-en-2015/> , consulted 10-1-2025).

¹³ Survey on the homeless , 2022 Available at: https://www.ine.es/dyngs/INEbase/operacion.htm?c=Estadistica_C&cid=1254736176817&menu=ultiDatos&idp=1254735976608#:~:text=Un%20total%20de%2028.552%20personas,8%25%20porque%20perdió%20el%20trabajo (accessed 10-1-2025).

¹⁴Institut Cerdà, 2023. Available at: <https://www.icerda.org/es/la-ocupacion-ilegal-de-viviendas-se-cifra-en-78-800-en-espana/> (accessed 10-1-2025).

¹⁵The project has been awarded within the framework of the European Future Resilience Project. European Union's Horizon Europe research and innovation programme under grant agreement No. 10109445 (<https://future resilience.eu>). The project seeks to examine and understand the phenomenon of "Liquid Housing" in the city of Tarragona, which is characterized by the idea that almost any housing tenure can now be considered adequate housing. The concept includes squatting, illegal subletting, forced shared renting, and overcrowded or substandard housing. In order to analyze the phenomenon, two approaches have been carried out: one for homeowners' associations and another for the general public. The survey was conducted between May 8 and

of the city of Tarragona in which they reside, as well as families at risk of eviction (for 9%), homes without a minimum of habitability (for 24%), situations of energy poverty (20%), and overcrowded housing (for 17%). The percentages are lower when people who belong to the board of the homeowners' association are asked (for example, squatted homes and families at risk of eviction are only present for 7% of respondents). This fact is explained by the fact that these problems tend to concentrate in communities that do not have a property manager. Be that as it may, this project corroborates the results of a report prepared for the Ombudsman of Barcelona, which confirmed the existence of these situations of hidden homelessness in that city (Caballé , Garcia , Lambea , Nasarre, & Simón, 2020).

In this context, in Catalonia, substandard housing has been legally protected since 2020 ¹⁶by allowing living in 24m2 rooms sharing common spaces, and squatting has been promoted as a form of tenure to access housing both at the regional level (Catalan Law 1/2022 ¹⁷) and, we will now see, at the national level, which does not seem to us to be the most appropriate policy to address these situations of homelessness.

Precarization has particularly affected vulnerable groups. Thus, for example, immigrants tend to share apartments with unrelated individuals (a higher percentage than the local population) and have more problems covering housing-related expenses (utilities, etc.) (Ay ala Cañón, Laparra Navarro, and Rodríguez Cabrero, 2022, p. 340). Women (for example, those who are or have been victims of gender-based violence or those who are part of a single-parent family) They also suffer discrimination and inequality in housing matters and develop various strategies to avoid becoming homeless (Penya i Guilarte and Maranillo -Castillo, 2022) ¹⁸. In the case of young people, the difficulty in accessing affordable housing leads them to live with family or friends (the

October 10, 2024. A total of 263 people from the population and 41 neighborhood associations answered an online questionnaire. More information at <https://housing.urv.cat/liquid-housing/> (accessed 15-3-2025).

¹⁶Catalan Decree-Law 50/2020, of December 9, on urgent measures to stimulate the promotion of social housing and new types of rental accommodation (DOGC No. 8292, 11.12.2020).

¹⁷Catalan Law 1/2022, of March 3, amending Law 18/2007, Law 24/2015 and Law 4/2016 to address the housing emergency (DOGC No. 8620, March 7, 2022). The obligation to offer social housing was also provided for in squatting situations (Article 12, amending Law 24/2015), which was declared unconstitutional (https://www.tribunalconstitucional.es/NotasDePrensaDocumentos/NP_2024_098/NOTA%20INFORMATIVA%20Nº%2098-2024.pdf, accessed January 10, 2025).

¹⁸Special Rapporteur on the right to adequate housing, *Women and the right to adequate housing*. See <https://www.ohchr.org/en/special-procedures/sr-housing/women-and-right-adequate-housing>. See also https://www.ohchr.org/sites/default/files/Documents/Publications/WomenHousing_HR.PUB.11.2.pdf.



price of a room has increased by 43% in the last three years in Spain)¹⁹, which has a direct impact on the age of emancipation (which exceeds 30 years compared to 26 on average in the European Union) and on birth rates (Torres, R., 2023). In relation to young people who have left care, they find themselves with a lack of family networks or social support when they face the deinstitutionalization process (De Inés, Guzmán, Verdaguer and Contreras, 2019, p. 85) .

The legislator's reactions, as we said, have been erratic, with the implementation of measures to protect vulnerable tenants (including squatters) in evictions (RDL 11/2020²⁰, a measure issued during COVID-19, but which has been extended and is currently in force until 31-12-2025²¹) or the mandatory limitation on the updating of rent in rental contracts (2.20% for 2025)²², being a covert expropriation (Nasarre Aznar, 2022, 11) , which may generate undesirable effects on the supply of rental housing. as well as the prices of new contracts²³, or rental bonds and public guarantees for the purchase of a home²⁴, which contribute to an additional increase in sales and rental prices and a transfer of resources from the public sector to homeowners²⁵.

On the other hand, the State Housing Law of 2023²⁶, whose provisions have been partially annulled by the Constitutional Court²⁷, represents a renunciation by the State to carry out housing policy at the expense of private owners, whose provisions are mere declarations of intent (such as those referring to accessibility, art. 13), but with others that imply a tightening of the conditions and requirements to carry out evictions if the owner has the status of large holder (Final Provision 5, which has been declared unconstitutional by STC 26/2025, of January 29²⁸), the conversion of the ownership of a home into a

¹⁹López, S., The madness of renting out rooms: 520 euros per month for eight square meters, El País, <https://elpais.com/economia/negocios/2025-02-08/la-locura-del-alquiler-de-habitaciones-520-euros-al-mes-por-ocho-metros-cuadrados.html>, consulted 15-3-2025).

²⁰Royal Decree-Law 11/2020, of March 31, adopting urgent complementary social and economic measures to address COVID-19 (Official State Gazette No. 91, April 1, 2020).

²¹By Royal Decree-Law 9/2024, of December 23 (BOE No. 409, 12/24/2024).

²²Resolution of December 18, 2024, of the Presidency of the National Institute of Statistics (INE), which defines the method for calculating the reference index for the annual update of housing lease contracts and which will limit rent increases in 2025 (BOE No. 306, 20.12.2024); it is based on the First Final Provision of Law 12/2023, of May 24, on the right to housing (BOE No. 124, 25.5.2023).

²³As the Bank of Spain report points out, 2024 .

²⁴The latter, endorsed by the Official Credit Institute (ICO), <https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/vivienda-agenda-urbana/Paginas/2024/solicitar-avales-gobierno-ico-vivienda.aspx> (accessed 10-1-2025).

²⁵On the unintended effects of the Help-to-Buy scheme in England, see Carozzi, Hilber and Yu, 2019.

²⁶Law 12/2023, of May 24, on the right to housing.

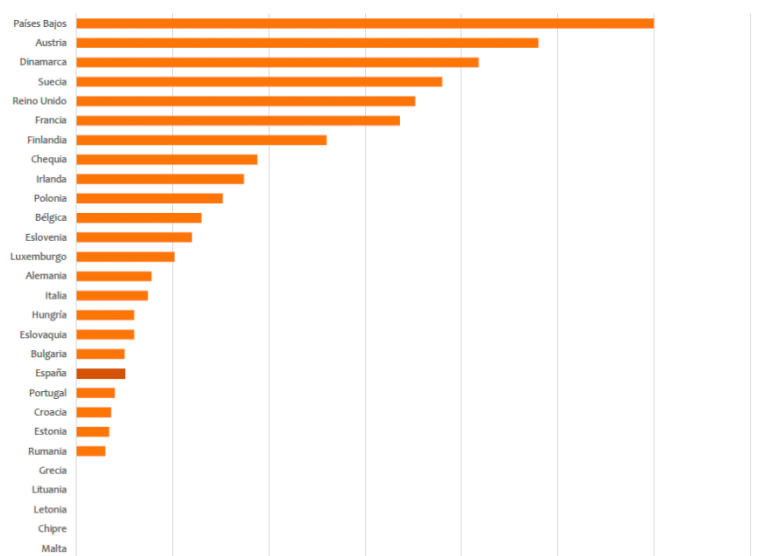
²⁷STC 79/2024.

²⁸BOE No. 51, 28.2.2025.



tenancy controlled and supervised by the State (art. 10.1.a) (Simón Moreno, 2023, pp. 139 et seq.) or the legitimacy in the Autonomous Communities so that they can implement rent controls at the autonomous level. Catalonia has reintroduced these measures since March 2024 ²⁹, although they have not produced the desired results ³⁰, which is consistent with the international literature on rent control (Kholodilin , 2024) . Beyond the drop in rental prices, the collateral effects are evident: less supply and greater difficulties for vulnerable groups. At the regional level in general and in Catalonia in particular, there has also been a proliferation of intrusions into private property by public authorities in the form of sanctions, tax surcharges and expropriations of empty homes ³¹, although their effectiveness on housing affordability has not been proven ³², so they have not helped to increase the stock of social housing in Spain, which is estimated to be among the lowest in Europe as can be seen in Figure 4.

Figure 4. Percentage of social housing in Spain compared to the total housing in the European Union



²⁹Resolution TER/800/2024, of March 13, amending Resolution TER/2940/2023, of August 11, declaring several municipalities to be areas of stressed residential market, in accordance with State Law 12/2023, of May 14, on the right to housing.

³⁰ <https://www.lavanguardia.com/economia/20241009/10007925/barcelona-perdido-75-oferta-alquiler-permanente-cinco-anos.html> (accessed 10-1-2025).

³¹In Catalonia, by Law 4/2016, of December 23, on measures to protect the right to housing of people at risk of residential exclusion (DOGC No. 7276, 12/29/2016) (expropriation), and Law 14/2015, of July 21, on the tax on vacant housing, and on the modification of tax regulations and Law 3/2012 (DOGC No. 6919, 7/23/2015).

³²The Ivalua report on the empty homes tax (2023) showed that “In terms of the real estate market, no changes are observed in the percentage of empty homes or in the rental price as a result of the ‘tax’”, available at <https://ivalua.cat/>.

Furthermore, measures have been adopted against tourist housing due to their alleged impact on the private rental market. Although they may exist in some areas of cities, their impact would be slight and far from justifying a ban on new licenses as occurred in Catalonia following Decree Law 3/2023 ³³. At the state level, control measures have been implemented for these rentals by requiring a code for their advertising on online platforms ³⁴. Another issue is the accessibility of housing. In this regard, the Report "Accessibility of Housing in Spain" (February 2018) ³⁵ concluded that only 0.6% of those surveyed declared that their property was universally accessible, following a *path* geographic “from public roads to homes”.

Discussion

In this context, legislators have not developed structural solutions to the housing problem, such as the diversification of housing tenure or territorial cohesion.

Since there are no easy solutions to complex problems, these structural measures must be accompanied by complementary measures, such as a State pact on housing or an

³³Decree-Law 3/2023, of November 7, on urgent measures regarding the urban planning regime for tourist housing (DOGC No. 9036, 11/8/2023). The explanatory memorandum accompanying this regulation only provides one example of the impact of tourist housing on the rental market in Barcelona, but it is the basis for subjecting 262 municipalities to a prior planning permit regime. Sandulli, 2023, goes further by stating that “In summary, the relationship between the growth of VUTs and the gentrification process that expels residents from Spanish urban centers lacks support in data and scientific literature,” 6. Available at: <https://www.democrata.es/wp-content/uploads/2024/04/Informe-Francesco-Sandulli-I-El-impacto-de-las-VUT-en-Espana.pdf> (accessed 10-1-2025).

³⁴See Royal Decree 1312/2024, of December 23, regulating the Single Rental Registry procedure and creating the Digital One-Stop Rental Window for the collection and exchange of data relating to short-term accommodation rental services (BOE No. 309, December 24, 2014).

³⁵Prepared by the Mutua de Propietarios Foundation in collaboration with the UNESCO Chair in Housing. More information at <https://www.fundacionmdp.org>.



increase in the budget dedicated to housing ³⁶, as well as the promotion of public-private partnerships similar to *housing. English associations* (which would help improve the management of social housing, which does not have a legal framework in Spain that serves as a guide for municipalities and third sector entities ³⁷), the promotion of municipalities as entities capable of promote the mobilization and rehabilitation of empty housing (according to the INE, based on the electricity consumption of homes located in municipalities with more than a thousand inhabitants, these represented 10.7% of the total in Catalonia in 2021; however, the exact number of empty homes is not known since municipalities with fewer than 1,000 inhabitants are excluded from this study, so more precise studies at the local level are necessary) promoting urban masoveria experiences , addressing the problem of accessibility, increasing the availability of public housing through the construction of new housing (for example, housing construction in Catalonia between 2001 and 2021 only represents 17.2% of total housing, with only 2.1% of housing built since 2010) or promoting its transfer to mediation pools, or the urban regeneration of disadvantaged and vulnerable neighborhoods .

The diversification of housing tenure forms

The diversification and strengthening of real estate tenure forms was suggested in the United Nations Urban Agenda in 2016 ³⁸, and in the Autonomous Community of Catalonia (with jurisdiction over Civil Law, Article 149.1.8 CE) we have the advantage that Catalan Law 19/2015 ³⁹ already regulates shared ownership and temporary ownership, which attempt to combine the advantages of ownership (stability, freedom, autonomy, etc.) and rentals (flexibility and affordability). Shared ownership grants one of the two holders, the material owner, a share of the ownership, possession, use and exclusive enjoyment of the property and the right to gradually acquire the remaining share from the other holder, called the formal owner (Article 556-1 CCC). Temporary ownership grants the holder ownership of an asset for a specific and determined period, after which the ownership transfers to the successor holder (Article 547-1 CCC). Both are inspired by the *leasehold* (without feudal reminiscences) and the *shared English*

³⁶What Trilla proposes, 2023.

³⁷See Lambea Llop, 2022.

³⁸Para. 36 .

³⁹Catalan Law 19/2015, of July 29, on the incorporation of temporary ownership and shared ownership in the fifth book of the Civil Code of Catalonia (Official Journal of the Generalitat of Catalonia -DOGC no. 6927, 4.8.2015).



ownership schemes , respectively (the latter was introduced in the UK during the 1970s and 1980s and currently accounts for less than 1% of all households in England, although the scheme is increasing year on year ⁴⁰). These tenures seek to facilitate access to home ownership in a sustainable way over time, which has been demonstrated from an economic perspective (Soler Tarradellas, 2017, 580 ff.), which has led to their selection as one of the *50 out - of - the -box Housing Solutions* to provide affordable housing in Europe ⁴¹and are mentioned as best practice in the report *Concrete actions for social and affordable housing in the EU* ⁴². However, its use has not been sufficiently promoted by the Administration, despite its use within the framework of the right of first refusal and redemption provided for in Article 2 of Catalan Decree-Law 1/2015 ⁴³.

The current context is fostering a widening gap between homeowners and renters in terms of wealth and access to housing, which is undesirable from both a private perspective (in Switzerland, 39% of homes are owned by six investment funds, leaving only 4% of Swiss homeowners with their mortgage paid off; in Spain, the percentage is 45-46%) and a public perspective, creating clientelism (as has happened in Vienna, where the City Council owns over 60% of social housing, but the government hasn't changed in 100 years ⁴⁴). Therefore, it is a mistake to continue promoting only public rental housing ⁴⁵, which is much more expensive to maintain and manage (without first knowing how much there is, where it is, its state of conservation and occupancy, and also without a reference framework for its management), even though it is necessary to respond to housing access for certain vulnerable groups. It is, therefore, an unwanted, uneconomical form of tenure with worse indicators than ownership, while also being an expensive and underdeveloped market. In fact, from the 1960s to 2011, 6.8 million public housing units were built in Spain (representing 26% of the total residential stock, estimated at 25.5

⁴⁰More information at:

<https://publications.parliament.uk/pa/cm5804/cmselect/cmcomloc/61/report.html> (accessed 15-3-2025).

⁴¹ Solution 46, 112. Available at: <https://www.feantsa.org/en/news/2019/12/11/hsp-publication-50-housing-solutions?bcParent=27> (accessed 10-1-2025).

⁴²See Nasarre Aznar, 2021, p. 34 (Spain), p. 52 (UK) and p. 78 (the Netherlands).

⁴³Catalan Decree-Law 1/2015, of March 24, on extraordinary and urgent measures for the mobilization of housing resulting from foreclosure proceedings (DOGC No. 6839, March 24, 2015).

⁴⁴"The local government of Vienna uses the offices and offers of its own funds to provide subsidized housing. It is mainly focused on allocating central government funding, thus transforming housing policies into a "Zweisungsmaschine", trading housing for provision for political support", see Novy, Redak and Hamedinger, 2001.

⁴⁵The 2024 Territorial Sectoral Housing Plan for Catalonia aims to increase the social rental housing stock to 9% of the primary housing stock in Catalonia, without taking into account access to home ownership.

million homes ⁴⁶). This public policy, aided by the 1960 State Horizontal Property Law, helped to generalize home ownership for those families who had never been able to do so until then (although the location of the homes or the loss of their protected status over time is open to discussion), in a distributive property policy. The rate of homeownership rose from 45% before its enactment to more than 80% by the end of the 20th century. And from a comparative perspective, northern European countries are comparatively more over-indebted than we are, which follow a universalist model when it comes to providing social housing (the Administration must provide housing solutions), unlike our finalist model, where subsidies, aid or social housing have a more limited role and, therefore, we rely on private law to provide structural solutions for access to housing ⁴⁷.

Spain is a country with a weak welfare state ⁴⁸, where property ownership and real estate wealth have played an essential role in providing security, stability, and freedom to families, reducing their dependence on public subsidies. In fact, the main residence accounts for more than 60% of the wealth of households in the bottom 50% net wealth percentile ⁴⁹, and Spanish households (homeowners) have seen their wealth increase by 29% in the last five years, with a greater increase in the case of households that own a home than those that do not ⁵⁰.

On the other hand, successive reforms to the Urban Leasing Law (LAU) of 1994 ⁵¹(in 2013, 2015, 2018, 2019, and 2023) have not followed European standards, such as a rent system referenced to the market price, optionally negotiable and with incentives, and the incentivized possibility of contracting open-ended leases ⁵². Therefore, two models could coexist: a long-term rental (aimed at families), with ways for the tenant to contribute to the maintenance and renovation of the home, with rental support for owners who opt for these options, and with stipulated guarantees for the recovery of the home by the owner who may need it; and another more liberalized rental model, which does contemplate contracts with greater mobility and without penalties for both parties, to

⁴⁶Bosch and Trilla, 2019.

⁴⁷See Nasarre Aznar's reflections, 2023.

⁴⁸A 2008 study already showed that the welfare state model is less consolidated in Spain and Catalonia, see Idoate and Molina, 2008. A more recent analysis highlighting its shortcomings, Calero, 2021).

⁴⁹Euroval, *The weight of housing in the distribution of wealth in Spanish households*, 2023. See <https://euroval.com/octubre-2023-el-peso-de-la-vivienda-en-la-distribucion-de-la-riqueza-en-los-hogares-espanoles/> (accessed 10-1-2025).

⁵⁰European Central Bank, *Wealth Distribution Index*, 2024. See <https://www.ecb.europa.eu/stats/html/index.es.html> (accessed 10-1-2025).

⁵¹Law 29/1994, of November 24, on urban leases (BOE No. 282, 11/25/1994).

⁵²See Nasarre-Aznar, Olinda Garcia and Xerri, 2014, 188-217.



avoid the fear of tenants who remain in an apartment without being able to pay the rent. As can be intuited, the desire at both the state ⁵³and Catalan levels to regulate seasonal and room rentals (the Catalan version being more intrusive) may have a similar effect to that already being seen with rent control. At the same time, the preliminary draft regulating rental contracts in Catalonia ⁵⁴(currently in the public hearing phase) is more interventionist than the 1994 Urban Real Estate Law (LAU). Greater intervention in contractual relations (contrary to the principle of civil liberty, Article 111-6 of the Catalan Civil Code) may lead to a reduction in supply and a greater increase in price ⁵⁵. In fact, we should return to the regulation of the 1994 Urban Real Estate Law, where the legislator attempted to strike a balance between the interests of landlords and tenants, with the modifications we have noted.

A policy of territorial cohesion

According to the "Spain 2050" report, in 1950, 50% of the Spanish population lived in cities; today, 80% do so, a situation driven by various factors, such as economic dynamism, access to transportation infrastructure, and geographic location (for example, proximity to the coast or belonging to metropolitan areas of larger cities). It is estimated that, by 2050, 88% of our population will live in cities, and rural Spain will lose almost half of its inhabitants. Figure 5 shows how the Spanish areas with the greatest demographic and economic dynamism have the greatest housing shortages.

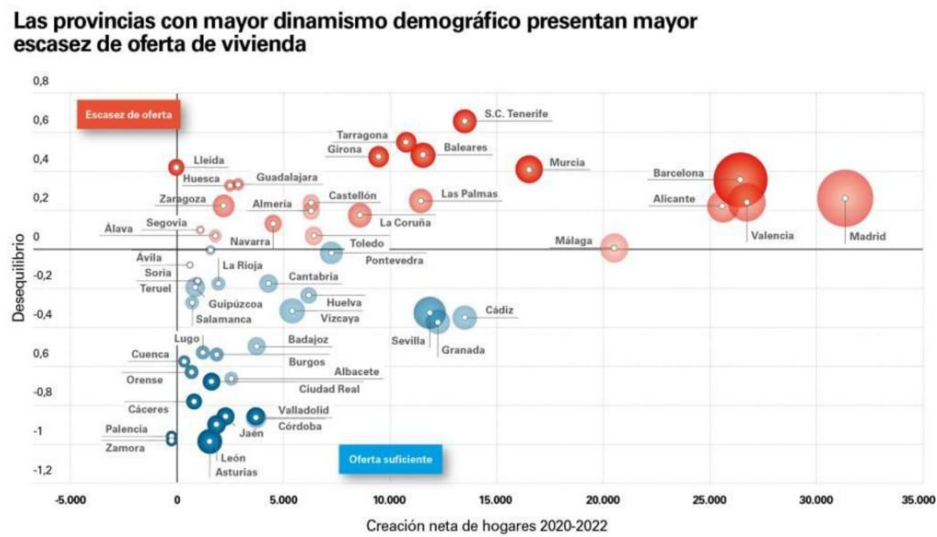
⁵³Bill on the regulation of seasonal housing rental contracts and room rentals (122/000119), rejected by the Congress of Deputies on 17 September 2024. In Catalonia, Decree Law 6/2024, of 24 April, on urgent measures in housing (File No. 203-00045/13), also failed to pass.

⁵⁴Preliminary draft law on the incorporation of the lease of goods into the sixth book of the Civil Code of Catalonia (<https://justicia.gencat.cat/ca/detalls/Article/arrendamentbens> , consulted 10-1-2025).

⁵⁵As we explained in the commentary on the Preliminary Draft, see the report at: <https://repositori.justicia.gencat.cat/handle/20.500.14226/1413#page=1> (accessed 10-1-2025).



Figure 5. Demographic dynamism and housing shortage



However, this situation is not unique to Spain. Europe's population and job opportunities are concentrated in the industrial hub known as the "Big Banana ⁵⁷," stretching from England to northern Italy, passing through Belgium, the Netherlands, and the German Rhine basin.

Therefore, another structural measure is to promote a territorial cohesion policy, meaning opportunities must be generated for young people and families outside of large cities. In Catalonia, for example, it is necessary to create opportunities beyond Barcelona, which has positioned itself internationally and attracts talent from all over. However, its growth has led to a depletion of human resources and infrastructure to the detriment of the rest of the territory. The report "The Barcelona Metropolis: Invest, Work, and Live" (2023) ⁵⁸highlights that more than half of Catalonia's GDP is concentrated in the Barcelona Metropolitan Area, that GDP per capita is €6,000 higher than the Catalan average, and that more than half of all jobs are located in this area. Paradigmatic in this regard is the change of opinion of some gurus, such as Richard Florida, who in 2002 advocated the creation of creative cities but years later acknowledged his error ⁵⁹. In general, the creation of opportunities is limited to large cities, and as a result, young

⁵⁶ <https://www.caixabankresearch.com/es/analisis-sectorial/inmobiliario/lo-revela-big-data-sobre-oferta-vivienda-nueva-y-tendencias> (accessed 10-3-2025).

⁵⁷See <https://elordenmundial.com/mapas-y-graficos/la-banana-azul-europea/> (accessed 10-1-2025).

⁵⁸Available at: <https://www.calameo.com/books/005958613a12ada2a7780> (accessed 10-1-2025).

⁵⁹See https://pemb.cat/es/blog/richard_florida_se_lo_repiensa/17/ (accessed 10-1-2025).

people are forced to go to work, which leads to affordability issues.

The "Spain 2050" report proposes, among other measures, improving and increasing economic and employment opportunities in smaller municipalities, as well as improving access to both public and private services. However, this policy must be multi-level, as it is at the local level—with the support of other administrations—that policies that can offer economic opportunities to current and future residents of these municipalities must be promoted.

Conclusion

The Spanish experience demonstrates the progressive deterioration of access to housing and the failure of public policies not based on scientific evidence. This leads us to the following questions: Should we opt for a society of wealthy homeowners, poor tenants, squatters, and/or people living in informal settlements? Should we resign ourselves to the fact that the most vulnerable and precarious have to forgo saving resources to finance potential future expenses and essentials such as healthcare, education, or leisure? Should we accept a potential increase in hidden homelessness and its legal normalization? Should we give up on owning a home and become less free and more dependent on the public or private sector? If we are told that housing is no longer an investment asset, or that "you won't own a home and you'll be happy" (Davos Forum), what other asset can fulfill its dual function as a human right and a financial asset? Should we continue the housing policies of Northern Europe that have proven ineffective?

We maintain that this is not the way forward. In this context, new avenues for access to home ownership are proposed, which can help achieve more stable and sustainable access to home ownership and contribute to the freedom and equality of society (achieved in Spain since the 1960s, largely thanks to home ownership), without neglecting a functional range of housing tenure forms (from outright ownership to these intermediate tenures, cooperatives, rentals, and social housing) and other structural measures, such as territorial cohesion. There are no simple solutions to complex problems. Therefore, strategies must be explored at the local level to optimize what has already been built, addressing aspects such as accessibility, vacant housing, and urban cohesion that, as a whole, contribute to improving access to decent housing.

Future lines of research

In this context, new avenues for access to property ownership are proposed, which can help achieve more stable and sustainable access to home ownership and contribute to



the freedom and equality of society (achieved precisely since the 1960s in Spain thanks to home ownership), without neglecting a functional *continuum* of property ownership (from freehold to intermediate tenures, cooperatives, rentals, and even social housing) and other structural measures, such as territorial cohesion. There are no easy solutions to complex problems, so at the local level, ways must be sought to build and act on what has already been built (accessibility, energy efficiency, vacant housing, and urban cohesion) that, as a whole, contribute to improving access to decent housing.

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