

Proposals derived from the activity carried out by the Barcelona Chair in Housing Studies (CBEH) and from the 1st Housing and City Congress organised by the Chair on 26 and 27 May 2025.

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1. Executive summary

a) Introduction

There is already a large amount of data on the housing emergency or housing crisis that we have been suffering for decades, data that the Càtedra Barcelona d'Estudis d'Habitatge (CBEH) itself has also generated and/or used over the last few years. But, at the same time, a lack of viable proposals for solutions and effective public policies to make the right to housing a reality can be detected, in a situation that in some cases could be described as *paralysis by analysis*.

This document is not so much an attempt to provide data, although some data are collected, but rather to formulate viable and pragmatic public policy alternatives to address the existing challenges. The proposals are accompanied by links to the documents available in open access format on the Chair's website and/or published by its members, as well as to the papers, talks and debates of the 1st International Congress on Housing and the City, organised by the CBEH on 26 and 27 May 2025.

b) Proposals

1. An essential change in mentality: from housing considered only as an anti-cyclical economic policy to the right to housing and the city. Urban planning and housing, two inseparable subjects.

1.1 Housing is not just an economic issue; it is also a fundamental right, as declared by the Court of Justice of the European Union in its judgment of 10 September 2014, and a constitutional right, recognised by the Constitutional Court in its judgment 79/2024, linked to other constitutional rights that are exercised in the city and which constitute a right in the city, linked to people's physical and mental health and the right to equality, among other rights.

1.2 These rights also include the right to property, the social function of which defines its content, which must guarantee the owner a fair economic return.

1.3 Specific techniques exist to link urban planning and housing, to ensure social and territorial cohesion and to prevent harmful gentrification and urban and residential segregation, which are essential, and to put the right to housing into effect, for example:

- the establishment of performance obligations, either legally or through territorial planning (a field in which it will be important in Catalonia to monitor compliance every five years with the Sectorial Territorial Plan to obtain 15% of social housing in the total housing stock in 20 years) or

- reserves for social housing on consolidated and unconsolidated urban land and land for development, which are important not only in quantitative but also in qualitative terms, in order to avoid urban segregation and to strengthen social and territorial cohesion in cities.

1.4. It is necessary to recognise the complex nature of the relationship between demography and urban habitat in contemporary densification phenomena. There is a growth in the number of households that is proportionally higher than demographic growth (with moderate population growth, the number of households has increased considerably due to the decrease in the median number of household members and to the spread of different family models). This makes the built environment an important element to consider from the perspective of typological obsolescence. Situations of involuntary cohabitation and unplanned reoccupation of dwellings for the rental of rooms can be recognised. A structural approach to rehabilitation and tactical architectural strategies capable of influencing typological, energetic and maintenance factors of neighbourhood social structures are essential.

2. The peculiarities of the housing market and its failures.

2.1 The housing market is peculiar, different from other markets, in which the speculative and land retention component prevents the simple increase in land supply from responding to the demand for housing and therefore lowering prices, as demonstrated by the Spanish experience with the legislation of the 1990s.

2.2 Housing market failures have significant negative externalities, which can only be corrected by public intervention.

3. The essential role of the European Union.

The EU has a number of competences that enable it to have an impact on housing and the improvement of European cities. It is necessary to take advantage of them to find the necessary consensus and political leadership to convert housing into an area of similar importance to the environment, a field in which, by the way,

action began to be taken in the 1970s without there being any European legislation, due to the political will and the need detected.

4. Public service, housing's role as a service of general interest: the right to good administration, informed public policies and public-private partnerships in the smart city.

4.1 The European concept of services of general economic interest and services of general non-economic interest (or public service), introduced into Spanish and Catalan housing legislation, must be of great importance and help to change the perspective and break out of the loops currently in existence.

4.2 All the techniques and instruments linked to people's right to good administration with regard to housing still need to be developed; these include, for example: the use of a range of services with standards of quality standards in the provision of services; transparency with regard to lists of applicants in registers; the linking of assets to the public service or service of general economic interest, without the possibility of their alienation to private operators, etc.); the promotion of the simplification and acceleration of the related activity, with the use of Artificial Intelligence where possible, also in relation to the assessment of the vulnerability of tenants in judicial proceedings, and reserving the final decision to humans if there is a value judgement; the application of Means of Appropriate Dispute Resolution (ADR) in relations between private individuals to avoid judicialisation (as now required by Organic Law 1/2025, on measures for the efficiency of the Public Justice Service) and extra-judicial administrative mediation when a public administration is involved; or the need for the Public Administration to have up-to-date and reliable data on the housing sector.

4.3 Public-private collaboration is important, through the various formulas available in our legal system. In relation to surface rights, a reduction in the tax burden (VAT, corporation tax) borne by the owner of the surface rights should be considered, as an incentive measure to encourage the promotion of affordable housing. Public collaboration with the private and third sectors through impact investment models can help to expand the housing stock linked to social policies, especially in contexts of budgetary constraints.

5. Towards sufficient and stable funding and adequate taxation to achieve affordable housing.

5.1 The chronic underfunding of public resources in the field of housing, which is well below the European average, must be brought to an end. Sufficient and stable public funding is needed, using already existing technical mechanisms such as budget pre-allocations.

5.2 Adequate and progressive taxation must play an important role in this funding, by means of informed design and evaluation of the various existing taxes and by modifying them where necessary (for example, by applying VAT to an economic activity such as the tourist use of housing).

6. From confrontation between levels of public and administrative power to collaboration and cooperation strengthened by a minimum goals pact.

6.1 Now that a stable doctrine has been established by the Constitutional Court, the future must move on from permanent litigious confrontation to a political pact with a medium- to long-term vision, which is necessary in a decentralised State such as ours. However, if this is not possible, from a technical perspective and linked to the rule of law and the social state, good governance, good government and good administration in the field of housing require the strengthening of cooperation and collaboration between all levels of administrative power.

6.2 However, if this is not possible, given the circumstances that may exist at the political level, from a technical perspective and linked to the rule of law and the social state, good governance, good government and good administration in the field of housing call for the inter-institutional coordination required (Article 103 of the Constitution). It is necessary to strengthen cooperation and collaboration between all levels of administrative power, in accordance with the legislation in force, in order to put the rights of citizens into effect in the face of the serious global problem of affordable non-segregated housing and its significant impact on our cities.

7. A new perspective on local self-government in the context of supra-municipal interests and the differentiation between municipalities.

7.1 A specific section should be devoted to a level of political and administrative power that is usually forgotten in Spain: the local level. The regulation of competences at the local level, although problematic, can

clearly be improved even though little attention has hitherto been devoted to it.

7.2 A necessary improvement in this field can and must strengthen municipal competences and funding in this area and must take account of the principles of proportionality, good governance and good administration insofar as the impact of regional regulations on local competences, which must be carefully considered and be as unrestrictive as possible in order to achieve supra-local general interests over local ones.

7.3 Even so, the principle of differentiation must also be paramount in establishing the obligations and resources to be used in accordance with municipalities' size and needs, taking particular account of the situation of rural municipalities and their specific needs.

7.4 At the same time, the supra-municipal and sub-national perspective (e.g. metropolitan, regional and provincial) is crucial, and the technical and financial support and guidelines that can be established to coordinate supra-municipal interests are of the utmost importance.

8. From poor-quality over-regulation to regulatory gaps and better regulation.

8.1 Housing regulation in recent years has been characterised by over-regulation, which has led to legal uncertainty and often unforeseen side-effects.

8.2 At the same time, there remain significant gaps in the legal system with regard to tenancy arrangements, such as the regulation of room rentals, and dysfunctions in existing law that need to be remedied, such as in the regulation of temporary rentals.

8.3 With specific regard to temporary rentals, various legislative initiatives are on the table, both at the national level and in Catalonia. The best solution would be a regulation that:

1. respects the framework of competences in accordance with the existing doctrine of the Constitutional Court, which links the competence to regulate the setting of rents to the bases of contractual obligations (art. 149.1.8 CE); everything suggests that the competence to dictate a regulation that subjects temporary rentals to the same rules as permanent rentals, in terms of the

system for setting the rent, is the responsibility of the State and not of the Autonomous Communities.

2. establishes that the temporary nature of the lease must have objective causes, explicit in the contract and that the lessor can and must accredit, with legal consequences in the event of non-compliance, such as for example the conversion of the lease into a permanent lease, if appropriate, in current contracts, requesting precautionary measures, and administrative sanctions.

3. guarantees tenants of temporary rental contracts the same level of protection applicable to permanent rental contracts, with the parties being able to agree on the duration of the contract as they deem necessary.

8.4 Better *regulation* techniques that exist at the international level should be implemented, avoiding as far as possible hasty regulations that have not been evaluated or are the result of urgency, which often lead not to solutions but to further confusion and a lack of legal certainty. Furthermore, *ex post* evaluation of regulatory solutions, which is non-existent in Spain, is crucial.

8.5 In the case of Catalonia, a new mandate from the Catalan Parliament is urgently needed, following the failure to comply with previous mandates issued in previous years, to draw up a revised text of the current housing legislation that brings together and harmonises it and thus offers clarity and legal certainty.

9. The creation of a sufficient and stable affordable housing stock.

9.1 There is consensus on the need to generate a stable stock of housing linked to social policies (both public and private). However, it will be very difficult to achieve this, even if only partially corrected, by continuing to apply existing policies. To do so, other techniques would have to be promoted, methods which, even though they exist in our legal system, have not been used for the residential market. These techniques necessarily require a notable increase in the budgets allocated to housing, but also that the State legislates, in the exercise of its powers, with scrupulous respect for the autonomous communities, so that they can be implemented by the autonomous communities, and that the latter improve their regulation within the framework of their own powers.

9.2 These techniques include, for example, improving and facilitating the legal regulation by the Autonomous Regions of the delimitation of the preferential rights of first refusal and withdrawal, especially from the perspective of their registration in the Land Registry; facilitating and, if necessary, financing the possibility of expropriating land for development and promoting a public housing stock (with the creation of a fund along the lines of the French urban solidarity fund); improving the regulation currently covered by the law on urban leases, with a subsidiary character, of subsidised public rental housing and of public facilities intended to satisfy the demand for permanent housing; establishing the classification of subsidised housing indefinitely; guaranteeing the correct management of public land assets or establishing a significant percentage reduction in the fair price, in the case of expropriation due to non-compliance with the social function of the right to housing property established in the autonomous community's legislation.

9.3 Spain's scant public housing stock is, moreover, very old. It is therefore necessary for all the administrations involved to take action to improve conditions of habitability, accessibility and energy efficiency and to guarantee safety and waterproofing, as well as, in general, to improve the urban environment. The public housing stock undergoing reformulation should include measures against typological obsolescence through the exploration of models that can guarantee flexibility in its occupation and avoid features that generate gender hierarchies. The sustainable rehabilitation of the existing residential stock should be considered as a resource that can facilitate typological and technological updating, as well as the social stability of the surroundings.

10. Empty housing and behavioural contributions.

10.1 Empty housing is a problem both in terms of the insufficient supply of housing available on the market (which undermines the social function of property ownership) and in terms of the potential problems of urban insecurity and the generation of squatting without any legitimate title, although the real impact of the latter phenomenon should not be exaggerated.

10.2 For this reason, account should be taken of experiences already applied in other European countries such as the United Kingdom and France, in order to encourage municipalities to use a technique linked to *behavioural insights* derived from the fields of behavioural economics and law, research into which has led to several Nobel prizes in economics in

recent decades, namely the application of '*nudges*' without the use of public funding.

2. Proposals

a) Introduction

The problem of affordable housing, the housing crisis or housing emergency, which Spain and Catalonia have suffered for decades, has already been the subject of numerous diagnoses, which, over a period of many years, have provided a large amount of data on the subject. The same has not been true for the generation of alternatives and practicable solutions.

In terms of data, for example, the Càtedra Barcelona d'Estudis d'Habitatge has highlighted in various works, such as [the 33 proposals put forward in 2022 for improving the draft state law on the right](#) to housing, various statistics that have not improved since then.

Thus, we already know that:

- According to available data, the construction of social housing fell from 68,587 units in 2008 to 15,046 in 2014, reaching a meagre 4,938 in 2017. Royal Decree 233/2013, of 5 April, of the State Housing Plan 2013-2016 meant the end of subsidised loans for housing rental and purchase, marking a turning point for the historical model of social housing, with a fall of 75%, from 5,000 per year to 1,200 on average.
- Between 2007 and 2018, social expenditure on housing fell by 38%.
- Between 2008 and 2019 there were 684,385 evictions, which would have affected more than two million people.
- In 2010 alone, more than 248 foreclosure proceedings were initiated on a daily basis, according to data from the General Council of the Judiciary, with very negative consequences also for the mental health of those affected, even increasing the risk of suicide.
- Likewise, the data also reveal growing residential segregation in Spain, for example in cities like Madrid or Barcelona, caused by the lack of affordable housing, which is changing, and not for the better, the landscape of our cities, impacting on other areas related to housing (education, health, mobility, etc.) in a context of growing poverty.
- With respect to the accumulation of properties in the hands of certain owners, in the case of the city of Barcelona, [as part of a trend also existing](#)

[in other Spanish cities](#), objective analyses of reality reveal that the usual rental properties in the hands of individuals or legal entities with more than 10 properties to let in 2021, represented 36% of the usual rental housing stock in the city. This percentage would increase to 37% if we take into account the dwellings that would fall into other categories of rental property (tourist, assigned, other uses, etc.).

-In terms of the type of owners, those with 10 or more dwellings who are legal entities are predominant, representing 77.3% of the total. Of the 754,326 primary dwellings in the city, the stock of primary dwellings to let in Barcelona stands at 290,416 units. There is a higher concentration of ownership in the rental stock than in the general stock: owners with more than 3 dwellings own 51.4% of the total rental stock, while in the general stock, this type of owner only owns 30.6% of the stock.

-Another characteristic of the rental stock is that homes owned by legal entities account for much more (35.5%) than in the city of Barcelona's housing stock as a whole (15.1%). Homes in the hands of natural persons continue to be in the majority, but their weight in the total is reduced: 65.5% of the rental stock compared with 84.9% of the total stock as a whole.

The preamble of the [2023 state law on the right to housing](#) itself points out that in Spain there is a social housing stock, considering as such exclusively publicly-owned rental housing, situated at around 290,000 dwellings. Of these, some 180,000 are owned by the autonomous communities and dependent entities, and a further 110,000 dwellings are owned by local councils and dependent entities. This stock of 290,000 social housing units barely covers 1.6% of the 18.6 million households living in Spain, which contrasts with the percentages of considerably more than 15% recorded in some of the main neighbouring countries, such as France, the United Kingdom, Sweden, the Netherlands, Austria and Denmark, considering the total social housing stock.

This inadequacy of the public housing stock explains, to a large extent, the extraordinary difficulties faced by large sections of the population in finding housing that meets their needs and economic possibilities. This is the case, for example, of young people who have to delay the age of emancipation due to the difficulties they face in entering the labour market and accessing housing. In fact, the median age of emancipation in our country has suffered a significant setback as a result of the economic crisis, with the latest Eurostat data for 2020 standing at 29.8 years, well above the European Union average of 26.4 years. Of the total number of

homes built between 1962 and 2020, 31.5% were social housing, i.e. some 5.7 million homes that were developed under some kind of public protection scheme, but which, despite the significant public effort made in their development and construction, are no longer subject to sale or rental restrictions in the short term.

So far, we have offered just a few of the many available data that continue to accumulate. **However, making informed public policy is different from accumulating a large amount of data and not taking decisions, the phenomenon known as *paralysis by analysis*.** We have known for decades that we have a sick person, non-segregated affordable housing, but the accumulation of diagnoses and figures will not make the ailment go away: on the contrary, it may end up aggravating the situation through inactivity and, in turn, the legitimisation of the social and democratic rule of law in which we live.

Indeed, there are problems that have been clearly identified, and we have possible solutions to them, but there seem to be difficulties in applying them effectively. These difficulties are due to various circumstances, among which the lack of training of public managers in this area and the low quality of public policies in recent decades or the [existing generational and class conflict](#) around housing have been highlighted, [without forgetting others of no less importance, such as the precarious wage-earning capacity of many individuals](#).

It should be borne in mind that in 2022 there were 15.5 million people aged 15 to 44 and 23.5 million people aged 45 and over. Eighty per cent of people aged 55 and over were homeowners, while between 45 and 54 the percentage dropped to 65 per cent and below the age of 44 it fell sharply. At the end of the 1980s, it took 3 years' salary to buy a house, and thus one salary enabled individuals to buy a house and a second home. In the 1990s one salary only enabled individuals to buy a house. From the 2000s onwards, one salary made it possible to rent a flat and in 2024, 7.3 years' salary were needed to buy a house, and one salary barely made it possible to rent ... a room in several Spanish capitals.

b) Proposals

The following is a list of proposals that have emerged from the activity of the Barcelona Chair of Housing Studies in recent years, providing links to the documents available [in open-access format](#) on [its website](#) and/or published by its members, as well as from the papers, talks and debates at the 1st International [Congress](#) on Housing and the City, organised by the CBEH on 26 and 27 May 2025. These proposals aim to provide solutions to the problem of affordable

housing (understood as housing below market prices, accessible, with various names and variants, to the increasingly large group of citizens who cannot access rental property or purchase housing or other formulas through the market) and to make a commitment to overcome this paralysis.

The proposals are articulated around 10 points, which are based on the need for transdisciplinary approaches to understand the housing crisis not only as an economic problem, but also as a question of public health, rights, symbolic recognition and urban justice.

- 1. An essential change of mentality: from housing considered only as an anti-cyclical economic policy to the right to housing and in the city. Urban planning and housing, two inseparable subjects.**

Throughout the 20th century, the tendency to consider housing policy as an anti-cyclical economic policy of economic reactivation and in the struggle against unemployment, which excluded the needs of the *poor* who had to find solutions through welfare or, later, through social services, was confirmed in Spain.

This purely economic way of thinking still continues to exist in some cases. The approach needs to be changed. Public housing policy today must be at the service of the effectiveness of the subjective right to housing, declared to be fundamental by the Court of Justice of the European Union in its ruling of 10 September 2024 (case C 34/13, paragraph 65), in accordance with the Charter of Fundamental Rights of the European Union, and included in art. 47 of the Spanish Constitution and recognised as such by the Constitutional Court's ruling 79/2024. This effectiveness must progressively lead to the establishment of specific obligations of results to the public authorities with regard to housing, derived from the right, as already exists in several Autonomous Communities (Basque Country, Valencia, Navarre) and European countries (France, with the law known as DALO, England or Scotland, for example), especially in relation to the most vulnerable, such as the homeless, obligations that must be enforceable by the public authorities responsible, if necessary by means of legal proceedings.

In this respect, in the Catalan case, it will be necessary to keep a close eye on the fulfilment of the legal obligations of urban solidarity, which are now very belatedly specified in the Territorial Sectoral Housing Plan, which implies the fulfilment of specific objectives every five years to reach a minimum of 15% of the total housing stock dedicated to below-market-price housing linked to social policies within 20 years.

Housing is also relevant in the improvement of the urban environment of which it forms part, in order to make the right to housing a reality in the city (see [Constitutional Court ruling 64/2025](#)). Urban planning and housing, traditionally approached separately in Catalonia until the Catalan Decree Law 17/2019, must be dealt with jointly. The various rights involved must be realised in the city, as a way of putting this right into effect in the city, among which there are several constitutional rights, notably the right to housing, the right to health, the right to an adequate and safe urban environment, the right to equality (also in terms of gender) or the right to property. [The latter is limited by its social function with respect to the former and the rest](#), even though it is necessary to guarantee a fair balance to owners that allows a reasonable return on it, which allows, for example, the establishment of limitations on rental prices ([as pointed out by the European Court of Human Rights and the Spanish Constitutional Court in its ruling, hereinafter STC, 26/2025, which has considered legal limits on rental prices to be respectful of the Constitution, in accordance with this doctrine](#)).

In this sense, legislation and the courts in Spain and Catalonia have declared it perfectly possible for urban planning to set aside land for subsidised housing in the centre of cities that have already been built up, as is already the case in other European countries such as France, i.e. both on unconsolidated urban land, i.e. land subject to internal reform operations, [and on consolidated urban land](#), which has been implemented in the case of Barcelona in relation to the 30% set aside by compulsory measures. These reserves are of great importance both in quantitative and qualitative terms, in order to avoid urban segregation in cities and to strengthen social and territorial cohesion.

2. The peculiarities of the housing market and its failures.

The housing market is a peculiar market, different from other markets, in which the speculative and land retention component prevents the simple increase in land supply from responding to the demand for housing and therefore lowering prices. The experience of Spanish legislation in the 1990s, which by default declared undevelopable land to be fit for building purposes, was a great failure in this respect, with a disproportionate rate of construction and significant collateral damage in the environmental and social fields (land consumption, deforestation, urban segregation, etc.). The failures of the housing market have significant negative externalities, which can only be corrected through public intervention.

3. The essential role of the European Union.

This public intervention has to start at the European Union (EU) level. [The EU has a number of competences that allow it to have an impact on housing and the improvement of European cities.](#) These must be harnessed to find the necessary consensus and political leadership to make housing an area of similar importance to the environment, an area where, incidentally, action was started in the 1970s without even European competence existing, due to political will and an identified need. The same needs to be done now in the 21st century with non-segregated affordable housing in European cities. Concepts such as services of general (economic) interest or overriding reasons of general interest to regulate the externalities of certain housing-related activities in the urban environment have already been fully incorporated in the Member States.

4. Public service, housing's role as a service of general interest: the right to good governance, informed public policies and public-private partnerships in the smart city.

It has been precisely EU law that has generated the concept of service of general economic interest, similar to, but different from, the traditional Spanish public service, or service of general non-economic interest now. The declaration by state law on the right to housing through activity in this field as a service of general interest, which had already been undertaken by several autonomous legislative measures, such as the pioneering Catalan law of 2007, must lead to a change in the way we look at this sector and the way it is managed.

People's right to good administration (implicit in the Spanish Constitution according to the jurisprudence of the Supreme Court and made explicit in the Statute of Autonomy of various autonomous communities), also applicable in the field of housing, must involve the application of the development of management techniques and instruments in this sector, already well known in other areas.

This is the case, for example, of the use of service charters with standards of quality in the provision of services; transparency in terms of the lists of applicants in registers; the linking of assets to public services or services of general economic interest, without the possibility of their alienation to private operators, etc.; the promotion of the [simplification and acceleration of related activity, with the use of Artificial Intelligence where possible](#), also in relation to the assessment of the vulnerability of tenants in judicial proceedings, with the final decision being reserved for humans if there is a value judgement; the application of Means of Appropriate Dispute Resolution (ADR) in disputes between private individuals to avoid judicialisation (as now required by the Organic Law of 2025 on judicial

efficiency) and out-of-court administrative mediation when a public administration is involved; or the need for the Public Administration to have updated and reliable data on the housing sector.

All this is required in the context of the progressive digitalisation of cities, the so-called smart cities, which must make environmental, social and economic development possible at the same time.

In the field of public housing services, [public-private partnerships](#) are important, through the [various formulas](#) available in our legal system, both institutionalised, with the creation of mixed public-private capital companies, and the use of surface rights.

In relation to this concept, a reduction in the tax burden (VAT, corporation tax) borne by the landlord should be considered as an incentive measure to encourage the development of affordable housing. Public collaboration with the private sector and the third sector through impact investment models can contribute to expanding the housing stock linked to social policies, especially in contexts of budgetary constraints. This model makes it possible to harness the technical, financial and operational capacities of the different actors in the housing ecosystem, joining forces in the same direction. To guarantee effectiveness, public leadership and solid regulatory frameworks are needed to ensure social profitability, transparency and the permanence of these housing units in affordable circuits, with public monitoring of results and clear criteria of equity.

5. Towards sufficient and stable funding and adequate taxation to achieve affordable housing.

In the past, public funding for social housing (understood as public housing) in Spain has been very low [and is well below the EU average](#): 0.14% of GDP compared to 0.54% or 34 euros per inhabitant from 2017 to 2021 compared to the EU average of 160 euros per year (not to mention the 334 euros per inhabitant in Ireland, followed by Denmark (318), France (274) and Finland (246)). Moreover, in recent years public investment in Spain has even decreased.

No public service will be able to make the right to housing effective without [adequate funding](#), which also needs to [remain stable over time, using mechanisms such as budget pre-allocations, as suggested by the Catalan Ombudsman's Office](#). If a public health or education service, for example, were imagined with these figures, they would be understood to be in a far worse situation than they are now and totally unacceptable to the mindset of society, a

situation that has, however, been tolerated in the field of housing. Therefore, at least the European average investment, i.e. around 0.60 per cent of GDP for housing, and even higher, must be ensured over a long period of time in order to address the past underinvestment.

The issue of financing is obviously linked to that of taxation, an area in which state competence is decisive. An examination of the Spanish tax system, taking into account the regional and local sub-systems, leads to the preliminary conclusion that, on the one hand, there is a certain over-taxation of the real estate sector and, on the other, the coexistence of tax policies to support housing that are not always coherent with each other. There is a need for a greater readiness to evaluate the establishment of tax incentives and benefits, in order to determine their effectiveness in achieving the purpose for which they were created, as the Independent Authority for Fiscal Responsibility (AIREF) has already begun to do through its "Spending Reviews". The State Housing Law of 2023 contemplates only two tax measures, referring to IBI (property rates) and IRPF (personal income tax), which aim to support the rental of housing, squandering the opportunity to have made full use of other tax tools (such as, for example, by increasing VAT on economic activity consisting of using housing for tourism). It would be desirable to make full use of taxation as a tool for implementing affordable public housing policies, with an evaluation of their effects, and for tax measures to be coordinated with those already adopted by many Autonomous Communities.

At this point, it should be noted that, in addition to personal income tax deductions, Catalonia and Valencia have established taxes on empty homes. So far, the Constitutional Court has ruled on the former (STC 4/2019, 17 January), stating that "there are substantial differences between the tax on empty dwellings and the IBI, which lead to the conclusion that we are not dealing with "coinciding" taxes (STC 210/2012, FJ 6) or "equivalent" taxes (STC 53/2014, FJ 3) for the purposes of article 6.3 LOFCA" (STC 4/2019, FJ 5). However, in relation to the possible surcharge on IBI, to which the State Housing Law now refers, the Constitutional Court recalls that the Catalan legislation provides for possible compensation measures for local authorities, with this original wording "[a]fter the date on which the State has carried out the regulatory development referred to in Article 72.4 of the revised text of the Local Finance Act, approved by Royal Legislative Decree 2/2004, of 5 March, and the local councils can establish the surcharge on property tax, the Generalitat must adopt the relevant compensatory or coordination measures in favour of the local councils that have effectively approved this surcharge in a municipal ordinance" (STC 4/2019, FJ 6). Such measures will foreseeably have to be adopted in this case, in accordance with

Art. 6.3 of Organic Law 8/1980, of 22 September, on the Financing of the Autonomous Communities.

6. From confrontation between levels of public power to strengthened collaboration and cooperation.

To date, the Constitutional Court has handed down more than 50 rulings on the distribution of powers between the State and the Autonomous Communities.

Conclusions can already be drawn from this body of decisions that avoid this issue being maintained in a state of unnecessary uncertainty.

Although the State does not have competences in housing matters, this being the exclusive responsibility of the Autonomous Communities (hereinafter, ACs), art. 148.1.3 of the Spanish Constitution (hereinafter EC) and their respective Statutes of Autonomy, and of the local authorities (Ley de Bases de Régimen Local de 1985, hereinafter LBRL) and development and sectoral legislation. On the other hand, the growing role of the European Union in the field of housing, over which it has several relevant related competences, as has been mentioned, cannot be forgotten.

In the Spanish sphere, once this starting point has been established, it is true that several competences of the State in other matters have so far been recognised by the jurisprudence of the Constitutional Court (from now on, TC) – such as the capacity to situate its infrastructures and facilities by ordering the territory, its capacity to have an impact through the regulation of urban planning, so closely linked to housing, its competences in matters of urban leases, property law, aspects of construction, fiscal policy, the environment, public aid and other related matters - which in practice leads to the existence of a set of common rules throughout the State (legislation on urban leases, urban planning, building, taxation, state housing plans...), which are already being applied today in all the Member States.) that are already applied today in the field of housing.

On the other hand, the jurisprudence of the TC has frequently supported the use of state competence in matters linked to the economy (art. 149.1.13 CE), sometimes to paralyse autonomous public policies in the absence of a state public policy. This predominantly economist view of housing is reflected in the rulings handed down so far in this area, many of them in recent years. Of these decisions as a whole, the state's competence as regards economic aspects is often present in the decisions adopted by the Constitutional Court with the support of the State. Furthermore, the Constitutional Court has explicitly stated that art. 149.1.1 referring to the State's establishment of the conditions of equality of constitutional rights is applicable to housing (STC 79/2024).

In short, in a decentralised state such as ours, a far-sighted political pact in the medium to long term seems very necessary. However, if this is not possible, given the circumstances that may exist at the political level, from a technical perspective and linked to the Social State and the Rule of Law, good governance and good government and good administration in the field of housing require coordination (art. 103 of the Constitution), cooperation and collaboration between all levels of administrative power, in accordance with current legislation, to put citizens' rights into effect in the face of the serious global problem of affordable and non-segregated housing and its significant impact on our cities.

All this, without prejudice to considering that the traditional model of state housing plans with funds being withheld for state expenditure is an anomaly that it is difficult to fit into the constitutional framework, in accordance with the jurisprudence of the general Constitutional Court, which denies that spending power is in itself a competence. And not forgetting that, without an adequate dedication of public resources by all the entities involved, currently well below the European average and with a general downward trend, with some exceptions, in recent years, as has been pointed out, it will be very difficult to make the right to housing a reality.

7. A new perspective on local autonomy in the context of supra-municipal interests and differentiation between municipalities.

What has been mentioned in the previous section leads us to dedicate a specific section to the level of political and administrative power usually forgotten in Spain: the local level.

The regulation of the competences of the local sphere, although it presents problems, which have led to some rulings that deny the municipal capacity to have an impact on the types of social housing or on empty private housing, can clearly be improved and has in the past been poorly cared for (for example, the 2023 state law on the right to housing practically forgot the local level).

A necessary improvement in this field can and must reinforce municipal competences and financing in this area and must consider the principles of proportionality and good governance and good administration in the impact that regional regulations have on local competences. This impact must be carefully considered and be the least restrictive possible in order to achieve general supra-local interests with respect for local ones ([as the STC now points out 64/2025](#)), using techniques that provide greater legal certainty, such as for example the Territorial Planning Plans for housing that must be designed with the necessary flexibility and *ex post* evaluation (in this respect, take into account the Territorial

Sectorial Plan for Housing in Catalonia, finally approved in 2024 after a delay of...16 years).

Even so, the principle of differentiation must also be paramount to establish the obligations and resources used depending on the measure and municipal needs, paying particular attention to the situation of rural municipalities and their specific needs. At the same time, the supra-municipal but lower-than-autonomous-community perspective (such as the metropolitan, county and provincial level) is crucial, and the technical and financial support and guidelines that can be established to coordinate supra-municipal interests are of the utmost importance.

Finally, a reflection on the local level and the aforementioned public housing service. To date, the mandatory public services to be provided by municipalities, even those with the largest populations, do not include any type of public service for affordable housing, not even in the most extreme case of homelessness. Although the need for adequate funding to accompany this type of public service must be taken into account, it seems difficult not to consider accommodation as a service of at least equivalent importance to public libraries or public sports facilities under local legislation (cf. art. 26 of the 1985 Local Government Act).

8. From poor quality over-regulation to regulatory gaps and better regulation.

In recent decades, the housing emergency and impotence in the face of it has generated a large number of regulatory changes and new rules, including numerous Decree Laws. Although the intentions may be good, the results can be very bad: excessive regulation leads to chaos, ignorance of the regulations applicable and, therefore, legal insecurity, both on the part of the civil servants in charge of applying the regulations (who, faced with uncertainty, can generate what is known as *defensive bureaucracy*, i.e. administrative paralysis to avoid the risk of criminal litigation) and on the part of individuals and companies that plan to make economic investments.

At the same time, while in some areas there is an unnecessary overproduction of regulations, in others there are gaps that create serious problems. This is the case, for example, [of the tourist use of housing, seasonal rentals](#) or [room rentals](#). In all these cases, the aforementioned European concept of overriding reasons of general interest, as pointed out by the Constitutional Court with regard to tourist use in its ruling 64/2025 on the Catalan legal system, allows and requires regulation that protects general interests and people's right to housing to have a stable place of residence and puts a stop to touristification, that is [uncontrolled](#)

urban gentrification and segregation caused by the lack of affordable housing mixed into the urban fabric.

In particular, with regard to seasonal rentals, there are various legislative initiatives on the table, both at the state level and in Catalonia. A regulation would be considered optimal if it:

1. respects the framework of competences. In accordance with the existing doctrine of the Constitutional Court, which links the competence to regulate the setting of rents to the bases of contractual obligations (art. 149.1.8 CE), everything suggests that the competence to dictate a regulation that subjects temporary leases to the same rules as permanent leases, in terms of the rent-setting regime, is the responsibility of the State and not of the Autonomous Communities.
2. establishes that the temporary nature of the lease must have objective causes, explicit in the contract and that the lessor can and must accredit, with legal consequence in the event of non-compliance, such as the conversion of the lease into a permanent one, if appropriate, in current contracts, requesting precautionary measures, and administrative sanctions.
3. guarantees tenants of temporary rental contracts the same level of protection as applicable to permanent rental contracts, with the parties being able to agree on the duration of the contract as they deem necessary.

In view of the aforementioned proliferation of regulations, it is necessary to stop the anarchic production of regulations and proceed to apply the instruments and techniques of better *regulation*, carrying out regulatory evaluations before approving the regulations and, especially, once they have been approved and are in force, to check that they really achieve the objectives set and what unexpected negative collateral impacts they may be producing, with the aim of modifying or repealing them.

In the case of Catalonia, a new mandate from the Catalan parliament is urgently needed, following the failure to comply with previous mandates issued in the past, for the drafting of a revised text of the current housing legislation that brings together and harmonises it and thus offers clarity and legal security.

9. The generation of a sufficient and stable stock of affordable housing.

There is consensus on the need to generate a stable stock of affordable housing (both public and private). However, it will be very difficult, even if partially corrected, to achieve this with policies that continue as at present.

To achieve this, other techniques which, even though they exist in our legal system, have not been used for the residential market, although they have been used for the industrial property market, should be promoted; these include such examples as expropriation to promote residential urban transformation actions and the acquisition of real estate by means of first refusal and withdrawal, sale and purchase or exchange.

These techniques necessarily require a notable increase in the budgets allocated to housing, but also that the State should legislate, with scrupulous respect for regional competences, so that the Autonomous Communities could develop more public policies (given that their regulation is in the hands of the State) and that, at the same time, they should improve their regulation within the framework of their competences.

Thus, for example, improving and facilitating the legal regulation by the Autonomous Regions of the delimitation of areas of pre-emptive rights, especially from the perspective of their registration in the Land Registry; facilitating and, if necessary, financing the possibility of expropriating land for development in order to develop and promote the public housing stock (with the creation of a fund along the lines of the French urban solidarity fund); improving the current regulation in the law on urban leases, with the alternative of public rental housing and public housing intended to satisfy the demand for permanent housing; establishing the qualification of public housing indefinitely, guaranteeing the correct management of public land assets or establishing a significant percentage reduction in the fair price in the case of expropriation due to non-compliance with the social function of the right to housing ownership established in the autonomous community's legislation.

The scarce public housing stock in Spain is, moreover, very old. It is therefore necessary to implement actions by all the Administrations involved to improve the conditions of habitability, accessibility and energy efficiency and to guarantee safety and waterproofing, as well as, in general, the improvement of the urban environment.

10. Empty housing and behavioural contributions.

Empty housing is a problem both in relation to the insufficient supply of housing on the market to live in (in violation of the social function of property) and because it makes it possible to generate problems of urban insecurity and occupations without legitimate title. In relation to the latter problem, and despite the fact that the phenomenon is empirically far from being as critical as others mentioned here, the vast majority of squatting takes place in empty dwellings, a high percentage of which are in the hands of financial institutions.

For this reason, together with public policies to promote the placing on the market of empty housing and its penalisation, we should take into account existing experiences in other European countries such as the United Kingdom and France, to encourage municipalities to place them on the market, without the use of public funds, by means of incentives or nudges. This is a technique linked to *behavioural insights*, related to behavioural economics and law, whose research has led to several Nobel prizes in economics in recent decades (such as those awarded to Kahneman and Thaler). At no cost to the public purse, nudges can target the cognitive biases of private owners of empty homes, so that they are put onto the housing market on a voluntary basis.