



**Report of conclusions of the non-permanent study
commission for the regulation of rent in Barcelona
city**



Dependency name
email@bcn.cat

Report of contributions of the non-permanent study commission on the regulation of rental prices

01. Background

The Municipal Council plenary, in its session of 23 July 2019, agreed the following at the request of the ERC and JxCat municipal groups:

- » To urge the Generalitat Government of Catalonia to initiate the procedure for a bill that regulates the prices of housing leases.
- » To create a non-permanent study commission in Barcelona City Council in accordance with the provisions of Articles 35 and 39a of the City Council Framework Regulations (ROM), on the application and repercussions that the regulation of housing rental would have in Barcelona city and the metropolitan area.

Purpose of the commission

To study the application and the repercussion that the regulation of the prices of housing lease contracts would have in Barcelona city and in the metropolitan area of Barcelona. The aim is to promote and achieve the effective implementation of this regulation in the city.

The commission has held four working sessions with the following topics and speakers:

- » **Session 1 The situation and policies for access to housing in Barcelona city, in the metropolitan area and in other global cities.**

Speakers:

- » **Elena Massot**, Vice-president of the Association of Promoters of Catalonia.
 - » **Joan Ràfols i Esteve**, President of the Barcelona Chamber of Urban Property.
 - » **Lluís Hosta** (replaces **Lídia Guillen**, President of the Association of Social Housing Policy Managers of Catalonia).
 - » **Guillem Domingo Utset**, Housing and City Technician of the DESC Observatory.
 - » **Sorcha Edwards**, Secretary General of Housing Europe.
 - » **Pilar García Almirall**, Professor of architecture at the Polytechnic University of Catalonia.
 - » **Carme Trilla**, President of the Metropolitan Housing Observatory, who, due to health reasons, apologises for her absence.
- » **Session 2 International experience in rental price regulation.**

Speakers:

- » **Cea Weaver**, Coordinator of the Housing Justice for All campaign in New York.
- » **Eoin Ó Broin**, Sinn Féin's political spokesman on housing.
- » **Jaime Palomera**, Spokesman for the Tenants' Union.
- » **Elga Molina**, Head of the Housing Office of the Tarragona County Council and legal advisor in property law.
- » **Sergi Nasarre**, Director of the UNESCO Chair in Housing at Rovira i Virgili University.
- » **Jaume Fornt**, Deputy Director of the Catalan Housing Agency.
- » **Ana Puig-Pey**, Director of the Master's in Innovative Real Estate Business Management, and evaluator of the LIFE, SOCRATES and JESSICA programmes of the European Union.

» **Session 3 The competence framework and potential scenarios of regulation.**

Speakers:

- » **Xavier Bernadí**, PhD in Law and Director General of Law and Legal Entities in the Department of Justice.
- » **Esther Arroyo**, Professor of Civil Law at the University of Barcelona and the Jean Monnet Chair in European Private Law.
- » **Domènec Sibina**, Professor of Administrative Law at the University of Barcelona.
- » **Josep Ferrer**, Professor of Civil Law at Pompeu Fabra University.
- » **Héctor Simón**, Professor of Civil Law and member of the UNESCO Chair in Housing at Rovira i Virgili University.
- » **Joan Ràfols i Esteve**, President of the Barcelona Chamber of Urban Property.
- » **Pol Borrellas**, full researcher at the Institut Ostrom Catalunya, economist and graduate in International Business Economics from Pompeu Fabra University.

» **Session 4 The social, economic and urban impacts of rental price regulations in Barcelona and the Barcelona Metropolitan Area.**

Speakers:

- » **Jordi Bosch i Meda**, PhD in Architecture, degree in Political Science and co-director of the Postgraduate in Housing Policy at the Sert School.
- » **Leilani Farha**, United Nations rapporteur on adequate housing between 2014 and 2020, and Director of The Shift.
- » **Stephen Barton**, PhD in Urban and Regional Planning from the University of California and former Director of Housing in Berkeley city.
- » **Luis Zarpuz**, Economist of the Economic Cabinet of Comissions Obreres.
- » **Josep Maria Vilanova**, Representative of the College of Architects of Catalonia and professor of the Department of Urbanism and Spatial Planning of the Polytechnic University of Catalonia.
- » **Montserrat Junyent**, Head of Legal Advice of the Property Agents' Association of Catalonia and President of the Federation of Associations of Property Companies.



The non-permanent study commission will be extinguished at the time a report is prepared that collects the contributions and views expressed in the sessions (this report) and once the work schedule is met, in accordance with the creation agreement approved by the Full Municipal Council Meeting in the session of 23 July 2019.

Approval of Law 11/2020 on urgent measures to contain income in lease contracts

On 18 September 2020, Law 11/2020, of 18 September, on urgent measures to contain income in housing lease contracts was approved and amending Law 18/2007, Law 24/2015 and Law 4/2016, relating to the protection of the right to housing.

The drafting and approval of this Law took place in the months in which the commission itself was held, and therefore the Law has added an important element of debate in the sessions held.

» 02. Purpose

The purpose of this report is to collect the contributions, conclusions, debate and points of view expressed in the sessions of the non-permanent study commission on the regulation of rental prices, especially anything that may improve access to rental housing.

» 03. Diagnosis, synthesis of debate and collection of contributions

It incorporates a diagnosis and the synthesis of debate in order to find out the situation of the problem and the position defended by each speaker. The collection of contributions is structured according to the topics discussed in each of the sessions of the commission, as each has addressed additional points of view to assess the appropriateness of the regulation of rental prices and

the mechanisms for carrying them out.

The situation and policies for access to housing in Barcelona city, in the metropolitan area and in other global cities.

Diagnosis

Barcelona and the metropolitan area as a whole are in a critical situation with regard to the difficulty of accessing and maintaining housing, largely due to the significant tension to which the housing market is subjected and especially the rental market.

In this context, it is necessary to emphasise:

- » In the city as a whole, the stock of empty homes is very low and stands at 10,052 homes, 1.22% of the stock, a very small percentage that shows the significant pressure on housing.
- » The structure of property in the city is atomised and there is a significant predominance of private property. However, a process of concentration has taken place and currently legal entities, which



represent only 2.6% of taxpayers, own 10.7% of homes. This concentration is therefore in very few hands, so that 0.2% of taxpayers have 9.8% of homes (75,767 homes, a figure that represents an average of 69.7 homes per holder).

- » There has been strong rental growth, although the stock is still mostly owned. In Barcelona city, between 2011 and 2017, rentals rose from 30.1% of homes to 35%. In the case of young people, 86.1% live in rentals.
- » This increase in the rental stock has been parallel to the growth in house prices, which in Barcelona city has been growing since 2014 and, at the end of 2019, stood at €978.81 on average.
- » These high prices cause a significant discrepancy between supply prices and demand capacity, so that between 2000 and 2018 there was a gap between gross disposable household income (GDHI) and purchase and rental prices.
 - » In Barcelona city, GDHI increased by 63.4%, while rental prices increased by 127.7% (twice as much) and second-hand sales by 144.7% (2.3 times more).
 - » In Catalonia as a whole, GDHI increased by 38.2%, while rents rose by 91.8% (2.4 times more) and second-hand purchase prices by 93.9% (2.5 times more).
- » This reality means that households living in rentals in the city spend an average of 43.5% of their income on paying for housing. According to European recommendations, households should use 30% of their income to pay for housing (including payment for housing and supplies).
- » Barcelona has a very small stock of publicly or socially owned rental housing: thus, only 5.2% of the rental stock belongs to public administrations and 1.6% to religious and third sector entities.

Synthesis of the debate

Elena Massot, Vice-president of the Association of Promoters of Catalonia (APCE)

- » The supply needs to be increased. The stock is not growing enough to meet needs, and prices are rising.
- » Without being able to get a mortgage, potential buyers have moved into the rental market.
- » There is an extremely atomised rental market.
- » It is necessary to finish the planning and develop plots. Priority must be given to the construction of the 20,000 social housing units that can be built in Barcelona.
- » More budget allocations are needed for housing policies.
- » Public-private collaboration and flexible measures, such as co-living, are needed.
- » Excessive bureaucracy needs to be reduced in the metropolitan area of Barcelona and in Barcelona.
- » The property sector must be provided with legal security.
- » The risks of an intervention in the rental market are:
 - » supply reduction,
 - » increase of the black market or submerged economy,
 - » restrictive selection of tenants.
- » A joint vision is lacking; currently there is a local vision.
- » A metropolitan public transport policy is needed to bring housing and employment closer to everyone.
- » There is a need for increased budgets, incentives, income supplements and tax breaks.



- » Private agents must be part of the solution, not the only solution.
- » A strategic housing plan needs to be drawn up with a 15-year forecast.
- » Co-responsibility with the private sector must be encouraged, starting with a clear and stable framework.

Joan Ràfols i Esteve, Representative of the Barcelona Chamber of Urban Property

- » In 2018, the phenomenon of immigration in the metropolitan area of Barcelona grew again; without supply, residential exclusion increases.
- » The shortage of rental housing is a direct consequence of the Spanish rental control that took place between 1920-1994.
- » Spain has the highest percentage of families who spend more than 40% of their income on rent due to the absence of a social policy linked to rental housing.
- » Regulating the price of rent means passing all the burden on to the private world.
- » Rental control does not work and distributes benefits and burdens unfairly.
- » There can be no rent control or public rental stock without a welfare state that guarantees access to housing for families who are excluded from the market.
- » Social housing must be provided with public investment.
- » It is necessary to develop all the land that can be developed.
- » There is no land in Barcelona and it has to be looked for beyond the metropolitan area of Barcelona.
- » HPO (social housing) is limited in price, but has no tax benefit.

Lluís Hosta, Representative of the Association of Social Housing Policy Managers of Catalonia

- » Rentals cannot be in the free market at all.
- » Income control must be understood as a necessary short-term solution, but long-term solutions must be considered.
- » The percentage of public housing stock is minimal; if supply were sufficient, prices would not skyrocket.
- » 80% of the rental stock is in the hands of small landlords and they will not stop renting due to the regulation.
- » The regulation must have legal certainty.
- » Housing items must be budgeted.

Guillem Domingo Utset, Housing and City Technician of the DESC Observatory

- » The increase in rental housing means that more families are exposed to rising prices (42% between 2013 and 2018).
- » A mismatch between inaccessible supply and demand capacities is detected, and inequality and segregation (gentrification) is generated.
- » Barcelona's families have to make an extra effort by devoting, on average, 40% of their income



to paying for housing.

- » According to the Emancipation Observatory of the Spanish Youth Council, young people must spend 120% of their salary on access to rental housing.
- » In 2019, there were 2,125 evictions in Barcelona (1,700 rentals)
- » Historically, public policies (municipal, Catalan and state) have been poorly focused and have not encouraged rentals enough.
- » Bank bailouts have failed to demand a social return, for example, in the form of housing to increase the public stock.
- » The legal framework is a defining element of the housing model.
- » The housing system in Spain and Catalonia has had negative results in terms of the fundamental rights of people.
- » Article 33 of the Constitution states that the social function is an essential part of the right to private property.
- » The report presented by the UN rapporteur on the right to housing tells us that if a person has an economic activity related to a commodity, there will surely be higher regulations that they will have to endure.
- » The 30% measure in consolidated urban land is a long-term structural measure.
- » No city council has set the emergency table to zero, because evictions do not stop.
- » Cooperation from all administrations is needed.

Sorcha Edwards, Secretary General and Head of Institutional Relations for Housing Europe

- » Empty homes in the city centre are being used as assets.
- » An investment in the property sector is needed that will then return to the cities.
- » Internationally, there is a growth in private rental, which for now is not a sector that adds value to society, but detracts from it.
- » There is a lack of competitiveness in cities as a result of problems related to affordable housing.
- » It is necessary to know the mistakes of the past so as not to repeat them.
- » In places where there are many non-profit organisations, there is greater resilience of the construction sector in times of crisis.
- » In Europe, the Green New Deal is key to increasing financial resources and improving the quality of the housing stock without increasing rent.
- » The European Union has no powers over housing or rent regulation or urban planning, but it can facilitate the exchange of good practice between cities.
- » There is a growing social demand and need: 80% of Europeans cannot access affordable housing in the place where they live.
- » Limiting rental prices is a short-term solution.
- » Solutions from other cities cannot be reproduced in Barcelona without taking into account the characteristics of each one.
- » Market demand is not the same as social demand: students, low-income workers and teachers are groups that must be able to live in the city.
- » If there is no construction, there is no housing mobilisation for 30% of social housing in consolidated urban land.
- » Solutions need to be addressed for middle- and low-income groups, a growing sector of the

population that has become stuck between social housing and the private market.

Pilar García Almirall, Professor at the Polytechnic University of Catalonia

- » In Catalonia, housing policies have always been closely linked to construction, economic development and the promotion of employment.
- » The financing of this housing construction has been aimed at creating potential home owners.
- » We have an old housing stock: 80% of the houses are from the 1980s.
- » There are problems affecting the housing market, especially due to the lack of financing and investment in social housing.
- » Associations are needed to create social housing guarantee funds to finance the improvement, rehabilitation and construction of housing.
- » Private organisations that manage public housing in the rest of Europe are highly professionalised and constantly assess their economic and social impact, with a demand that the public sector can hardly reach.
- » It is necessary to prioritise the rental stock; purchasing atomises the stock and makes it more difficult to manage.
- » The stock should be grouped together in shared management packages to encourage cost optimisation.
- » The introduction of a rental stock should be encouraged in part of the specific rehabilitation and improvement programmes.
- » A narrow-minded control system should be adopted, taking into account the cost of maintenance and the cost of upgrading, and improved as more information becomes available.
- » In the same neighbourhood, we can find several different sub-markets: tourists, normal tenants and sub-housing.
- » All actors should align themselves to provide solutions.
- » To have an impact on the rental market, supply must be expanded and prices controlled.
- » The housing market is disruptive; supply does not match demand.
- » We need incentives for people not to run into difficulty because of this price control.
- » We need to change our ways and move to a safer, more stable and prudent type of profit, and the only thing that needs to be avoided is that it becomes economically unviable.
- » Every effort should be made to make management and administration more efficient.

Contributions to the commission

- » **Co-responsibility for private property.** Do not leave the control of access to a commodity to the free market; all mechanisms must be ensured to guarantee the right to housing. The UN is calling for regulation of rental prices in particularly tense areas.
- » **The supply of rental housing needs to be increased.** The rise in rental prices is due to the combination of the cessation of construction activity, which has reduced supply, and the increase in demand due to lack of credit to purchase property. There is a need for an increase in supply on a metropolitan scale linked to an improvement in transport and the replacement of a localist vision with a global vision.
- » **Public policies need to be strengthened to generate affordable housing:**



- » Plan for housing policies.
- » Increase budgets.
- » Promote the rental stock.
- » Structure good funding (there are currently European funds to promote it).
- » **Public-private collaboration needs to be strengthened:**
 - » Promote new figures in social and affordable stock management from a professionalisation and public service perspective: housing associations, rental cooperatives, housing service agencies and third sector entities, among others.
 - » Promote more flexible mechanisms, such as surface area rights and cohabitation.
 - » Support the improvement of the private stock.
 - » Provide aid for the payment of rent to facilitate access to affordable housing for those groups without access to the market.
- » **All agents need to be aligned to make a powerful affordable housing stock possible.** A joint policy is needed between the various administrations and all market players.
- » **It is necessary to offer legal security:**
 - » To give security to the property, it is necessary to avoid excessive changes in regulations.
 - » To give security to tenants, regulatory changes need to be pushed to improve their protection, as many of the regulatory changes have been made to the detriment of these tenants.
- » It is necessary to improve the taxation of rent, which encourages the promotion of rental housing and the rental of existing housing.
- » The regulation of rent must be accompanied by indices that set prices and are rigorous and reliable.
- » It is necessary to reduce the processing times of the licences in order to foster the promotion and improvement of the stock that can be used for rent.
- » Commissions need to be pushed to assess other issues that are also key to the housing policy, such as the tax benefits of certain companies or the perpetual licensing of tourist housing.
- » Administrative regulations need to be made more flexible to facilitate the transformation into housing of spaces that meet adequate living conditions.

International experience in rental price regulation

Diagnosis

There are currently European countries that in their legislation have recognised systems to limit the rental price: Austria, Germany, Switzerland, France, Belgium, the Czech Republic, Denmark, Italy, the Netherlands, Portugal and Sweden.

Most European countries that seek to stabilise incomes have both a free system and a regulated income system (Austria, Belgium, the Czech Republic, Denmark, Germany, Italy, Portugal). In addition, these systems can refer to both initial income and its upgrading. To generate a balanced regulation of rental prices, you can take into account learnings of its application in other countries:

- » Existing regulation systems work from three basic elements:
 - » Affordability, based on the regulation of both the initial price and the updates.
 - » Incentives aimed at the property to increase the supply of rental housing and encourage



the rehabilitation of housing.

- » Predictability and transparency on both sides, in order to promote the supply by property and more affordable and flexible access to this tenure regime, by people looking for housing.
- » In Germany, tables are created with corrective indices that are applied to the reference indices of rental prices according to the benefits and renovations of the property. These values must be negotiated between home owners' associations, tenants' associations and the Authorities, in order to give democratic legitimacy to the process.
- » The rental price reference index from which these corrective indices should be applied should be the average index, not the upper one, since, if the latter is used, the system will not contain the rents, which is the purpose of the measure.
- » Limitations should be established with respect to leases existing at the time of entry into force of the regulations and with respect to those that exceed the limit set by the index, as otherwise it is difficult to contain prices, as has happened in Germany.
- » In countries with a large rental stock and with income regulation systems, compensation mechanisms are established that seek a balance between affordability and profitability.
 - » The rent update is left to the free will of the parties, who can choose between applying the CPI or letting the landlord freely increase the rent, provided that, at most, they do so annually and do not increase more than the limit set by the referenced rental system.
 - » In Germany, there is a general limit of not increasing the annual rent in three years by more than 20%.
 - » In France, there are also cases in which the landlord is allowed to increase the rent when it is highly devalued in relation to the comparable prices in the area.
 - » Countries like Switzerland put limits on these rent increases to prevent them from being abusive, for example, when they are very high compared to the last year or when landlord profits are excessive.
 - » The landlord is allowed to pass on the actual costs of the home to the tenant, provided that the lease has agreed that the tenant will bear these costs.

Synthesis of the debate

Cea Weaver, Coordinator of the Housing Justice for All campaign in New York

- » In New York, 52% of taxpayers cannot pay more than 30% of their income, and 30% of tenants pay 50% of their income, which carries a high risk of exclusion.
- » The percentage of big landowners has increased in recent years, which means that more people can end up renting flats, but at a very high price.
- » There are difficulties in accessing housing, especially the younger population (20-30 years).
- » Older people usually sell their home to a company and not to an individual.
- » There is a great deal of racial discrimination in the market: black people rent more than white people, who tend to buy.
- » The tenant movement to be able to control rentals in New York State (2019) worked as follows:
 - » The law states that tenants have the right to renew their leases.
 - » There is financial compensation if unused homes are put on the rental market at more limited prices. In the event that any renovations need to be made, there are grants to be



- able to offer better housing (for landlords and tenants).
- » If a landlord tries to evict a tenant, the latter is entitled to a lawyer to defend them.
- » The search for housing is understood as a human right.
- » The goal is to have an impact on the stability of rentals and the community, as more and more people can rent and not buy.
- » In the United States, there is a nationwide growth of several measures that positively affect the rental property market.
- » Some of the arguments used in relation to rent control have been taken out of the system.

Eoin Ó Broin, Sinn Féin's political spokesman on housing

- » In the case of Ireland:
 - » The two major problems in the private rental sector since 2014 are the increase in rent and the increase in evictions.
 - » Some tenants could not afford the increases and many landlords began selling the properties, leaving many families homeless.
 - » He explains that COVID-19 has had a big impact and points out that a new law banning rent increases has been in place since 7 March.
 - » A large number of tenants have lost their jobs as a result of COVID-19 and it is a concern that this burden will affect society more intensely.
 - » In the rental sector there are structural problems; the needs of both tenants and landlords must be met.
 - » There is a law calling for a ban on rent increases for three years; tenants will also be able to receive a bonus and have access to credit.
 - » There are a number of constitutional laws that seek to reduce their increase. They also want to change the laws of rent to make it indefinite and can only make the tenant leave in cases of property damage or involvement in criminal activities.
 - » One of the main problems is the large number of semi-professional landlords who buy to rent. He points out that this is causing large amounts of property to be lost.
 - » Taxes were introduced to discourage investment funds – all investors will have to pay the same level of taxes – and now the funds have gone to Spain, Portugal or Greece.

Jaime Palomera, Representative of the Tenants' Union

- » In the 1990s, a neoliberal political agenda began on a global scale that involved privatising public housing and removing regulations on private housing: housing became a major financial asset.
- » A historic failure of these deregulation policies, and of all property booms based on increased supply and construction, has been demonstrated.
- » The usual criticism of price regulation is that it lowers supply, which is not true, as supply is constrained by policies, but also by social and cultural factors.
- » All housing policies have historically focused on prioritising purchasing.
- » In San Francisco, in the year 1950, the price was controlled and this did not stop the increase in supply; Denmark has a large stable rental market that has been regulating prices since 1979, and in Austria there are regulations for the price of housing and the price of land.
- » The Berlin (2015) regulation is too recent to be properly assessed and is full of gaps. As a result,

prices have been frozen in 2020 and prices are expected to fall at the end of the year.

- » In countries and cities where price regulations were removed in the 1990s, prices soared immediately.
- » Rental regulations are always accompanied by the extension of collective rights.
- » Rental regulation does not solve the housing problem, but it is not the apocalypse either, and where regulations are made, the lives of people living in rentals improve immediately, because it is minimally protected.
- » In France and Germany, there is a forced extension of rents.
- » To increase supply, we need to start by mobilising empty housing and start recovering the thousands of homes diverted to tourism to turn them into stable rentals.
- » Denmark, Austria, France and Germany are benchmarks: they have a holistic view of the entire housing system.
- » The right to renew the rental must be put on the table.
- » In Barcelona, at least 35% of the owners are legal entities, companies, and many of the individuals are timeshare owners or large owners. People who own a premises or home have an average income of about twice as much as renters.
- » We need a law that makes renting a safe and stable living option.

Elga Molina, Head of the Housing Office of the Tarragona County Council and legal advisor in property law

- » European international standards state that the rental market should be an affordable market, and the United Nations report says regulation of rental prices should be taken very seriously.
- » In Catalonia, as in the rest of the country, there is a serious problem of rent affordability.
- » On a European scale, Spain is seventh in terms of the family burden of rent. In countries with higher rental rates and price regulation, family effort rates for paying rent are lower.
- » Rent regulation should help improve affordability and at the same time ensure sufficient profitability for the landlord.
- » Mechanisms need to be sought so that home owners can feel comfortable with the regulation.
- » It is necessary to establish systems that respond to the diversity of demand.
- » It is necessary to regulate rental prices from a structural point of view and, at the same time, create programmes that further limit rent for the most vulnerable groups.
- » The maximum characteristics of the property must be taken into account when setting a market price.
- » The regulation should focus on improving the affordability of the private market and taking into account what is set by international regulations.
- » Rent regulation would help improve the distribution of public resources, which should be allocated to people in a more severely vulnerable situation.
- » An appropriate tool must be regulated through the rental price index in Catalonia, and prices should be negotiated by the various entities and public administrations.
- » Price regulation provides stable rentals.
- » The price limitation must be accompanied by the long duration of the contracts; this is good for the tenant and the landlord as it ensures that the rent is not outdated over time and that the prices are updated with the evolution of the market.
- » Incentive systems need to be reviewed (personal income tax reductions, bonuses, guarantees



and grants).

- » There is a supply problem, but there is also a price problem.

Sergio Nasarre, Director of the UNESCO Chair in Housing at Rovira i Virgili University

- » According to Eurostat, some of the countries taken as benchmarks (Britain, Denmark, Germany and Switzerland) have a much higher rate of unaffordability than the European average, while Spain is lower.
- » In Spain, private rent has an objective unaffordability. There is no direct correlation between a referenced income and objectively affordable housing.
- » It is not the control of rental income that causes more renting.
- » Renting has always been declining, with the exception of recent years, when people have had no choice but to rent because they could not buy.
- » Germany has a society of rich landowners and poor tenants.
- » Rental control is another element in a balanced rental system; a balance must be sought between landlords and tenants.
- » If only one item is modified, there is an escape in the supply.
- » In Germany:
 - » The *Mietspiegel* (volunteer) has functioned as a system of containment to increase rentals in large cities.
 - » From the *Mietpreisbremse* (mandatory), there is still no reliable data to know whether or not it works.
 - » The *Mietendeckel* seems to be producing some effects, such as a reduction in rental supply.
 - » As there is no discrimination by area, those who benefit the most in Berlin are the rich who live in the city centre.
 - » There has been an increase in the sale of flats, because when the rent is not profitable, what the owners do is sell the flats.
- » The rent must be functional and must be a real alternative to ownership. 76% of current tenants would like to be owners.

Jaume Fornt, Deputy Director of the Catalan Housing Agency

- » In Catalonia there is a very significant problem of accessibility to rental housing.
- » Regulation is needed, but also fiscal policy and aid to pay rent.
- » Rental increases in Barcelona decreased in 2019.
- » Automatic transposition of regulations from other countries should be avoided and the following should be taken into account:
 - » the distribution between ownership and rentals,
 - » the distribution of the structure of property in Catalonia and Barcelona,
 - » the rental price index.
- » Vienna has a fleet of 900,000 housing units; of these 220,000 are social housing and another 120,000 receive some aid. Not at all like Barcelona.



- » An increase in the black money of the rental market must be prevented.
- » The reduction in personal income tax on regular rent is undifferentiated.
- » Public administrations must work to achieve stability-seeking investors with lower returns to invest in the rental market.

Anna Puig-Pey, Representative of the Official College of Architects of Catalonia (COAC)

- » We need to be clear about how we want to live and what our homes should be like.
- » The home has:
 - » various functions, which are physical and psychological (shelter and protection) and economic (investment, savings, trade).
 - » macro-type problems, such as socio-spatial segregation and stigmatisation, the housing deficit (insufficient supply) or the degradation of the stock and the renovation deficit.
- » Housing policies involve technical regulations, public regulations of market participants, civil law, financial policies, fiscal policies, urban planning, public aid to developers and consumers, and direct public intervention.
- » It is necessary to mobilise the public land with an interest in working with public-private collaboration.
- » The COAC proposes that more than 100 architectural and promotion competitions should be held on public land for more than 2,500 homes.
- » Technology is needed to make housing smarter, and flexible, and if necessary, industrialised architecture.
- » When Europe talks about energy efficiency, it is not about buildings but about districts and cities.
- » You cannot make good architecture without being very clear about the economic part.

Contributions to the commission

- » Defend **the right to housing**. Barcelona city must understand its obligation to respect human rights, one of which is the right to housing, and the city must take steps to make this possible. Therefore, it is necessary to use all the tools available to make it possible for people to stay in their homes. Rental control is a mechanism that allows people to stay in their homes and therefore offer security of tenure. So, if this regulation is not made, it is necessary to be very clear why it is not made.
- » In **Ireland**, the arrival of professional and semi-professional landlords who bought homes from private individuals was identified, and this affected the rise in prices. The legislation was amended so that they would have no tax benefits. As a result, these owners have moved to other countries such as Spain, Portugal or Greece.
- » The regulation of rental prices has not meant a reduction in the rental stock in the countries where it has been applied:
 - » Denmark. It has been in place since 1979 and the stock has improved and rent has now been frozen to prevent vulture funds from entering.
 - » San Francisco. It was applied in the 1950s and no changes in the volume of the rental stock were detected.
 - » Spain. The deregulation of 1985 did not increase the rental stock, rather it continued to decline.

- » Creation of bargaining spaces between owners and tenants. New York City is a benchmark in this regard, as representatives of the block are created in cases of vertical ownership. The systems that have worked best are those that have driven the pact the most.
- » Establishment of mediation systems in case the owners or tenants consider the rule to be unfair.
 - » Switzerland. The concept of abusive rent has been defined. In these cases, the tenant can claim for their rent to be lowered and a mediation process initiated.
 - » France. The owner can claim to have the rent devalued and they enter into mediation.
- » Accompaniment of the regulation of prices with measures for the stability of tenants and owner incentives. Affordability has many factors, and when an item is changed, distortion can occur. A combination is needed as well as thinking very carefully about the parameters.
 - » In Austria, Denmark and Germany, the tenant cannot be evicted, nor can the price be raised indiscriminately if that person fulfils their obligations as such.
 - » Denmark. Rent is calculated as follows: maintenance costs + improvements + reasonable profit.
 - » Application in Catalonia:
 - » Long-term rental contracts + rent restraint.
 - » Extension of owner incentives, reductions in rental taxes for certain groups; increase in payment guarantees (improvement of the Avalloguer system); increase in housing improvement grants.
 - » Improvement of the rental price index and application of the average index with corrective measures negotiated by public administrations and associations of landlords and tenants.
- » Assessment of the results obtained from the regulation and establishment of correction mechanisms, so that the system can contain the rent if it is not affordable.
 - » Berlin. It has an income control system since 1990.
 - » Until 2015, it was voluntary and widely used (90% of contracts). Four geographical areas are defined, some corrective parameters and many exceptions. All this made the system too subjective and did not allow the desired rental control to be achieved.
 - » In 2019, the increase in income is regulated as a result of the improvements, from 11% to 8%.
 - » In January 2020, the five-year income freeze was approved. There is a limit of 13 euros per square metre (currently in Barcelona it is 14 euros per square metre). It is not yet possible to assess whether it has achieved good results.

Competence framework and potential regulatory scenarios

Diagnosis

On 9 and 10 September, the Parliament of Catalonia approved the Bill on urgent measures to contain rent in housing leases. Previously, in 2019, Decree Law 9/2019 on urgent measures to contain rent in housing lease contracts and amending the fifth book of the Civil Code of Catalonia in the field had been drawn up, which was not ratified.

This session aims to clarify the alternatives for regulating rental prices based on

the analysis of how, why and who should be responsible for producing the regulations within the current legal system. As base documents for this session, two reports have been forwarded to the members of the commission:

- » **The limits of the European Court of Human Rights in the regulation of rental prices**, drafted by Andrei Quintiá Pastrana

This paper analyses the jurisprudence of the European Court of Human Rights on this issue in an attempt to construct a succinct theory of the limits of rental price regulation. This extensive jurisprudence allows us to build a minimum standard of protection of the right to property ownership in the case of rent controls. This standard is based on three factors:

- » the examination of a fair balance between the general interests and that of the owners, reinforced by the application of a judgement of proportionality.
- » respect for an unavailable nucleus that seems to be around the amounts needed to deal with the maintenance of the property and the relationship proportional to market values.
- » respect for a fair distribution of the costs of the social housing policy.

It is concluded that:

- » Measures to limit rental prices are common in the European context and have been present throughout this century and the past.
 - » However, its configuration is subject to limits set by respect for the right to private property.
 - » Nevertheless, the enjoyment of the right to property is limited by the very social function of property.
 - » Therefore, the regulation of rent is subject to the application of a test of proportionality, where private property must be balanced with the social function of the property.
- » **JUDGMENT 4/2019, of 17 June, of the Council of Statutory Guarantees of Catalonia, on Decree Law 9/2019, of 21 May, on urgent measures to contain rent in housing leases and modification of the fifth book of the civil Code of Catalonia in the legal scope**

The aim of the Judgment is to resolve the constitutionality of Decree Law 9/2019 and its collision or not with state regulations according to the rules of distribution of powers established by the Spanish Constitution and the Statute of Autonomy of Catalonia.

Decree Law 9/2019 seeks to establish its own regulation of the urban lease contract that overcomes the limitations of current state legislation and which, among other things, allows us 'to provide municipalities and other local bodies with the necessary tools to limit the increase of the prices of the rent of houses in areas of strong proven demand'.

The Decree Law describes rental restraint as an exceptional and time-limited restrictive measure, as long as public policies are not carried out that mitigate or reverse the critical situation of the rental market.

Thus, he says, it is a standard action congruent with the constitutional configuration of the right to property (Art. 33 EC) and instrumental to contribute to the effectiveness of the right to enjoy decent and adequate housing (Art. 47 EC), which 'seeks a reasonable balance between the duty to respect the patrimonial interest of the landlord and the social function of urban property'.

The Decree Law also provides that, in the exercise of its competence in civil law (Art. 129 EAC), the Government shall later submit to Parliament, within a period of six months, a comprehensive regulation of leases of urban estates, which will become part of the sixth book of the Civil Code of Catalonia.

The Council of Statutory Guarantees of Catalonia concludes that:

- » The Generalitat de Catalunya is competent to regulate the housing lease contract, in whole or in part, but with the limit that said regulation does not contradict the bases of the contractual obligations established by the state legislator.
- » In the current state legislation on urban leases, with regard to the determination of income, the principle of freedom of agreement (Art. 17.1 LAU) governs, which is in close connection with that of freedom of contract (Art. 1255 Code Spanish civil society).
- » The rental restraint system set up by the Decree Law establishes limitations on the fixing of rent for contracts concluded in certain areas of the territory, which coincide with the principle of freedom to stipulate income that is currently characterised by state legislation on urban leases (Art. 17.1).

Synthesis of the debate

Xavier Bernadí, PhD in Law, Director General of Law and Legal Entities in the Department of Justice

- » A rent containment policy affects property rights; therefore, it must be established through a law, and the suitability or legitimacy of a rule of law, that is, constitutionality, must be assessed.
- » There are two types of objections to constitutionality: substantive or background, and jurisdictional reasons.
 - » Substantive reasons: the agreement is quite broad if the issue is analysed from the same jurisprudence of the European Court of Human Rights. A normative policy of income restraint that is especially respectful of the principle of proportionality and of a non-expropriatory nature must be fully compatible with this social function of law.
 - » Jurisdictional reasons: it is indicated that the first thing to do is specify whether the competition is state or regional and, to do so, you must first specify which matter is part of the rent containment (whether it is in housing, civil law or economic regulation).
- » Law is not an exact science and the rules that refer to the distribution of powers are even less so.
- » The exclusive competence of the Generalitat de Catalunya, set out in Article 129 of the Statute of Autonomy, on the civil law of Catalonia, protects a regulation aimed at containing rental income.
- » The Guarantee Board concludes that both the rules relating to the duration of the lease and

those relating to the rent or price are the basis of the contractual obligations. As the State has not identified these bases from a formal point of view, it can be considered the competence of the Generalitat and nothing would prevent the approval and entry into force of the law.

- » If the state granted formal basis for Article 17.1 of the Tenancies Act or Article 1255 of the Spanish Civil Code, Catalan law would be displaced, not repealed or invalidated.
- » The Catalan legislator must have a presumption of constitutionality or statutory authority.
- » The State could empower the Catalan legislator by modifying Article 17 of the LAU and admitting rental restraint or, through Article 150 of the Constitution, enacting a law that enables the Autonomous Communities to dictate its rules.
- » If the powers of the Catalan legislator were denied, it would lead to the institutional (non-legal) conclusion of Catalonia already repeated, in which they do not allow it to make a regulation nor does the State take it forward. But there would be many mechanisms to make it possible for the state government to enable the Generalitat Government of Catalonia to carry out this regulation.
- » When it comes to the constitutionality or unconstitutionality of a thing, what is being asked is what the Constitutional Court would say if that case came to it. The Constitutional Court does not act ex officio, but is driven by the State government or the opposition.
- » The Council of Statutory Guarantees understands that Catalonia does not have sufficient powers to deduce that there is a state basis for the freedom to set non-formal income; however, it highlights the (broad) competition to regulate housing leases.
- » If Catalan competition is not enough to regulate income restraint, there are constitutional mechanisms to make it fit and state empowerment can be promoted.

Esther Arroyo, Professor of Civil Law at the University of Barcelona and Jean Monnet Chair in European Private Law

- » The regulation of rent highlights the problem of access to housing that we have in densely populated areas. The fact that Catalonia intends to remedy this is not only legitimate, but also a duty.
- » There are two ways to make the rental regulation law with certain guarantees: housing competition and civil competition.
- » There is a link with the Catalan legal tradition: the republican legislation regulated leases by decree (June and August 1936), and not the withholding of rent, but its sudden reduction.
- » Then there is competition in civil matters, but the problem is that, in civil matters, the Autonomous Community does not have the absolute competence to regulate everything but there are certain matters that belong to the State, such as the bases of the contractual obligations. However, no one knows exactly what they mean, because the state has never set these bases and therefore must be inferred from current state legislation.
- » In Catalonia, the principle of termination due to injury in onerous contracts has always governed: if a contract can be challenged when the price is abusive, it must first be possible to set a limit to prevent the price from being abusive.
- » The bases of contractual obligations are defined as what is essential, which must function as a general criterion for all contracts to ensure a unit of regulation in favour of the universality of economic traffic. The question is: is there a universality of economic traffic in the lease market, a market that, by definition, is not unitary?
- » To what extent can the ownership of people who lease their properties be affected? It is important to remember that property cannot be understood in an absolute way, as it is subordinate to its



social function. If the regulation is balanced and does not generate sustained and indefinite losses, it is accepted, without much trouble, that the legislator can intervene in the market by regulating rent.

- » When we talk about rental restraint, we are not necessarily talking about income freezing in an indefinite contract.
- » It is not a question of restraint or not, but of what restraint is being proposed.

Domènec Sibina, Professor of Administrative Law at the University of Barcelona

- » First idea: there is an enormous complexity and mixture of the regulatory framework.
- » Second idea: whenever there is talk of rental restraint and the landlord's responsibility to help meet the right to housing, the public action needed to guarantee that right is weighed up on the other side, but it is not said that housing policies, between 1980 and 2013, have served to help property developers find buyers.
 - » In 2007, a market crash began that made social housing virtually non-existent.
 - » Housing policies were linked to a policy of property growth.
 - » Social housing was for the middle class, not the needy.
 - » Since 2013, a social services policy has been pursued, emergency coverage has been covered, and the housing policy has been declining, because it was based on the exponential growth of the property market.
- » Third idea: Royal Decree-- Law 7/2019 extended the duration of contracts, solidified the rights of the tenant and introduced the reference indices as a measure of promotion: those who do not comply do not receive aid. Benchmarking is a very important technique, but if it does not really reflect the market, it ends up being an obstacle, not a solution.
- » Fourth idea: the standards compared. From a substantive point of view, rental regulation and restraint fall within the doctrine of the European Court of Human Rights, the Court of Justice and the Constitutional Court.
- » Conclusion: from a substantive point of view, fewer problems would arise, while from a competence point of view, if a constitutional fit is sought, it should be in agreement with the decisions taken by the State Government.

Josep Ferrer, Professor of Civil Law at Pompeu Fabra University

- » Determining the price of leases is an essential part of the regulation of the contract and therefore of civil law.
- » The Generalitat de Catalunya has competences in matters of civil law, limited in the same title of competence in some aspects, among which are the bases of contractual obligations.
- » The Council of Statutory Guarantees, with its 2019 opinion, considered that the Decree Law (the first) was unconstitutional due to violating the bases of contractual obligations.
- » The Constitutional Court ruled the 132/2019 sentence, which resolves the appeal against the sixth book of the Civil Code of Catalonia which suggests that it can regulate leases, including housing leases, and also concludes, with little doubt, that a Catalan regulation of rental prices in contracts between individuals can be declared unconstitutional.
- » Questioning the competence of sub-state levels of government to issue such rules is not unique to this country and has also happened in Berlin, which is a *Land*.

- » Proceeding through a coordinated initiative with the state would provide much more security.
- » The essential content of the property must be respected.
- » There is a certain 'expropriation' of the level of profit that home owners can get.

Héctor Simón, Professor of Civil Law and member of the UNESCO Chair in Housing at Rovira i Virgili University

- » Catalonia has competence in matters of housing, but income restraint is part of competition in civil matters.
- » In relation to the bases of contractual obligations, a broad regulation of urban leases would not affect the general principles of contracting (Civil Code) or the constitutional economic principles or the original tone of the contract or obligations.
- » The bases only define the essential; one may ask whether there is universality in economic traffic in the rental market.
- » Despite these arguments to defend the competence of the Civil Code of Catalonia, the Constitutional Court could adhere to these basic regulations and rules that directly affect the economic organisation, relations between the parties and the internal economy of contracts, in order to declare the rule unconstitutional. With a negotiation of powers or with regulation by the state legislature, the problem could be put to an end.
- » There are several levels of rent depending on the intrusion:
 - » Initial rent is free and updates are also free.
 - » Initial rent is free and there is a voluntary rental mirror for updates consisting of a free rental update system (German model until 2015).
 - » Initial rent is free and there is a mandatory rental update system, an update system that could be developed according to a rental mirror system (no examples) or an index such as the current CPI or the competitiveness guarantee index.
 - » A mandatory rental brake system in certain cities and free choice rental updating.
 - » A mandatory rental brake system to determine initial rent, as well as a mandatory rental update system according to a rental mirror system (no examples) with an index such as the CPI or the competitiveness guarantee index.
- » More intrusive systems can have repercussions or counter-productive results, they can affect property refurbishments or the supply of property in the private rental market, and lead to an increase in rental property on the black market, while a softer mechanism, giving more freedom to the parties and being less intrusive could be a suitable way to regulate or contain the prices of rent.
- » Opting for rent control encourages rent to be a real alternative to home ownership, but for it to work well, it should be accompanied by a regulation of leases in Catalonia.
- » We should try to reach a consensus of both landlords and tenants so that everyone is comfortable with a rental limit.

Joan Ràfols, President of the Barcelona Chamber of Urban Property

- » In Spain, the 1994 Law put an end, very gradually, to the old system, rent was out of control and the social policy part was not implemented.
- » It was always considered that the legislation on leases was a State competence, with the



argument of the bases of general organisation of the economy and the great impact that the housing sector had on the economy of the country.

- » The Constitutional Court ruled that the rental restraint framework should be temporary and be accompanied by policies to promote the increase in the housing stock, both for rent and for sale.
- » When there is more demand than supply, prices always adjust.
- » The Catalan rental control law can be improved, as there are tense areas where there is no real tension. In addition, it does not provide a solution for families who cannot pay any rent.
- » The opportunity for such a bill, at a time when prices were already moderating and falling, is doubtful.
- » We need a housing policy that looks at what happens with rent and what can be done to increase the stock.
- » When rental control policies are pursued in Germany, they are established within the general context of economic housing policy and always incorporate elements of social policy for vulnerable groups.
- » The bill technically has problems, such as the impact of works, what rent is, or how much the rent is.

Poi Borrellas, Full researcher at the Institut Ostrom Catalunya, economist and graduate in International Business Economics from Pompeu Fabra University

- » Expected effects of rent regulation:
 - » It will regulate the supply.
 - » It will increase the risk of a submerged economy.
 - » It will cause upward pressure on prices in unregulated areas.
 - » It will impoverish the maintenance of property to compensate for the reduction in return.
 - » There will be side effects such as discrimination of lower-income tenants, decreased labour mobility and inefficient distribution of resources.
- » Reasons for harmful effects are expected:
 - » There is a lack of supply; incentives are needed to allocate more housing for rent, and a strong contractual regulation due to the clauses suffered by the rental market and restrictions and delays in eviction processes, which causes insecurity in landlords when putting their properties up for rent.
 - » Landlords can no longer compensate for the increased risk with a higher income, so they have three options: greatly reduce the maintenance of the property, move to the underground economy or remove the flat from the rental market.
 - » There is a job trench whereby people do not move to another city to get a new job.
 - » By regulating prices, anyone who wants to pay more to be in a certain place will not be able to access it.
- » Empirical evidence on this reasoning:
 - » In San Francisco, the regulation of this Californian city caused a 15% decrease in supply.
 - » In Stockholm, the City Council controls *de facto* prices and the average wait for access to affordable housing is about eight years.
- » Solutions to facilitate access to housing and avoid the risk of long-term housing exclusion and without damaging the offer:

- » Revoking the contractual regulation.
- » Guarantee of legal security.
- » Simplifying urban requirements.
- » Achievement of an efficient judicial system.
- » The public authorities must take care of housing emergencies.

Contributions to the commission

- » The establishment of any kind of rental price regulation must be done in accordance with the law. This means that:
 - » in the area of competence, it must be regulated by the competent authority, and
 - » in the substantive field, the regulation must be adapted to the legal system.
- » With regard to the competence debate, three positions have been presented to the commission on whether the Catalan parliament has the power to regulate rental prices through the use of Catalan civil law:
 - » One of the positions argues that the rules on fixing income in the rental of housing belong to civil law and, therefore, to approve them is the responsibility of the State (Art. 149.1.8 EC). It is necessary to respect the state competence to dictate the bases of the contractual obligations, understood as 'a structural guarantee of the single market', and the 'rules that directly affect the economic organisation and the internal economy of the contracts', including therein the freedom to contract. Therefore, it is doubtful that the Autonomous Communities, with competence to deploy their own civil law, can issue provisions in this matter.
 - » Another position argues that the exclusive competence of the Generalitat de Catalunya, contained in Article 129 of the Statute of Autonomy, on the civil law of Catalonia, protects a regulation aimed at containing rental income; therefore, this can be considered a competence of the Generalitat especially because the State has not identified the bases from a formal point of view and, therefore, nothing would prevent this law from being approved and coming into force.
 - » A third position indicates that the bases of the regulation must be established by the State, but as it has not done so, Catalonia can establish a regulation that would be displaced in the event that the State established these bases.
- » In the event that it is accepted that state regulation is needed to find constitutional accommodation to this in our legal system, this regulation can be given through three formulas:
 - » A state authorisation (Art. 150 EC) for the Autonomous Communities or municipalities to regulate a system of restraint in permanent housing leases.
 - » A modification of the current lease legislation (Art. 17 LAU) in the sense of admitting rental restraint.
 - » Directly a state regulation.
- » In Catalan regulation there is the concept of *termination due to injury*, i.e. a contract can be challenged in the event that it is considered abusive. Therefore, it should be possible to challenge a contract that sets a rental price that is abusive.
- » With regard to the substantive debate, the regulation of rental prices is accommodated in the current legal system by virtue of the social function of property (Art. 33.2 EC). However, everything will depend on the proportionality test, since the containment of rental prices must guarantee a reasonable benefit for the landlord, because otherwise it could lead to a violation of

their right to private property.

Social, economic and urban impacts of rental price regulations in Barcelona and the metropolitan area

Diagnosis

Rent regulation has taken place in Europe since the 1920s. This regulation has gone through several phases in which the objectives have varied and, therefore, also their effects. In addition, in some cases, additional measures have been put in place to reduce the possible negative effects.

- » **First generation:** introduced to Europe and the United States as a result of periods of social crisis generated by the First and Second World Wars. The measure allowed for immediate action on the welfare of tenant households without requiring a high budget cost. These controls were later maintained for older homes in many of the states, which only allowed for periodic increases to mitigate rising maintenance costs.

In the case of Spain, the freezing of rent and the indefinite nature of the contracts were introduced by the Urban Leases Act of 1946, although the Royal Decree of 21 June 1920 (Bugallal Decree) had already frozen rental income.

- » **Second generation:** took place in the 1970s and was characterised by introducing limits to the growth of rental income. This typology was very heterogeneous between countries and cities, which could allow a limited update of rent when there was a change of tenant or to do it periodically. In some cases, property compensation clauses were also allowed to be introduced in the event of increases in maintenance costs, or a minimum return was guaranteed. These regulations tended to apply only to the existing stock at the

time of its entry into force.

- » **Third generation:** In recent years, the disproportionate increase in prices in many large cities has led to a resurgence of social demands that call for the establishment of limits on the price of rent.

In general, in the countries where a regulation has been established, it is emphasised that the regulation allows for the reduction of prices and the stability of the neighbourhood and that it involves a very low public investment and very small management costs in comparison with the benefits which it generates for tenants. In any case, both positive and negative effects have been detected in all cases.

Positive effects

- » Improving the well-being of tenants affected by the measure.
 - » More affordable housing.
 - » More rent available.
 - » More stability. Reduction of uncertainty in the decision-making for labour and consumption of tenants.
 - » Protection of tenants against the possibility of unwanted evictions and displacements.
- » More social capital accumulated in the community.



- » More symmetry between property and tenant.
- » Redistributive policy when the system benefits the most vulnerable households.
- » It enables the social mixture to be maintained.

Negative effects

- » It does not specifically focus on the most vulnerable households but benefits a broad spectrum of society. This action does not have to be negative if everyone has access to rental control.
- » The rental offer is reduced, both by transfer to sale and by a reduction in investment in construction and renovation that could lead to an increase in prices in the free market. U.S. reports indicate that there has been no reduction in supply in new construction and that the conversion from rent to sale can be limited by local ordinances (like most California cities that apply rent regulation).
- » Investment in maintenance and renovation of homes is reduced. It could be mitigated through grants or ordinances to promote this renovation, as well as through disciplinary mechanisms that guarantee habitability.

Synthesis of the debate

Jordi Bosch i Meda, PhD in Architecture, degree in Political Science and co-director of the Postgraduate in Housing Policy at the Sert School

- » The incidence of rent control measures depends on the context.
- » In rent controls, the design and management of the measure are very important. What is the goal of this rent control: to moderate the increase in prices or to increase the supply of affordable housing?
- » The housing system is a concept of housing policy theories that consists of market interaction, that is, supply, demand, and direct and indirect public intervention.
- » Rent control is just one piece of the puzzle in this housing system.
- » A first obvious consequence of rent control is improved tenant security. In the short term, there would be not so much an improvement in security as a freeze on the problem. In the medium and long term, if the price increase is well below the market, part of this controlled rent would become a more or less affordable offer.
- » Improving accessibility has a positive effect on household budgets and would therefore have a positive impact on the economy.
- » Risks:
 - » Possibility of expanding the black market and abusive practices.
 - » Aggravation of the demand for unprotected rent.
 - » Risk of reduced rental supply.
 - » Risk of degradation of the residential stock.
 - » Risk of a process of discrimination and filtering.
 - » Imbalance in the implementation of rent control.
 - » Abusive black market practices that can undermine social cohesion.
- » Temporary territorial planning and coordination with other housing policy measures are needed.
- » It would be interesting to plan the possible public management of private rent, with a process of



awarding between tenants and landlords.

- » A key element in the set of rental controls is all the regulations of urban leases. In many countries, rent control is linked to the possibility of the tenant having more stable conditions.
- » With regard to the housing system, the control of rents on a territorial scale, with respect to a space as specific as the metropolitan area, must be planned.
- » Renovation promotion measures are needed to prevent degradation.
- » A combination of incentives plus a control and sanction system, and direct or indirect public management, would be needed to avoid the black market and filtering processes.
- » A reasonable benefit must be guaranteed to the owner.
- » It is necessary to plan on a territorial scale and not just 'macro' in order to improve social cohesion.
- » To find out the impacts, externalities and dysfunctions, we need to know how to monitor, assess and, if necessary, review and plan the instrument and all housing policies.
- » Coordination of the instrument with other policies can be improved.

Leilani Farha, UN rapporteur on adequate housing between 2014 and 2020, and Director of The Shift

- » It is too easy to extract housing policy from reality, from day-to-day struggles.
- » More than two hundred U.S. cities have some form of rent control; France, as a result of the pandemic, has extended rent control to 28 other cities, apart from Paris; Berlin is trying to impose a freeze on rent, and Denmark has followed a very similar path.
- » Rent control alone does not inhibit the rental offer. It is the way in which the control of the rentals is structured that could lead to fewer homes on the market.
- » Control should be aimed at ensuring that tenants can continue to pay rent in the communities where they want to live. What needs to be controlled is that the current rental offer does not become a property offer to avoid control.
- » The construction of sustainable and affordable housing needs to be encouraged.
- » The question we have to ask ourselves is: 'What is the market? Is there a separate market for tenants and their ability to pay rent?' From a human rights perspective, the market should be determined by people who need to rent and have no money to pay it. People and governments are the market.
- » Rent control promotes social welfare, because it allows individuals and families to continue living in their homes and communities on an ongoing basis.
- » The conceptualisation of rent control within a society makes it more beneficial, and it is a social benefit that makes households much more than gains or benefits.
- » Barcelona city must continue to take steps to ensure that people have the right to decent housing. We must look for all the means available to ensure it for the most needy, and rent control is one of these measures.
- » International human rights law says that we must look for all the tools at our disposal to ensure that people can stay in their homes, and in this sense, control helps.
- » Rent control is an important tool and therefore, if it is rejected, there must be very good reasons for doing so.
- » The measure must coexist with a whole series of additional measures.
- » Human rights are the highest top priority, which is why the right to housing is in a completely different area from property rights or the rights of financial actors to benefit from them.

Luis Zarapuz, economist of the Economic Cabinet of Comissions Obreres

- » Access to housing, mainly in large cities such as Madrid and Barcelona, represents a significant volume of resources for the working classes.
- » The best-prepared generations in history must devote much of their resources and time not to training or improving their capital and qualifications, but to paying for ever-increasing housing costs.
- » The Spanish financial system is based on physical mortgage guarantees, mortgages or the construction business. Instead of focusing on the productive economy and the financing of entrepreneurship or on new projects in the digital economy, it remains anchored in physical guarantees.
- » The union proposal addressed two additional axes: in the short term, the promotion of the regulation of the rental market, and in the medium and long term, the development of a public stock of affordable, social housing.
- » Comissions Obreres and the UGT are clearly committed to limiting the maximum rental price in tense areas. It should be a state-wide regulation, not only in relation to increases in the price of rent in tense areas, but also to address the level of rent in these areas and link it to a percentage of the income of the population living there.
- » Limiting or acting on the regulation of the price of housing has effects. Home owners can look for alternatives to housing to try to escape the regulation.
- » Here are some suggestions for trying to address negative externalities of rent control:
 - » Develop a safe and affordable rental programme.
 - » Offer tax incentives to act on vacant homes.
 - » Limit or regulate the destination of tourist homes in stressed areas.
 - » Develop the structural axis of constituting a public offer of social housing or housing for the public rental stock.
- » In the short term, it is necessary to control rent in big cities like Barcelona.
- » The regulation can have negative consequences, but the structural negative consequences are the ones the population is currently suffering from.
- » Having reliable and official indicators is key to understanding the composition and evolution of the rental market and designing public policies.

Stephen Barton, PhD in Urban and Regional Planning from the University of California and former Director of Housing in Berkeley city

- » Three main ideas:
 - » Rent control is the only public policy that can be put in place quickly to provide tenants with access to stable housing.
 - » A good rent control system does not prevent an income from being obtained through rents and instead increases the result of social demand in a particular place.
 - » Rent controls should be part of larger housing programmes.
- » Why do we need to control rent?
 - » Because rent control offers tenants stability where they reside.
 - » Because it can be set up quickly, with immediate benefits and moderate public spending.

- » Because the human costs of travel are very high when there are forced movements: families have to leave the area where they have friends, family, a trusted doctor or their children's school.
- » On the economic side, the control of residential rent combines two factors: a physical building and the location.
- » Regulations that limit rent that is not received or tax that recaptures that rent do not have negative effects on productive activities.
- » A well-designed rent control system should allow landlords to obtain a reasonable profit from the maintenance and operation of buildings, while limiting rent.
- » It is important for rent controls to be part of a broader housing programme.
- » It is essential for there to be emergency and rental assistance systems during periods of unemployment.
- » When a building is to be renovated, landlords must be allowed to increase the rent to cover this cost, and in addition, there must be some kind of allowance for the tenant or landlord.
- » Rent regulation has little or no effect on construction.
- » This regulation should prevent abuse by both tenants and landlords.
- » Rent regulation can provide important and significant benefits to both tenants and the communities they live in, even if those benefits are not valued or recognised by the market.

Josep Maria Vilanova, Representative of the COAC and professor of the Department of Urbanism and Spatial Planning of the Polytechnic University of Catalonia

- » In 2007, the property investment system collapsed, and from 2007 to 2009, the number of projected homes fell by 97%.
- » What does the rental market mean, what are its characteristics and what can happen with the entry of rental regulations in Barcelona?
- » The residential market is not about the supply, but what really solves the housing needs. Data and statistics on the actual operation of the market are available.
- » In the specific case of Barcelona, the property market has functioned, fundamentally, from rent, unlike the whole of Catalonia.
- » In Barcelona, three out of four housing solutions take place through renting, as Barcelona has the largest available rental housing stock in Catalonia.
- » Since 1994, the rental market has been operating under the Urban Leases Act, which allowed for a very significant upgrade in rental prices, but buildings have not improved substantially over the past 25 years.
- » There is a need for Barcelona's buildings and homes to incorporate very significant environmental improvements. 40% of the country's ecological footprint comes from the energy inefficiency of buildings.
- » Renting in Barcelona is central to any housing policy. Therefore, the measure of controlling rent is crucial.
- » Rental prices in the period 1994-2019 increased by 180% nominal. If this translates into constant euros, the increase is 60% in 25 years.
- » This serious problem is most dramatically reflected in the maintenance of socially unacceptable eviction rates, which are not due so much to the increase in the rental price as to the reduction in rentals.
- » It will be necessary to take into account the impact of human rights on housing and urban



policies to be developed in the future and, on the other hand, the fact that in the control of rent the relationship between the rental price and the income of the population is crucial.

- » An affordable, social housing stock needs to be created, especially for the weaker strata.
- » It should go from 0.1% of the GDP of Catalonia and Spain, to 0.6%, which is the average of the European Union.
- » Location is very important in terms of the rental price. The sites are unique and cannot be reproduced.
- » There is no correlation between investment and income, but this has been the case since 1994, and this is also the case with urban planning and land, where there is no direct correlation between land values and real investment made.

Montserrat Junyent, Head of Legal Advice of the Property Agents' Association of Catalonia and President of the Federation of Associations of Property Companies

- » The rule is not valued positively, especially because of the way it has been processed, as it has been managed outside of the property owners.
- » There is a housing problem and measures need to be taken to encourage access to housing for the most disadvantaged groups, but attention cannot be diverted exclusively to the private sector, although it does admit that it has a responsibility.
- » There are home owners who have updated their properties and are now unable to recoup the investment, as the rent they will receive will be the same as that of a flat in which no action has been taken.
- » Many home owners are considering taking their products off the market and looking for profitability in sales.
- » The average profile of an owner in Catalonia is a small owner who can have between one and five homes.
- » The problem is product shortages. The private sector will invest in the construction of affordable rental housing if it is also accompanied by an appropriate tax policy.
- » The rental market began to tighten when the option to buy was reduced as the mortgage option was closed off.
- » The landlord wants a stable tenant to take care of the property and stay for a long time. The tenant also wants stability. All parties must be included in the discussion table.
- » We need a joint policy for the private sector, the public sector and all authorities, both municipal and regional.
- » Administrative regulations need to be made more flexible.
- » During the pandemic, landlords and tenants have reached many pacts.
- » In the short and medium term, the lack of profitability of regulated rent will end up harming the people you want to favour.
- » From now on, the index will be supplied exclusively with parameters that will eventually be frozen.

Contributions to the commission

(All contributions relating to the possible effects of the regulation are included in this block. These contributions have been made throughout the sessions and are all grouped at this point).

- » An adjustment is needed between the rent of the homes and the rental price.
- » The impacts of rent price regulation vary depending on the characteristics of the housing system (characteristics of demand and supply, and the role of the public sector), the macroeconomic situation, the housing market and the terms of the actual contracts. Most of the failures of rent regulation systems have occurred because they did not fit well into the overall housing policy framework.
- » Rental price regulation is the most powerful mechanism available to make it possible for people to maintain their housing, as it is quickly applicable and a low-cost measure.
- » It is an essential policy to give stability to residents and prevent evictions, displacement of the population to other areas and gentrification, while long-term solutions are sought.
- » In the short term, it allows for price stability and a halt to the growing mismatch between demand and supply capacity; it does not, however, solve the problems of access to housing, as many people do not have the capacity to pay the existing prices.
- » The regulation of the rental price must be accompanied by a general system that allows us to support the whole population, since this regulation does not allow us to offer housing to the excluded groups, such as the homeless people.
- » Rent price regulation makes it possible for households to have a higher budget for savings and consumption.
- » Good regulation of the rental price does not permanently freeze rent but establishes controlled and temporary increases that reconcile reasonable profits with affordable prices.
- » The regulation does not discourage new construction, as it applies to new homes. Exemption periods need to be monitored.
- » Regulation of the rental price can have negative effects that must be avoided with good regulation, the link to public control and the establishment of a series of incentives:
 - » Expansion of the black market and abusive practices, including non-contractual agreements, discrimination and filtering of households with less economic or stigmatised capacity. It will be necessary to promote the expansion of direct or indirect public management of the private market based on the promotion of incentives.
 - » Aggravation of the situation of unprotected demand.
 - » Degradation of the residential stock, in the event that the remaining property for the property does not allow for its improvement. The regulation can be added to with more incentives and renovation aid and with a control of the fulfilment of the maintenance obligations by the property owner. The regulation may provide for more income increases in the case of homes that have incorporated improvements. 5% is not enough.
 - » Reduction of supply due to the transition of homes to the market for buying and selling or other uses. Housing use should be limited to tourist housing in stressed areas.
- » The measure must be implemented throughout the metropolitan area although it does not need to be applied linearly; it may be gradual, but with the prospect of the entire metropolitan area of Barcelona.
- » The regulation must be included in a fifteen-year territorial plan, which sets out a global strategy to increase the supply of affordable rentals, in order to promote positive elements and avoid negative externalities.
- » There is a need for regulation that combines the interest of the property owner (tenant who takes care of the home and establishes a lasting relationship over time) and tenants (stability over time).



To achieve this, all market players must be involved in defining the regulatory model.

- » It must be possible to intervene in the processes of fixing house prices, which in our country are speculative processes.
- » Mechanisms for assessing applications will need to be incorporated.

» **04. General conclusions**

The debates generated and the contributions made by the great diversity of speakers throughout the four sessions, which can be reflected in the information provided in this document, have been rich, extensive and rigorous and have addressed the discussion by putting on the table both virtues and risks. This approach has led to some conclusions, shared by most speakers and agreed with the municipal groups that have participated in all the sessions. These conclusions stand out because they are far from dogmatism and at the grassroots of reality, which will allow Barcelona to implement the Law of urgent measures on rent containment in housing leases in the most efficient way possible.

During the sessions, it has been corroborated that the mechanism of the regulation of the price of rent is not a strange or alien standard within the European framework, nor even within the Spanish State or Catalonia. In this sense, and always taking into account the reality of each country and the fact that automatic transpositions must be avoided, clarifying examples of types of regulations such as those of Germany, Denmark, Switzerland, Portugal, France, Austria, Ireland and also from cities like New York, Paris and Berlin have been given; these regulations have been extensively studied, analysed and categorised according to their degree of intrusiveness. Also noteworthy are the experiences in Spain, where the freezing of rent existed until the arrival of the Royal Decree of 1985; and the Catalan experience, the republican legislation, often forgotten, which already regulated, by decree, leases (between June and August 1936) and, more specifically, not the containment of rent, but its sudden reduction. With all this, we can say that regulating rent is something natural that is already being done in other countries and cities around us.

In the analysis of this series of international experiences, it has been noticed that the good implementation of the control of the rental price is closely linked to accompanying measures that make it more robust, which increase the degree of effectiveness and encompass it within a coherent housing system. Rent control is another piece of this housing system, a piece that, in itself, does not solve the problem of access to housing, but that, if linked to a long duration of contracts (good for the tenant and good for the landlords), can help to quickly ensure tenants access to stable accommodation.

Despite having positive effects, such as improving the affordability and stability of housing and increasing the saving capacity of tenants, we cannot ignore the fact that this type of regulation can also generate a number of risks, such as the possibility of expansion of the black market, the aggravation of unmet demand for unprotected rent, a reduction in the supply of rent, the degradation of the residential stock, discrimination and filtering processes, the imbalance in the implementation of the rent control and abusive practices. These possible negative externalities are the ones that need to be controlled. Firstly, there is a need to establish reliable indicators and monitoring mechanisms that can be used to assess the standard and its effects, and secondly, a series of additional measures aimed at reversing its negative effects, such



as: aid and measures to encourage renovation, search for private investors with a limited profit motive to invest in the private rental market, implementation of new incentives, extra bonuses, increase in Avalloguer guarantees, and so on. But most of all, we need budgets for housing policies in countries like those in Germany, France and the Netherlands.

Legally, the rent regulation rule has also generated controversy on a competence level and there has been wide debate gathered in the relevant session; but, above all, it has shaken the foundations of private property, as, for most opponents of the standard, this private property is severely damaged in terms of their rights. These rights, however, are not violated as long as the regulation, as indicated by European judgments, guarantees a reasonable benefit to property owners. In this area, we must not forget that housing is a right that is socially understood as a fundamental right and that, therefore, it must guarantee its social function before the right to private property; at this point, the right to access housing is making a leap and is part of the field of human rights, which will allow us to address future solutions to eradicate residential exclusion with more ambition and solidity.

In short, in the case of the housing emergency we are currently suffering from, we can say that the question is not whether to regulate rental prices or not, but how it is done, during what period, what measures come with it and what type of containment is being proposed.