



# Commission of Inquiry on the Accumulation of Properties by Certain Entities at the Parliament of Catalonia

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“Good day and thank you for inviting us to this commission of inquiry. In my speech I will address the following points:

1. Who are vulture funds? What legal forms do they have? Are there many?
2. Global financialisation
3. Poor praxis
4. Tax privileges
5. Proposals for regulation
6. Notes on the register of large holders

The transformation of the real estate market in the last 10 years is evident, and one of these changes has been about the agents involved. Therefore, to study the impact on our society of this transformation seems to us to be fundamental. Thank you, in this sense, for inviting us to appear. As a human rights observatory, at the ESCER Observatory we have worked on this transformation precisely from the perspective of rights, and I will frame my intervention based on three main investigations that you can find on our website: “[El shock inmobiliario en Barcelona](#)”, “[Vulture funds. A industry praying on cities and human rights](#)”; “[Qui desnona a Barcelona. Anàlisi del paper dels grans tenidors en les expulsions a la ciutat](#)”. In addition to this diagnosis, we have begun to establish links between the so-called “business and human rights” field, that is, the fight against corporate impunity, and the investment funds and entities we are talking about today. This allows us to move towards a regulatory scenario that I will develop later.

## 1.- Who are vulture funds? What legal forms do they have? Are there many?

When we talk about entities that accumulate housing, we are referring to different legal forms. There are many types of large owners. In fact, among investment funds there are those that are registered as S.A. and listed on the stock market, because this makes it easier for them to obtain capital from different investors (it would be the case of Blackstone and BlackRock), but there are also some that are registered as S.L., such as Cerberus and Lone Star, because it allows them to operate without having to comply with transparency criteria and can act with more opacity.

It should be noted that one of the biggest problems with these operators is their opacity, lack of traceability and poor visibility, which makes it difficult to make them accountable.

These funds often have offices and headquarters in NY, but then they create companies in tax havens, instrumental societies (in Luxembourg, in the Netherlands) and finally companies in Spain, managers and servicers, which creates a vast and complex corporate network (you can find more information in the report I quoted). Without a doubt, banks and financial entities are part of this framework and have played and have an active role throughout the process.

The way we conceptualize investment funds is by their extractivist nature. They buy houses for small prices and then sell after 5 years. In fact, Manuel Gabarre calls them “opportunistic funds”. There is a lot of literature on this. Saskia Sassen compares them to

a mine. A predatory industry after all.

Now we talk about what role do they play in the Catalan real estate market. Certainly, as I indicated at the beginning, we find a hyperbolic transformation at this level. From the historical conception of a “land of small owners” we have gone to a scenario in which, especially in the rental market, large real estate holders represent a fairly high percentage of homeowners and with a tendency to growth. This can lead to a clear consequence: greater concentration of ownership and getting in the road become an oligopolic market, where abuse of power and malpractice is widespread. That is why I stress out the convenience of this commission. If we do not act now, we are renouncing to make policy on the right to housing and we can lose the opportunity to mark points of inflection, such as mobilizing/acquiring all those homes to increase the public house stock (we already lost the opportunity with the bank rescue and SAREB). If we do not regulate, we are faced with an increasingly speculative market dominated by these large operators.

There are several investigations into the scope of these great real estate holders. The Metropolitan Observatory for Housing in Barcelona report is undoubtedly the reference material, which I will not replicate because they have already appeared. Crític has also published about the “superholders”, where they affirm that “The largest private owner of rental homes in Catalonia is CaixaBank. The banking group manages at least 5,064 rental flats through 6 companies, more than the Barcelona City Council itself”. “A select group of 303 private companies accumulates 49,954 flats rented in Catalonia. They are the great real estate holders; those societies that have more than 50 homes each. Within these companies, the distribution is also uneven: only 30 control more than half of them, 25,601 homes.” In this sense, therefore, the existence of these “superlandlords” cannot be denied. And here we’re naming them: CaixaBank, Cerberus, Blackstone.

Considering that 81.5% of the evictions practiced in 2021 are due to rent (CGPJ, 2022), it is key to look at the structure of the property on their possession. Of the 212,901 homes for rent in the city of Barcelona, 69,037 (32.4%) are 2,344 owners (2.3%) who have more than 10 houses. In Catalonia, of the 65,848 homes for rent, 160,920 (24.4%) are 4,548 owners (1.3%) who have more than 10 homes.

Therefore, we note an increasing weight of the large operators and the consequent need for action of the public authorities - per to know the patterns of accumulation and business of vultures it is necessary to trace the geography of the foreclosure properties, from the evictions, from the empty houses and the gentrification process (finality “e” of the creation of the Commission). In fact, one of the key issues is the legislative activity that has led to the current scenario: the modification of the Urban Rent Law (LAU) and a decrease in the duration of the rental contract, or the creation of the legal regulation for SOCIMIs. But, in addition, Manuel Gabarre denounces a “covered privatization” of at least one million homes. You may find very detailed this process in the report cited above (pg. 26).

## 2.- Global financialization

We cannot forget that all these dynamics are framed within a global financialization process, which has been widely reported and from which the Spanish and Catalan model have not escaped. This model of international financialization has placed cities such



as Barcelona at the centre. Former United Nations special rapporteur Leilani Farha already identified Spain as one of the countries where investment funds had a significant impact on human rights, given that Blackstone was “the largest landlord in Europe”, and sent a letter to the Spanish government showing its concern, encouraging regulations and policies aimed at minimising the impacts of this type of actor on the right to housing and promoting the transparency of the same. In fact, it is no coincidence that in recent years Barcelona has hosted “The District”, an investment fund meeting that has aroused several protests by various social movements in the city.

Recently we have taken notice that these actors, with their extractivist nature, are entering other public services, since they do not seek to become long-term real estate agencies but are looking for sectors, however diverse they may be, where they can maximize their profit. This is the case with residences for the elder, hospitals, the care sector, and of course food (we should not forget speculation in the case, for example, of the price of oil). In short: the overcrowding and accumulation by dispossession as main dynamics, also from north to south.

### 3.- Bad practice

Now we may talk about bad practice, because, as I said, a first problem can be identified by the fact that there is an increasing concentration of property, since this can generate situations of dominance of the real estate market. But, in particular, the concern stems from the fact that this concentration does not occur in non-profit actors involved in affordable housing, or with limited profit whereas we are talking about predatory actors that destroy our cities with their practices. They are looking for benefits with forms of action that we can call speculators. Some examples below:

Evictions: investment funds have replaced banks as main promoters of evictions. We have studied it in the publication “Qui desnona a Barcelona? Anàlisi del paper dels grans tenidors en les expulsions de la ciutat”. They have allowed the estate they inherited from the banks to degrade and they have hoarded, exacerbating problems of housing in more humble neighborhoods omitting their obligation to maintain them, which in turn have been occupied by people who did not have any other alternatives due to the lack of affordable housing.

In fact, Crític denounced that 73% of the 5500 flats that on Blackstone’s possession are empty. Laws protecting the right to housing are broken: 24/2015 or rent containment laws. The subsidized housing that has been disqualified has not been sold to investment funds, such as the case in Madrid, but there has been a deferred transfer (successive sales once disqualified + foreclosure or eviction) and, in many popular neighborhoods of the Barcelona’s Metropolitan Region and other large cities, entire buildings are in the hands of these entities, which also buy empty flats.

The break of the repurchase right: *“The fact that banks still appear as eviction seekers aims to avoid the debtor’s right to repurchase, which is enshrined in the Civil Code. This law says that, if the bank, as the holder of the mortgage debt sells it to an opportunistic fund, the debtor must be informed and has the possibility of cancelling the debt by equalising the price by which the debt has been sold. Banks and investment funds use subterfuges to avoid informing the debtor, as the bank sold mortgage credits at extre-*

*mely low prices in packages that grouped thousands of mortgages” (pg. 16)*

There are bad practices linked to mortgage credits but also in the rental market. In fact, companies such as Optimum or Norvet, having a different profile, also used SOCIMIs to buy, reform and expel from our cities. Subsequently, for example Optimum was sold to Cerberus.

Rental prices rise: this can be certified by colleagues from social entities that will also come to declare, such as the PAH or the Tenants Union. They all share a tendency to some market control and radical opposition against regulation.

## 4.- Tax privileges

Continuing with poor practice, the policy of these agents regarding to tax payments is another great examples of their harmful nature. Although a SOCIMIs (Real Estate Investment Trust Companies in Spain) law was initially passed in 2009, it did not prosper until another regulation was passed on 2012 that allowed them to pay considerably lower taxes. Spain has therefore become the second country with the most companies with these characteristics worldwide, with more than 100 at present.

But in addition to the legal figure, the use of tax havens is common among this type of entities. Remember Cerberus? They Tribute in the Netherlands, and Lone Star in Luxembourg. It is part of their business model.

Finally, Manuel Gabarre points to rotating doors, both in Spain and in the United States.

## 5.- Proposal for regulation

Another of the key points of this committee should be a recommendation to regulate the functioning of these funds. Of course, the priority when we talk about the right to housing is to decommercialise it, but while this process is being carried out - and it is essential - the private sector, the market, must be regulated.

In fact, some initiatives to control the violation of human rights by companies are already underway. Until now, only states in the broad sense (or public administrations in their different levels of government) could be violators of rights. This new set of legislation attempts to explore the responsibilities of private operators, with different levels of deepening. Of course, there is a risk that this is a version of CSR, but it is an opportunity to establish clear regulatory mechanisms. At European level, due diligence regulations are being processed, as well as the Spanish Congress of Deputies in the last legislature. In Catalonia, too, the Catalan Human Rights Centre is on the way to being created.

It would be interesting to see how precepts relating to the large owners of housing that we know are doing bad practice you can be introduced, because this type of corporate actor is usually not being thought of when talking about these regulations.

An initial exploration was made by United Nations ex-rapporteur Leilani Farha, who I mentioned earlier. She published “The Shift directives”, where concrete proposals were

established at a global level. It would be necessary to study how to adapt them to our country: from greater transparency to a review of their tax privileges and conditioning factors in their actions.

Thus, with regard to recommendations and measures, this committee's final report to be useful must contain info and diagnosis, and propose follow-up indicators and proposals by the government (political and legislative).

## 6.- Notes on the register of large holders

The register of large real estate holders is a tool introduced in Catalonia with the approval of Law 1/2022, promoted by the Promoter Group of Law 24/2015, and sadly two years later it is still not active. The Government is preparing and processing a draft decree to approve the [Regulations of the Register of large holders of housing](#), together with that of the [Register of empty houses and of squatted homes](#). Last May, a pre-conquest process was launched and we assume that it should be ready shortly.

The main purpose of the Register was to guarantee compliance with the mandatory social rental obligation to avoid the evictions promoted by large real estate holders, that is, that administrations, including Courts, can know at the moment whether the property is bound to this law or not.

Now the Register is even more important because the approval of the Spanish Law for Right to Housing ("Ley Vivienda" in Spanish) and its rent price control is applied in a differentiated (more intense) way to large real estate holders and because, due to the same law, they are obliged to go to previous intermediation before suing a demand for eviction.

A second purpose of such a register is to extract data from the housing market and from the evolution of the property structure. As has been the Register of empty homes and squatted homes.

The Register must be put into operation now and inspection, resources and sanctions must be guaranteed so that it is complete and updated. It is necessary to publish data from the Register periodically so citizens can know if their landlord is or is not a large real estate holder, in order to demand and defend their rights. A good example of an on-line consultation of whether or not an owner has empty homes is that of the aforementioned Register of Empty Housing, where anyone can make a direct query to find out.



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