INVESTMENT FUNDS

AN INDUSTRY PREYING ON CITIES AND HUMAN RIGHTS

Analysis of investment funds in Barcelona within an international context

OBSERVATORI DESC

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FOREWORD

Marco Aparicio Wilhelmi
President of Observatori DESC

The long-running housing crisis of recent decades has led to increasing precarity in living standards, with profoundly painful and persistent personal, familial and social consequences. Those responsible for the evictions and expulsions suffered by residents from our neighbourhoods, towns and cities have names and surnames.

The housing crisis, which has spilled over into other areas of inequality and exclusion and hampered efforts to resolve them, is largely the result of the triumph - although not without resistance or the hope of turning things around - of the notion of housing as an asset for investment rather than for use, and of the overprotection of the rights of proprietors to the detriment of tenants.

Following the impact of the toughest years of the mortgage crisis (2008-2014), the provision of housing to the most underprivileged members of society has increasingly been taken up within the private rental market. As a result, and given the largely anecdotal alternative represented by public housing, the right to housing is today being fought for in terms of our ability as a society to place limits on private ownership and the unrestricted commodification of housing.

In the face of this, and despite the fact that in recent times - and especially in the exceptional context of the pandemic - increased social pressure and struggle have led to some tentative signs of a political and regulatory response, the pattern and the model of housing needs management remains largely as before: market incentivization over regulation. This encompasses measures such as the reduction to 3 years of the minimum rental agreement duration from 2013 to 2019, or the streamlining of judicial eviction procedures in situations of illegal occupation (Law 5/2018, June 11th), as well as generous tax reductions aimed at real estate investment trusts known in Spain as SOCIMIS (Sociedades Anónimas Cotizadas de Inversión Inmobiliaria).

"The pattern and the model of housing needs management remains largely as before: market incentivization over regulation"

There are many reasons to reject this feverish drive to boost market interest. Firstly, because such developments have led to the growth of an international real estate investment market seeking to maximise profit, often through naked speculation. One particular detail should be taken into account: the famous law of supply and demand barely holds true when what is placed on the market is an essential, inalienable, and non-deferrable human need.

Far from such trends going into reverse, we are witnessing renewed signs of consolidation of what critical criminologists have named *State Corporate Crime*, that is, the institutionalisation of a relationship between the State and business interests (of major corporate powers) within the "overall structure of society" (Bernat, Jiménez, Forero: 2016, p. 8).[1] As such, the financialization of the economy cannot be understood without considering the impetus provided by state actors through the transformation or modification of their own regulatory and even institutional systems. It is in just such actions that we observe a fundamental means of illimited corporate profiteering which results in significant *social harm*, non-contestable in the eyes of the law and which, by extension, can be neither legally prevented nor punished.

This is the background against which this report seeks to explain, analyse and speak out against the way in which the commodification of this most essential of needs feeds into the concentration of the economic power and the political and judicial reach of real estate investment funds, taking the city of Barcelona as an example.

1 Bernat, Jiménez and Forero remind us that "analysis of the crimes of the powerful, as defined by Frank Pearce, must deal with the general social structure in which companies operate, to understand that criminal activity is just one among their many strategies." Some recent examples of state-corporate crimes, occurring within the general social structure, are the mortgage model which gave rise to the housing bubble, and the preferential shares and financial products that fraudulently came into the hands of small private investors, in many cases retirees. Bernat, I., Jiménez, D., Forero, D., "Miedo y saqueo en el sur", preface to the book (with its translation) by Tombs, S., White, D., *La empresa criminal. Por qué las corporaciones deben ser abolidas,* Icaria, Barcelona, 2016, p. 8. Quote from Pearce, F., *The Crimes of the Powerful: Marxism, Crime, and Deviation*, 21st Century, Mexico City, 1980, p. 151

The map of private stakeholders who speculate with and jeopardise basic needs in our cities has changed in recent years. Even more so than the more readily-visible banks, large global real estate operators, and particularly vulture funds and private equity companies, have emerged as the major players in the housing crisis. They can be characterised by their low profile and lack of transparency, insofar as their internal operations and business networks and relationships (including governmental and local partners) are largely unknown. This opacity is deliberate, hindering efforts by activists to raise awareness and weakening society's means of holding these companies to account for the evictions, harassment of tenants, expulsion of residents from entire buildings and gentrification that have resulted from their activities. This is particularly true of Barcelona, a global city of interest for international real estate capital firms seeking to obtain income from the buildings in which thousands of residents live.

"We are witnessing renewed signs of consolidation of what critical criminologists have named State Corporate Crime"

As a result, in its recent investigations, the Observatori DESC has endeavoured to contribute to analysis of the phenomenon through situated research. The research and interests in this field of one of our sister spaces, the **Observatorio CODE** (Observatory Against Economic Crime), have served as a touchstone in terms of the contributions we wish to make.
Among these are the recently-published report "El shock inmobiliario en Barcelona" (2022) and the present study, "Investment funds: an industry preying on cities and human rights"[2], prepared by **Manuel Gabarre de Sus**[3], one of CODE's expert researchers in the field. These investigations aim to shed light on this under-appreciated issue within the context of Spain and, with specific reference to Barcelona as an example, call for increased oversight of the aforementioned business interests, in addition to providing tools with which citizens and neighbourhood activists can demand accountability from the global stakeholders whose actions have placed the right to housing and the city under threat.

The study you are holding is divided into eight thematic chapters woven along a common thread which leads from a micro to a macro-analysis, starting off with the role of global real estate stakeholders in the evictions taking place in Barcelona, and ending with a picture of global finance and investment. The same protagonists are present at each and every stage: the global real estate and financial operators, as well as the violation of human rights occurring locally and internationally.

2 Both reports were included as part of a research proposal, in two linked projects for which the Observatori DESC applied for funding via Barcelona City Council's Global Justice education programme. These projects were "La lluita pel dret a la ciutat i la defensa dels DESCA a la Barcelona global" (2019) and "Right to housing, coherències i fons voltors a #Bcn: un pols per la Justicia Global urbana" (2020).

3 Manuel Gabarre De Sus is a member of the Observatorio CODE, an expert on the subject, and author of the book "Tocar fondo. La mano invisible detrás de la subida del alquiler" (2019, Traficantes de Sueños), among many other texts and critical analysis studies into global players in the housing and real estate sectors (Sareb and others).

This foreword is followed by a brief introduction to these essentially *extractivist business practices,* and thereafter by a beginner's guide to *those behind evictions in Barcelona*, which in turns give way to an explanation of how ownership has moved away from banks and towards investment funds, *with particular reference to the most notable stakeholders in Barcelona* (Blackstone, Cerberus, Lone Star and their *connection* with the tourist accommodation industry). This is followed by a summary of the bank bailout and Sareb - *a shameless example of covert privatisation* - and a who's who of *owners and leaseholders* from the financial world. The report closes with a look at *the consequences of the financialization of housing* and its role in creating a human rights crisis, a reflection on the *investments which violate human rights standards,* and a series of *brief final conclusions.* In addition, a thematic *glossary* of new concepts in the field is provided.

"Large global real estate operators, and particularly vulture funds and private equity companies can be characterised by their low profile and lack of transparency, insofar as their internal operations and business networks and relationships are largely unknown."

This report is a living work, and will inevitably require updating and further supplementation, given the speed with which financial stakeholders chop and change in the pursuit of their objectives. Nevertheless, we hope that it can contribute to research aimed at raising awareness, calling out malpractice, and standing up for human rights. Above all, we hope that it is useful for those who are currently facing off against these giants in the fight for the right to housing in cities, and in the defence of human rights as a whole.

AN EXTRACTIVIST BUSINESS

Saskia Sassen affirms that vulture funds are, by their nature, extractivist (Sassen, 2017)[4].

The modus operandi of these funds is more similar to that of a mine, to be abandoned when its mineral resources are exhausted, than to a bank whose presence in the local area goes back several generations. In this sense, opportunistic investment funds do not intend to act as long-term real estate players, but rather to obtain the greatest possible profit in the shortest possible time.

This report focuses on the predatory activity of investment funds in Barcelona and its metropolitan area. It starts from specific cases on the ground - for example, an eviction - and then explains how these can be traced all the way back to an office in New York. In order to shed light on the issue, the Platform for People Affected by Mortgages (PAH, Plataforma de Afectadas por la Hipoteca) has produced a register of property owners behind eviction orders in Barcelona in recent years. This list highlights the impact of opportunistic investment funds and Sareb[5] on the housing system, as well as the emergence of local real estate companies engaged in predatory practices.

4 In the Report that precedes this work, three types of global stakeholder strategies for investment in housing in Barcelona and other cities were identified: opportunistic investment, investment to increase value, and investment in "secure assets". Where we use the term opportunistic investment funds, we refer to those engaged in the first of these. Further information: El *shock* inmobiliario en Barcelona. Caracteristicas generales dentro del contexto estatal e internacional. Observatorio CODE and Observatori DESC (2022, pp. 15-19).

5 Sareb (Sociedad de Gestión de Activos desde la Resestructuración Bancaria, S.A), also known as the bad bank, is actually a large public real estate company that was designed for privatisation. This is looked at in detail in the chapter *A covert privatisation.*

The report also investigates how these investment funds have acquired residential properties. Our research has drawn on data from the PAH register, providing an in-depth analysis of all aspects of real estate investment: sources of financing, tax evasion, and the number of properties acquired. The report concludes that the Spanish government has implemented a housing system for the benefit of the financial sector and at the behest of international actors. The role of banks and investment funds from the United States within this system has been paramount. In this regard, the covert privatisation of at least one million homes is a key piece of this study.

A housing system is shaped through the political decisions that establish what types of housing are available in a given local area. There are areas with similar social characteristics that nevertheless have very different housing systems in terms of mortgage debt, imbalance in rent or mortgage payments in comparison to income, urban planning, transport and social segregation. This study explains the main characteristics of Barcelona's housing system in comparison to others in France, Germany, the United Kingdom and Austria. The objective is to determine which of these systems has resulted in the greatest social cohesion, supposed the least financial burden on households and, ultimately, allowed for the highest standards of living .

The impact of investment funds and the financial sector is not limited to the housing sector, and extends to other basic needs. This is because investment in basic needs is safer than investment in consumer products, insofar as these are needs that cannot be avoided. Basic needs such as housing or education, among others, are protected as rights in the Universal Declaration of Human Rights. However, they have become financial commodities since the neoliberal revolution of the 1980s. This consideration informs the analysis which concludes this report, of the impact of financial speculation in the Global South, as well as the links between the world of finance and politics.

WHO CARRIES OUT EVICTIONS IN BARCELONA?

Evictions without alternative housing provision are a flagrant violation of the right to housing.[6] Despite the fact that legally-binding international treaties require States to protect this right, evictions of this type continue to be carried out. This trend is widespread across all parts of Spain, and Barcelona is no exception. The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has condemned Spain on these grounds in several of its findings (Benito, 2019).

Since 2013, the General Council of the Judiciary (abbreviated in Spanish as CGPJ) has published the number of evictions that occur in each judicial district annually.[7] It also provides details

6 Article 25.1 Universal Declaration of Human Rights: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, **housing** and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."
Article 11 of the International Covenant on Economic, Social and Cultural Rights: "everyone [has the right] to an adequate standard of living for himself and his family, including adequate food, clothing and **housing**, and to the continuous improvement of living conditions". Each person likewise has the right to social insurance and security against unemployment, illness, incapacity, widowhood, old age or other circumstances which entail the loss of their means of subsistence beyond their control.

7 In Spain, a judicial district (*partido judicial*) is a jurisdiction composed of one or more neighbouring municipalities belonging to the same province. The city of Barcelona is a judicial district unto itself. A map of these districts, as well as of the municipalities they include, is available via the website of the Ministry of Justice. To access the socio-economic information of judicial districts, please consult this resource from the CGPJ.

on the justification for these evictions. That is to say, it provides information about whether they are the result of a foreclosure, the non-payment of rent, or other causes, among them, squatting.

A total number of 3,289 evictions[8] were carried out during 2013 in the municipality of Barcelona alone. This number decreased to 2,125 in 2019. For its part, the state of alarm declared as a result of the pandemic caused the number of evictions to fall to 1,028 during 2020, with this figure subsequently rising again in 2021 to 1,755.

> **"The statistics provided by the judiciary do not identify who is behind these evictions. This is a political decision".**

Mortgages have gradually lost prominence as a causative factor in evictions in Barcelona. While in 2016 there were 381 evictions related to non-payment of mortgages, this figure dropped to 175 in 2019. Owing to the state of alarm, this figure fell even further in 2020 (59), although the overall number rose again in 2021 to 169.

The statistics provided by the judiciary do not identify who is behind these evictions. This is a political decision. Privacy legislation means that, where the applicant for an eviction order is a private individual, their anonymity must be strictly maintained. On the contrary, when the applicant is a corporate body, its identity may be revealed in accordance with the law.
Identifying those behind evictions is a matter of public interest. However, reliable information is not forthcoming from the justice system. As such, identifying those behind evictions very much depends on those involved in the sector, be they housing developers, residents affected by evictions, or those who carry them out.
The Barcelona PAH has compiled a register of evictions to help combat misinformation. This register identifies the eviction applicant where these are corporate bodies. It contains some inaccuracies owing to the manual introduction of data by activists.[9] In addition, the register only gathers information on evictions in which the PAH has intervened, totalling 427 between 2018 and 2021 in Barcelona. This figure represents just over 5% of the 7,289 evictions that have occurred in the city according to the CGPJ.[10]

Nevertheless, the register stands as a very valuable source of information, not least given that it is the only one available that specifies the type of owner behind the eviction order.[11] Al-

8 In Spanish, "desahucio" is the best known and most widely-used term, whereas "lanzamiento" is the judicial term (according to the *Diccionario panhispánico del español jurídico*: "Ejecución forzosa de una resolución judicial que priva a una persona de la posesión de un inmueble").

9 Material errors may have occurred during data collection. Likewise, data has been gathered in Spanish and Catalan, with resultant collection errors being possible, given that the same street can appear with different nomenclatures. Similarly, some of the same data may have been transcribed in different ways.

10 The list also includes evictions in other municipalities such as L'Hospitalet de Llobregat (54), Sant Adrià de Besòs (5), Castelldefels (1), Santa Coloma de Gramenet (1), Gavà (1), Cornellà (1) and Badalona (1).

11 Barcelona City Council has, in a number of reports, published information based on data gathered by its Intervention in Loss of Housing and Employment Service (SIPHO), highlighting the prominent role of big landlords in evictions in which it has mediated. The last report to

though the number of records does not allow for the identification of all the actors behind evictions in the city in their entirety, it does provide a sample of the types of organisations involved, and their presence in the city. By the same token, the register allows us to confirm some of the changes that have occurred in evictions in Barcelona over recent years.[12]

Analysis of data from the PAH Register

The register's data collection methodology changed between the periods 2018-2019 and 2020-2022 (until March 1st). For this reason, this report analyses the two periods differently.[13] The data recorded provides evidence of changes in the sector.

The PAH register contains the following data on evictions that occurred in the initial 2018-2019

be published, concerning evictions in 2020 and the first quarter of 2021, can be consulted via the following link (Informe sobre els desnonaments de famílies vulnerables a la ciutat de Barcelona: 2020 i primer semestre del 2021. Barcelona City Council, 2021).

12 For further information, please see the following reports on the housing emergency in Barcelona published by the PAH, the Alliance Against Energy Poverty, Observatori DESC, Engineers Without Borders and the Barcelona Public Health Agency: Emergencia habitacional, pobreza energética y salud. Informe sobre la inseguridad residencial en Barcelona 2017-2020 (2020), Informe sobre la situació del dret a l'habitatge, la pobresa energètica i el seu impacte en la salut a Barcelona (2018), Exclusión residencial en el mundo local: crisis hipotecaria en Barcelona (2013-2016).

13 Eduard Sala, a geographer, researcher and PAH activist in the city has gathered data for the period 2020, 2021 and 2022. Data for the period 2018-2019 was gathered by PAH activists.

APPLICANT 2018/2019	TOTAL	%	BANKS	FUNDS
RESIDENTS' ASSOCIATION	3	1,04		
BANKS AND INVESTMENT FUNDS	104	35,99	73 (25,26%)	31 (10,73%)
PRIVATE OWNERS	111	38,41		
REAL ESTATE	43	14,88		
PUBLIC BODIES	10	3,46		
SAREB	15	5,19		
NON-PROFIT ORGANISATIONS	3	1,04		
TOTAL EVICTIONS	**289**	**100**		

period and the data for the period 2020, 2021 and 2022 (until March 1st) is as shown in the tables below:[14]

The proportion of evictions carried out by private owners has remained stable over the two periods. In the period 2018-2019, they accounted for 36%, while in 2020-2022 they totalled 35.78%. As for evictions solicited by real estate companies, this percentage fell over the two periods (from 14.88% to 10.29%).

Records of evictions identified as "private" may also include multiple property owners, insofar as the classification covers any non-corporate applicants. Likewise, the category of "real estate" may include companies associated with stakeholders such as investment funds. Legislation by the Catalan government designed to tackle evictions and interruption of services covers both individuals and companies within the category of large real estate holders.[15] These holders, should they seek an eviction, incur obligations such as having to offer a below-market value rental agreement. Sareb, investment funds and banks are all included herein, as are all companies that own more than ten residential properties in Spain, and all individuals that own more than fifteen.[16]

14 The reasons given for evictions in the PAH register (2020, 2021 and 2022) are the non-payment of rent (39.71%), foreclosures (6.86%) and squatting (53.43%).

15 Law 24/2015, July 29, concerning urgent measures to address the housing and energy poverty emergency, article 5.

16 This is a legal definition which establishes the coupling of certain obligations, such as that of offering a social rental agreement as a means of avoiding eviction. This does not mean, however, that a company with only 9 homes, or an individual with 14, is not a multi-property landlord.

APPLICANT 2020/2021/2022	TOTAL	%	BANKS	FUNDS
RESIDENTS' ASSOCIATION	0	0		
BANKS AND INVESTMENT FUNDS	81	39,71	29 (14,22%)	52 (25,49%)
PRIVATE OWNERS	73	35,79		
INMOBILIARIA	21	10,29		
PUBLIC BODIES	6	2,94		
SAREB	23	11,27		
NON-PROFIT ORGANISATIONS	3	0		
TOTAL EVICTIONS	**214**	**100**		

Housing rights activists have confirmed the existence of large holders who have circumvented these legal obligations through the creation of companies with portfolios of fewer than ten properties. Nevertheless, these practices could be easily detected were Spain to launch a Registry of Actual Ownership, as required by the January 2020 European Union directive against money laundering (P. Rámirez, 2021).

Evictions solicited by public bodies have also remained constant, albeit to a lesser extent, over both periods. On the other hand, evictions applied for by Sareb doubled between the two periods, representing just over a tenth of evictions in the second period. This report explains and analyses the changing profile of Sareb in the chapter “A covert privatisation”.

“Vulture funds have replaced banks as the principal applicants for evictions”

The financial sector, composed of banking and investment funds showed a similar degree of involvement across both periods (36% and 40%, respectively). As the data shows, these funds - colloquially referred to as “vulture funds” - have replaced banks as the principal applicants for evictions. While during the first period bank-solicited evictions amounted to 25%, in the second they fell to 14%. Conversely, evictions solicited by investment funds accounted for 11% during the first period, rising to 25% in the second. This is the result of the purchase by these funds of tens of thousands of mortgage loans pertaining to persons in debt to their banking service provider. For example, and as verified by the aforementioned register, where in 2020 BBVA applied for the eviction of a residential property, in 2021, the registered applicant for the same eviction was Avir Investments 2016 S.L., a Blackstone shell company.[17] The reason is that Blackstone had purchased BBVA’s mortgage debt, which BBVA had itself acquired from the now-defunct Caixa Catalunya. The significance of these organisations in evictions, and just how such large financial transactions were carried out, will be explored in further detail later in this report.

The appropriation of housing by investment funds has been made possible by violations of debtors’ rights, specifically, the debtor’s right of redemption after legal proceedings commence. The fact that a bank is still officially listed as the eviction applicant is aimed at impeding the debtor’s right of redemption, enshrined in civil law. The right of redemption holds that, where the bank as the holder of a mortgage debt sells this debt to an investment fund, the debtor must be informed, and has the right to write off the debt by matching the price for which it has been sold. Banks and investment funds are known to engage in subterfuge to avoid informing the debtor, as is the case of the mortgage loans sold in bulk by banks at extremely low prices.

These “legal tricks” create a procedural headache for the vulture fund purchasing the loans: should they detect the need to apply for an eviction, the court could consider that the fund has no legitimacy to place such a claim.[18] For this reason, banks often appear as the applicants of evictions, even if the holder of the debt is an investment fund. As such, the true role of investment funds as “evicters” is greater than the statistics show, to the same extent that the true role of banks in the same process is lesser.

In the chapter “A covert privatisation”, we also explore the reasons why Spanish financial institutions were forced to sell their property holdings hastily and at knock-down prices.

17 The property was located on C/ Sidó in Barcelona.

18 This strategy is, in fact, used by social housing activists to postpone evictions, as well as lawyers working ex officio on behalf of individuals and families facing eviction.

CASES OF PARTICULAR RELEVANCE IN BARCELONA

The real estate holdings of the major Catalan financial institutions have ended up in the hands of opportunistic investment funds. As such, these institutions and their subsidiaries frequently appear as applicants in the evictions registered by the PAH.

We will look shortly at some of the major real estate sell-offs of recent years. Other major investment funds such as the Texas Pacific Group also appear in the register. This fund took control of a significant portfolio of 2,964 residential properties belonging to Sareb. Cabot Investments, KKR and the Norwegian vulture fund Intrum also appear.

The PAH register has also detected the entry into the market of medium-sized real estate investors engaged in predatory practices. These are discussed at the end of this chapter.

The sale of Caixa Catalunya loans to Blackstone

According to data from the register covering 2020-21, Blackstone applied for 24 eviction orders. These account for 11.76% of the total. Blackstone, together with Sareb (11.27%), is the most frequent applicant for eviction orders in Barcelona.

Blackstone uses shell companies to carry out its business operations, and it is these companies which apply for eviction orders. Most prominent among them is Budmac Investments SLU, with 10 applications to its name (4.90%).[19]

Budmac Investments I and II are the two companies into which Blackstone clustered overdue loans in Catalonia that it had previously purchased from the defunct Caixa Catalunya. On April 15th, 2015, Blackstone purchased a portfolio of 102,055 defaulted loans.[20] These arrears came from defaults on credit card payments (15,569) and, above all, from secured personal loans (23,928) and mortgages (60,960). Given the strong presence of Caixa Catalunya in the region, most of these loans were made to residents of the metropolitan area of Barcelona. Blackstone paid 3,598 million euros for this loan package. The sale of this portfolio occurred following the nationalisation of Caixa Catalunya, and as such, serves as an example of covert privatisation.

Blackstone's strategy was to foreclose these mortgages in order to gain ownership of the homes held as collateral for the loans. In practice, this meant that when the debtor defaulted on a certain number of instalments, the fund could foreclose the mortgage and take possession of the property. Moreover, debtors remained tied to often unmanageable and ever-increasing mortgage payments, which were not voided even following repossession of the property.

Blackstone as an investment fund, as explained previously, is geared towards cutting and running as soon as it has gained all that stands to be gained. This type of exit strategy makes such funds less vulnerable to reputational damage than banks. For banks, there is a greater risk in terms of their image given their deliberate visibility as institutions of power. Indeed, their headquarters are often the tallest buildings in the city in which they are situated. The banking sector invests large sums in advertising to attract customers. However, evictions undermine its image. It is harder, therefore, to put pressure on Blackstone, Cerberus or Lone Star than on the big banks. Furthermore, the division of investment funds into various smaller companies also renders it more challenging to identify precisely who is behind an eviction order or a demand for payment of an outstanding debt which has been sold to a third party.

"According to data from the register covering 2020-21, Blackstone applied for 24 eviction orders. These account for 11.76% of the total. Blackstone, together with Sareb (11.27%)"

19 It is believed that three more evictions from the list were also applied for by Budmac. Although Caixa Catalunya is listed as the applicant, Blackstone is almost certainly behind these evictions.

20 Articles of association of FTA 2015, Asset securitisation fund. April 15, 2015.

BLACKSTONE EVICTS

In 2015, the PAH identified the transfer of a significant mortgage debt portfolio from the defunct Catalunya Banc - a Spanish financial institution rescued with 12 billion euros (15.4 billion US dollars) of taxpayers' money - to Blackstone, the US real estate investment fund which bought part of the bank.[21] The families that had been negotiating a solution with Catalunya Banc found themselves up against a faceless giant without an office, and with whom it was impossible to talk.

As a result of this discovery, the various PAH organisations within Catalonia mobilised to create the "Blackstone evicts" campaign, raising public awareness about who the company was, and that it was poised to evict thousands of families at the expense of purchasing their toxic loans at a "knock-down price". The PAH also contacted international activists to get across the message they had for Blackstone: "The fight for housing rights is global and we're not going to let them take away our homes". As a result, an international alliance was created to speak out against the situation and stop the sale of the loans. **In 2015, like-minded campaigns sprang up in New York, London, Madrid, Barcelona and elsewhere.**

Over the following years, a series of different protests have been carried out, including the squatting of a range of properties belonging to the investment fund, such as **empty flats**, hotels, **its Catalan headquarters in El Prat del Llobregat, and its central offices in Mataró**.

In **2018, a report** highlighting malpractice and financial fraud was presented at a committee hearing in the Congress of Deputies, before which both Tinsa and Blackstone had been summoned to appear in relation to the sale of public housing in Madrid to the latter investment fund. This also coincided with the tragic death of a resident of Cornellá, who took his own life ahead of his eviction from a Blackstone property for rent arrears, pushing the PAH to begin the "**Blackstone kills**" campaign.

In 2022, the PAH continues to push back against this giant, and has managed to stop hundreds of evictions thanks to its negotiating heft, the result of a campaign of peaceful civil disobedience over recent years. We are now witnessing history on the verge of repeating itself, with Blackstone seeking to evade responsibility by ridding itself of a range of portfolios and passing them on to shell companies. This is being closely monitored by the PAH, and those affected are readying themselves to speak out and work to find practical ways to prevent evictions.

More information at

http://pahbarcelona.org/wp-content/uploads/2018/06/InformeBS-_PAH-20180627.pdf
https://directa.cat/blackstone-el-fons-voltor-que-acapara-mes-habitatges/

21 Altogether, Sareb paid almost 20 billion euros to acquire the assets belonging to the bailed-out Catalunya Banc. Catalunya Banc, made up of Caixa Catalunya, Caixa Manresa and Caixa Tarragona. The sum of Sareb's purchases totals €6,708,300,000.

The sale of BBVA -Caixa Catalunya's real estate holdings to Cerberus

According to data gathered in the register, 15 applications for eviction orders were made by Cerberus over the period 2020-2021, representing 7.35% of the total. Cerberus is the third most frequent applicant in the city after Sareb and Blackstone. This fund also makes use of shell companies. One of them, Divarian, applied for 11 (5.39%) eviction orders over the period.

On October 10th, 2018 BBVA sold a considerable portion of its real estate holdings to Cerberus. In particular, it sold those that it had acquired through its purchase of Caixa Catalunya following that bank's nationalisation.

The operation was carried out as follows: BBVA created a company, Divarian Propiedad, S.A., to which it transferred 61,944 real estate properties. These assets were mostly mortgage debts. Many of the mortgages had been foreclosed and the property repossessed. BBVA then sold 80% of the company's capital to Cerberus for a price of around €2.32 billion.[22]

22 BBVA sold company shares to Cerberus. As such, this sale does not have to be notified in the Land Registry, saving Cerberus administrative costs. Furthermore, purchases made by investment funds are not taken into account in the statistical data provided by the Land Registry; consequently, these funds are often heavily underrepresented in the bulk of statistics gathered.

Cerberus only put in 230 million euros of its own. Where did it get the rest of the money from?

Speculation using third-party funds

Cerberus sets up funds in tax havens, through which investors lend money in exchange for a return. Investors are typically US pension funds, wealthy individuals, or sovereign wealth funds. These funds are usually operative for a period of five years. Cerberus took 450 million from the funds it managed, and added 230 million from its own budget. Together, this came to some 680 million. The bulk of the funding of the purchase, however, came from the banking sector. It made up the shortfall through a €1.64 billion loan. The European Central Bank and the Federal Reserve of the United States lent the money at an interest rate of almost 0%. Financial institutions obtained this money almost free of charge, and then lent it to funds such as Cerberus at a higher interest rate, with repayment over five years.[23] The backers behind this operation were Morgan Stanley, Deutsche Bank and Bawag Group. It should be remembered that Morgan Stanley is one of the largest investment banks in the world. For its part, Cerberus was one of the largest shareholders of Deutsche Bank at the time, in addition to owning the Austrian bank Bawag. Cerberus was thus able to use these banks to benefit from the low-cost loans provided by the

23 The interest rate set was the monthly Euribor +2.75% for tranche A of the loan, and Euribor +3.75% for tranche B. 2018 Accounts of Promontoria Marina, S.L.

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European Central Bank.

As things stand, Cerberus is obliged to return the money to its creditors and its own investors within five years. To be able to do so, it must quickly sell the properties it purchased as part of the aforementioned deal. Cerberus continues to sell both properties to individuals and real estate holdings to smaller rivals both locally and abroad.

In eviction orders, BBVA may appear as the applicant when, in fact, the true applicant is Cerberus. This is due to the problems of procedural legitimacy that have been explained above. It can therefore be surmised that the 11 eviction orders applied for by BBVA over 2020-2021 may in fact have been initiated by Cerberus.

The sale of Banc Sabadell's real estate holdings to Cerberus

On July 9th, 2018 Cerberus purchased the real estate holdings of Banc Sabadell. These holdings consisted of 61,000 properties and mortgage debts. They came from both the bank itself and, above all, from the Mediterranean Savings Bank (CAM, Caja de Ahorros del Mediterráneo). Bailing out the CAM cost the exchequer 12,598 million euros. Subsequently, the government sold the CAM for 1 euro to Banc Sabadell. The sale of its real estate holdings is another example of covert privatisation.

Cerberus used shell companies to push through this deal, specifically, Promontoria Coliseum Real Estate, S.L. and Promontoria Coliseum Residential, S.L. These companies appear as applicants for three eviction orders over 2020-2021 (1.47%). Five further evictions applied for by Banc Sabadell may also have been initiated at the behest of Cerberus. It is safe to assume that the role of these companies in Alicante is even greater, given that this was the region in which the CAM was most active.

Cerberus structured the deal in a manner very similar to the Divarian purchase. It contributed €165 million from its own resources while borrowing an additional €447 million from the funds it had set up. The remainder of the financing, €2.3 billion, came from a loan granted by Deutsche Bank and Bawag. As noted above, Cerberus held a varying degree of sway in both of these banks. The terms of the deal are also limited to five years. Therefore, Cerberus must sell these properties by 2023 in order to repay the loans it took out.

"WAR ON CERBERUS"

In 2020, Catalan housing rights activists, tenants' unions and PAHs began a concerted fight-back against the Cerberus investment fund.

The campaign came together at the first **Housing Congress of Barcelona**, held in November 2019, at which groups from all over the country debated different strategies to advance their aims. One of the joint campaigns that was agreed as a result of this event was to raise awareness about and put pressure on the Divarian-Cerberus-BBVA scheme, since it was behind *"the suffering of those around us, the expulsion of thousands of families from their homes, and that is why we have decided to call it out as our enemy"*.[24]

In November 2019, hundreds of people occupied the Barcelona headquarters of Haya Real Estate (Cerberus)[25], publicly launching the "War on Cerberus" campaign, which has clear objectives and demands:

- A regulatory settlement negotiated between housing activists and Cerberus.
- The provision of a point-of-contact by Cerberus.
- Unification of action taken by housing activists.
- The application of Law 24/2015 preventing evictions, and Law 11/2020 regulating property leasing (as urgent measures in order to deal with skyrocketing rents).
- Expropriation of all of their real estate holdings.

And a series of actions to achieve this:

- Widen the net to mobilise more Cerberus property tenants.
- Use the campaign name in anti-eviction actions.
- Take back properties through squatting.
- Direct action against Cerberus.
- Put people threatened with eviction by Cerberus in contact with one another.

More information at:

Twitter: **@GuerraACerberus**
https://directa.cat/cerberus-el-guardia-de-linframon-del-capital/

24 Final presentation to the Congress (pages 45 et seq.). For further information: https://congreshabitatge.cat/

25 More information at: https://www.eldiario.es/catalunya/barcelona/activistas-vivienda-ocupan-sede-fondo-cerberus-barcelona-protestar-desahucios_1_6470436.html

The sale of Caixabank's real estate holdings to Lone Star

Over the period 2020-2021, there were six recorded eviction orders applied for by Lone Star, accounting for 2.94% of the total. Following Sareb, Blackstone and Cerberus, Lone Star is the fourth most frequent applicant in the city, according to available data. A further four eviction orders applied for by Caixabank may relate to properties purchased by Lone Star.

"The assets also came from banks previously bailed out by the state and subsequently allocated to Caixabank, in yet another example of covert privatisation."

On June 28th, 2018, Lone Star purchased 77,000 real estate properties belonging to Caixabank. Most of these were housing properties. Caixabank retained a 20% stake in these homes. The assets also came from banks previously bailed out by the state and subsequently allocated to Caixabank[26], in yet another example of covert privatisation.

Lone Star carries out its operations in a manner similar to Cerberus, Blackstone and other opportunistic funds using shell companies. In this case, these companies are BuildingCenter, S.A. and Coral Homes, S.L.

Lone Star contributed 735 million euros from its own funds and money it borrowed from investment funds it had set up. The rest of the financing was provided by Caixabank itself (450 million euros) and a loan of 2,898 million euros granted by Morgan Stanley. Lone Star must repay the loan within five years, that is, before December 2023.

Investment fund tax strategies

The strategies these funds use to evade taxes are similar. Cerberus uses the Netherlands' tax regime for cooperatives for this purpose. Lone Star uses a scheme designed by Luxembourg which enables multinationals, mainly from the United States, to avoid paying corporate tax both in Europe and in their country of origin *(Preferred equity certificate)*. For its part, Blackstone also uses the Luxembourg tax regime. Through loans between each group's subsidiaries, they are able to hide profits as interest payments in their accounts. This is done as interest paid by companies within the same umbrella group is exempt from taxation in Luxembourg.

Opportunistic investment funds channel investments from tax havens in Europe - the Netherlands, Luxembourg and Ireland - to companies headquartered in other tax havens such as the Cayman Islands or Bermuda. In this way, they avoid paying taxes and prevent the true beneficiaries of these operations from being identified.

26 These are Banco de Valencia, Caja Navarra, CajaSol, Caja Canarias, Caja Burgos, Sá Nostra, Caixa Penedès, Caja Granada and Caja Murcia. The bailout of these banks came to a combined cost of 8,725 million euros.

"Opportunistic investment funds channel investments from tax havens in Europe - the Netherlands, Luxembourg and Ireland - to companies headquartered in other tax havens such as the Cayman Islands or Bermuda".

The influence of tourism: private and corporate investors

Real estate companies play an important role in the city. These are often medium-sized entities, seeking to make an easy profit from tourism. According to data from the PAH register, the majority of real estate companies which apply for eviction orders are locally owned. This is the case of Optimum RE Spain, SOCIMI S.A. which appears in the register during the period 2018-2019.

Information document for incorporation into the Bursatyl Alternative Market, Socimi segment (MAB Socimi) of the company's actions. OPTIMUM RE SL SOCIMI S.A

Optimum RE Spain, SOCIMI S.A. was established by BMB Investments, S.L., a local company dedicated to the management of real estate investments. In 2014, it established Optimum and acquired SOCIMI status in order to avoid the payment of corporate tax. Indeed, the company itself is on record as saying that SOCIMI tax advantages were a key part of this business plan.[27] Optimum held 50 million euros in capital contributed by nine Barcelona investors operating either in a personal capacity or through intermediary companies. Over 2015 and 2016, Optimum bought fourteen residential buildings in Barcelona and one in Madrid. These buildings were located in historic areas of the city. Optimum used the following map to identify its properties.[28]

Optimum's strategy is known in business jargon as *value-add investment*. As part of this strategy, the company refurbished each property following the expulsion of its long-standing tenants. The real estate company Norvet, which appears on the register during the period 2020-2021, also employed this strategy.[29] Unlike aforementioned stakeholders which profit through the foreclosure of loans, Norvet takes advantage of the singularity of the urban environment, in addition to rental regulations which infringes the right to housing, in order to drive families out of their homes.

27 Informative document ahead of inclusion on the Alternative Stock Market, SOCIMI segment (MAB Socimi) concerning the company's shares. OPTIMUM RE SL SOCIMI S.A. Accessible at: https://www.bmegrowth.es/docs/documentos/Otros/2016/09/PROVI_Folleto_20160923.pdf

28 See footnote on the previous page.

29 https://norvetbcn.com/es/nuestra-empresa/

With the support of housing activists and social campaigners, the residents of a property located at Calle del Carme 106 reported Optimum for harassment.[30] The real estate agency had used various strategies to harass the residents and thus encourage them to abandon their homes. One such strategy consisted of allowing shared areas of the building to fall into disrepair. Another consisted of allowing drug addicts access to these areas[31], with the aim of making the lives of the residents unbearable (García, 2018).[32]

"*Gentrification* affects businesses, schools and health centres, causing them to lose users and customers. This has knock-on effects which make it increasingly difficult for people to continue to reside in their local area"

This forms part of a wider strategy of transformation of the urban environment. This is being carried out through the replacement of

30 For further references, please consult: https://sindicatdellogateres.org/es/stop-mobbing-aturem-lassetjament-immobiliari/

31 In other cases identified in the Raval neighbourhood, the general rule is that drug addicts enter these properties because those who live there, without impediment from or even with the tacit consent of the landlord, are drug dealers who use the property for distribution.

32 Several organisations such as the Tenants' Union, Observatori DESC and PAH Barcelona registered a complaint against the company for harassment of its tenants. Further details from press articles: https://catalunyaplural.cat/es/entidades-por-el-derecho-a-la-vivienda-apuestan-por-la-via-administrativa-para-denunciar-casos-de-acoso-inmobiliario/, https://elpais.com/ccaa/2018/07/17/catalunya/1531836635_779323.html

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long-standing residents with new ones with higher purchasing power. These are often non-national and seasonal residents whose stay in the city is related to tourism or business. This strategy, known as *gentrification*, puts paid to the character of the area in which it occurs. *Gentrification* affects businesses, schools and health centres, causing them to lose users and customers. This has knock-on effects which make it increasingly difficult for people to continue to reside in their local area.

The aim of Optimum's investors was to sell the company when it had found enough tenants who were willing to pay the new rents. Once this was accomplished, the owners of Optimum sold the company to Cerberus, which has been the owner since December 2021.

Thanks to the SOCIMI tax benefits scheme, these investors are not required to pay corporation tax on the profits they have made from the sale of Optimum, leaving the harm done to the residents who they have tried to expel in their wake. To this harm we must add the damage done to the city of Barcelona and its identity by these kinds of investments. In this particular case, residents succeeded in stopping an initial attempt at expulsion through a public awareness-raising campaign. This campaign put pressure on the owners via a series of actions. Barcelona City Council also played an important role: through its sanctions for real estate harassment in 2019, it enabled the residents to remain in their homes. It has also been possible to keep rents the same for the next three years.[33]

33 It is likely that this conflict will reappear in 3 years time, all the more so considering that the building has been acquired by Cerberus: https://sindicatdellogateres.org/es/la-lluita-per-baixar-els-lloguers-avanca-victoria-historica-davant-una-gran-socimi/

The process of privatisation, consolidation and deconsolidation

The section of this report titled "The Basel III agreements and opportunistic investment funds" explains how international financial and political institutions designed the covert privatisation of the real estate assets of the banks bailed out by the state.

These entities were obliged to dispose of their real estate holdings before 2019 for the reasons explained therein. Owing to the chaotic situation in which financial institutions found themselves following market consolidation, they were unable to sell each asset separately within the time frame required by international regulators. Banks therefore chose to group mortgage loans with defaults, repossessed homes, loans made to real estate companies, unfinished homes and vacant lots, in order to sell them as part of the kind of large packages analysed in this chapter.

Only a select few large opportunistic investment funds from the United States had the capacity to carry out the purchase of these packages.[34]

34 The reason is that, in addition to their own capital and the capital raised by the investment funds themsel-

Taking advantage of Spanish banks' need to get rid of them, investment funds were able to buy this real estate at knock-down prices. Their business plan was to sell these goods on the market, using the "economy of scale" to make a great profit. It should be kept in mind that the goal of an opportunistic investment fund is not to become a real estate company, but to earn as much money in the shortest possible time. For this reason, these funds did not create any business structures in Spain. Instead, they maintained only the existing real estate structures inherited from the banks, in order to sell the greatest amount of goods in the retail market.[35] They also chose to divide the real estate packages and sell them to smaller investment funds. As an example, Tilden Park bought 2,500 homes from Coral Homes, a Lone Star company created using assets from Caixabank .

The international financial sector considers the housing sector in Spain a risky market owing to the dispersal of properties, a result of their having been acquired through eviction, and a factor which would hinder their management. In addition, the Spanish housing system is not considered to provide the same constant and predictable flow of income as that provided by, for example, the German market.

ves, they also enjoyed financial backing from Wall Street via loans based on the expansionary monetary policy of the Federal Reserve. The way to operate is explained in detail in the chapter "A who's who of owners and landlords".

35 The real estate portfolios belonging to Blackstone Anticipa and Aliseda come from Caixa Catalunya and Banco Popular respectively.

Opportunistic funds that have entered the Spanish market have employed exclusively predatory strategies based on buying homes at knock-down prices and selling them in less than five years. However, in other more stable markets such as Germany, funds with long-term strategies such as BlackRock (Cuneo, 2021) and Vanguard have made large capital investments. Both companies are among the shareholders of Vonovia, which is the largest German residential property owner, with 400,000 homes.

"It should be kept in mind that the goal of an opportunistic investment fund is not to become a real estate company, but to earn as much money in the shortest possible time".

Generally speaking, the major opportunistic investment funds are working towards bringing their businesses operations in Spain to a close as soon as possible. It is true to say that the pandemic threw a spanner in the works, in terms of their business plan. Blackstone, together with Banco Santander, carried out the largest housing purchase in Spain by buying the real estate assets of Banco Popular. The latter's assets consisted of 80,000 residential properties and 40,000 loans. The company created for this purchase, Quasar, is at high risk of insolvency. The consortium of banks that financed the sale of Banco Popular's real estate has begun an audit of its accounts (Gabarre, 2021). The banks which provided the initial credit refinanced Quasar's debt, which was due to be settled in 2023, until 2026 (Bayonne; Ruiz, 2022). Had it not been for

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the largesse of the central banks, Quasar would have gone bankrupt.

"Another investigation, in this case from El Crític, revealed that ten large companies had accumulated 25,000 rental apartments in Catalonia"

Be that as it may, the major opportunist funds have become the biggest landlords in Catalonia as a result of this process of covert privatisation. At the time of an investigation carried out by the newspaper La Directa, Blackstone controlled 5,550 flats in Catalonia through a web of companies. According to the property registry of the Catalan government, 73% of these flats were empty (García, 2022). Another investigation, in this case from El Crític, revealed that ten large companies had accumulated 25,000 rental apartments in Catalonia (Aznar, Palà, 2021) . Unfortunately, the Catalan Land Institute (Incasòl) did not grant this outlet access to information concerning the identity of these owners. The Commission for the Guarantee of the Right of Access to Public Information (GAIP) subsequently upheld an appeal made by El Crític, however, the Chamber of Property has filed a counter-appeal before the High Court of Justice of Catalonia against the disclosure of this data to which El Crític must respond (Palà, 2021).

According to their investigation, 173,315 rental properties in Catalonia are in the hands of large real estate holders. Of these, 10% belong to local authorities, 20% to individuals, and approximately 70% to commercial companies which own 119,765 properties across Catalonia. This same proportion is reflected in Barcelona, where local authorities account for around 10% of large-scale residential property ownership. A further 25% are in the hands of individual owners, with commercial companies owning 45,674 homes, or 67% of the total (OMH, 2020).

WE'RE NOT GOING ANYWHERE!

The birth of the Sindicat de Llogateres tenants' union in 2017, primarily to respond to rental market speculation, is a touchstone for tenants' rights in Catalonia. Speculators have entered the market, placing the need for stable housing in danger, and encouraging gentrification.

Predatory strategies aimed at the acquisition of multi-family blocks in the metropolitan area of Barcelona are designed to narrow the rent gap in favour of business interests. The rent gap refers to the difference between a rent relatively commensurate with the income of the settled population, and the maximum rent speculators can obtain from exogenous demand.

Since the reduction of the duration of leases following the passing of the Urban Leases Act 2012, hundreds of thousands of residents have received notice of termination of contract signed by new owners, with the intention of evicting them from their homes.

The tenants' union has denounced this phenomenon as "**invisible eviction**"[36], with many families having given in and left their homes without a fight. The fundamental demand of the "Ens Quedem!" (We're Not Going Anywhere!) strategy is to be able to remain in the same home, paying the same rent as before. To achieve this, the following tactics have been deployed:

- Collective negotiation as a means to overcome the frequent lack of access to information and bargaining power of tenants.
- Use of standing authorizations in order to continue payments and avoid arrears.
- Report real estate harassment and malpractice, in order to both put a stop to it, and to encourage out-of-court negotiation.
- A resistance fund to defend families involved in possible legal proceedings.

The campaign has had some resounding successes, with many residents able to remain without increases in their rent in areas such as the **Raval**, **Eixample**, **Sant Andreu**, **Sant Antoni**, **Zona Franca** and **Sant Joan Despí.** Speculators often operate nationally (**Azora**, **Blackstone**, **Caixabank**, **Optimum**, Medasil). In some cases, Barcelona City Council has issued fines or requisitioned the properties under threat of eviction.

More information at:
https://sindicatdellogateres.org/es/ens-quedem/
https://sindicatdellogateres.org/es/recursos/mapes/

36 The Hidra Cooperativa, the Barcelona Public Health Agency, and the Institute of Government and Public Policies (Universitat Autònoma de Barcelona), with the support and collaboration of the Tenants' Union. «Impactes socials del mercat de lloguer. Enquesta sobre les condicions de vida de la població llogatera a Barcelona i l'àrea metropolitana», Accessible via: https://lahidra.net/informe-impactos-sociales-del-mercado-de-alquiler-encuesta-sobre-las-condiciones-de-vida-en-barcelona-y-en-el-area-metropolitana/

A COVERT PRIVATISATION

Public authorities have generally designed housing systems to the benefit of the financial sector. Spain has moved from a system designed to maximise profits in the finance sector via wholesale mortgage concessions, to a system in which real estate profit is shared between financial institutions and investment funds.[37]

This has been motivated by the restrictions placed on granting mortgages by international banking regulations. A mortgage can now be provided only to those who are able to provide 20% of the total value up front. This system leaves a large part of the population, as tenants, vulnerable to their landlords' desire for profits.

Countries that have based their housing policy on a mixed system of ownership and rent ensured that a significant portion of housing stock remains off-market; in other words, *de-commercialised*. This has been achieved through large public housing rental schemes and through non-profit social housing. This is the case in the Netherlands, France and Austria, where a balance has been struck between the interest of tenants and landlords.

The Spanish government could have turned over a significant portion of the housing stock it acquired through its bailout of financial institutions for public use. In doing so, it would have gone a long way to protecting tenants' rights to housing. However, it chose to sell these housing packages via Sareb, as well as auctioning off the real estate belonging to the financial institutions it bailed out.

37 La evolución del sistema de vivienda se analiza en el Informe ya referenciado "El shock inmobiliario en Barcelona".

In total, between Sareb and the largest six deals in which housing was sold to opportunistic investment funds, the state has privatised around one million homes. All of these sales were directly or indirectly underwritten with public money (Gabarre, 2021). The political decision to privatise these assets has had serious consequences in terms of human rights, for example, in the form of evictions and the unmanageable housing costs borne by tenants.

Sareb and the assets belonging to the bankrupt banks could have been used as a starting point for a public housing agency. Such a move could have been profitable for the state, which would also have preserved its enormous housing stock. Moreover, the assets belonging to Sareb and the bailed-out banks met all the required conditions: they were evenly distributed throughout Spain, and covered vacant lots and incomplete developments as well as finished houses.

Sareb, the "bad bank"

While Sareb declares on its website that "we work each day to help strengthen the real estate and financial sector", this institution[38] is responsible for 5% of the evictions that appear in the first PAH register (2018-2019) and 11.27% of the evictions in the second register (2020-2022). The reason why Sareb has increased its pressure on occupants is the urgency with which it is required to sell its properties. This haste is the result of a black hole in Sareb's accounts that it has been carrying since 2015.[39] The situation reached the point that the European Commission forced Spain to nationalise Sareb's debt, as the company was at risk of going under.[40]

The state financed Sareb through a covert loan of more than 50 billion euros, of which the latter has yet to repay 35 billion. The purpose of Sareb is to sell the 500,000 homes it acquired from bankrupt financial institutions. Once all of these have been sold, the state will have to pay the debt generated by Sareb.

Sareb is nothing more than a large public real estate company that the state is progressively privatising. Despite the economic and social cost of Sareb, the government has decided to maintain the model designed by Luis de Guindos, the erstwhile Popular Party politician and Minister of Economy from 2011 to 2018. This model consisted of the sale of assets through

38 For more information on Sareb, investment funds and other matters related to the financialization of basic needs, please consult the website www.manuelgabarre.com, where Manuel Gabarre's articles on this subject are freely available together with the book "Tocar fondo: la mano oculta detrás de la subida del alquiler". One of the chapters of this book focuses on Sareb.

39 Since 2015, Sareb has been in a process of dissolution in accordance with accounting regulations. However, in 2016, the Minister of Economy Luis de Guindos introduced a specific regulation covering Sareb with the aim of absolving its partners of further contributions.

40 The European Commission, through its statistical body, Eurostat, demanded in February 2021 that the Spanish government include Sareb's debts in its public debt figures. This debt amounts to €35.6 billion according to Eurostat, or €37.673 billion according to the latest accounts submitted by Sareb (2020).

financial intermediaries. To this effect, the government has identified two investment funds from the United States as buyers of Sareb's leftover assets in 2022: Blackstone and KKR. The conflict of interest is self-evident. Blackstone is one of the main players in the real estate market, as described above (García, 2022). For its part, KKR is a large opportunistic investment fund with interests in sectors such as housing, health and the media. These two funds are known throughout the world for their poor practices as regards the right to housing. Kaare Dybvad, the Danish social-democratic housing minister, pointed to Blackstone as an example of an investor with an "infamous" business model (Buttler, 2019; Pushback talks, 2021). The minister accused the company of exploiting legal loopholes in order to increase rents. In 2020, he enacted what was colloquially referred to as the Anti-Blackstone Law, to protect the right to housing in his country (Sindicat de Llogateres, 2020).

"Kaare Dybvad, the Danish social-democratic housing minister, pointed to Blackstone as an example of an investor with an "infamous" business model"

The location of Sareb's residential properties and the price at which they have been sold have never been made public. The state intends to continue the privatisation of Sareb by the back door, through financial intermediaries, bypassing legislation on public sector tenders and contracting opportunistic funds as brokers. The following section explains how this deal has been orchestrated.

Creation of Sareb

Sareb was created as part of the bailout of Spain's financial institutions. The conditions of this bailout were established in an agreement signed in 2012 by the European Commission and Luis de Guindos, representing Spain.

The purpose of Sareb was to purchase the real estate assets of savings banks and private banks that had gone bankrupt following the bursting of the real estate bubble.

Sareb is particularly active in Barcelona, since it acquired a large number of assets from Catalan financial institutions. It purchased real estate from the following banks:

a. Catalunya Banc, made up of Caixa Catalunya, Caixa Manresa and Caixa Tarragona. Sareb's purchases total €6,708,300,000.
b. Caixa Penedès (part of Banco Mare Nostrum).
c. Caixa Laietana (part of Bankia).

Sareb was set up with a capital of 4.8 billion euros. 45% of this total was contributed by the state through the Spanish Executive Resolution Authority (FROB, Fondo de Reestructuración Ordenada Bancaria). The remaining 55% was contributed by financial institutions based on their presence in the market. Santander, Caixabank and Banco de Sabadell were the initial private investors in Sareb. With the exception

of BBVA, the entire banking sector responded to Luis de Guindos' call for help. De Guindos had been director of Lehman Brothers in Spain and Portugal from 2004 until the bankruptcy of the investment bank in 2008, a bankruptcy that triggered the global financial crisis.

Sareb's assets

According to Sareb itself, it acquired 500,000 homes in 2012. This figure includes properties held as securities for loans. Its assets consisted of 100,000 physical properties, 400,000 properties held as securities, and about 70,000 loans, according to figures provided by Sareb in 2015. These assets covered land, housing and, above all, loans to real estate developers.[41] In other words, 80% of the assets purchased by Sareb were loans to developers. These developers had gone bankrupt and, consequently, were unable to pay their debts. These loans were backed by guarantees in the form of housing or vacant land. Among these were housing units of all shapes and sizes, from luxury homes to unfinished buildings. The same was the case with regard to the vacant land acquired: some were in strategic locations in major cities, while others did not even have access to basic services.

41 Readers may, quite reasonably, have wondered whether Sareb has held onto foreclosed homes of the portfolios of bailed-out banks that it absorbed. Sareb states on its website that "we do not own private mortgages. The mortgages in our portfolio are company loans and loans to developers of over 250,000 euros." What we do know is that private mortgages belonging, for example, to Caixa Catalunya were sold to Blackstone. This issue requires further investigation, taking into account Sareb's lack of transparency.

Sareb paid 50,781 million euros for assets which had been valued at 107 billion euros. However, a number of these assets had been heavily devalued, particularly the unsecured loans made to developers and the land outside of residential zones.

How was this deal possible?

The answer is that Sareb received a 51 billion euro loan from the European Union. Sareb's mission was to sell the assets it had acquired and repay the loan over 15 years with the money it received from these sales.
That notwithstanding, the key aspect of the loan is that the Spanish state acted as guarantor. In other words, any quantity not paid back by Sareb would become the responsibility of the state, as was eventually made clear by Sareb's nationalisation. All parties were aware that the business plan submitted by de Guindos to the European Commission was bogus. As such, the state's role as guarantor served to hide the true nature of Sareb. The European Union had in fact provided a loan to be repaid by the Spanish state. Sareb, therefore, represented a large public real estate company whose property holdings were to be privatised.

What assets has Sareb sold, and to whom?

Sareb has not published a list of those it has sold its assets to. Sareb's financial intermediaries have sold some of these assets to private individuals. However, most of these intermediaries have sold assets to the large opportunistic investment funds, otherwise known as vulture funds. Almost all of the major vulture funds have bought assets from Sareb, with the likes of Blackstone, Cerberus, Fortress, Texas Pacific Group and Axactor having acquired packages of thousands of properties and loans. Cerberus, Blackstone and KKR have brokered these deals, representing another clear conflict of interest.

What have the banks participating in Sareb obtained?

Financial institutions stand to lose the capital they have contributed to Sareb, to the tune of about 2.6 billion euros. However, this investment has allowed them to control the largest real estate portfolio in Europe, and one which had been financed with public money. As if that were not enough, Sareb commissioned its main partners to sell its assets. As such, Altamira (Santander), Servihabitat (Caixabank) and Solvia (Banco de Sabadell) took charge of selling Sareb's assets. In addition to gaining an extraordinary foothold in the real estate market, these companies were able to charge commissions of hundreds of millions of euros each year on the sales they made. These commissions enabled them to offset their parent banks' losses from providing Sareb with capital. Lastly, Sareb commissioned the sale of its assets to another real estate company, Haya, which belongs to Cerberus. Haya won this contract after having appointed José María Aznar Botella, the son of the ex-president of Spain, as a director.

Given the way Sareb works, is it on the way to being wound down?

This isn't necessarily the case. On the one hand, Sareb recently stated that it held 60,000 residential properties. To these properties, we must add loans made to real estate developers. On the other hand, these loans represented Sareb's primary assets. These loans were secured with residential properties. The foreclosure of many of these loans is still pending judicial resolution. As such, Sareb continues to incorporate new properties into its portfolio.

Are there any legal impediments to incorporating Sareb properties into public housing stock?

The constitution of Sareb as a public entity entailed the modification of the legal regulations which allowed for its creation. This could have led to Sareb taking on a different corporate purpose: the government could have transformed Sareb into a public housing provider, offering accessible leases.[42]

Since Sareb's debt is already public, such a change in Sareb's capacity would not affect the budgetary requirements imposed by the European Union.

42 The Observatori DESC recently published a web note on the subject, which provides further information: https://observatoridesc.org/es/comunicado-del-observatori-desc-raiz-del-real-decreto-12022

Why is the Ministry of Economy responsible for managing Sareb? Is there any plan to take advantage of its assets?

Behind this decision lies the consideration of housing as a financial commodity in a market in which banks and investment funds are the main players. As such, it is the Ministry of Economy - and not the Secretariat for Housing, nor the Ministry of Social Affairs - which remains in charge of managing this large real estate portfolio. This configuration, however, violates Spain's human rights obligations, which include the obligation to ensure decent housing for all. At most, Sareb will have housing agreements in place with a smattering of public executive bodies. Yet these agreements represent little more than a sticking plaster when compared to a genuine housing plan. As such, the Government has deprived citizens of a human right - that of decent housing - as well as of assets that, ultimately, belong to them.

What should be done with Sareb?

The creation of Sareb caused public debt to increase overnight by more than 35 billion euros. For this reason alone, the State should be aware of how it operates internally, and be able to provide this information to the public. In order to comply with this obligation, the following steps are required:

- An audit of Sareb's financial statements and what assets it holds, including its property portfolio.
- A survey of Sareb-owned buildings.
- An audit of the activities of Sareb to date. This should include the itemization of the assets sold by Sareb, that is, their price and buyer provided that this buyer is a corporate body, in accordance with Personal Data Protection legislation.
- The publication of audit reports.
- The incorporation of Sareb assets into public housing stock.[43]

43 In recent years, public debate has focused on the need for Sareb housing to be converted into social housing for rent. One of the campaigns driven by activists which made the most headway was the "La Sareb es nuestra" campaign, headed by the PAH. The "Plan Sareb" campaign, which has been summarised in the table included in this chapter, is currently underway. Town councils and the regional governments of Spain's Autonomous Communities have also reiterated this need on multiple occasions, reaching agreements in some cases, with a largely anecdotal number of properties. It is noteworthy that the housing offered by Sareb to public authorities has only included its most deteriorated properties.

THE “SAREB PLAN”

In 2015, as part of the “La Sareb es Nuestra” campaign (Sareb belongs to us), the PAH highlighted and spoke out against the rip-off nature of Sareb’s creation. Over the following years, several houses and buildings belonging to the bad bank have been squatted, with the aim of highlighting the lack of available public housing, and to press for the transfer of Sareb properties to municipal governments in order to build public housing stock.

In the spring of 2021, in response to the socialisation of Sareb’s debt by the Ministry of Economy, housing activists in Madrid launched the “Sareb Plan ”, which they kick-started by squatting the FROB’s head office.

“The lack of answers from Sareb and an increasingly desperate situation affecting more than 300 households, for whom the bad bank serves as their landlord, have once again spurred hundreds of people into action in Barcelona, Madrid, Valencia, Alicante, Valladolid and Zaragoza. These people demand a collective negotiation with the recently nationalised financial institution, as well as a follow-up round table overseen by ministers”. This was how activists put it in February 2022, ahead of coordinated action across the country aimed at denouncing and putting pressure on Sareb.[44] Through actions such as those mentioned above, the campaign has gradually spread from Madrid to other parts of the country, such as Catalonia, and the city of Barcelona.

Furthermore, among the main demands of the Sareb Plan is an initiative promoted by tenants’ unions, residents organisations and the PAH for the “indefinite total transfer” of Sareb’s real estate assets for the creation of public housing stock.

So far, the activists behind the Sareb Plan have brought several initiatives to bear:

- A communications campaign to denounce Sareb’s role in the evictions carried out on its behalf, with direct action to prevent these same evictions.
- Protests at the head offices of FROB and Sareb, with the aim of highlighting the impunity with which these entities continue to sell properties to vulture funds, putting households at risk of eviction by the means that these stakeholders have come to be known for
- Since much of Sareb’s housing stock comes from bankrupt developers, many of their residential properties are concentrated in multi-unit housing developments. This has pushed residents to take up collective strategies to defend their buildings (for example, in Arganzuela, Madrid), following the lead of previous campaigns by the PAH and tenants’ unions throughout the country.
- An accountability campaign directed at the Ministry of Economy, on which the FROB and Sareb depend, demanding statements from and meetings with Minister Nadia Calviño.

More information at Twitter (**@PlanSareb**, **@plasareb**) and Instagram: **@plan_sareb**

44 More information at: https://www.elsaltodiario.com/vivienda/plan-sareb-demanda-todas-viviendas-sareb-pasen-parque-publico-forma-indefinida

Banks and building societies

The real estate crisis has given rise to a new financial system in Spain. Previously, it consisted of a multitude of commercial and savings banks, or building societies, deeply rooted in the areas in which they operated. However, through the consolidation of the banking sector, four financial institutions have taken control of more than two-thirds of the banking market (Bayonne, 2022).

These four institutions are Caixabank, Santander, BBVA and Banco Sabadell. They have gradually absorbed the banks and building societies that have gone bankrupt in recent years, and which have been rescued with tens of billions of euros in public money. However, these four major banks have had to divest their real estate holdings in order to meet the requirements of international banking regulations.

The Basel III agreements and opportunistic investment funds

The Bank for International Settlements (BIS), headquartered in Basel, Switzerland, serves as a bank for central banks and as a regulator of banking and financial activity worldwide. This institution was originally created to manage the war reparations imposed on Germany after the First World War. However, it has gradually adapted to global political and financial developments over time. The BIS, which is led by central bank governors, operates in a low-key manner. Nevertheless, it holds a great deal of power, since it is where a good deal of global monetary policy is agreed upon. Proof of the power of the BIS as an institution is that both it and its assets remain outside of any jurisdiction (Lebor, 2013). In order to avert another global financial crisis, the BIS decided to establish new and more exhaustive banking regulations and to monitor compliance. These regulations are known as the Basel III agreements, or 3rd Basel Accord. These agreements have led to new guidelines and, in turn, their implementation in European law. The BIS monitors their enforcement through the Committee on Banking Supervision.

Basel III requires banks to have a level of solvency consonant with the risk they take on.[45] How these risks are calculated is a key part of these regulations. For example, defaulted mortgage loans are severely penalised. By this token, given the serious capital shortfall of Spanish banks which led to difficulties in meeting banking standards, these same banks were indirectly obliged to sell their real estate holdings before 2019. As a result, the most significant sale of property holdings and mortgage loans took place in 2018. Because of their low degree of solvency, the banks had no choice but to sell this real estate at well below the market rate. Santander, Caixabank, BBVA and Banco Sabadell sold more than 400,000 apartments to Cerberus, Lone Star and Blackstone in just six transactions.[46] The banks chose this option as a result of their haste to meet solvency requirements. These investment funds, through intermediaries, have become the driving force behind evictions in the city of Barcelona.

45 The European Union established the Single Resolution Mechanism (SRM) following the implementation of Basel III. This body monitors financial institutions' compliance with solvency requirements. In 2017 , the European banking supervisory institutions decided that Banco Popular was unviable. This led to its dissolution and absorption by Banco Santander.

International institutions such as the SIB, the European Union or the US Federal Reserve created the conditions through which opportunistic investment funds from the USA have acquired millions of homes in Europe (Alderman, 2016). This helps to explain why the Irish bailout was so similar to the Spanish bailout. Both were carried out as follows:

- The state provided finance to a large real estate company that bought up the holdings of the financial institutions that had gone bankrupt. In Ireland, this company was called NAMA, and in Spain, Sareb. These entities were known as "bad banks" when, in reality, they had nothing to do with banking. They are real estate bodies with the mission of selling wholesale the assets that, in the main, have been bought up by opportunistic investment funds.
- Investment funds from the United States entered the market, aiming to obtain real estate holdings of the countries' bailed-out banks and "bad banks".
- The European Public Real Estate Association (EPRA)[47] lobbied governments to eliminate taxes on real estate companies (including SOCIMIs) across Europe (Hernández Vigueras, 2012). It has done so in most cases, although there are still some exceptions, such as Austria and Denmark.
- Investors made use of tax schemes in the Netherlands, Luxembourg and Ireland by investment funds, in order to avoid paying significant taxes on the profits they make.

Joseph Stiglitz, chief economist of the World Bank between 1997 and 2000, made the following statement about the Irish bailout, which could also easily be applied to Spain: "*In Ireland, this bank bailout is a simple transfer from taxpayers to bondholders, and it will saddle generations to come. The only thing that might give you solace is that, as chief economist of the World Bank, we see this type of thing happening in banana republics all over the world. Whenever a banking crisis happens, the financial sector uses the turmoil as a mechanism to transfer wealth from the general population to themselves. I've been very disappointed to see that it has happened, not only in banana republics, but in advanced industrialised countries.* "

46 These are detailed within this report, in the section "Cases of particular relevance in Barcelona".

47 EPRA is a lobbying body representing the interests of listed European real estate companies. Europe's most powerful real estate, consulting and insurance companies and investment banks are members of this association: Deloitte, Ernst & Young, PwC, Goldman Sachs, Morgan Stanley, BlackRock, Vonovia, Barclays, BNP Paribas, Deutsche Bank, ABN Amro, Alliance, Bank of America, Citigroup, Credit Suisse, HSBC, UBS, Society General or ING.

A FINANCIALIZED HOUSING SYSTEM

Financialization is the process by which housing and other basic needs have become commodities traded for profit by the financial sector.

> *"The financialization of rental housing refers to a process by which rented housing is transformed into a product for financial investment. In practice, it refers to the acquisition of buildings and properties by financial companies. These companies allow investors to access a source of income derived from monthly rent payments or the sale of properties. Investors can profit by investing privately or acquiring shares in stock markets"* (Auguste, 2022).

Initially, the financialization of housing was based on mortgages. Financial markets bought mortgages from banks. Banks pooled mortgages and sold them as a single product. Inside that product were solvent and insolvent mortgages, the latter of which were known in the United States as *subprime mortgages.* In this way, the financial markets triggered the housing bubble, since banks obtained immediate liquidity with which to grant even more mortgages.
Finance is a risky business. Speculators bet on financial products with money that is not theirs. They borrow from other financiers and from banks. Banks have the ability to create money through these loans. Debt is thus the source of speculation as it pertains to and affects the property market.

Speculation using borrowed money allows profits to multiply when things are going well. This financial strategy, known as leverage in financial slang, allows large investments to be made with very small capital. If these investments go well, the ratio of profit to capital invested is very high; with little money, a lot can be earned. However, this practice carries greater risks, particularly if things do not meet financiers' expectations. If things get tricky, investors may not be able to repay the loan. Their capital, given that it is very small in relation to the investment, does not provide a sufficient buffer against which to cover losses. In this sense, financialization is based on a risky chain of debts; one could say that finance is a casino in which all of the participants owe each other money. In return, the game carries a risk that can end with the elimination of all of these players, as well as the loss of savers' deposits.

As explained above, the housing system was based on the massive granting of mortgages until the global financial crisis hit.[48] Since then, investment funds have positioned themselves as a key player in the housing sector. Taking into account their current role, we will now look at the following factors: how investment funds work; where they obtain the financing from, and what their objectives are.

What is an investment fund?

Investment funds are not bound by a single specific legal structure. For example, Cerberus and Lone Star are limited companies, whereas Blackstone, KKR and BlackRock are publicly traded companies. Going public allows companies to raise more capital from both professional and private investors. However, being a listed company means having to comply with transparency requirements set by investors. For this reason, some funds such as Cerberus have not been listed on the stock exchange, and have remained as limited companies, allowing them to operate with greater opacity.

Investment funds are characterised by their acquisition of companies through the gathering of funds from third parties and banks. To obtain funding, opportunistic investment funds like Blackstone operate as follows:

- Creation of the investment fund. Traders gather funding from third parties and, with the money raised, create an investment fund. They offer a return to the investor and agree on a repayment term that is normally five years.
- Management of the fund. Once they have obtained the capital required, the traders close the fund. From there, the traders act as fund managers, and can invest it where they see fit. The funds are domiciled in tax havens such as the Cayman Islands. For this reason, the investor cannot access information on the progress of the investment fund. Although the fund is domiciled in tax havens, its management is carried out from global cities such as New York, the main headquarters of the financial industry.

48 El *shock* inmobiliario en Barcelona. Características generales dentro del contexto estatal e internacional. Observatorio CODE and Observatori DESC (2022).

- The fund managers invest the accumulated capital in sectors in which they have seen that it is possible to make large profits in the short term (5 years).

- After this time is up, the managers i.e. Cerberus, Blackstone or KKR, must liquidate the fund. To do this, the fund managers pay investors back the amount they contributed to the fund, plus an agreed-upon return on their investment. This return is usually modest. Similarly, fund managers must return the money lent to them by banks. They must do so with moderate interests. It is worth remembering that, in the housing sector, bank loans usually cover up to 80% of the value of the transaction. In this scheme, it is the fund manager who stands to make the most profit. This has occurred in the investments made by large opportunistic investment funds in European housing. These funds have obtained an extremely high return on investment.

Who are the main stakeholders, and how does money flow between them?

Central banks

The role of central banks has been instrumental in turning housing into a financial asset. The European Central Bank plays an important part, but it is the US Federal Reserve that has the leading role in the world of finance.
Since they can create money out of nothing, central banks enjoy a great deal of prominence.[49] In particular, the Federal Reserve can create as many dollars as it wants, thanks to the United States' dominance of international trade made using the dollar. However, the remaining central banks have to be careful of any excesses in the printing of money, since these can cause currency devaluation and, worse still, inflation.

This, however, is not the case in the United States. Economist Barry Eichengreen explains the United States' privileged position in these terms: *"It costs only a few cents for the Bureau of Engraving and Printing to produce a $100 bill, but other countries had to pony up $100 in actual goods in order to obtain one"*. The reason is that the United States forces oil-producing countries to sell what they produce in dollars. As such, there is a great demand for this currency at all times and all over the world, even though fewer and fewer goods *made in the USA* are being sold.

In this way, the United States is able to import much more than it exports and maintain a huge public deficit without the dollar losing value. If oil and other commodities were traded in the national currencies of each country, the United States would have to reduce its imports and thereby lower its very high, albeit unequal, standard of living. Were it to not do this, the dollar would quickly lose value. The primary objective of US foreign policy is to maintain the dollar's status as the currency of international trade. By doing so, it can finance the increasingly opulent wealth of its upper class. Former French President Valéry Giscard d'Estaing defined the role of the dollar as America's exorbitant privilege. The dollar is, in all likelihood, the largest source of political and financial instability in the world (Varoufakis, 2012).

"The role of central banks has been instrumental in turning housing into a financial asset. The European Central Bank plays an important part, but it is the US Federal Reserve that has the leading role in the world of finance."

Ronald Reagan did away with checks and balances on financial markets in order to boost the dollar's status as a currency of international trade. The purpose of these checks and balances was to prevent the financial sector from taking on the risks that led to the Wall Street Crash in 1929. Once regulations were eliminated, the Federal Reserve remained as the only guarantor of the financial system. Since then, the Federal Reserve has purchased bank debt whenever cases of possible bankruptcy have arisen. This first happened in 1987.[50] This practice created a sense of false security in the US financial sector, leading to the sector taking risks recklessly.

American institutions and academics maintained that the Federal Reserve could fix any situation by injecting dollars into the system. Alan Greenspan, president of the Federal Reserve from 1987 to 2006, said: *"The United States can pay any debt it has, because we can always print money to do that. So there is zero probability of default"*.

The financial collapse of 2007 meant that central banks had to implement new policies to rescue the sector from systemic bankruptcy.[51] Were it not for these policies, currency value would have collapsed, and the value of private savings would also have evaporated. Before the US Congress commission set up to investigate the causes of the financial crisis, Alan Greenspan stated that: "Those of us who have looked to the self-interest of lending institutions to protect shareholders' equity (myself especially) are in a state of shocked disbelief". In his testimony, Greenspan, who until then had been a market fundamentalist, acknowledged that the global financial crisis had demonstrated the flaws in his ideology (Andrews, 2008).

49 Central banks buy financial contracts on the open market. They mainly buy public debt from nation states handled by the banking sector. They buy these government bonds to increase monetary supply, since, upon purchase, they receive money with which they can grant loans. Similarly, central banks sell bonds to narrow the monetary base. By adding other operations to those previously mentioned, central banks set monetary value in a given economy.

50 This practice is known as the *"Greenspan put"* in reference to Federal Reserve Chairman Alan Greenspan.

51 These measures include *quantitative easing (QE)*. The European Central Bank and the Federal Reserve adopted this policy whereby the central bank buys public debt or mortgage debt bonds on the financial market. It is so-called because the central bank determines that it will buy assets at a fixed rate over a period of time.

Investment banks

The monetary policies of the Federal Reserve and the European Central Bank have allowed banks in Europe and the United States to access large amounts of cheap money. Banks have earmarked a significant portion of this money to finance the operations of opportunistic investment funds. The financing of investment funds operations in Spain has, for example, come from both major US and European banks such as Deutsche Bank. These entities contributed about 80% of the financing for these deals.
The privatisation of bailed-out mortgages in Europe was an operation designed on the global stage, with the main beneficiaries being the most powerful players on Wall Street. The largest banks in the United States, such as Bank of America, Morgan Stanley and J.P. Morgan, financed investment funds' purchases of hundreds of thousands of properties in Spain. In turn, the banks profited from the interest on the loans they made. For this reason, any moves by national governments in the housing sector that run contrary to the interests of these investment funds will meet with strong opposition from the global financial giants.

A shadow banking system

Shadow banking refers to the activities of organisations which are not subject to any type of external oversight. These organisations are known as such because they operate "in the shadows" of financial authorities.

<Investment funds fall into this category, given that they operate out of tax havens, and evade any type of public accountability. However, after Basel III, banks came under close control by national supervisors and, in the case of Spain, by European supervisors.

Shadow banking companies such as Cerberus, Blackstone and BlackRock pose a serious headache for the financial system. No one outside the organisations themselves has access to information about the state of their affairs. Nevertheless, we know that these companies take on huge amounts of debt. The scale of their indebtedness is so large that it could put the entire banking and financial system at risk. In this sense, shadow banking is a dangerous breach in the financial safety net designed in the aftermath of the global financial crisis.

Investors

Investment funds target major investors. These include pension funds, sovereign wealth funds and wealthy individuals.

The United States pension system is private; pension funds accumulate a large amount of capital on which they are expected to provide returns.[52] They often invest this capital in hedge funds, tending primarily to lend their money to less high-risk funds. This is the case of BlackRock, which holds a portfolio worth about ten trillion dollars[53], a figure that exceeds the combined Gross Domestic Product of Spain, France, Germany and Italy.

Large oil and gas exporters make large investments in dollars, given that they are required to sell the raw materials in this currency. Norway, Kuwait, Saudi Arabia, Qatar and the United Arab Emirates manage large sovereign wealth funds of this nature. Those managing these funds invest in a variety of sectors in order to make a profit. They often invest in real estate or the energy sector, as well as in other investment funds. With the concentration of wealth in fewer and fewer hands leading to greater capital for the rich, there is an increasing number of rich individuals who invest in these funds (Piketty, 2019). Over and above this, shadow banking companies, operating out of tax havens, allow investors the chance to invest anonymously.

52 In the United States, the public pension system provides only a small basic pension, leaving the rest of the pension system in private hands.

53 These companies cluster around the financial powerhouse that is New York (Massini, 2012). Lehman Brothers was created in 1845. Former President Peter Peterson (English transliteration of Petropoulos) and CEO Stephen Schwarzmann created Blackstone in 1985. The name Blackstone comes from the English translation of the surnames of the founders (Schwarz -black- and Petra-Piedra-). BlackRock emerged from Blackstone in 1988.

Investment funds: an industry preying on cities and human rights
A financialized housing system | Manuel Gabarre de Sus

THE CONSEQUENCES OF HOUSING FINANCIALIZATION

Spain altered its housing system in the wake of the crisis. However, like the previous one, the country's new housing system has been designed for the benefit of the financial sector. The financialization of housing has meant that Barcelona residents must devote a disproportionate amount of their income to housing costs. Average house prices have increased more than twice as much as average income in the period from 2000 to 2020 (OMH, 2020).

Previously, the housing system was based on a homeowner mortgage model; that is to say, deferred ownership, based on the proviso that the mortgage is paid. However, the current housing system in Barcelona, and in Spain, is centred upon both ownership and rental.[54] While in 2001 21% of households in the metropolitan area of Barcelona paid rent, by 2018 this percentage had increased to 31% (*idem*). This data suggests that a large proportion of people on the housing market are unable or unwilling to become homeowners.

The reason for the increase in the percentage of tenants is that many people have been excluded from access to mortgages. These people are unable to save for a deposit from their income or count on family support to meet the approximately 30% of the house price that is required. Banking regulations require the contribution of a deposit of 20% of the value of the house in order for a mortgage to be granted; the remaining 10% covers property transfer tax and other charges related to the purchase.

54 The evolution of the housing system is analysed in the report "El shock inmobiliario en Barcelona", by the same author and previously referenced.

The burden of housing costs in Barcelona

The housing costs burden borne by Barcelona residents has increased in recent years.[55] A household with an income of €35,000 would need to devote 51% of this income to mortgage payments on an average new home, 40% to mortgage payments on a previously-owned home, or 33% to rented accommodation (*idem*).

In the case of a person or household with an income of €25,000, 72% of their income would go on paying the mortgage for a new home, 57% on a mortgage for a previously-owned home, or 46% on rent.

If this person earned the minimum wage (as of 2022, €14,000 per year), they would need to allocate 128% of their income to be able to pay the mortgage on a newly-built home, 100% on a previously-owned home, or 82% on rent.

The excessive cost of housing holds young people back from moving out. The average age at which someone moves out of their family home in Spain has suffered a significant setback due to the economic crisis. According to the latest Eurostat data from 2020, it stood at 29.8 years old, well above the EU average of 26.4 years old. The housing system is also detrimental to the birth rate and prevents many people from achieving their life goals, given that they are constantly living under extreme economic pressure. It should be borne in mind that many pensioners, on the other hand, are able to get by on the low pensions they receive because they own the property in which they reside. Within a few decades, this issue - ownership, or lack thereof - may begin to give rise to serious social problems. If the housing system is not reformed, many of those receiving the minimum pension will also end up having to pay rent.

The European Commission holds that a household that spends more than 40% of its income on housing costs is overburdened (Eurostat, 2022). The percentage of tenants overburdened by housing costs in Barcelona and its metropolitan area is extraordinary: forty per cent of households find themselves in this situation. (OMH, 2020).

And it is not just this high percentage of tenants who are feeling the pinch. Between tenants and owners, 18% of Barcelona residents find themselves in this situation (idem). This percentage is similar to the Spanish average for 2020 (16.9%) (Eurostat, 2020).

Excessive expenditure on housing has a strong impact on consumer behaviour and, in turn, on employment. Housing is the largest part of many urban households' budgets. Increased

55 Article 8 of Law 24/2015, July 29, concerning urgent measures to address the housing and energy poverty emergency, established the maximum recommended expenditure for primary residency at 30% of income.

housing costs mean putting off or eliminating other outgoings altogether. This results in a significant amount of wealth being lost at a local level, and instead being channelled to financial companies that do not even pay taxes at any meaningful rate in Spain.

Short and non-exhaustive comparison of Barcelona's housing system with other housing systems: Germany, France, United Kingdom and Austria

The notion that the price of housing is determined by the law of supply and demand is deeply rooted in our society. However, this is a misconception. In the long term, governments are the ones who shape the housing system in any given jurisdiction, through tax, urban planning, housing and banking legislation. Proof of the importance of housing system design is the fact that countries with similar cultural and economic characteristics have very different levels of household indebtedness and expenditure on housing.

Below is an overview of the German, French, British and Austrian housing systems, and a comparison with Barcelona's housing system. This latter system must be understood within the framework of the wider Catalan and, particularly, Spanish housing systems, since most of the applicable legislation on housing comes from tax and mortgage regulations set by central government. Barcelona has been chosen as a case study for analysis as it shows some initial signs of change in its housing model, at least as far as public housing policies are concerned.

In order to compare housing systems, questions such as the percentage of ownership, impact of social housing, existence of rent controls and the burden of housing costs on household income are analysed. Household debt comes mainly from mortgages (Valckx, 2017) and, as such, will also be analysed in this chapter (Gabarre, 2022).[56]

Barcelona (in the context of Spain)

In 2019, the rate of property ownership in Barcelona stood at 59% (OMH, 2020). This percentage is gradually decreasing due to difficulties in gaining access to the property ladder, as well as social changes. The rate of ownership in 2001 stood at 68% (*idem*).
In the metropolitan area of Barcelona, removing the city from consideration, this percentage is higher (73% in 2019). However, it has also been declining at a similar rate, standing at 85% in 2001 (*idem*).

56 This paper contains in-depth research on the effects of mortgage banking regulations on household debt. The data come from the IMF database. International Monetary Fund (IMF). (2022). Household debt, loans and debt securities. Percent of GDP. https://www.imf.org/external/datamapper/HH_LS@/CAN

Rental legislation in Catalonia

Legislation has been passed in Catalonia allowing for the capping of rents for both properties currently leased and future rental agreements.[57] This was a pioneering step forward: for the first time in Spain, the price that the owner could demand from a new tenant came under public control.

However, on March 10, 2022, the Constitutional Court annulled part of the law on the grounds that it overstepped the regional government's competences. Specifically, the Constitutional Court annulled all the articles that provided for price control for new rentals in high-pressure areas.[58]

On the other hand, the Housing Rights Bill opens up the possibility for local governments to introduce price controls in high-pressure areas. However, it is doubtful whether these regulations will be enforced, since the preliminary draft of the bill provides for a grace period of 18 months before these controls are brought into force.[59] A *vacatio legis* of such length is an absolute anomaly within the legal system. It would seem, therefore, that the current government wishes to pass the buck for the regulation of rental prices on to the next executive. In this sense, if the political groups that have been advocating for this regulation do not have the same heft in the next legislature, it is very unlikely that rent cap regulations will come into force.[60]

Social housing in Barcelona

Spanish housing policy has ignored social housing for tenants and has allocated most of the social housing budget to promoting home ownership (Trilla, Bosch, 2018). Only 1.6% of properties are designated as social housing for rent.[61] Barcelona has historically been no exception to this system, with only 1.63% of the city's homes designated as social housing in 2017 (OMH, 2018). In the metropolitan area, this percentage was even lower (1.09%) (*idem*).

However, since 2015, Barcelona City Council has been trying to change the city's housing system. The 2016-2025 Right to Housing Plan aims to double public housing stock and reach a figure of 12,000 public housing units (Barcelona City Council, 2022). The Municipal Institute of Hou-

57 Catalonia Law 11/2020, 18 September.

58 Articles revoked: 1, 6-13, 15 and 16 (2); the first, second and third additional provisions; the first transitional provision and the fourth final provision (b); the fourth additional provision and the third final provision

59 The bill states: "Disposición transitoria séptima. Aplicación de las medidas en zonas tensionadas.
La regulación establecida en el apartado 7 del artículo 17 se aplicará a los contratos que se formalicen una vez transcurridos dieciocho meses desde la entrada en vigor de la Ley XX/XXX, de xx de xxxx, por el derecho a la vivienda, y una vez se encuentre aprobado el referido sistema de índices de precios de referencia."

60 Together with campaigning organisations, the political groups in the Congress of Deputies comprising UP, ERC, JUNTS, CUP, Más País, Compromís, EH Bildu, Nueva Canarias and BNG presented an alternative housing bill proposal, urging price controls, in September 2021.

61 There are roughly 290,000 social housing properties in Spain, of which some 180,000 are owned by the regional governments (known as Autonomous Communities), with another 110,000 owned by municipal governments. This stock of 290,000 social housing properties barely covers 1.6% of the total of 18.6 million households in Spain. Explanatory memorandum. Draft bill on the right to housing.

sing and Renovation is currently building 2,329 flats, 80% of which will be dedicated to social rentals. The City Council will allocate the rest of the properties to meeting other types of housing needs identified in the city. 900 further flats have been purchased directly by the City Council. In addition, the mixed housing developer Habitatge Metròpolis Barcelona plans to build 2,250 properties for affordable rent. Along the same lines, the City Council has reached agreements with foundations and cooperatives to build 1,000 more flats for affordable rent.

Barcelona City Council is making a decisive effort to change the city's housing system. An example of this, and of the work done by activists, is the modification of the General Metropolitan Plan to include affordable housing in the new buildings and large renovation projects of the entire city. From 2018, buildings of more than 600m² located on consolidated urban land, as well as new developments and large renovation projects, must make 30% of their homes available at social, that is, below-market rates.

For its part, the current Government of Spain has recognized the need to increase public housing stock. The preliminary draft of the Housing Bill establishes "*a mandatory reserve of 30% of any development for social housing and, of this 30%, 15% must be available for rent at below-market rate, so that a public housing stock in line with that of other European countries can gradually be built*".

However, the Spanish central government's housing policy lacks coherence. On the one hand, in the preliminary draft of the Housing Bill, it recognizes the need to increase public housing stock, and prohibits the sale of public housing. On the other, the Ministry of Economy continues to sell housing owned by Sareb; a gross error of judgement, as we have seen previously. The privatisation of this housing stock is a slap in the face to the public, and comes courtesy of Blackstone and KKR.

Catalan legislation

The Catalan 18/2007 Law which regulates the right to housing copied its objectives from France's Urban Solidarity and Renewal legislation. This French law requires municipalities to increase their public housing stock to a minimum of 25% of total local housing by 2025. The Catalan law set out its own "urban solidarity target". This consists of reaching a goal of 15% of overall housing dedicated to meeting social needs by the year 2030. Nevertheless, the Territorial Housing Plan that the law calls for should already have been adopted in 2009; as yet, it remains unapproved. The Plan currently being pushed through sets the 15% target for 2042.[62] Be that as it may, the construction figures of social housing by the Government of Catalonia are negligible, in sharp contrast to French public housing efforts, which are described below.

62 A first draft, to which the Observatori DESC presented more ambitious amendments, has been provisionally approved. For further information: https://observatoridesc.org/es/nueva-aprobacion-inicial-del-plan-territorial-sectorial-vivienda-catalunya-para-que-deberia-servir-y, https://observatoridesc.org/es/node/4878.

Investment funds: an industry preying on cities and human rights
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Household debt in Spain

In Spain, overall household debt has fallen since the application of restrictions on the granting of mortgages in 2013, from 85% of GDP in 2013 to 63% of current GDP.

Excessive housing costs in Barcelona

As noted above, the percentage of households overburdened[63] by housing costs were 18%, reaching up to 40% among renters (OMH, 2020).

France

In France, the percentage of homeowners stands 64%, and tenants at 36% (Eurostat, 2020).

Rental regulation in France (Molina, 2017)

In 2014, France adopted the ALUR Act to control domestic property rent rates and increases. Housing located in high-pressure areas is subject to this law. This covers 70% of rented domestic properties. ALUR establishes a maximum rent, with a cap at 20% of the average income. The minimum duration of rental contracts is one year for furnished properties, and three years for unfurnished properties. Where the owner is a commercial organisation, these minimums rise to 3 and 6 years respectively.

63 *Overburden* is understood as housing costs which exceed 40% of a household's income.

Social housing in France

There are 4.5 million social housing properties in France. The percentage of social housing to total housing is 17% (Housing Europe, 2010). More than 40% of French tenants live in social housing. The *Habitation à Loyer Modéré* (HLM) are public or private non-profit organisations that provide social housing at accessible prices. The Ministry of Housing and Finance controls these organisations.

In 2000, the French government passed the Urban Solidarity and Renewal Law, through which it requires municipalities to increase public housing stock to at least 25% of total housing by 2025 (Ministère de la Transition Écologique de France, 2021). Although not all municipalities have complied with this mandate, 1.8 million public housing units have been built since the law was passed.

Household debt in France

Even before the global financial crisis, obtaining a mortgage in France was predicated on being able to provide a significant deposit. For this reason, overall household debt has remained at moderate levels (56% of GDP in 2013, 68% in 2021).

Excessive housing costs in France

The percentage of the population living in households where overall housing costs account for more than 40% of income was 4.7% in 2018, and 5.9% in 2020. (Eurostat, 2021).

Germany

In Germany, the percentage of owners stands at 50%, with tenants making up the other 50% (Eurostat, 2020).

Rental regulation in Germany

The existence of a high percentage of tenants in the housing system eases the way for the government to regulate rents. In Germany's case, there is a rent cap in regions with high market rates: rent cannot rise above 10% higher than the average income in the area (Molina, 2017). In addition, leases are unlimited in duration, meaning the owner can only ever raise rents in line with the CPI. Exceptions to this may only be made in cases permitted by law.

Social housing in Germany

The percentage of social housing in Germany is low. It represents only 5% of the country's overall housing stock (Housing Europe, 2010).
The German housing system changed dramatically in 1989. Until then, real estate companies providing rents could not be profit-driven. Not only were for-profit enterprises allowed to enter the rental market thereafter, but subsequent German governments privatised most of the public housing stock in the 1990s and 2000s.

The origin of the largest German property holders such as Vonovia and Deutsche Wöhnen lies in the privatisation of social housing in the German Democratic Republic and of the public housing companies in the Federal Republic of Germany. This led to three million homes being privatised in the 1990s. Vonovia, for example, emerged from the privatisation of housing properties belonging to the national railway company and the energy company E.ON. These homes were purchased by Fortress, an investment fund from the United States, which has also played its part in the privatisation of homes in Spain. Similarly, the state of Berlin sold 60,000 homes to Cerberus and Goldman Sachs in 2004. These houses are the origin of Deutsche Wöhnen.

The housing system has been a source of deep social unrest in the country, particularly in Berlin, where 85% of residents are tenants. In 2021, 59% of Berliners voted to expropriate some 240,000 homes belonging to large corporate owners in a referendum called "Expropriate Deutsche Wöhnen and co." (Expropriate Deutsche Wöhnen & co, 2022).

Household debt in Germany

Mortgages are only granted in Germany where a significant deposit can be provided (20%). For this reason, overall household debt has remained stable (56% of GDP in 2013, 58% in 2021).

Excessive housing costs in Germany

The percentage of the population living in households where housing costs exceed 40% of income was 14.2% in 2018, and 19.9% in 2020 (Eurostat, 2021).

United Kingdom

The percentage of owners is 65%, while the percentage of tenants is 35% (Eurostat, 2019).

Rental regulation in England and Wales

Margaret Thatcher ended rent controls when she enacted new housing legislation in 1980. Since this time, the duration of leases is 6 months. Thereafter, the landlord may demand an increase in the rental agreement which the tenant must accept or, otherwise, abandon the property.

Social housing in the United Kingdom

Between 1945 and 1981, successive British governments built some five million public houses for rent (House of Commons Library, 2012) (Gabarre, 2022). At one time, a third of the British population lived in rented public accommodation. However, Margaret Thatcher eliminated the right to housing and introduced the "right to buy." Through this right, tenants of public housing could purchase their house at a generous discount and with a government-backed mortgage. 2.6 million homes were sold in this way. According to Thatcher herself, this policy paved the way for her "landlord democracy". The Conservatives used it to weaken the electoral base of the Labour Party. Housing has become a financialized commodity and house prices have tripled in relation to living standards since this legislation was passed (Bank of England, 2020). The "right to buy" remains in place, however, and is one of the fundamental touchstones of British Conservatives, so much so that, in 2013, they introduced the "*help to buy*" scheme. This scheme allows British banks to circumvent the obligation for the buyer to provide a 20% upfront deposit. The state acts as guarantor for the deposit, allowing people without any savings to obtain a mortgage. This policy poses an enormous risk to the public purse and has inflated the current housing bubble in the country (Makortoff, 2022).

Social housing accounts for 17% of the country's housing stock, although former public housing properties (*council houses*) are often owned by non-profit housing associations.

Household debt in the United Kingdom

Overall household debt has long stood at very high levels (87% of GDP in 2013, 90% in 2021). Nevertheless, it is lower than in other Commonwealth countries that have similar policies of encouraging mortgage debt, such as Canada (112% of GDP) and Australia (124% of GDP) (IMF, 2022).

Excessive housing costs in the United Kingdom

The percentage of the population living in households where housing costs exceed 40% of income was 15% in 2018 (Eurostat, 2018).

Austria

In Austria the percentage of owners is 55%, while the percentage of tenants is 45% (Eurostat, 2020).

Rental regulations in Austria

The duration of leases is indefinite. As in Germany, the landlord can only raise the rent in accordance with the CPI. The tenant can only be evicted from the home on legal grounds and with judicial approval.

Social housing in Vienna

The city of Vienna provides an example of ambitious housing policymaking (Gabarre, 2021). Its housing plans date back to a century ago. The city council owns 220,000 homes, with limited-profit housing associations owning an additional 200,000 homes. Even most owner-occupied homes have been built as part of housing subsidy programmes.

62% of their residents are community or public housing tenants with permanent leases. Public housing is provided to people from all sorts of different backgrounds. It has thus been possible to avoid the creation of ghettos, as well as to ensure that residents are not forced to endure excessive housing costs. In Austria, 24% of overall housing is social housing.

Household debt in Austria

Mortgages are granted on condition of an upfront deposit of 20% of the value of the property, designed to avoid property bubbles. As a result, household debt accounted for 51% of GDP in 2013, and 53% in 2021.

Excessive housing costs in Austria

6.8% of the population were affected by excessive housing costs in 2018, and 6.3% in 2020 (Eurostat, 2021).

Comparison between housing systems

The housing systems described can be grouped into three categories.

1. The housing system in Spain. The housing system in Spain is characterised by its longstanding treatment of housing as a commercial asset. Previously, the country's housing system was based on mortgage debt and property ownership. It is currently a mixed ownership system where mortgage debt is limited, and rental without social controls is encouraged. This is similar to housing systems in countries such as Ireland and Greece.

2. The housing system in the United Kingdom and Germany. These countries developed large social housing schemes after World War II. However, these projects have been dismantled since the 1980s. The German housing system is characterised by a strong control of mortgage debt. The British housing system or, more broadly, the Commonwealth housing system encourages debt through various policies such as public collateral for private mortgages.

3. The housing system in France and Austria. Large public housing developments continued in these countries despite the neoliberal offensive, and are even strengthening in recent years. Strong controls are exercised over mortgage borrowing.

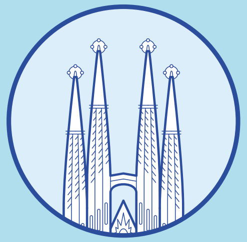
One of the most serious aspects of any housing model is the way it takes up economic resources. The high rate of households experiencing excessive housing costs in Barcelona (18%), Spain (16%), the United Kingdom (15%) and Germany (19.9%) is an indication that a large part of the wealth produced by these societies is being diverted towards housing. In contrast to the housing sector, other areas of the economy such as industry and culture create jobs and promote research, stimulating prosperity. Expenditure on housing does not promote a more prosperous nor meritocratically just society. In addition, significantly high housing expenditure results in the transfer of wealth from the working-class population to the rentier class. Conversely, in countries where public housing schemes have been preserved, the rate of excess expenditure is very low. For example, in Austria it stands at 7%, and in France, at 5.5%.

The French housing system is flawed in that it has not prevented the emergence of housing segregation. However, the housing system in cities such as Vienna and Amsterdam brings people from different social backgrounds together in the same neighbourhoods and buildings. The result is that these cities enjoy better public services, safer urban environments and, in short, a more cohesive society. Vienna's housing policy has certainly made for a successful city, yet, perhaps more so, the city as a whole makes its own success. Vienna repeatedly leads the *rankings* of cities in terms of best infrastructure, housing quality, innovation and culture.

"Work towards more ambitious housing systems, geared towards protecting the right to housing on all fronts, needs to be consolidated, intensified and expanded, both in the city of Barcelona and Catalonia as a whole, and throughout the rest of Spain."

The Barcelona Right to Housing Plan 2016-2025 is a step forward towards achieving this same success, both for its emphatic commitment to social housing and for its effort to ensure that such housing is not exclusively limited to the most disadvantaged segments of the population or traditionally working-class neighbourhoods. In this way, the housing plan promotes social cohesion in the city and the lives of its inhabitants. Work towards more ambitious housing systems, geared towards protecting the right to housing on all fronts, needs to be consolidated, intensified and expanded, both in the city of Barcelona and Catalonia as a whole, and throughout the rest of Spain.

Comparison between housing systems



BARCELONA/SPAIN

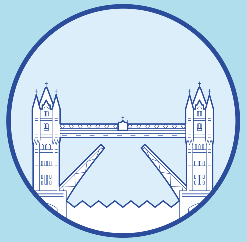
% homeowners: **68%**
% tenants: **32%**
Is there a law or regulatory mechanism for rent caps? **Yes, in Catalonia (overturned, not in force)**
% social housing: **1,6 (BCN), 1,63% (SPA)**
% household debt to GDP: **63% (SPA)**
Excess housing costs (>40% overall household budget) : **18% (BCN), 16,9 (SPA)**

FRANCE

% homeowners: **64%**
% tenants: **36%**
Is there a law or regulatory mechanism for rent caps? **Sí**
% social housing: **17%**
% household debt to GDP: **68%**
Excess housing costs (>40% overall household budget): **5,9%**

GERMANY

% homeowners: **50%**
% tenants: **50%**
Is there a law or regulatory mechanism for rent caps? **Sí**
% social housing: **5%**
% household debt to GDP: **58%**
Excess housing costs (>40% overall household budget): **19,9%**



UNITED KINGDOM

% homeowners: **65%**
% tenants: **35%**
Is there a law or regulatory mechanism for rent caps? **No**
% social housing: **17%**
% household debt to GDP: **98%**
Excess housing costs (>40% overall household budget): **15%**

AUSTRIA

% homeowners: **55%**
% tenants: **45%**
Is there a law or regulatory mechanism for rent caps? **Sí**
% social housing: **24%**
% household debt to GDP: **53%**
Excess housing costs (>40% overall household budget): **6,3%**

FINANCIALIZATION AND HUMAN RIGHTS

The financial sector has taken advantage of people's basic needs for profit. Basic needs epresent a lower-risk environment for investors than consumer goods do. There are certain needs that cannot be avoided even in times of economic crisis. To this end, the financial sector encourages privatisation and opposes any regulation of these areas which would threaten its profit margins. As a result, investment funds are playing an increasing role in key sectors such as health, energy, education and housing.

"The financial sector has taken advantage of people's basic needs for profit."

Tax havens, financial deregulation and regressive taxation

Tax havens are jurisdictions which offers foreigners, whether individuals or companies[64], the following:

- low or no taxation, as well as concealment of information for tax purposes
- anonymity through lack of transparency and strict banking secrecy

64 Person or entity, to use the more precise legal terms.

Factors for considering whether somewhere is a tax haven can be its tax rates and how it keeps information on beneficial ownership. In reality, tax havens have no political independence, and depend on traditional centres of power. Although companies are domiciled in tax havens, they are managed from global cities without any need to travel.

Tax havens have put paid to progressive taxation, since large fortunes and multinational companies can easily evade taxation (Larrouy, 2021). Increased economic inequality has led to lower rates of economic growth; as wealth becomes less evenly distributed, society as a whole has less and less capacity to consume.

At the same time, large capital holdings are hidden in tax havens in order to maximise profits. The managers of these holdings are usually investment funds. Faced with difficulties of making big profits in the productive economy, they channel investment towards basic needs. As a result, the economy enters a vicious cycle of low growth and economic inequality (Piketty, 2019). Basic needs were recognized as rights in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights. Since the neoliberal revolution of the 1980s, however, these needs have become financial commodities.

Investment funds and politics

A look at the links between the financial sector and the world of politics helps shed light on how the economy at large is configured.[65] Investment funds have been key to the development of the current housing system in Spain (Hernandez Vigueras, 2012). Although this model is very harmful on a social level, the interests of a small group of people have prevailed over collective wellbeing who, in many cases, are unknown to the general public, since it is only the fund manager who is ever named.[66]

65 The top executives of Goldman Sachs headed the economic policymaking of several United States legislatures. Among the most prominent politicians who have been directors of Goldman Sachs is former U.S. Treasury Secretary Steven Mnuchin. He is the third Secretary of State who has been a director of Goldman Sachs. The others are Hank Paulson and Robert Rubin, who during his term in office contributed to the abolition of the Glass-Steagall Act, which provided for the separation of commercial banking and investment banking. The list of Goldman Sachs executives who have gone into politics is extraordinarily long both in the US and Europe, and includes prominent figures such as Gary Cohn, head of the National Economic Council during Trump's term of office, and Mario Draghi, who was an important director at Goldman Sachs. Also among them is Jose Manuel Durão Barroso, president of the European Union during the crisis, and now president of Goldman Sachs International. The influence of investment banking and shadow banking is crucial. This is not exclusive to Goldman Sachs; it is also the case at many other companies such as Blackstone, whose CEO Stephen Schwarzman recently acted as an advisor to Donald Trump via the U.S. administration's strategy and policy advisory forum.

66 In the U.S., limited partnerships do not have to reveal who their partners are. Cerberus was formed by Stephen Feinberg and William Richter. It is difficult to determine the dimensions of Feinberg and Cerberus's respective portfolios. Blackstone and KKR are publicly traded cor-

Consumer goods do not usually offer high returns, so hedge funds tend to direct their investments towards privatisation. This has happened with bailed-out real estate in Europe, and in sectors where regulation has changed (Connolly, 2017). The latter is the case as regards renewable energies and gambling, in which Blackstone has made large investments such as the acquisition of CIRSA in 2018. Another large gambling company, Codere, is investment fund-owned. For its part, Cerberus has acquired a number of Spanish renewable energy companies in order to sell them in the future for a higher price.

Similarly, opportunistic investment funds have also hired figures from the world of politics in order to aid their acquisition of homes belonging to bailed-out banks. This is the case of Cerberus. Sareb struck a deal with Haya Real Estate, a Cerberus subsidiary, for the purchase of the largest of the four parts into which it had divided its assets. Months earlier, Haya had appointed José María Aznar Botella, son of the former president of the Government, as board member and Juan Hoyos Martínez de Irujo, a close friend of Aznar, as president. Aznar himself recognized their friendship in his memoirs (Aznar, 2012).

Cerberus also acquired the largest holdings belonging to NAMA. This consisted of a portfolio of real estate and loans in Northern Ireland, for which Cerberus paid £1.3 billion. This deal, struck by the "Irish Sareb", known as Namagate, is currently under investigation by British authorities. The then-First Minister of Northern Ireland, Peter Robinson, allegedly acted as a fixer in exchange for £7.5m.

Cerberus is a fund closely linked to the Republican Party of the United States of America. Its CEO, John Snow, was the country's highest economic authority between 2003 and 2006, in his role as Secretary of the Treasury Department. Dan Quayle, former Vice President of the United States under George H.W. Bush, was Vice President of Cerberus when he met with Irish authorities to negotiate the NAMA deal.

Further evidence of ties between Cerberus and the Republicans comes from Donald Trump's consideration of the appointment of Cerberus president Stephen Feinberg to head his Intelligence Advisory Board (Barnes; Haberman, 2020). The relationship of the Aznar family with the Republican Party is also well-known. Likewise, in 2010, Oleguer Pujol Ferrusola, the youngest of former President of Catalonia Jordi Pujol's seven children, acted as a broker for Cerberus in Spain through his company Drago Capital.

Blackstone has also made use of its contacts on the Spanish political scene. Claudio Boada Pallarés has been the chief executive of Blackstone in Spain since the fund began operating there in 2012. Boada Pallarés has held many important public positions, such as the presidency of the Entrepreneurs' Circle between 2004 and 2012. In addition, her father, Claudio Boada, was one of the most powerful people in the Spanish public and banking sectors during the Franco dictatorship and the transition to democracy.

porations, so the identity of the holders of their capital is not made public.

INVESTMENTS THAT VIOLATE HUMAN RIGHTS

The role of the financial system in money laundering

Investment fund managers are not legally responsible for investigating the origin of the money they receive: custodian banks have this responsibility (Knobel, 2019). However, these entities often do not adequately perform this task, given that they have little incentives to do so. They may lose an investor if they uncover the illegal origin of their money and, in any case, would need to devote resources to such investigations. For this reason, major banks have frequently turned a blind eye to money laundering. This was the case with Credit Suisse, Deutsche Bank, and HSBC, all of which were convicted of facilitating money laundering by Mexican and Colombian drug cartels (Prentice; Revill, 2021). Similarly, Deutsche Bank, BNP Paribas, Caixabank and Merlin Properties Socimi, S.A. facilitated the laundering of money from bribes related to the sale of arms to Angola by the semi-public company Defex.[67] Investigations into Defex have unveiled an institutionalised conspiracy of bribery and money laundering (Elorduy, 2021).

67 Preliminary proceedings case 65/2014 Defex. Magistrates' Court No. 5 National Court. 13.07.2018

The role of investment funds in sectors that violate human rights

Cerberus was the owner of the military contractor DynCorp International between 2003 and 2020. The company charged about three billion dollars annually to the United States government. A significant portion of its revenue came from "contingency operations" for the U.S. military. This euphemism refers to military operations in which the company acted as a mercenary outfit, particularly in Afghanistan[68].

"Major banks have frequently turned a blind eye to money laundering. This was the case with Credit Suisse, Deutsche Bank, and HSBC, all of which were convicted of facilitating money laundering by Mexican and Colombian drug cartels."

68 To obtain information on the link between the banks operating in Spain and the arms sector, we recommend consulting, for example, the database of the Banca Armada Campaign. The Center Delàs for Peace Studies, SETEM, RETs, Justícia i Pau and the Debt Observatory in Globalisation (ODG) are the organisations behind the Banca Armada Campaign, an initiative that was founded to speak out against banking institutions that finance the armaments industry, with the aim of raising awareness and demanding ethical and socially responsible policies.

The manipulation of food prices: financial speculation in derivatives markets

Financial derivatives play a key role in the financialization of the economy. From a technical point of view, a derivative is a financial asset whose value is derived from the value of another asset or from a market index. For a more practical definition, it is worth pausing to explain what a derivative is by means of an example based on agriculture. Through this example, we will try to explain how the harvest of a family of farmers becomes a financial product.

A family has bought a harvester in instalments and guaranteed the repayment of the loan with their land. The family has agreed with the manufacturer that they will pay for the harvester over ten years. After doing their sums, the family concludes that they must sell their wheat at a price of €200 per tonne in order to meet payment deadlines. However, they face a risk, as cereal prices fluctuate strongly every year. Prices are usually around €300, but some years ago the price dropped to €150 due to financial speculation. For this reason, at the time of sowing, the family agrees with their cereal buyer to sell each tonne of wheat at a price of €200. The wheat will be ready to be harvested nine months after sowing. Thus, at the time the family sows the wheat at the end of October, they already have a fixed price for its sale after harvest the following August.

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Although they could potentially sell at a higher price in the summer, these small farmers are protected from a possible price drop that would lead them to ruin. For their part, the buyer is in fact hedging that the price of wheat will be higher after the harvest. Thus, they will pay only €200 per tonne of wheat, under the auspices that in August the price of each tonne will be €300, as set out in the contract both parties signed the previous October. In addition, the buyer has silos to store large quantities of wheat, and so can sell it at the time of their choosing.

The contract between the farming family and the buyer is a derivative. At first glance, this type of business does not seem to hold any special significance. This, however, is not the case: derivatives are a trading instrument that has transformed the world. In our example, wheat is transformed into a financial instrument through a future derivatives contract. For example, the buyer could, in the example we have given, sell the contract in July for €100. This is the anticipated profit they would make in August from buying the wheat at below its market price.

Such a contract can be made inordinately complex through further agreements based on algorithms. For example, the buyer could take out insurance that will protect him to some extent from a sudden fall in the price of wheat, sell the contract again, and so on. In sum, the complexity of derivatives can reach almost infinite levels thanks to the creativity of financial engineers, the power of computers, and the voracity of the financial sector.

A staple food has become a financialized commodity with which speculators can do great business. For this reason, food is especially vulnerable to the impact of international events. If there is money in the market, these events trigger a wave of investments that end with a rise or a dramatic fall in prices when the bubble explodes.

If financiers anticipate that the price of cereals will continue to rise, they will hedge bets on this market, creating a bubble. This bubble will generate big profits as prices rise. However, just as in the housing sector, this game has its losers. Many people in the megacities and rural areas of the Global South who depend on the importation of food such as wheat or rice will suffer hunger.

CONCLUSIONS

The financial sector has designed the housing system for its own benefit. Opportunistic investment funds arrived in Spain looking to profit. They made this profit through the covert privatisation of the homes that the financial crisis had left in the hands of the state. However, these funds intend to leave the country now that the wave of large scale privatisations has ended.

On the one hand, the housing system has left many people unable to obtain a mortgage, and thus unable to own their own home. Hundreds of thousands of tenants have been left at the mercy of the greed of the real estate sector made up of private landlords and corporate investors. The state has not offered any mechanisms to compensate for this imbalance. On the contrary, it has been stealthily privatising its huge real estate portfolio, and frustrating efforts towards effective rental regulation. This is what the Irish researcher Rory Hearne called the "Real Estate Shock in Ireland", something very similar to what has happened in Spain over the last decade.

In Barcelona, dedicated organisations have emerged to stand up to this abusive system, such as the PAH and the Tenants' Union, together with other unions and community groups. The result of their hard work is the enactment of Catalan legislation to prevent evictions. This legislation is based on the protection of human rights. The capping of rents and the ambitious housing policy of the Barcelona City Council are also the fruit of these activists' campaigning. For their part, the major investment funds from

the United States will eventually leave the city in search of other opportunities to make a profit. They do not care whether or not human rights are upheld. These funds had already anticipated that their business in Spain would come to a close around 2023. However, they will have to wind them up a few years later than planned due to the pandemic. A hodgepodge property sector is emerging from the huge housing deals struck by these investment funds. This sector is made up of smaller real estate companies and private owners, and its negative impacts on the city continues to be felt.

However, housing systems are not immutable. Indeed, in Barcelona alone, there have been three distinct systems over the last century. The first system lasted until the 1950s. It was based on a city of tenants who paid rents to a select few landlords. The second system was defined by easy access to property ownership through over-indebtedness. This became one of the pillars of the expansion of the middle-class, from the post-war economic boom up until the global financial crisis. The latest housing system emerged after the crisis, and has put paid to the aspirations of many people. Their exclusion from home ownership has paved the way for a period of conflict and social struggle for the right to housing that is likely to deepen.

The future housing system of the city depends on social mobilization. However, pressure must also be exerted throughout Spain in order for this to be successful, given that the housing system depends to a large extent on national policy. The comparative study of housing systems in several countries shows that the Viennese model is the most effective in terms of lowering housing costs and encouraging social cohesion. Neoliberal propaganda attempts to convince us that an inclusive public housing system creates run-down cities. However, the opposite is actually the case. We have the example of the city of Vienna. It repeatedly leads the rankings in terms of the quality of its infrastructure, housing, culture and innovation. In short, its housing policy has made for a prosperous city. It is up to us to follow this path, which Barcelona City Council and other governments in Europe have already begun to take, or to live in segregated cities in which the majority of the population is barely able to afford such a basic need as decent and fit-for-purpose housing.

GLOSSARY

Shadow banking: refers to the large part of the financial system that is not subject to any regulatory oversight. Shadow banking companies, including investment funds of all types, avoid any type of control because they operate out of tax havens. They can therefore hide the identity of the true owners of their assets, and also avoid paying taxes. They also create a systemic risk, as the solvency of these entities is not known to the authorities.

Up-front deposit: the payment required by a bank to grant a mortgage. The Basel Accords require banks to maintain a minimum level of solvency in order to avert future financial crises. This requirement is calculated on the basis of the risk assumed by the bank. The Basel Accords penalise mortgages granted at more than 80% of the value of the property. Since Spanish banks have difficulty meeting solvency requirements, it is detrimental to them to grant mortgages at more than 80% of the value of the home. This is why banks require the payment of an up-front deposit of 20% of the value of the property prior to granting a mortgage. On top of this deposit, there are taxes and expenses associated with the purchase of the property, which tend to come to around 10% of its value.

Financialization of rental housing: refers to the process by which rental properties are transformed into a product for financial gain. In practice, this entails the acquisition of buildings and properties by financial companies that allows investors to derive a source of income from monthly rental payments or the sale of the properties. Investors can profit by investing privately or acquiring shares on the stock market (Auguste, 2022).

Investment fund: created by a manager or managing company which pools capital from different investors in one fund. The fund manager decides where to invest in order to obtain the highest possible return. Some of the money invested may be illegally acquired: the intermediation of the investment fund allows for this money to be laundered. Investment fund capital can come from wealthy individuals, although those who contribute most of the capital are usually institutional investors. The latter may be, for example, U.S. pension funds, conventional banks that invest their clients' money in one of these funds, or sovereign wealth funds.

Vulture fund: an investment fund that buys debt from a company or a government that has defaulted on payments or that has noticeable difficulties in paying its debts. Vulture funds are able to buy debt at low prices when the creditor believes that collection of their debt will be complicated. However, the vulture fund can hold out on its collection, and litigate to obtain the full value of the debt. It is thus able to make significant profits, having bought the debt at a very low price and, via litigation, collecting it in full.

Pension funds: these may be public or private. In some countries, such as the United States, these are mostly private. In countries where the public sector only covers the bare minimum, these funds manage huge amounts of capital. This is the reason behind pressure for European countries to follow suit, a situation that, in the long-term, would put the savings of pensioners at serious risk.

Opportunistic investment funds: these are characterised by taking advantage of the opportunities offered to them in a specific place and at a specific time. As such, they carry out high risk operations that, in return, promise much greater profits than are usually offered by the market. Their goal is to strike very lucrative deals in a short time, typically five years.

These funds swoop when they spot an opportunity. In the case of housing, public authorities provided them with this opportunity, rolling out the red carpet in Spain and in other countries such as Ireland and Greece.

Sovereign wealth funds: countries with large balance-of-payments surpluses and whose central banks accumulate a huge amount of dollars often have sovereign wealth funds In the case of China, the origin of its large sovereign wealth funds is the export of consumer goods. Chinese exporters must exchange the dollars they earn from selling their products for yuan, the local currency. This is done at the Chinese central bank, which has been amassing an astonishing amount of dollars through this process. Likewise, large oil and gas exporters accumulate a huge amount of dollars, since they sell their raw materials in this currency. Thus, Norway, Kuwait, the United Arab Emirates, Saudi Arabia and Qatar manage huge sovereign wealth funds (Sovereign Wealth Fund Institute, 2021). Some public pension funds operate in a manner similar to that of sovereign wealth funds. This is the case of the Pension Plan Investment Board, the Canadian pension fund, which, operating as CPP Investments, is a real estate investor in Spain. On the contrary, the investments of the Social Security Pension Fund in Spain are made against public debt.

Sovereign fund managers invest in a variety of assets to obtain a return, for example, in the purchase of real estate, and in investment funds.

Value-add investment: This investment strategy targets properties that offer a very high potential profit. Revaluation is often connected to the tourist accommodation potential of the property. Some large holders invest in this type of property with the following strategy: replace tenants with new tenants with higher incomes, or for seasonal or tourist accommodation purposes. Although Blackstone operates as an opportunistic investor, its "*buy, fix and sell*" motto refers to this particular strategy. Denmark passed its so-called Anti-Blackstone Law in 2020. To counteract the aforementioned strategy, the law stipulates the following:

- Rental rates of renovated properties must not deviate from the average value set by the courts for similar properties.

- Offering money or other benefits to tenants to leave their homes is prohibited.

- The investor can only raise the rent on the renovated property after five years as the owner. This effectively counteracts Blackstone's strategy, which is based on five-year investments.

Housing cost overburden rate: excess proportion of a household's income spent on housing costs, be they rent, mortgage payments or shared expenses. Households that spend more than 40% of their income are overburdened, according to the OECD. Recently, the European Commission, through Eurostat, decided not to include mortgage payments in the rate, considering them as an investment; only the interest on payment is taken into account in the calculation of excess costs (Moreno, 2021). This decision causes European statistics to underestimate the true overburden rate of each location. This is particularly relevant for countries that have opted for a housing system based on access to property through indebtedness.

Tax haven: a state or jurisdiction that allows foreigners to circumvent taxation measures in their country of origin. There are two fundamental reasons for a taxpayer to wish to circumvent the oversight of their country's tax authorities: the illegal origin of their money, and tax avoidance. Thus, tax havens are characterised by combining different levels of anonymity with low or null tax rates for foreigners.

Housing system: refers to the tax, urban planning, housing and banking policies that, in the long-term, shape urban morphology. It also includes levels of indebtedness and housing cost overburden rates. Consequently, such systems greatly influence social cohesion.

Public housing: a form of social housing that is owned and operated by public authorities.

Social housing: non-profit rented housing or housing that cannot be rented at market rates, regardless of who the owner is.

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