

THE FUTURE OF SOCIAL HOUSING IN SPAIN

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ABSTRACT

Social housing is an excellent system to offer an adequate housing to people with modest means. In this regard, Spain is characterized as a country with a high number of social houses in freehold terms, which contrasts with the other countries. The purpose of this document is to offer an overall view of the importance of this model of housing and of the problems and the future of social housing in Spain.

Key words: Social Housing, Spain, Housing Policies, Housing Plan 2009-2012.

Introduction

Social housing («Vivienda Protegida» or «Vivienda de Protección Oficial (VPO)») can be defined as that housing financed by the public sector which is appointed to people with modest means. Nowadays the Spanish Government has a set of public housing policies, which are contained in the State Housing Plan 2009-2012. On the other hand, the Autonomous Communities play an essential role in the Spanish system of social housing, as they assume exclusive competences over housing matters, pursuant to the article 148.1.3° of the Spanish Constitution. However, it does not imply that the State does not assume an important role concerning housing. This intervention and influence of the State on the Autonomous Communities' competences is due mainly

to the fact that some of its exclusive competences directly affect housing, especially those which have an economic nature. In turn, this State interference is supported by the Judgment 152/1988 of the Constitutional Court, dated 20 July 1988, which finds that the State has competence concerning housing matters over four aspects, namely: the definition of the protectable actions, the way of protection, the degree of protection and the contribution of State resources. These four aspects found the State Housing Plan 2009-2012, of which we are going to review the most remarkable points.

Housing Plan 2009-2012

Definition

The State Housing Plan 2009-2012 was created as an answer to the new needs of the population who wanted to buy a house. In the recent years two major problems have been identified in Spain, namely: the great difficulties for a sector of the population to afford a house, due to the increase of the price of houses and, on the other hand, the economic crisis affecting the country in the last two years [1].

In this context, the State Housing Plan 2009-2012 is intended to be an analysis of the situation of the population's housing needs, offering measures in order to help make possible the right to enjoy an adequate housing as provided by the article 47 of the Spanish Constitution. The said article provides as follows:

Section 47: *All Spaniards have the right to enjoy decent and adequate housing. The public authorities shall promote the necessary conditions and establish appropriate standards in order to make this right effective, regulating land use in accordance with the general interest in order to prevent speculation. The community shall have a share in the benefits accruing from the town-planning policies of public bodies.*

As it can be checked, the article 47 of the Spanish Constitution contains the right to an adequate housing and the obligation of the public authorities to establish the necessary conditions to make such right effective, hence the origin and purpose of the State Plan [2]. Thus we can point out the following main objectives of the said legal provision:

- Consensus and coordination of public authorities, sector agencies and social groups.
- Increase in the scope of the housing policy so that the existing supply is sufficient and stable, creating new types of social housing which respond to citizens' demands and promoting renting as a means of access to adequate housing.
- Quality and accessibility of building and respect for the environment.
- Occupation and sustainable development of land, promoting conservation of existing housing and rehabilitating neighborhoods and historic areas.

- Actions to mobilize public-owned land that has been released of its use by the Administration and to commit it preferably to the construction of social housing.
- Assessment of housing policies.
- A tax system consistent with the housing policy.

Once the objectives have been pointed out, there are four aspects which should be emphasized in the said Plan, namely: the beneficiaries of the houses, the typologies of social houses currently existing (hereinafter, social housing or subsidized housing, based on the Spanish concept), the ways of possession and the legal regulation of such houses.

Prioritizing Applicants and Grants

Regarding the first aspect, the Plan considers the following groups of people as the main beneficiaries of the aids contained therein:

- a) Family units with income not exceeding 1,5 times the Public Income Indicator of Multiple Effects (IPREM), for the purposes of renting a house, and 2,5 times the same indicator, for the purposes of owning a house.
- b) People who obtain a house for the first time.
- c) Women who have suffered gender violence.
- d) Victims of terrorism.
- e) People affected by catastrophic events.
- f) Separated or divorced people, who are up-to-date with their payments of child support and spousal support, if applicable.
- g) Other groups in situation or risk of social exclusion as determined by the Autonomous Communities.

All these groups of beneficiaries may apply for the aids offered by the State Housing Plan, which are categorized in different groups, namely:

- a) The promotion of subsidized houses newly built or coming from rehabilitation, destined to sale, own use or lease, including, in this last case, those promoted under the regime of surface right or administrative concession, as well as the promotion of subsidized accommodations for specially vulnerable groups and other specific groups.
- b) The rental of new or second hand houses, either free or subsidized, as well as the purchase of newly built subsidized houses destined to selling, and the purchase of second hand houses to be used as the purchaser's principal residence.
- c) The rehabilitation of historic sites, urban areas, degraded districts and rural municipalities; the renovation of urban areas and the eradication of substandard housing and shanty towns.
- d) The improvement of the energetic efficiency and the accessibility and use of renewable energies, either in the promotion, the rehabilitation or the renovation of houses and buildings.

Types of Subsidized Housing

Nowadays, we can find in Spain different types of subsidized houses, which are related to the family income of the applicants who are eligible to apply for them. Such income is referred to the IPREM index («Public Income Indicator of Multiple Effects»), which is updated every year (in the year 2010 the annual IPREM for 14 monthly pays is 7.455,14 €).

Table 1 : Types of Subsidized Houses

Types	Year 2010 Maximum family income of the purchasers or lessees (times the IPREM)
Special regime	2,5 x IPREM (18.637,85 €)
General regime	4,5 x IPREM (33.548,13 €)
Concerted regime	6,5 x IPREM (48.458,41 €)

Taking this data into consideration, the families with annual income exceeding 18.637,85 €, may only apply for houses of general and concerted regimes. The difference between them depends on the applicants who are eligible and on the price of lease and sale of the houses, being those of the special regime the cheapest ones.

Other important point is the differentiation between subsidized houses of public and private promotion. In this regard, it should be pointed out that the subsidized houses may be promoted both by the public and the private sector. However, in Spain most of the subsidized houses are built by private promoters who receive the various financial aids as provided by the State Housing Plan and Autonomic Housing Plans, if applicable.

Ways of Possessing a Subsidized House, Legal Regulation

Unlike what happens for instance in England, where social houses are granted on lease terms, subsidized houses may be granted freehold or leasehold, introducing the purchase option. There is also the possibility of the surface right, but the most usual way is the freehold granting.

A very important aspect of subsidized houses is their legal regulation. In this regard, if social houses are subsidized with public funds, it is logical that the beneficiaries of them are subject to a series of obligations.

As well as the pre-emptive right and the right of first refusal which the Administration has over the sale of a subsidized house, the most important aspects of the legal regulation of subsidized houses are determined by the duration of the legal protection regime and the possibility of “disqualification” (article 5 of the State Housing Plan 2009-2012).

Regarding the first aspect, the duration of the legal regime, the last regulations on the matter of housing provide that the said legal regime lasts for a period of 30 years, after which the house becomes free and therefore may be sold at market price. Until the said period has not elapsed, the beneficiary of such house is subject to a series of obligations, such as using the house as permanent principal residence, and there is a penalty system for conducts which are against the purpose and use of these houses.

Other aspect related to the protection regime is the so-called disqualification of the house. This «disqualification», generally speaking, consists in anticipating the termination of the legal regime. For that purpose, the beneficiary must request the disqualification from the Autonomic Authority on the matter of housing and return the aids granted [3]. As such, this disqualification has a discretionary nature and may only be granted when there is no damage to third parties. Although this disqualification is not currently applicable to the houses which are subject to the State Plan 2009-2012, previous regulations did allow it. This implies that there are some subsidized houses which can be disqualified and some others which cannot, taking into account the applicable regulation, depending on the year in which they became subsidized houses (the year of definitive qualification). Finally, the disqualification has also been considered, under certain circumstances, as a penalty imposed by the Administration; therefore, it is not voluntary in every case (articles 150, 151 and 152 of the Decree 2114/1968, of 24 July).

Essential Elements of Subsidized Housing: Permanent Principal Residence

As it has been pointed out, there is an element which is inherent to the subsidized house: it must be used as the permanent principal residence of the beneficiary of such house.

The Spanish Supreme Court, in Judgment dated 14 June 2001 (RJ 6953), gives a definition of the concept permanent principal residence: it is understood to be “the place in which one lives and to which, even though one is absent from it due to any circumstance, one intends to come back when the reasons that cause the absence are over”.

This definition comes along with the aspect of permanence, which has the limit of non-occupation of the house for three straight months per year, except there is a just cause, as provided by the article 3 of the Royal Decree 3148/1978, of 10 November.

The absence from the house for a long period or plainly the non-residence in it, implies an infringement of the legal protection regime, which may bring along an economic punishment or, in certain cases, the administrative eviction.

However, the jurisprudence has accepted several causes which might justify a prolonged absence from the house, such as those related to health reasons, labour circumstances of the beneficiary or the lack of housing habitability conditions. In this regard, it is established as a necessary requirement that, once that cause has finished, the beneficiary must come back to the house, being it again his permanent principal residence [4].

Present Situation and Future of Social Housing in Spain

Nowadays Spain is suffering a serious real estate crisis. If 2008 was a hard year for housing development, 2009 has been even harder. The so-called “real estate bubble”, which had boosted the Spanish economy since 1992 through the construction of housing and the increase of the price of land and houses, has given way to some years of recession, with the uncertainty about the future of things to come for the construction sector.

Even though the free housing market has been the most damaged one, the subsidized housing market has not been affected to the same extent, since it has been expanded in recent years, as shown in the figures 1, 2 and 3.

As it can be checked, the crisis has not affected the subsidized housing. Nevertheless, what problems arise from the system of social housing in Spain? In this regard, I find two problems, namely: the granting of the houses in freehold terms and, on the other hand, the beneficiaries of such houses.

Unlike what happens in the other European countries, social housing in Spain is purchased in a 90% of cases and, hard as it is to believe, it is not cheap. The selling price is fixed by law and ranges, depending on the areas, between 1.120 €/m² of usable area for the subsidized houses of the special regime, (670 €/m² for the annexes), 1.400 €/m² of usable area for those of the general regime (800 €/m² for the annexes) and 1.700 €/m² of usable area for those of the concerted regime (1.000 €/m² for the annexes) [data rounded off for the Autonomous Community of Aragon for subsidized houses of group B]. By way of example, an 85 m² subsidized flat in Madrid with parking space and junk room costs around 197.000 Euros.

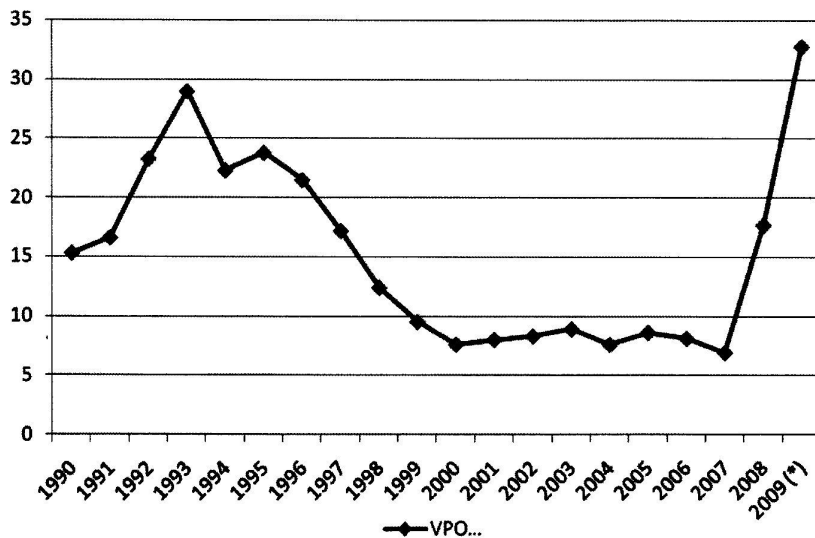


Figure 1 : Projects approved by the professional associations of architects. Ratio of subsidized housing (VPO) to the total (%) 1990-2009 [5]

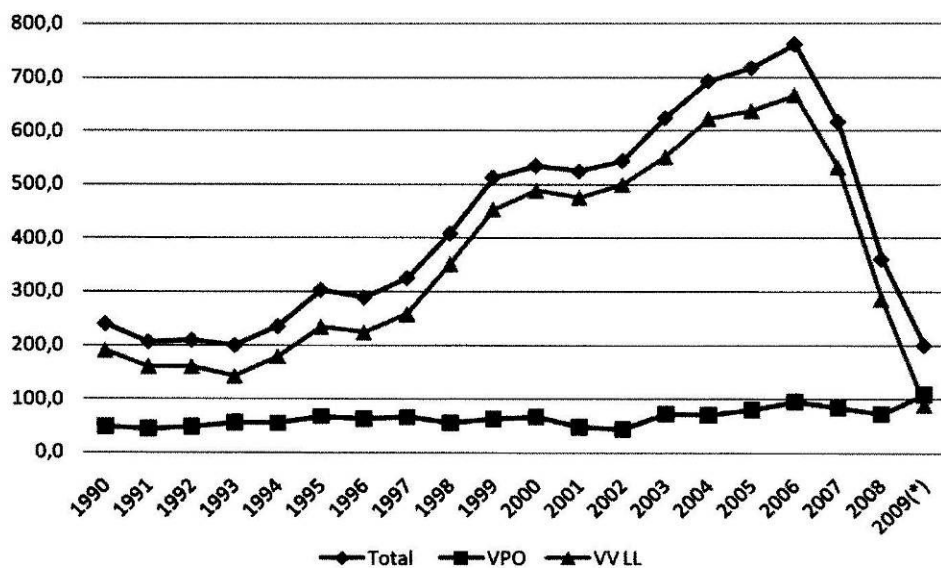


Figure 2 : Houses started, both free (VVLL) and subsidized ones (VPO). Yearly totals, 1990-2009 (estimate) [6]

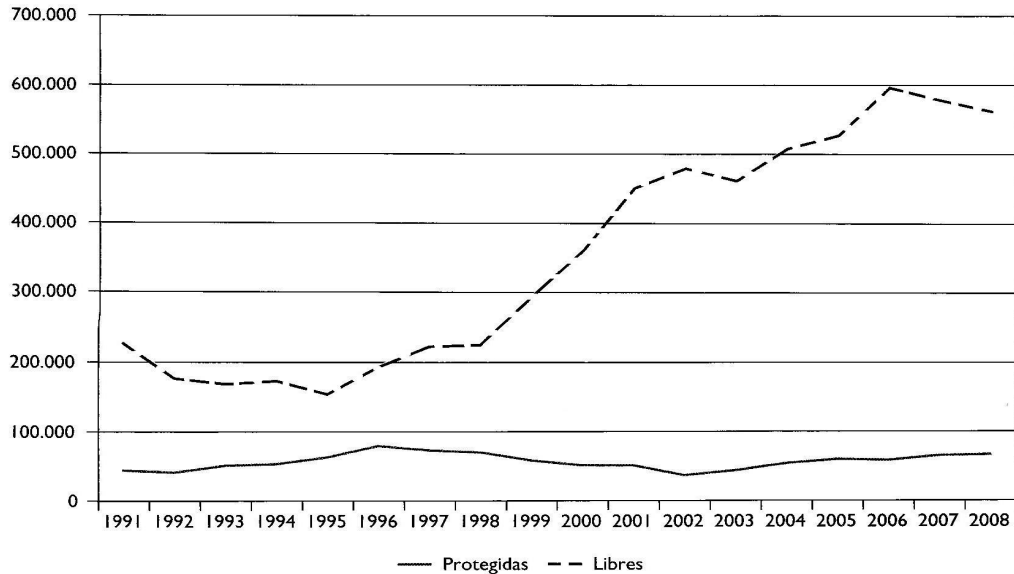


Figure 3 : Evolution of houses finished in Spain, both free (---) and subsidized ones (—) [7]

If social housing is supposed to be destined to the poor classes, can they really afford those amounts? It is true that there are several financial aids, such as the “youth mortgage”, but I think that the notion of social housing in freehold terms is not the appropriate one to the purpose of these houses.

Promotion of leasehold is a necessary element in the public housing policies in Spain, because such policies must attend to the need to find an accommodation and not so to the citizens' preferences. The article 47 of the Spanish Constitution provides the right to a decent and adequate housing, but in no case does it demand that it is in freehold terms. Therefore, the scope of possible beneficiaries should be broadened, because that is the only way social housing may be affordable to all the citizens and not only to those who can assume such an important economic burden as a mortgage. The solution which I consider necessary is the configuration of the lease as the core of the Spanish system of subsidized housing, together with financial aids which facilitate the payment of the rents for the poorest people; that is the only way social housing will have the nature and purpose which is intrinsic to its idea.

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