

# BARRIER 6: OWNERSHIP AND TENURE

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housing protection; land ownership; tenure and  
innovation

The issue of housing affordability is commonly associated with access to homeownership, and much of the policy focus tends to be in this direction. However, elements such as the rental housing market or, to a lesser extent, some alternative forms of ownership and tenure have, or can have, a huge impact on ensuring affordability. Rental housing is the most widespread form through which households without the financial resources to buy or build can access housing. It is therefore a key element in ensuring access to housing for the poorest groups. In most contexts, rental housing is a poorly regulated practice, where home ownership is concentrated in private hands and guided by the free market. In other contexts, and particularly in Northern European countries, states are actively involved in the rental housing market, with considerable public housing stock, constituting the backbone of affordable housing policies. Certain countries include shared ownership as an affordable housing element of new developments by backing intermediate housing market mechanisms to claim its social progressiveness and role in facilitating socio-economic mobility and helping people move from rented accommodation into full owner-occupation. Such cases are common in Europe, yet seen more in policy documents than in practice.

When discussing housing systems and associated policies, there are three important elements: (1) modes of production, (2) types of ownership, and (3) forms of tenure. Forms of tenure could be homeownership or rental housing; types of ownership could be public housing or private housing; and modes of production could be equally driven by public enterprises or private developers. However, there is also a variety of intermediate positions, the development of which may eventually facilitate affordability for many social groups. When we discuss modes of production, for example, beyond the traditional public and private modes of development, we find a variety of modalities that start from some intermediate scheme, typically linked to self-management and/or self-construction schemes, or more frequently, public-private partnership (PPP) schemes. When we talk about types of ownership, beyond private individual/family housing and publicly owned housing, there is a wide range of less common possibilities, from collectively owned housing - common in cooperative development schemes - to the shared ownership that is beginning to emerge in some contexts. Equally, between renting and owning, there are intermediate forms of tenure – from rent-to-own to long-term renting, or even temporary exchange of property. Often, the lack of regulation and promotion of some of these modes of production, ownership, and tenure not only constitutes a barrier to the affordability of adequate housing, but also provides a breeding ground for the development of effective but informal forms of tenure that end up having a greater impact on the most vulnerable groups of the population.

Land constitutes, in many ways, the basis on which the Right to Housing is sustained and from which housing policies are therefore derived. Land is not only the physical support on which housing is built, but also represents, on many occasions, the economic basis on which affordable housing policies are financed. The location close to services and employment opportunities, in safe areas, as well as the availability of basic services, are some of the fundamental elements that characterize adequate housing. When talking about land, therefore, it is necessary to discuss location relating to the functional areas of cities and human settlements, as well as the level of development, or more broadly the potential to achieve adequate urban development. These two elements determine, to a large extent, the value of land, which can have a very high impact on the final price of housing and therefore on its affordability. However, land with an adequate level of development is often a scarce commodity in cities and human settlements, which often results either in unaffordable housing for many social groups, or in affordable housing that does not have access to basic infrastructure services, central areas of cities or

adequate urban facilities, or housing located in unsafe areas. The existence of barriers for access to adequate land is therefore a barrier to housing affordability. Thus, aligning land and urban development policies with housing policies, as well as defining coordinated financing mechanisms, is one of the fundamental elements in the development of a housing system that responds to the needs and aspirations of society.

### **Registration systems and processes**

Land registration systems are linked to the right to housing in several ways. Most directly, registration systems guarantee people's legal ownership of the housing and land they have acquired or inherited, and thus protect them from eviction. On the other hand, in an indirect way, registry systems are essential to guarantee transparency in buying, selling, and renting operations, and in the establishment of financial mechanisms that facilitate the acquisition of property in instalments. Property systems, likewise, in many contexts also play a controlling role – albeit a secondary one – over the conditions of dwellings that are subject to change of ownership, to guarantee minimum conditions of habitability. Finally, registration systems are the most accurate mechanisms for determining fundamental information for monitoring and policy making in the sector, including actual market prices or the number of transactions carried out.

Property systems also play a fundamental role in relation to fiscal policies linked to real estate and to the purchase and sale or transfer of property transactions, which may eventually be linked to affordable housing policies and programmes.

Due to the complexity of setting up reliable registration systems, in recent years alternative proposals for property registration based on blockchain technology have been progressing. In other words, moving from centralised registry systems, in which there is a single register of transactions, towards decentralised systems. Where, through complex connections between various nodes, unique and inviolable automatic registry systems are created, which at the same time guarantee transparency, economy, and immediate availability of information.

### **Sector regulation and controls**

One of the elements that most often dominate the political discussion around housing is the need or not to establish limits and regulations in the housing market, whether they have some kind of social character. In general, the debates tend to focus on three main aspects:

The first has to do with the protection of the social character of housing. That is, the establishment of legal mechanisms so that housing that has been built, sold and/or allocated under some preferential mechanism – usually including some kind of subsidy – can be kept at least for some time out of the open housing market. The purpose of these measures would be, on the one hand, to prioritise the use value of housing over the exchange value, so as to ensure that social housing is being allocated to those who really need it, and, secondly, to introduce counterbalancing elements in the housing market that help to indirectly control its price. In general, policies in this regard are aimed specifically at setting limitations on the sale of social housing - such as, for example, determining a period of time for which housing can only be sold to the state at a certain price. Or, in other cases, by associating housing with tenure types that do not imply freehold. It is worth noting that some policies propose linked price regulation, but on a voluntary basis, meaning that owners agree to limit the sale or rental prices of dwellings in return for certain incentives, which may be financial, fiscal or of another nature.

The second element has to do with disincentive mechanisms for empty dwellings in a given context. As mentioned above, given the disparities between housing supply and demand, it is relatively common to observe situations in which a high demand for affordable housing coincides with the existence of vacant housing. In this sense, some policies propose the establishment of specific taxes applied to dwellings that remain unoccupied for longer than a certain period, with the aim of promoting the placing of these dwellings on the market and, through an increase in supply, to moderate prices. A similar variant of this type of regulation is aimed no longer at possible unoccupied dwellings, but at urban land intended for housing construction which, according to existing planning, remains unbuilt for more than a certain period after it has been approved. In such cases, legislations may sometimes include fiscal penalty mechanisms, or even the withdrawal of building rights assigned by planning.

The third element of the debate on ownership limitations has to do with the direct regulation of the housing market, setting maximum prices for sale or rent in relation to factors such as location, size, age, etc. This type of initiative, which has often been limited to state-owned housing, has increasingly been extended to private housing in some contexts, and has become particularly relevant in cities where rental housing prices have risen significantly compared to other cities in the context or with price indicators for other goods, services or people's incomes. For example, cities such as Berlin, Vienna or Paris, or countries such as Sweden or, recently, Spain, have implemented measures or laws that regulate rental prices to a greater or lesser extent.

## **CROSSING BARRIER 6:**

Moderated by the academia member, speakers coming from the national government, UN agencies and academia will discuss strategies to implement good policies on adequate and affordable housing worldwide. They would also reflect on suggested actions from the New Urban Agenda and ways to implement them. Discussion will be followed by two case studies: Mauritius and United Kingdom.

### **Objective of the session**

To propose three priority actions to accelerate the crossing of the barrier.

### **Guiding Questions**

- What are the most efficient mechanisms to design housing policies that balance the right of owners and the right of tenants?
- Are there examples of rental housing policy on a large scale that have been successful and what are the main take-aways?
- Is the establishment of public guarantee mechanisms for non-payment of rents an effective measure? How to reinforce regulatory frameworks to allow the implementation and promotion of alternative modes of ownership?
- Do certain types of ownership and tenure have a greater impact on ensuring housing affordability?
- How can new technology support the development of property systems, including elements and data of informal housing, to favour the access to affordable housing to those more vulnerable?

- Which experiences on sector regulations or market prices control have been successful and why?

### Final question

Please provide three action-oriented proposals that – from your point of view – will accelerate the crossing of barrier 6 on Ownership and Tenure.

### Agenda of the session

- 12:30 p.m. Opening intervention of the Chair's session.  
*Margrit Hugentobler*, (formerly) Swiss Federal Institute of Technology (ETH)
- 12:45 p.m. Initial proposal of priority actions to face the barrier by each speaker:
- Javier Martin, General Director of Housing and Land, Ministry of Transport, Mobility and Urban Agenda, Spain
  - *Sergio Nasarre*, Catedra UNESCO Vivienda, Univ. Rovira I Virgili
  - *Michelle Norris*, Director of the Geary Institute for Public Policy, University College Dublin
  - *Christoph Schmid*, Professor, University of Bremen
  - *Paloma Taltavull*, Professor, Universidad de Alicante, and UNECE Real Estate Market Advisory Group
  - *Spela Videcnik*, OFIS Architects
- 1:20 p.m. Reactions from the Chair/speakers to the introductory remarks and first round of guiding questions to focus the discussion on specific proposals.
- 1:35 p.m. Presentation of the first case: Places for People  
*Corneille Koppelaar*, International Director, Places for People
- 1:45 p.m. Reflections on the case presented and second round of guiding questions
- 1:55 p.m. Presentation of the second case: Mauritius  
*Gaetan Siew*, Special Envoy for the Republic of Mauritius
- 2:05 p.m. Reflections on the case presented and third round of guiding questions
- 2:15 p.m. Wrap-up and summary of priority actions proposed for the AHA Forum Madrid Declaration
- 2:30 p.m. End of the session

## Biographies of invited chair and speakers

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**Margrit Hugentobler**, (formerly) Swiss Federal Institute of Technology (ETH) got her Ph.D. in Urban, Technological and Environmental Planning from the University of Michigan, Ann Arbor, USA. She worked at the ETH CASE Center for Architecture, Society & the built Environment (ETH Wohnforum) in the Department of Architecture at ETH Zurich as a research associate and senior scientist. She has published in German and English on housing and sustainable urban development, cooperative housing innovations, shared living spaces and other housing related topics.

**Javier Martin**, General Director of Housing and Land, Ministry of Transport, Mobility and Urban Agenda, Spain. Born in 1970, he graduated as an architect from the School of Architecture of the Polytechnic University of Madrid and has been a career civil servant in the corps of Architects of the Public Treasury since 2001. Between 2001 and 2006, he worked as a senior technician in the General Subdirectorate of Coordination of Administrative Buildings, in the General Directorate of State Assets of the Ministry of Finance; and between 2006 and 2008 he was head of the Area of Asset Management of the Ministry of Public Administration, coordinating the technical area of the Subdirectorate. He has been Deputy Director General of Works of the Infrastructure and Equipment Management of the Ministry of Culture and Deputy Director General of Architecture and Building, in the Directorate General of Architecture, Housing and Land of the Ministry of Public Works and Director General of Architecture, Housing and Land, within the General Secretariat of Housing of the Ministry of Public Works.

**Sergio Nasarre Aznar** is Professor of Civil Law at Rovira i Virgili University and Director of its UNESCO Chair in Housing. He holds a European Doctorate in Law and a Master's degree in Real Estate Economics from the University of Cambridge. Since 2008 he has been a Corresponding Academician of the Royal Academy of Jurisprudence and Legislation. He has been awarded the ICREA Award for Excellence in Research 2016-2020. Consultant to several international organizations such as the European Commission, the FAO and Amnesty International. Between 2018 and 2020 he was advisor to the German Ministry of the Interior, Building and Community for the implementation of housing policies in Europe in its European Presidency in 2020. In 2020 and 2021, he was advisor to the foresight project "Spain 2050" of the Presidency of the Government. He has been an Alternate Magistrate in the Provincial Court of Tarragona for 15 years (2004-2018). He is the author of five books on housing, the mortgage market and tort law, the latest being "Los años de la crisis de la vivienda" (2020) and "La gran apuesta" (2021). He has coordinated nine more and is the author of 120 scientific papers in 12 countries, while he has given more than 220 lectures in 23 other countries. He has participated in the development of five housing-related standards. In addition, he is principal investigator or has been involved in more than 40 competitive research projects, including European Commission and European Parliament projects on tenancies, evictions and homelessness, transnational property acquisition, mortgage consumers and the collaborative economy.

**Michelle Norris** is Professor of Social Policy and Director of the Geary Institute for Public Policy at University College Dublin. Her teaching and research interests focus on housing policy and urban regeneration. She has led over 30 research projects on these issues and produced 200 publications on the results. She has strong links with policy makers in Ireland and internationally. In 2011 and again in 2016 she was appointed by the Taoiseach as an independent member of the National Economic and Social Council. In 2018 she was appointed by the Minister for Housing to the interim board of the Land Development Agency. Between 2012 and 2021 she chaired the

board of the Housing Finance Agency, a government agency which finances social and affordable housing in Ireland. In 2021 she was one of three lead authors of the Housing2030 on how policy makers improve affordable housing outcomes. This report was commissioned by the United Nations Economic Commission for Europe, UN Habitat and Housing Europe.

**Christoph Schmid**, Professor of European Constitutional, Commercial and Private Economic Law at the University of Bremen. He has long-standing experience in European private and commercial law, comparative law and legal theory, interdisciplinary links to political science and integration theory. Current research projects on judicial governance in the EU, in particular the role of the European Court of Justice in private law, as well as on tenancy law in Europe. Since 2007 he has been a visiting professor at the Universities of La Laguna and Tarragona (Spain); Trento and Sassari (Italy). Since August 2005 he has been Director of ZERP and Professor (W3) of European Private, Commercial and Economic Constitutional Law and Comparative Law at the University of Bremen. He has also served as Commissioner of the Department of International and Erasmus Affairs, coordinator of the “Hanse Law School” programme in Bremen (bachelor and master programme in European and Comparative Law, together with the universities of Oldenburg and Groningen) and chairman of the Examination Committee (2013-2018).

**Paloma Taltavull**, Professor, Universidad de Alicante, and is a member of the UNECE Real Estate Market Advisory Group. She has been visiting scholar at the University of California- Berkeley, Georgia State University, Florida International University and Massachusetts Institute of Technology (MIT) during her career. Her research focuses on housing markets, Real Estate Markets and macroeconomics, and energy and sustainable housing markets. She has written more than 40 book chapters and books, around 90 academic articles. She has participated in more than 35 research projects in housing and urban economics refereed to the Spanish market since 1992 and led H2020 two projects related to energy issues, decarbonization and housing/real estate markets. She is currently Chief-Editor of the Journal of European Real Estate Research, the academic journal of reference for European real estate markets. She won the 1997 Faculty of Economics PhD Award at the University of Alicante, II FICIA President Foundation 1996 Prize for the best Shoe Sector Research, the 2006 IRES Service Award and 2009, 2013 and 2014 Award of Excellence Outstanding Reviewer from by Emerald Literary Club. In previous years, she was an Outstanding Academic Member of the Housing Rent Market Observatory at the Spanish Ministry of Housing (2006-2009), and she led the launch of the Biblioteca Virtual Miguel de Cervantes (Virtual Library ‘Miguel de Cervantes’), the first virtual library in Europe and in the Spanish language, in 1997-99. Professor Taltavull is the head of the Cátedra de Transformación del Modelo Económico Valenciano of UA since 2020.

**Špela Videčnik**, together with Rok Oman, graduated from the Ljubljana School of Architecture and London’s Architectural Association and established OFIS arhitekti in 1996. The office is based in Ljubljana and Paris. Since its creation, the practice has been investigating space relations in different scales and context. Their build work is represented by various programs from public, sport, cultural and religious buildings to single and multiple housing. Their academic research combines different interests and curiosities. They investigate European and local Slovenian identity in contemporary architectural language, which includes traditional knowledge of vernacular buildings to revitalizations, conversions and new build in alpine area. Through their research of Habitations in Extreme environments they build projects several alpine shelters in Slovenia and glass house in the desert in Spain. They teach, run studios and workshops in various Schools for architecture including Harvard Graduate School of Design, Architectural Association in London, Hong Kong University, UCLA in Los Angeles, Milano Politecnico and ENSA Paris Val de Seine and Faculty for architecture in Ljubljana.



## Case studies

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**Corneille Koppelaar** is the International Director of Places for People Group. The Places for People Group is one of the biggest housing providers in the UK managing a portfolio of around 200.000 dwellings. The Group is engaged in international housing networks and technically supports the development of affordable housing in developing countries. Moreover, Places for People is involved in projects supported by the European Commission.

**Gaetan Siew**, Special Envoy for the Republic of Mauritius. Past President of the International Union of Architects UIA, and the CEO of the Global Creative Leadership Initiative focusing on transforming traditional knowledge into new technology. Lectures internationally. He serves as board member, resource person to the EU Commission ICOMOS, Shanghai University and in industry think tanks. Chevalier de l'Ordre National du Mérite in 2013 and de l'Ordre des Arts et des Lettres in 2016 of French Republic. He was in the Board Director of Futures Cities UK 2013-15; Chairperson of State Land Development Company (Smart Mauritius); Chairman of Construction Industry Board 2015- 18; UN-Habitat Special Envoy since 2016; Chair of the Port Louis Development Initiative since 2017 and Africa Clean Energy Solutions since 2019; Membre de la Chaire ETI Panthéon Sorbonne; 2022 Adviser to Government of Mauritius on their Affordable Housing project.