

# Addressing the European Housing Crisis through Tenure Reform? The Portuguese case



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# Main data on Housing provision in Portugal

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- Over the past decades, the main tendency in Portugal was to own permanent housing, with resort to credit institutions (bank loan or mortgages). The lease market was somewhat forgotten given the decades long freezing of rents that only started to be overturned in 2006.
- From 39% in 1981 tenants only amounted to 21% in 2001 and showed a tendency to decrease even further.
- With regard to tenure shares and according to the 2011 Census, there were around 73% owner-occupied dwellings; 20% rented (comprising 17% market rented and 3% social housing) and 7% being other types of tenures.

# Main data on Housing provision in Portugal

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- There is an excess of housing taking into consideration the number of its residents. According to the last census of 2011, the number of housing units was superior in about 45% the number of families
- The Council of Ministers Resolution 48/2015, 5 July, which adopted a new National Strategy for Housing for the period of 2015-2031 highlights that the expression “**so many people without a home and so many houses without people**” adopts a new dimension, given that in Portugal there is no housing deficit, but there are still difficulties in housing access.
- Indeed, according to a national report on rehousing needs, from February 2018, 25.762 families were identified as being in a clearly unsatisfactory housing situation
- Overcrowding of housing facilities is also a problem; as is the illegal nature of many dwellings

# Main tendencies in Housing development

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- There was a significant expansion of housing resources and a big investment in the construction of social dwellings, mainly due to the European structural funds to promote development and infrastructures in the 80's and 90's
- Also planning instruments (mainly the municipal director plans) started to be adopted in Portugal and entailed planning options that allowed for wide urban expansion areas.
- At the same time, the State strengthened the incentives to home ownership by families through interest subsidies and facilitated mortgages. This kind of policy was maintained until 2002

# Main tendencies in Housing development

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- After that time, due to the decrease of subsidized credit for house purchase (as a result of a restricted monetary policy imposed by the European Central Bank) and a substantial increase in interest rates, there was a situation of over-indebtedness of families.
- To tackle that situation, **a revival of the rental housing market was deemed necessary**, that however did not reach its desired objectives given the pressure of new forms of short-term housing such as Airbnb and also the reluctance of homeowners to lease their dwellings.
- Efforts to promote rehabilitation of buildings as the main form of intervention at the level of buildings and urban development are also undergoing.

# Main tendencies in Housing development

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- Given this situation, the housing policies and the recent legislation show a preference both for the revitalization of the lease market and also for the introduction of a certain flexibility in housing tenures, in accordance with the dynamic nature of housing needs.
- For instance, owners of old and vacant dwellings are encouraged to rehabilitate to rent, either by negative measures (such as an increased rate in municipal immovable taxes), or by positive ones (such as the application of a VAT tax of 6% instead of the normal 23% for rehabilitation contracts).
- Conversion of Airbnb again to housing (Council of Ministers n.o 41/2020, 6 June, provides financial help)
- Financing to municipal housing strategies

# Main tendencies in Housing development

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- Until 2019, only 13,5% of rental contracts were contracted for a period higher than 2 years.
- Tax reductions according to the duration of the rental contract (Law 3/2019)
- Foster long term rentals, reversing, through tax incentives, the trend towards short contracts that are incompatible with housing stability.
- Contracts between two and five years will benefit from a reduction of 2% to the normal rate of 28%, contracts between five and 10 years will have a discount of 5% - in both cases, if the contract is renewed there will be a new reduction, until the rate stabilises at 14% - contracts of 10 years or more will have a reduction of 14% and those that go beyond 20 years will only pay a rate of 10%.

# Type of tenures

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- Homeless
- Informal housing
- Squatting
- Comodatum (gratuitous housing loans)
- Accommodation of workers
- Local lodging (Airbnb)
- Temporary residences (students, etc.)
- black rental market
- Private rental market
- Affordable housing
- Conditioned housing
- Social Housing
- Leasing
- Usufruct
- Real right of housing
- Periodic real right of housing
- Right to durable housing
- Residential tourism
- Housing with public law conditions
- Collective property (cooperatives)
- Co-living
- Co-property
- Horizontal property (condominium)
- Resolvable property
- Full property

# Affordable rent scheme

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- Law-decree n. 68/2019 created the Affordable Renting Programme (*Programa de Arrendamento Acessível* - PAA), which entered into force on the 1<sup>st</sup> July 2019.
- This legal scheme is similar to a rental market contract, but with particular features.
- To become a landlord or a tenant under this legal framework, any individual has to register in the PAA's electronic platform, which is run by an official entity – IHRU.
- The landlord's advantage is that rent income in the PAA benefits of **tax exemption** (Law n.º 2/2019, 9 January). However, the rent must be at least **20% lower** than the average rent calculated by a formula called Reference Value of the Rental Price (VRPR).
- Except for students, the duration of the contract should be of at least 5 years and the rent should be situated between 15 and 35% of the medium mensal income of the tenant and family.

# Main Features

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- Conceived to promote housing **affordability** to those who cannot pay an ordinary market rent
- It gives direct benefits to the homeowner and not to the tenant (no subsidies), in order to promote housing **availability**
- **Voluntary** rent system
- A **new institute**, besides market rental, controlled costs housing (conditioned housing) and social (supported) housing
- Includes a **special insurance framework** that includes compensation for lack of rent payment; compensation for involuntary breach of income and compensation for damages to the facilities.

# Positives

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- Tenants should not have to bear an effort rate higher than 35%.
- The involvement of some Municipalities as agents of the process, for instance in Lisbon, Oporto, Caldas da Rainha, Matosinhos (with their own programs)
- The possibility to overturn house occupancy from airbnb to “proper” housing
- The ability to better meet families' needs and to overcome lack of proper solutions for student's residence

# Shortfalls

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- The lack of ability of most Municipalities to conduct their own programs (shortage of own dwellings and also contractual difficulties)
- The lack so far of insurance schemes adjusted to the affordable rent mechanism
- The location of dwellings in the accessible rent schemes is in some cases peripheral and does not equate with the demand of more central locations.
- To date the numbers for this program stay far below the initial expectations, with only 242 contracts signed in the time frame of a year (until end June 2020).
- It does not respond to the needs of part of the population (there is a gap between social rent and affordable rent beneficiaries).

# Right to durable housing

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- Law-Decree n. 1/2020, 9 January, created the right to durable housing (DHD), which entered into force on 10 January 2020. This legal scheme has to be made in writing and to be registered in the Land Registry.
- The DHD was conceived as an alternative between the purchase of a dwelling and leased housing. This legal instrument allows one person (the resident) to live for life in a dwelling by paying the owner an initial deposit and a monthly instalment. Whilst the amount of the monthly installment is freely agreed upon between the resident and the owner, the value of the initial deposit must be between 10% and 20% of the market value of the same type of dwelling in the same area.
- The initial deposit needs to be returned in part or in full, if the resident renounces the DHD during the first 30 years of residence in the dwelling.

# Positives

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- The resident has the duty to pay for housing taxes; and must keep the dwelling in good condition; paying for the necessary repairs.
- Compared to the purchase of a dwelling, or to a rental agreement, this legal scheme brings significant advantages to the resident.
- In fact, the resident achieves stability and security having a lifetime right of dwelling, but spending a lesser amount than that required to purchase the full ownership.

# shortfalls

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- For the owner of the dwelling, this legal solution is probably less advantageous than selling the full ownership, but more advantageous when compared to a rental agreement in terms of profit.
- However, probably due to its only recent introduction, the DHD has not become frequently used yet.

## Future to come...

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- It is not public knowledge whether the Government or Parliament intends to draft other forms of access to housing in addition to the already existing legal types.
- Probably the current Portuguese system does not need new legal types of tenures, but needs to improve the existing ones, mainly refining the rental market regulation in terms of stable, clear and easily understandable solutions, and increasing the provision of social housing (responding to low-income groups and not only to medium-income groups)
- In fact, regulation has been changing so frequently, in recent years, that potential landlords might not trust the legal system to make new rental agreements and prefer to keep their dwellings vacant (even paying higher municipal land taxes).