

Housing professionals in Europe. Special attention to the Spanish case

Gemma Caballé Fabra

*Department of Private, Procedural and Financial Law, UNESCO Housing Chair,
Rovira i Virgili University, Tarragona, Spain*

Journal of
Property,
Planning and
Environmental
Law

Received 21 November 2024
Revised 7 February 2025
3 March 2025
Accepted 10 March 2025

Abstract

Purpose – The European Commission has no jurisdiction to decide whether Member States should regulate real estate or housing professions or not. In EU terms, the term “regulation” is understood as the requirement of a specific academic qualification as a prerequisite for practicing the profession. Thus, it is each European country who decides whether or not to regulate professions linked to housing and real estate, such as real estate agents and property managers. These are precisely the two real estate or housing professions that are involved in private transactions and management. Real estate agents intervene in the pre-contractual or marketing phase of the process for accessing a home and property managers intervene in the residential phase, once people are permanently residing in the homes, they also interact with non-resident owners. This paper aims to analyse the differences between some European countries in terms of how these professions are regulated and what impact this regulation might have on the legal security of transactions, consumer protection and the right to access decent and adequate housing.

Design/methodology/approach – This paper studies both the regulation framework of these professions in some European countries, with a special focus on Spain, comparing it with Germany, which are similar in terms of their respective conveyancing services systems (both have a latin notary system) and Germany is also the European country that most invests in the Spanish real estate market. This could be interesting from the point of view of consumers in both countries. It also takes into account the position of the EU, to ascertain what European countries can and cannot do in terms of the regulation of real estate and housing professions.

Findings – This paper identifies the importance of having an adequate legal framework for the professions of real estate agents and property managers to ensure the satisfactory implementation of housing policies and to make access to decent and adequate housing, an effective right.

Research limitations/implications – This paper offers a general view of the regulations in some European countries that represent the four existing conveyancing systems (legal services associated with real estate and housing transactions). However, further research into each country would be necessary to precisely determine the limitations regarding real estate professions and the impact this has on housing policies. There are not many recent studies and references on the subject, especially at a European level. The only recently published European report on housing professionals is from The European Association of Real Estate Professions (CEPI, 2024).

Originality/value – Real estate agents and property managers might be the only professionals who offer their services to people who wish to access a home, whether through leasing or buying. This is why it is necessary to have an appropriate legal framework to regulate them and to provide minimum quality guarantees to consumers and users who receive their services when they are buying, renting or living in a home, as proposed in this paper. This paper offers for the first time a general overview of the situation of these professions in Europe and offers information to consumers concerning the training and regulation of these professionals in different countries.

Keywords Europe training regulation, Housing professionals, real estate agents, property managers

Paper type Research paper



© Gemma Caballé Fabra. Published by Emerald Publishing Limited. This article is published under the Creative Commons Attribution (CC BY 4.0) licence. Anyone may reproduce, distribute, translate and create derivative works of this article (for both commercial and non-commercial purposes), subject to full attribution to the original publication and authors. The full terms of this licence may be seen at <http://creativecommons.org/licenses/by/4.0/legalcode>

Journal of Property, Planning and
Environmental Law
Emerald Publishing Limited
2514-9407
DOI 10.1108/JPEL-11-2024-0053

1. Introduction

This paper focuses on the EU regulation of the profession of real estate agents and property managers as two of the most relevant real estate or housing professionals who arrange the sale, purchase or rental of individual units and the management of buildings in private housing transactions [1]. Hence, legal training is essential for both professionals, especially regarding legal framework concerning consumer protection, contract clauses, housing habitability standards, taxation and management of public funds (for example, Next generation EU funds). We do not include notaries and land registrars because they usually intervene at the end of real estate transactions when negotiations between parties have already finished, and they do not exist – or have the same role – in all European countries. Architects and other technical professionals who focus on the physical or technical aspects of housing are excluded.

It is important not to confuse real estate agents and property managers with the different conveyancing professionals analysed in Section 3.1. Despite the fact they are closely linked in terms of the provision of legal services, on the one hand, real estate agents and property managers are private professionals who are in charge of buying, selling and renting individual units or managing the building when people are living in their homes. On the other hand, the different conveyancing professionals (as explained in Section 3.1) oversee the transaction from the legal point of view. In some countries, the real estate agents themselves also handle the legal procedures and paperwork. Therefore, before comparing these housing professions in different countries, it is important to know which conveyancing system they have.

Special attention will be paid to Spain due to the liberalization of the legal framework related to real estate agents in the year 2000 and the coinciding poor regulation of property managers in this country, which have been directly linked to the last housing bubble (1995–2007), the subsequent “crash” and the current lack of consumer protection in the housing sector (Caballé Fabra, 2021). Spanish housing professionals serve not only Spanish people but also many EU citizens buying or renting in Spain (Sparkes *et al.*, 2016). In this sense, Germany is the European country that most invests in the Spanish real estate market (CBRE, 2024). Also, in Germany the real estate agent and property manager professions have also been deregulated as is explained below.

In all countries, real estate agents are mainly involved in a pre-contractual phase or in the initial negotiations when the parties intend to sell or gain access to housing. Property managers intervene in a later phase when the people already reside in their homes, they also interact with non-resident owners, residents are part of a community where the condominium or a related multi-unit building regime applies. Despite the fact they intervene in different phases, their functions usually can be the same in terms of providing assessment and legal advice related to real estate and housing.

Although in some countries such as Spain, Belgium, France, Finland, Germany, Greece, Italy or Poland, both professionals (real estate agents and property managers) are differentiated with different regulations and different professional associations, in other countries (such as Austria, Luxembourg or Andorra) this distinction is not made, and they even share the same regulations or legal framework [2].

In any case, it is necessary to jointly address both professions linked to the private housing market to resolve the challenges that arise in this sector, in terms of academic training in housing, especially in specific legal aspects that these professionals have a key role in implementing, namely, consumer protection, legal security and the right to access decent and adequate housing. Both professions have an important role in facilitating access to housing, ensuring compliance with housing habitability standards, implementing

consumer protection rules and the correct application of the corresponding legal framework. Moreover, they might be the only professionals that intervene in private real estate or housing transactions whether through leasing or buying (Nasarre Aznar, 2020). Therefore, they should guarantee the correct completion of and add value to any transaction they take part in, in accordance with the value of the good they are working with: a home (Fox, 2007).

The main problem with both professions in some European countries such as Spain, Bulgaria, Georgia, Greece, Slovakia, Switzerland, The Netherlands and the UK is that neither of them reserves the profession exclusively for those with specific academic training nor does it contemplate compulsory membership in a professional association or public institution. This means that anyone can become a real estate agent or a property manager without needing to prove training or provide minimum guarantees, thus not only jeopardizing consumers but also posing a risk to the housing market itself (Kenna *et al.*, 2016). In these cases where there is no public institution that supervises the activity of professionals, it harms consumers since they are helpless in the event of any type of conflict with the professional and are more vulnerable to the violation of consumer rights. Furthermore, there is no institutional body that controls not only that professionals have a minimum level training but that their processes and procedures comply with the law and that there will be consequences or liability in case of damages or misinformation.

If real estate and housing professionals do not have the proper skills, this might jeopardize the interests of consumers who want to gain access to housing with all the information about the transaction and the home understood and to avoid being abused in a complex multidisciplinary sector such as housing and real estate.

2. Housing and real estate professionals

2.1 The EU position

The EU is not able to regulate the professions of property managers or real agents at a European level [3], so it is up to each country to decide whether or not to regulate them (art. 345 Treaty on the Functioning of the European Union (TFEU)). Hence, there are substantial differences between European countries in relation to the regulation of both professions. However, the EU can make recommendations in this sense to Member States as stated below. The EU can regulate areas where it does have jurisdiction (art. 4 TFEU) including consumer protection, free movement of professionals between Member States and the mutual recognition of academic training between countries, given that the policies it adopts in these areas have a direct impact on real estate professions such as property managers and real estate agents.

For example, Directive 2006 / 123/EC [4] on services in the internal market does not impose an obligation on States to deregulate or liberalize professions, but rather aims to make it easier for purveyors to establish new businesses in other countries and to freely provide their services around Member States. It stipulates that requirements that restrict access to certain professions may only be implemented when they meet the conditions of *non-discrimination, necessity and proportionality*. That is to say, the establishment of prerequisites that restrict access to specific professions such as a compulsory academic title or joining a professional association should be properly justified by Member States.

It was precisely to promote the free movement of professionals and the easy recognition of their professional qualifications between Member States that Directive 2005 / 36/EC [5] on the recognition of professional qualifications was enacted, it was later amended in 2013 by Directive 2013 / 55/EU [6]. This last Directive introduced the European Professional Card (EPC) to facilitate the easy and fast recognition of qualifications to practice certain professions, including real estate agent qualifications but not those for property managers.

According to a Communication from the Commission to the European Parliament [7], real estate agents are included among the professions which could benefit from having an EPC due to the significant number of cross-border operations they manage and their impact on the European economy, but the document does not justify why property managers are not included. In this Communication, the EU recommends the liberalization of professions to facilitate the free movement of professionals among Member States and therefore, economic growth. That is to say, the fewer access barriers there are between countries, the more real estate transactions there can be.

In the European Commission Communication on competition in the liberal professions sector of 2004 [8] (which basically only referred to the professions of lawyer, notary, accountant, architect, engineer and pharmacist), the European Commission established the reasons justifying the existence of restrictions, such as, for example, that the professions are regulated and, therefore, that academic qualifications are required. They are:

- that there is an *asymmetry of information* in the profession;
- that the services produce *external effects* on other sectors; and
- that a public good is derived from the service, that is, a *general interest*.

Despite the fact this Communication (2004) does not include real estate agents nor property managers, we understand that these requirements are met by both the real estate agents and property managers professions for the following reasons:

- *There is a strong information asymmetry between consumers and service providers (housing professionals)*. There is an unequal and asymmetric relationship between lenders and borrowers of mortgage loans, between landlords and tenants and between providers and consumers of housing and housing services (Kenna *et al.*, 2016). In this regard, the general rule is that the provider of a service acts in the best interest of its client [9]. However, when the client lacks sufficient information regarding the sector in which the transaction occurs (especially when it is a sector as complex as the real estate or housing sector or the condominium regime), it is possible that he or she cannot judge the quality of the service and this can encourage the professional to engage in opportunistic behaviour: he or she can charge higher prices, reduce the quality of the services and even provide services that the client does not need (Van den Bergh and Montangie, 2006).
- *External effects that may arise from real estate and housing services*: That is, how the services of property managers or real estate agents may affect third parties or other sectors not directly linked to these professions. Some facts that exemplify these external effects or the close relationship that exists between the activity of these professionals and other areas are, for example, difficulties faced when seeking access to housing (especially for young people) [10], accessibility [11], energy efficiency [12], the loneliness of older people (Rubio Herrera, 2004), social cohesion problems in communities and neighbourhoods (Roitman, 2003), the physical degradation of buildings (Garcia Teruel, 2019), conflicts and violence between people and family members and the damage caused by climate change and natural disasters, among others. In these cases, property managers and real estate agents, in their role as housing professionals, could contribute to the facilitation of access to housing if they carry out intermediation functions by advising clients on what type of tenure may be most appropriate for the person seeking housing, thereby avoiding over-indebtedness and providing a host of pre-contractual information (Caballé Fabra, 2021).

- *The public good that is derived from the service (the general interest that exists in the profession).* In accordance with art. 4 of Directive 2006/123/EC, which defines “compelling reasons of general interest”, among all the topics included in this article, those that are most closely related to real estate and housing services and, therefore, to the profession of property managers and real estate agents, are: the protection of consumers and recipients of services; the fight against fraud and the prevention of tax fraud and tax evasion; the protection of the environment and the urban area and assisting with the implementation of social policy objectives. For example, both real estate agents and property managers are obliged to comply with and apply consumer protection regulations according to the legal framework of each country. Regarding the prevention of tax fraud and tax evasion, both professions, especially real estate agents, make important contributions that help hinder these practices (Directive 2005/60/EC of the European parliament on the prevention of the use of the financial system for money laundering and the financing of terrorism). Property managers have an important role in protecting the urban area since they manage condominiums, and it is precisely this kind of multi-unit building that has a strong impact in the cities of countries such as Spain and Germany (Eurostat, 2023). Furthermore, in some cases, property managers are the only professionals who might know the real situation of the people (especially the vulnerable ones) who live in the building they manage.
- Housing is currently on the EU agenda [13] and, even though the EU does not have competence on housing issues, EU policy has an indirect impact on the provision of housing, as has occurred with the Energy Performance of Buildings Directive [14] and the European platform on combating homelessness [15].
- Furthermore, many EU Constitutions provide three major rights that are strictly linked to these professions, such as the right to access decent and adequate housing, the protection of consumers or the legal security of real estate transactions. Some examples are the Declaration of the Rights of Man and Citizen of France (art. 17), the Italian Constitution (arts. 47) and the Spanish Constitution (arts. 47, 51 and 9.3).
- Housing is a very special and a complex good since it is both an important economic asset and a basic human need, necessary for a decent and adequate life (Nasarre Aznar, 2017) [16].

Article 59 of Directive 2013/55/EU establishes the obligation of Member States to notify the European Commission of the list of regulated professions that exist in their countries and the respective justifications for their regulation. These national documents that States are required to publish are entitled “National Actions Plans” (NAP). In the European Commission’s report on the real estate sector of 19 January 2015 [17] based precisely on the NAP submitted by the Member States, which only addresses the real estate brokerage profession, making no mention of property managers, we can see what regulations are applied in each country.

This report states that some countries consider that regulation is justified by reasons relating to the protection of consumers and recipients of services, some of them also mention the prevention of fraud (Belgium, Denmark, Spain, France, Luxembourg, Hungary, Austria, Slovakia and Sweden) and the protection of creditors (Spain, France, Luxembourg, Austria and Sweden). A limited number of countries indicate that it benefits fair trade (France, Luxembourg), public policy (Belgium, Cyprus, Hungary), safeguarding the administration of justice (Denmark) and public security (Slovenia).

Those countries where the profession is not regulated (Germany, Lithuania, Malta, Poland and the UK) justify their position on the grounds that consumer interests are already sufficiently protected by other means such as general legislation on consumer protection, civil and criminal law and rules of professional conduct.

The general trend in EU countries is to consider that it is better to regulate the profession to ensure consumer protection [18]. Even though the EU has competence on consumer protection, it has no competence to decide whether or not housing and real estate professions should be regulated. This paradox explains why there are a lot of differences regarding the regulation of housing professions in Europe. However, we consider that the EU is entitled to increase consumer guarantees in the real estate sector. It will subsequently be the countries themselves that will have to find the appropriate ways to ensure these guarantees are implemented. For example, the requirement of compulsory academic training and the need for real estate professionals to join an institutional body which supervise their activity.

The most recent EU Directive which might affect real estate and housing regulation is Directive 2018/958 [19]. What is intended with this Directive is that States, before introducing new regulation of a profession (such as introducing new access requirements for those wishing to practice a profession or modifying existing requirements by increasing restrictions), must carry out a *proportionality test or an evaluation* to analyse whether the regulation is sufficiently justified. If a European country intends to introduce a specific academic qualification and mandatory registration for any housing profession, it must undertake this test and show that the regulations meet the conditions established by this Directive (non-discrimination, proportionality and public interest).

On the one hand, there are studies which conclude that there is no evidence of a relationship between deregulation of the professions related to real estate transactions (conveyancing services) and economic growth (Murray, 2007) and CEPI(2024) [20]. According to CEPI, there is also no relationship between regulation and restricted competition or higher fees. Much of the discussion on deregulation focuses on the need for economic growth based on the assumption that a free market contributes to the creation of economic growth, but the current data available does not confirm this assumption.

On the other hand, other studies concluded that deregulation favours lower prices and gives professionals more options, while access restrictions and the existence of regulatory barriers to carrying out a professional activity hinder the mobility of professionals, limiting employment opportunities and competitiveness in the affected economic sectors (Schmid *et al.*, 2007).

Therefore, nowadays it is not clear if the liberalization of real estate professions effectively contributes to the promotion of economic growth at a European level. However, regardless of the impact on the economy, experts and professionals from the real estate sector considered that it is necessary to improve the regulation of housing professions to increase the levels of protection of European consumers [21].

If the professionals involved do not ensure minimum levels of competence or skills, there are no guarantees of compliance with the law or that consumers receive the required pre-contractual information or that the professional is qualified to properly inform the clients and make sure they have fully understood this information. Minimum levels of competence ensure that professionals know this sector. We should be concerned since people usually only seek access to housing a few times in their lifetime. It is a complex and multidisciplinary operation, involving a person's home, which is where we spend most of our time. It is a basic necessity. Hence, the professionals involved should guarantee a minimum level of capability and expertise.

2.2 *Housing professions in Spain and Germany*

Spain is the EU country with the highest number of people living in flats (66.1% according to Eurostat 2022 [22]), with Germany being in third place (63%), in addition to being one of the countries where the real estate sector makes up a significant part of the gross domestic product (GDP) [23]. Therefore, the role of property managers and real estate agents is especially relevant not only because of the impact it has on the economy of these countries, but also on all the people who want to access housing or who already live in a flat.

On the one hand, in relation to property managers, there are currently about 15,000 in Spain who are members of an official professional association [24] and in Germany around 6,000 are members of the Immobilienverband Deutschland (IVD), the biggest association of real estate professionals in Germany. Membership is not mandatory in either country, although in Spain the regulations do provide for it in the case of managers who regularly practice this occupation in a professional capacity [25]. In Spain, there are two ways to register with the Property Managers Association: the more direct way is for the applicant to prove he/she holds a university degree and the indirect way, is to obtain the own degree in Property Management offered by some Spanish universities that have an agreement with the General Council of Professional Property managers Associations of Spain (CGAFE). In relation to the first way, covered under art. 5 of Decree 693 / 1968, of April 1, by which the National Trade Union of Property managers was created, any university degree is valid for membership regardless of the discipline in which it was obtained. Hence, we can find property managers in Spain with different types of qualifications and even with qualifications that are not related to the profession itself (education, chemistry, nursery...). In this sense, we consider that not all university degrees offer the necessary skills to exercise housing professions. Despite admitting university degrees of different natures, the property manager who is a member of a professional association holds the title of “property manager” protected and covered by the crime of impersonation.

On the other hand, in relation to real estate agents, it is currently estimated that there are around 50,000 throughout Spain, although only 10,000 are members of their professional association. Unlike property managers, for real estate agents there was a turning point in their profession in 2000, since then it is not mandatory to be a member of the Professional Association of Real Estate Agents regardless of whether or not the person in question regularly practices the profession [26].

In Spain, there is currently no national regulation governing the real estate brokerage profession. However, some regions (called “Autonomous Communities”) of Spain (particularly Catalonia, Valencia, Navarra, Madrid and the Balearic Islands) have taken the initiative of introducing training requirements and the creation of an administrative register (which may or may not be mandatory, depending on the Autonomous Community), which should not be confused with professional associations.

This leads to substantial differences between regions in Spain, which has been criticized by the European Commission for generating confusion among Spanish consumers [27].

In Germany, unlike in Spain, there is an Ordinance relating to real estate brokers and developers – (MaBV), it regulates their profession and stipulates the requirements they must fulfil (academic training). In Germany, membership of the IVD is optional for both professions (whether they are property managers or real estate agents), applicants can either provide evidence of a relevant qualification or pass an oral examination. Moreover, two years of practical experience are also required [28]. However, in this country neither the title of real estate agent nor the title of property manager is protected by law, but managers must complete 20 h of in-service training, unlike in Spain where any type of academic training is considered acceptable.

The pro-liberalizing line coming from the EU Directives was also evident in some Spanish institutions in 2008 such as the “National Commission of Markets and Competition” (CNMC) through a report on professional services and professional associations [29]. It highlighted that the main restrictions to free competition are those that establish entry barriers to professional practice; those that seek to defend the reservation of certain activities that lack legal protection; restrictions related to prices both through the setting of fees and through visas; and advertising restrictions. This position is also reflected in the report issued by this same institution (CNMC) on the 21-06-2018 on the Draft Royal Decree approving the General Statutes of the Official Real Estate Agents Associations and is also evident in its report on the draft Royal Decree concerning Property Managers [30], where the CNMC defends the liberalization of both professions.

Therefore, to decide whether it is more appropriate to regulate real estate professions, i.e. to stipulate certain access requirements or to deregulate them so that anyone can engage in them, the dual nature of the concept of housing must be weighed or balanced: should it be treated more as an economic asset or as a basic need.

In our opinion, the achievement of economic growth through the housing sector would not make up for the negative impact on consumer protection, the creation of legal uncertainty and the jeopardizing people’s access to housing. Therefore, the housing sector and, in particular, the liberalization of professionals who provide housing services should not be used to boost the economic growth of a country when what is at stake is people’s right to housing.

3. Consequences of deregulation of real estate agents and property managers

3.1 In Europe

Before referring to the consequences of deregulation and comparing the legal treatment of these two professions in different countries, it is necessary to take into account the four systems used to ensure legal security in the real estate sector (conveyancing systems) that exist in Europe (Schmid, C., *et al.*, 2007 and Jyngrid, 2013). Conveyancing service systems have a very close relationship with housing professions such as real estate agents and property managers since the later, in some measure, also offer legal services, especially in relation to consumer protection. The four systems used to ensure legal security in the real estate sector in Europe are:

- (1) *Latin notarial system*: present in Spain, Portugal, France, Italy, Luxembourg, Belgium, Germany, Poland, Slovenia and Austria, among others. In these countries, the notary, in addition to being a public official of the State who provides citizens with legal security in the field of extrajudicial legal transactions, is also a liberal legal professional practising under competitive market conditions. The main function of the notary is to examine the documentation to warn, advise or counsel the client on the intended transaction or legal act (Caballé Fabra, 2021).
- (2) *Deregulated notarial system in the Netherlands*: In 1999, the Latin notarial system in the Netherlands was partially deregulated to create a competitive market for services (Sparkes *et al.*, 2016). The notary is responsible for authenticating and registering the transfer of ownership of property but has no public functions like the Latin notary. The most significant changes applied under the partial deregulation of the Latin notarial system were: the abolition of fees set by law; the fact that the number of notaries is not limited by a geographic area; and the freedom of geographical choice the notary has when establishing the business (Schmid *et al.*, 2007).

The study carried out by [Van den Bergh and Montangie \(2006\)](#) concludes that there is no empirical evidence of the benefits obtained by the liberalization of the notarial profession in the Netherlands, as well as highlighting that some regulation is necessary to guarantee the legal certainty of transactions. Another report by the Netherlands Bureau for Economic Policy Analysis in 2005 [\[31\]](#) also concludes that no significant differences were found between 1996 and 2002, in terms of the competition in family services and real estate transactions and that a deterioration in the quality of services offered by notaries was evident. In this same line, [Murray \(2007\)](#), also concludes that there is no evidence that deregulation of notary services leads to lower costs or greater efficiency, since the costs arising from transactions involving notaries are low, they offer greater protection to consumers and also offer impartiality. In contrast, [Schmid et al. \(2007\)](#) considered that the effects of the partial deregulation of the notarial system in the Netherlands were generally positive, both from a consumer and cost-reduction point of view. They also concluded that it makes no sense to make the involvement of notaries obligatory in commercial transactions if the parties have previously used the services of a specialist (such as a real estate agent) to inform them or draw up the contracts, since the involvement of the notary only adds more bureaucracy and an additional cost for the parties. They consider that the Latin notarial system is the most expensive conveyancing system and that the correlation between the quality of the services offered in relation to the high prices demanded has not been demonstrated.

Therefore, there is a diversity of opinions in the relevant literature, on whether better regulation of real estate professions such as real estate agents and property managers would call into question the role of notaries. We believe that if real estate agents were subjected to mandatory membership, or if they were required to have better academic training, then countries with a latin notary system could consider changing model and adopting another system. However, it is important to bear in mind that Latin notaries have extensive legal training and also have public functions unlike real estate agents and property managers.

- (3) *The system of liberal lawyers (lawyers/solicitors and licenced conveyancers)* is present in the United Kingdom (no EU), Ireland, the Czech Republic and also in Austria (although the latter has both notaries and liberal lawyers). In these countries, there is no notary acting as a guarantor of the public interest in real estate transactions ([Schmid et al., 2007](#)). This control is carried out by independent or liberal professionals with legal (solicitors) and/or real estate knowledge (licenced conveyancers), practising under competitive market conditions and the function of writing is performed by the deed. In the UK, for example, solicitors must be registered with the Law Society [\[32\]](#) and are represented by the Solicitors Regulation Authority [\[33\]](#), while licenced conveyancers are represented by the Council for Licenced Conveyancers. The former are general legal professionals, that is, they are not specialized; while the latter, created in 1987, are specialized in real estate transactions with specific training in this field ([Schmid et al. \(2007\)](#)). In the UK, prior to the existence of licenced conveyancers, solicitors had a monopoly on the conveyancing service market. The National Action Plan (NAP) [\[34\]](#) considers liberalized and proportionally regulated markets to be the most productive.
- (4) *Licenced real estate agent or licenced broker system (Scandinavian countries):* Sweden, Finland and Denmark. In these countries, contractual parties are free to decide whether or not to use real estate agents when conducting real estate

transactions, but they normally decide to use, them given the complexity of real estate and housing transactions. Real estate agents are required to have an academic education. In Scandinavian countries, in accordance with [Jingryd \(2013\)](#) the real estate agent or broker performs functions very similar to those performed by the Latin notary, since in addition to being the one who puts the parties in contact (matchmaking or classic brokerage), he advises and counsels the parties and is obliged to be impartial.

Whether the profession of property managers and real estate agents is regulated or deregulated has no relation to the type of conveyancing system that each country has (i.e. a notarial system and a liberal legal system), nor to the population, or density [...] as can be seen in [Table 1](#). Thus, it is each country that freely decides and justifies whether it wants to have these professions regulated and, therefore, whether it requires certain requirements for access to the profession or not, such as the requirement of a mandatory academic degree or being a member of an official institution such as a professional association.

In our opinion, in relation to the profession of property managers, countries with a low population and/or a low population density (compared to Spain) or if the percentage of flats is also lower (as is the case in the UK, Netherlands or Denmark according to Eurostat, 2022) which have the profession deregulated, this does not seem like such an unreasonable policy, since the impact that property managers can have is less significant, both in economic terms and in relation to the condominiums themselves.

However, in countries with a high population density and with a high proportion of flats, as is the case in Poland, Czech Republic, Germany and Spain, we find it disproportionate that professionals who manage economic and property interests, as well as helping to provide for the human right to access housing, are not guaranteed to be subjected to regulations that protect consumers, including rules that impose a compulsory minimum level of training for all the professionals, precisely due to the impact that this profession has on daily housing relations. For example, property managers oversee maintenance of the common areas of the building. This involves selecting and hiring the appropriate, professionals, they also collect community fees and even attend to the needs of people who live in the building and need help (elderly people and people with disabilities). The primary function of real estate agents is to find the right house for their clients, where they plan to live or even start a family. Therefore, finding a home (accessing housing) is a special moment in our life that deserves special protection from the professionals who work in this field.

As regards the profession of real estate agents, taking into account the part of the transaction that these professionals take part in (in the pre-contractual or advertising phase), the role they play is especially focused on preventive legal security, the protection of consumers who wish to either sell their home or to access housing, as well as contributing to putting into effect the right to access a decent and adequate home. For example, ensuring that the property meets the habitability requirements, that it is free of encumbrances, that it is the home that best suits the buyers or tenants needs, providing advice to help avoid overindebtedness, etc. We consider that minimum quality standards should be ensured to guarantee the parties that all of this is performed correctly, especially if they are the only professionals that have taken part in the transaction.

3.2 In Spain

A better regulation of housing professionals would improve the quality of services and give effect to the right to housing as a human right. Although Spain recently approved its first housing law, Act 12 / 2023, of May 24, on the right to access housing [\[35\]](#), there have been

Table 1. The regulation of housing professionals in 12 countries

	Belgium	Czech Republic	France	Germany	Italy	Poland
Population	11,587,882	10,703,446	67,842,582	83,129,285	59,066,225	37,781,024
Urban density (inhabitants/km ²)	383	138	122	240	206	124
Conveyancing system	Latin notarial system	Liberal lawyers	Latin notarial system	Latin notarial system	Latin notarial system	Latin notarial system
Mandatory academic qualification	Property managers	No	Yes	No	Yes	No
Mandatory membership of professional association	Real estate agents	No	Yes	No	Yes	No
	Property managers	No	Yes	No	No	No
	Real estate agents	No	Yes	No	Yes	No

Source(s): Author's own work using the NAP 2015; [CEPI \(2024\)](#); the regulatory situation of real estate professions across Europe and IPSOS; LONDON ECONOMICS y DELOITTE CONSORTIUM (2018), Consumer market study on the functioning of the real estate services for consumers in the European Union (continued)

Table 1. Continued

	United Kingdom	Spain	Sweden	Denmark	Netherlands	Finland
Population	67,747,826	47,326,687	10,490,000	5,903,000	17,942,942	5,603,851
Urban density (inhabitants/km ²)	275	94	25	139	432	17
Conveyancing system	Liberal lawyers	Latin notarial system	Licensed real estate agent	Licensed real estate agent	Deregulated notarial system	Licensed real estate agent
Mandatory academic qualification	Property managers	No	Yes	No	No	No
Mandatory membership of professional association	Real estate agents	No	Yes	Yes	No	Yes
	Property managers	Yes for those who exercise the profession regularly	Yes	No	No	No
	Real estate agents	No	Yes	Yes	No	Yes

no substantial changes in the regulation of either profession, although it does contain a provision that emphasizes the role of property managers (Additional Disposition no. 6) while real estate agents are indirectly entrusted with a series of functions in art. 30 and 31 of this Act. As academics, it seems paradoxical that Act 12 / 2023 has recognized property managers through a specific provision, but not real estate agents. We believe that both professionals should be included in the law. The same occurs with the EPC, which contains provisions related to real estate agents but not property managers, when both should be included.

At the present time, both professions continue to be deregulated in this country, so that any person, without any training and who is not a member of any professional association, can practice them.

4. Challenges related to real estate agents

Our proposal for the regulation of real estate agents, regardless of the country where they offer their services, would be enacted through a specific legal framework that regulates the current legal loopholes and recognizes mandatory membership in a public institution. The legal framework that would be enacted in all of the EU countries, would include the following basic provisions:

- (1) Differentiate between the four ways that real estate brokerage profession can be practiced and require that each real estate agent decides under which form they wish to act, also compelling them to inform the parties about the model they use, therefore making it clear which legal regime applies in contractual relationships in each case. These four ways of carrying out brokerage are:
 - Each intervening party (i.e. the seller or lessor and the buyer or lessee) hires its own real estate agent.
 - Only the seller or lessor hire the real estate agent.
 - Only the buyer or lessee hire the real estate agent (“personal real estate shopper”).
 - Both parties hire the same real estate agent.
- (2) Recognise the function of answering queries, providing advice and preparing reports on real estate and housing matters. The aim is for real estate agents to be experts on housing and real estate topics, that can guarantee and add value to any transaction they intervene in.
- (3) Preventing money laundering and terrorist financing (it is already provided for in Directive 2005/60/EC).
- (4) Agents will carry out intermediation for the assignment of social housing. In fact, in some Spanish cities (Saragossa, Barcelona [...]) they already have this function.
- (5) Agents will carry out intermediation related to specific types of housing (those adapted for people with disabilities and elderly people, those made with recycled and environmentally friendly materials and those that take into account gender conditions)
- (6) Agents will guarantee that those who access a home receive mandatory minimum information related to a series of issues regarding their home and its surroundings.

- (7) Agents will act as data providers for the Public Administration. Therefore, they can contribute to the design of housing policies according to the real situation of the housing and real estate sector.
- (8) Agents will act as mediators in the real estate sector, providing an Alternative Dispute Resolution (ADR) service. In this case, they must fulfil the academic requirements needed to undertake this specific function.

5. Challenges related to property managers

In addition to the broad function of property managers regarding the management of a building with common and private areas (under the condominium regime or similar) regardless of the country, a new proposal is made for new functions for these professionals to respond to some challenges that the housing sector presents from a current urban and society challenges point of view. This legal protection can be reflected through a regulatory law that would be enacted in all EU countries, just as proposed for real estate agents.

Our proposal for a regulation that would create a basic legal framework in all countries, includes the following:

- That property managers be responsible for trying to implement the measures adopted by the Public Administrations in terms of building refurbishment, sustainability and energy efficiency, as well as managing and applying for any applicable benefits or subsidies, such as, for example, those granted through the Next Generation Funds.
- That they have a predetermined protocol on how to act and what functions to provide against gender violence in the communities and how to promote and guarantee gender equality in them.
- That they be responsible for guaranteeing digital security in the communities in which technology (proptech) such as home automation or the Internet of Things (IoT) is used, as well as ensuring compliance with data protection regulations.
- That they carry out mediation functions understood as an alternative system to judicial conflict resolution (ADR), they shall be attributed with the necessary powers to resolve conflicts, be it in the same community that they manage or in others or even between landlords and tenants.
- That they supervise the compliance of tourist dwellings in the community with specific regulations and with condo hotel management legislation.
- That they handle the promotion and management of support networks in the communities in the face of the progressive ageing of the population through the creation of a specific body.
- That they act as data providers for the competent bodies of the Public Administration to promote the adoption of appropriate housing policies.
- Recognition of the figure of the Official or Public Property Manager throughout the country to be able to exercise these functions in all communities regardless of their geographic location or socioeconomic level.

The legal framework applied to property managers in Spain is particularly geared towards private and intra-community functions, however in practice, they also carry out a relevant social function. This was especially emphasized during the COVID-19 pandemic and has also been evident in natural disasters where buildings have been damaged [36]). Property managers are in charge of the entire bureaucratic process of arranging compensation and repairs and attending to people.

6. Proposal for academic training and regulation

In order for housing professionals to be able to competently perform all of these proposed functions and to provide added value in their services and in any transactions they intervene in, it is essential that they have specific and proper academic training to acquire all the skills that ensure a minimum standard in the services provided.

For this reason, we believe that an official university degree is necessary to be capable of providing high level services in the real estate field, this degree course could provide the appropriate training to both property managers and real estate agents and even to other professionals from the housing sector such as advisors, workers from public housing offices, notaries and the property registry. A basic level of academic training is compulsory in countries such as Belgium (bachelor's degree), France (bachelor's degree), Italy (high school diploma) and Finland (take specific courses and pass an exam).

Along with this training, mandatory membership of a professional body is essential to supervise the activity of professionals and guarantee a minimum standard in their practicing. In fact, professional associations are the legally established institutions for verifying access requirements, supervising professional conduct and offering protection, permanent training and support to the professionals themselves to help them carry out their functions.

Currently, there is no official university degree in Spain in the field of housing or the real estate sector with the interdisciplinary content that is required by housing or real estate professionals such as real estate agents and property managers. However, there are private degrees, and some universities also offer degrees, but as they are not official, the content of these courses varies from one university to another, giving rise to training that is not uniform among Spanish universities, nor do all real estate professionals have to have this training to carry out their activity.

The characteristic of official degrees as compared to own degrees is that they have been validated by the competent public institution because it understands that the specific title in question satisfies a general interest. For this reason, we consider that both professions fulfil a general interest, since legal security, consumer protection and access to housing, among other rights, are at stake, so that the existence of an official degree in housing would be justified.

Specifically, in the Spain 2050 report [37], it is highlighted that one of the challenges is precisely to improve the training and retraining of the population (challenge no. 3), so there is a clear intention to improve the training of the population and, therefore, of professionals. Furthermore, the EU also appreciated this need for training in housing among professionals working in this sector, since in 2020 it granted funding for the Erasmus plus project entitled "Bridging the gap in housing studies (housing+)" coordinated by the UNESCO Chair of Housing at Rovira i Virgili University [38], whose main objective was to improve the housing training of professionals involved in this sector on an EU wide level. As a result of this project, the European Housing Studies Course (EHS) [39] was created. It is not a degree, but it is an international and a multidisciplinary course on housing that could be the basis for a future university degree.

We propose a "Degree in Housing and Real Estate" of 180 ECTS designed so that graduates in the third year can choose a specialization path through the selection of optional subjects, for example:

- The Public Administration and Housing Policies path. Designed for those professionals who work or intend to work in an area related to public housing policies, either by designing them or applying them from public housing offices.
- The real estate brokerage and property management path. This path would be designed specifically for professionals in the private sector who either work in the pre-contractual phase or who manage the homes where the buyers/renters live.

- The real estate promotion and construction path. In this case, it would be designed for all those professionals involved in the promotion and construction of homes, so it would have a more technical and business orientated content.

We consider that the degree in housing should have subjects from different disciplines linked to the housing and real estate sector such as architecture, economics, law, psychology and anthropology.

7. Conclusions

Fostering economic growth among European countries must be one of the main challenges or objectives for the EU and for the Member States, but this does not mean that it must be done independently of the negative externalities that may arise as a consequence of the deregulation of two major professions linked to housing such as real estate agents and property managers to achieve this growth.

Deregulation or liberalization of professionals is not the only way to achieve this goal (referring to the promotion of economic growth), since the potential market failures that can arise from information asymmetry may exceed the (unproven) benefits that are expected to be obtained from deregulation. That is to say, although deregulation supposedly leads to economic growth due to the fact that a large number of professionals carry out real estate transactions at the same time, there is a loss of legal security in housing transactions, in access to housing and in consumer protection, so that the result is not as positive as the one intended. Especially if we take into account the complexity of the housing sector and the importance that it has for people either from the economic or symbolic (basic need) point of view. The challenge is to balance these two aspects of the concept of a home, through both housing policies and by means of implementing the appropriate legal framework to regulate the professions linked to this sector.

We believe that the profession of real estate agents and that of property managers have an important role to play in the housing market and in making the right to housing effective, going from the first negotiation between parties to when the buyers/renters are living in their new homes. In fact, real estate agents and property managers can sometimes be the only professionals that home users come into contact with, some in a pre-contractual phase and others when they already live in the home. In the same way as professionals who work in the legal, health and education sectors (law, medicine, nursing, teaching, etc.), those who work with homes should also provide minimum quality guarantees.

As we saw in [Table 1](#), there are many differences in relation to the regulation or deregulation of these professions between European countries. These differences have nothing to do with the conveyancing service system that each country has. Whether the profession of real estate agents or property managers is regulated or not is a decision which corresponds to each country. We find it incomprehensible that professionals such as real estate agents and property managers who manage economic and property interests, as well as helping to provide for the human right to access housing, are not guaranteed to be subjected to regulations that protect consumers, including rules that guarantee a compulsory minimum level of training.

Regarding the training these professionals should have, we propose a “Degree in Housing and Real Estate” of 180 ECTS designed so that graduates in the third year can choose a specialization path through the selection of optional subjects according to the type of housing or real estate professional want to be. Moreover, we consider that both professions, before being permitted to practice as housing professionals, should have a minimum standard of training that allows them to function in all European Countries, provided by Law and recognized by the EPC (not only for real estate agents) to protect consumers and facilitate cross-border transactions with a minimum level of guarantees.

Notes

1. ISCO-08, endorsed by the Governing Body of the International Labor Organization in March 2008.
2. IPSOS; LONDON ECONOMICS & DELOITTE CONSORTIUM (2018), *Consumer market study on the functioning of the real estate services for consumers in the European Union*. available at: www.uni-bremen.de/fileadmin/user_upload/fachbereiche/fb6/fb6/Forschung/ZERP/TENLAW/FollowUp/real_estate_services_final_report_EU_october_2018.pdf
3. CEPI (2024), *The regulatory situation of real estate professions across Europe*.
4. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006).
5. Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005).
6. Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (OJ L 354, 28.12.2013).
7. Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the regions on reform recommendations for regulation in professional services. Brussels, 10.01.2017. COM (2016) 820 final.
8. Commission communication of 9 February 2004 entitled "Report on Competition in Professional Services". COM (2004) 83 final.
9. IPSOS; LONDON ECONOMICS & DELOITTE CONSORTIUM (2018), *Consumer market study on the functioning of the real estate services for consumers in the European Union*, October 2018.
10. FOTOCASA (2023), *Los jóvenes y la vivienda en 2023*: <https://prensa.fotocasa.es/informe-los-jovenes-y-el-mercado-de-la-vivienda-en-2023/>
11. FUNDACIÓN MUTUA DE PROPIETARIOS (2018), *El estado de la accesibilidad de las viviendas en España*, available at: www.fundacionmdp.org/observatorio-de-accesibilidad/
12. EUROPEAN COMMISSION (2018), *Energy efficiency upgrades in multi-owner residential buildings: Review of governance and legal issues in 7 EU Member States*. EU Science Hub.
13. See: www.urbanagenda.urban-initiative.eu/urban-agenda-eu
14. Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings.
15. See: https://employment-social-affairs.ec.europa.eu/policies-and-activities/social-protection-social-inclusion/addressing-poverty-and-supporting-social-inclusion/homelessness_en
16. According to the European Central Bank (January, 2024), household net wealth in the euro area increased by 29% over last five years, with homeowners' net wealth increasing more than that of non-homeowners, which shows the importance of housing in the generation of wealth, whilst at the same time, housing is also a basic pillar of the welfare state and it is a necessary condition for the fulfilment of other fundamental rights, such as privacy, education, human dignity or health. See: Kenna, P., & Simón-Moreno, H. (2019). Towards a common standard of protection of the right to housing in Europe through the charter of fundamental rights. *European Law Journal*, 25(6), 608-622.
17. EUROPEAN COMMISSION, Mutual evaluation of regulated professions: National Action Plans, available at: <http://ec.europa.eu/DocsRoom/documents/15486/attachments/1/translations>
18. IPSOS; LONDON ECONOMICS y DELOITTE CONSORTIUM (2018), *Consumer market study on the functioning of the real estate services for consumers in the European Union*, October 2018.

19. Directive 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions (OJ L9, 09.07.2018).
20. CEPI (2013), *Las profesiones inmobiliarias y los mercados nacionales de la vivienda en la Unión Europea. Resumen de la práctica y la regulación de las profesiones inmobiliarias y características de los mercados nacionales de la vivienda*. No. de transparency registry: 1094652600-90.
21. IPSOS; LONDON ECONOMICS y DELOITTE CONSORTIUM (2018), *Consumer market study on the functioning of the real estate services for consumers in the European Union*.
22. EUROSTAT, 2022. available at: <https://ec.europa.eu/eurostat/web/interactive-publications/housing-2023>
23. 10.5% of GDP (Statista, 2022).
24. Information provided by the general council of professional property managers associations of Spain (CGAFE).
25. Art. 2 of Decree Act 6963/1968 of April 1, which created the National Trade Union of Property Managers.
26. Royal Decree-Law 4/2000, of June 23, on Urgent Liberalization Measures in the Real Estate and Transport Sector.
27. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions on taking stock of and updating the reform recommendations for regulation in professional services of 2017 (COM/2021/385 final).
28. CEPI (2024), *The regulatory situation of real estate professions across Europe*.
29. COMISIÓN NACIONAL DE MERCADOS Y LA COMPETENCIA (CNMC), *Informe sobre el sector de servicios profesionales y los colegios profesionales*.
30. Proposal for a Royal Decree approving the General Statutes of the Property Managers Associations and their General Council of March 25, 2010 before the corresponding Ministerial Department
31. Report referenced in: KUIJPERS, N.; NOAILLY, J.; VOLLAARD, B.; KUIJPERS *et al.* (2005), *Liberalisation of the Dutch notary profession. Reviewing its scope and impact*, No 93, p. 68.
32. See in: www.lawsociety.org.uk
33. See in: www.sra.org.uk
34. EUROPEAN COMMISSION, *Mutual evaluation of regulated professions: National Action Plans* (England). available at: <https://ec.europa.eu/docsroom/documents/31943>
35. Act 12/2023, of May 24, for the right to housing (BOE no. 124, of 05/25/2023).
36. See, for example, the floods in Valencia (October 2024) or the eruption of the volcano on the Canary Islands (2021). In both situations the role of property managers was essential because they took care of all the bureaucratic and practical procedures to repair the damage to each of the buildings (information facilitated by CGAFE).
37. Oficina Nacional de Prospectiva y Estrategia del Gobierno de España (coord.) (2021). *España 2050: Fundamentos y propuestas para una Estrategia Nacional de Largo Plazo*. Madrid: Ministerio de la Presidencia. available at: <https://futuros.gob.es/nuestro-trabajo/espana-2050>
38. Erasmus plus Project: “Bridging the gap in housing studies”, available at: www.housingplus.eu
39. European Housing Studies Course, available at: www.housingstudies.eu

References

- Caballé Fabra, G. (2021), *La Intermediación Inmobiliaria Ante Los Nuevos Retos de la Vivienda*, Tirant lo blanch, Valencia.
- CEPI (2024), The regulatory situation of real estate professions across Europe.
- Fox, L. (2007), *Conceptualising Home. Theories, Laws and Policies*, Hart Publishing, Portland.
- Garcia Teruel, R.M. (2019), *La Sustitución de la Renta Por la Rehabilitación o Reforma de la Vivienda En Los Arrendamientos Urbanos*, Tirant lo Blanch, Valencia.
- Jingryd, O. (2013), *Impartial Legal Counsel in Real Estate Conveyances: The Swedish Broker and the Latin Notary*, KTH Royal Institute of Technology, Stockholm, ISBN: 978-91-85783-28-1.
- Kenna, P., Benjaminsen, L., Busch-Geertsema, V. and Nasarre-Aznar, S. (2016), *Pilot project – Promoting Protection of the Right to housing – Homelessness Prevention in the Context of Evictions*, European Commission, Directorate-General for Employment, Social Affairs and Inclusion, Luxembourg, 2016, ISBN: 978-92-79-58049-9, doi: [10.2767/463280](https://doi.org/10.2767/463280).
- Kuijpers, N., Noailly, J. and Vollaard, B. (2005), *Liberalisation of the Dutch Notary Profession. Reviewing Its Scope and Impact*, (CPB Document; No. 93), CPB Netherlands Bureau for Economic Policy Analysis.
- Murray, P. (2007), “Real Estate conveyancing in 5 European Union member states: a comparative study”, available at: www.dnotv.de/_files/Aktuelles/murrayreportfinal310807en.pdf
- Nasarre Aznar, S. (2017), “Cuestionando algunos mitos del acceso a la vivienda en España, en perspectiva europea”, *Cuadernos de Relaciones Laborales*, Vol. 35 No. 1, pp. 43-69.
- Nasarre Aznar, S. (2020), *Los Años de la Crisis de la Vivienda. De Las Hipotecas Subprime a la Vivienda Colaborativa*, Tirant lo blanch, Valencia.
- Roitman, S. (2003), “Barrios cerrados y segregación social urbana”, *Scripta Nova. Revista Electrónica de Geografía y Ciencias Sociales*, Vol. 7 No. 118, p. 146.
- Rubio Herrera, R. (2004), *La Soledad En Las Personas Mayores Españolas*, Madrid, Portal Mayores.
- Schmid, C. and Steffen, S., Lee, S., Marcel, F. and Iain, P. (2007), *Conveyancing Services Market*, Centre of European Law and Politics (ZERP), University of Bremen, Study COMP/2006/D3/003.
- Sparkes, P., et al. (2016), “Cross border acquisitions of residential property in the EU: problems encountered by citizens”, *DG for Internal Policies, Citizens’ Rights and Constitutional Affairs, European Parliament*, PE 556.936, Publications Office.
- Van den Bergh, R. and Montangie, Y. (2006), *Theory and Evidence on the Regulation of the Latin Notary Profession. A Law and Economics Approach*, ECRI-report 0604 June 2006.

Further reading

Solchaga Recio and Asociados (2012), *Análisis de Las Estructuras Regulatorias En la Administración Inmobiliaria*.

Corresponding author

Gemma Caballé Fabra can be contacted at: gemma.caballe@urv.cat