

Review

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Review

# Housing: The Most Neglected of Territorial Policies

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**Abstract:** This communication reflects on the relationship and impact of housing policies on territorial policies, particularly municipal territorial policies. Initially, it reviews legislation that regulates territorial management instruments (TMI) to understand how sectoral housing policy flows into TMIs and how it integrates with municipal territorial strategy. This reflection is cross-referenced with identifying various levels of responsibility and competence for defining and implementing public housing policies. Until now, housing policy has been considered a central government prerogative, leaving municipalities with executive and operational tasks without territorial dimension. The current legislative framework is then examined to understand the current situation and opportunities represented by work done under the "1º Direito" program for territorial and urban planning. To this end, two third-generation Municipal Master Plan were analysed in terms of the housing component, and it was concluded that in both, the integration of housing into territorial policies is incipient in one and somewhat significant in the other. The preparation of Municipal Housing Charters, as defined in the Basic Law on Housing, are the appropriate instrument for integrating housing as a strategic axis of territorial policy. Monitoring these Charters' implementation, their incorporation into PDMs, and evaluating existing housing measures implementation will be important. The century-long housing problem indicates a lack of critical evaluation of public policies. In this sense, the LBH's implementation, particularly in its monitoring component materialised in the Annual Housing Report, will be fundamental.

**Keywords:** planning; territorial management; housing; habitat; territory

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## 1. Evaluation of Urban Planning Legislation

The first comprehensive urban planning law covering the entire mainland territory and adjacent islands, Decree-law 24/802, dated December 21, 1934, was issued by the Government and would be executed by the Ministry of Public Works and Communications, at the time overseen by minister Duarte Pacheco. Its publication was justified by the need to have "a properly outlined plan with future vision" to guide the application of public money, invested "in various local improvements," through the Unemployment Fund, "with the government intending that the sums spent on works of this nature (...) have the most effective and lasting utility, applying them in fact to the creation of public wealth, it is important to establish the general principles that in matters of urbanization serve to guide municipal councils."

This Decree-law required "towns with more than 2.500 inhabitants, in two consecutive general censuses, to execute topographic surveys and General Urbanization Plans" which in turn must define "streets, squares, boulevards, gardens and parks, free spaces to be used, the location of main public buildings, markets, slaughterhouses, railway stations, docks, cemeteries, facilities of social economic interest, playing fields, etc". Decree-law 33/921 of September 5, 1944, approved after minister Duarte Pacheco's death, with João Pinto da Costa Leite as interim minister, extended the mandatory development of General Urbanization Plans (PGUs) to all county seats regardless of their population, without, however, making any changes to the content of the PGUs. It did, nevertheless, implement a set of measures/instruments designed to ensure municipal councils had the capacity to execute the PGUs, specifically defining rules for the expropriation of land necessary for their implementation. These expropriations could include land for private construction to be sold at public auction.

The General Urbanization Plans (PGUs) were completely dissociated from public housing policy which, during the first period of the Estado Novo until 1945, was based on the principle of citizen-ownership and resolvable property as the cornerstone of public policies, with the State withdrawing from active participation in solving the housing problem, understood in the broad sense.[1]

On the contrary, Keil do Amaral begins the preface to *The Housing Problem*, which publishes one of his conferences, published in 1945, saying that "The problem of housing for urban populations has become very acute among us in recent years. It had long afflicted the humble classes, but now the wound has spread to the middle class, less accustomed to resignation, suffering, and silence"[2] and, at the end of the conference, after making a holistic and international reading about the socioeconomic and political framework of this problem in Europe, concludes that the resolution of this problem cannot be left to private initiative, although he does not neglect "the intervention and effort of private individuals for the construction and improvement of housing." [2] But he goes further by stating that the housing problem cannot be solved without municipalities and without integrating housing policy into the PGUs, in order to ensure their correct urban integration, guaranteeing all urban infrastructure and equipment and "to control and guide building construction from above, which could be undertaken, administered and paid for by the organizations or groups for which they were intended, under the legal and economic facilities provided by the state." [2]

The Government's initiatives to solve the housing problem involved publishing a set of decree-laws, the first being 4/137 of April 25, 1918, whose preamble clearly recognizes the serious problem of lack of housing in healthy conditions and at prices within reach of the less wealthy classes, especially in the large urban centers of Lisbon and Porto. This decree leaves the responses to construction cooperatives, administrative bodies, legally constituted societies for this purpose, industrial or mining companies when they exploit any privilege or state concession, Caixa Geral de Depósitos (State Bank) and social security institutions, charitable institutions and similar organizations, while safeguarding, however, the possibility of state intervention in special or urgent circumstances. "The incipient number of achievements and the delay in completing the neighborhoods" both in Porto and Lisbon, condemns the "housing policy launched in 1918 to failure"[3] which leads the government, through Decree-law 23.052 of September 23, 1933, to take the initiative to, either alone or with municipalities, administrative corporations and corporate bodies, build economic houses for sale, maintaining the principle "Thus making each head of family a property owner, which under other conditions would not be viable," clearly expressed in the propaganda brochure "*The Housing Problem 15 Years of Public Works 1932-1947*".

In the following years, the Government takes a set of measures, always favoring private initiative or welfare institutions, cooperatives, and public sector companies for the construction of houses for sale or rent: Decree-law 34/486 of April 6, 1945, Houses for housing poor families; Law 2/007 of May 7, 1945, Economic Rent Houses and Houses for fishermen. However, despite these efforts, which were given due propaganda in the *Exhibition 15 Years of Public Works, 1932-1943*, the preamble of Decree-law 36/212 of April 7, 1947, which creates Limited Rent Houses, admits "that, notwithstanding everything that has been accomplished or is in progress, the housing problem remains among the most serious economic problems in the country."

References to the interconnection of housing and territorial policies in this set of legislation are almost nonexistent. The exception is the reference made in Base VI of Law 2007 of May 7, 1945, which determines: "Municipalities should, in their Urbanization Plans, provide areas for the construction of economic houses. The respective urbanization is their responsibility, and those plans will always include locations for buildings of religious, cultural, and welfare character, taking into account, as much as possible, the ease of transportation." In this way, it considers important not only that economic houses are integrated into the general urban proposal but also does not restrict the housing problem to house construction, considering the need for construction of facilities and proximity services.

The need to integrate housing policies in the territory and the awareness of the importance of greater state intervention in solving the housing problem began to gain greater relevance in the early

1960s, with the creation of the Housing Studies Coordination Group that brought together entities that until then were directly linked to the promotion of public and social housing, "to discuss matters relating to the actual construction of housing and its correlation with urban problems."<sup>[1]</sup>

It is with this awareness that the Government in the Interim Plan and the III Development Plan gives great importance to housing sector issues, giving it priority status<sup>[4]</sup> and creates the Housing Development Fund (FFH), with which it intends to provide the Ministry of Public Works (Ministério das Obras Públicas - MOP) with the capacity to "play a decisive role in the execution of said national housing policy, since it is important to execute it in coordination with urban planning, articulating housing and urban policies"<sup>[4]</sup>. The State concludes, in the Interim Plan, that it is necessary to intervene directly in the housing sector, both through the construction of 21,000 housing units and by creating mechanisms and instruments that facilitate the execution of housing programs with the objective of regulating private initiative action through model procedure.<sup>[5]</sup>

It is in this context, dominated by the housing problem and the recognition of the inability to solve it, that DL 576/70 of November 24 is published, the first law to define a land policy, which embodies one of the main objectives of the III Development Plan: "the establishment of a land policy that allows for the timely availability, at non-speculative prices, of land necessary for the realization of urban and housing development plans, admitting the possible need for special measures, such as revision of the land evaluation system and legal norms aimed at preventing speculation" <sup>[6]</sup>.

Section 2 of this decree-law determines that the expansion of settlements is preceded by urbanization "planned, decided and oriented by the Administration, through competent central and local bodies". And further on, in Article 27(1), it determines that "For each plan or each of its phases, the percentage of land plots intended for economic housing will be fixed, in accordance with the circumstances, indicating the respective types or categories and corresponding maximum rents."

There is, therefore, a clear connection here between the content of the plans and housing policy, reserving for the State intervention in market rules and imposing quotas for economic housing, setting maximum rents. The Decree-law goes further by allowing the Administration to impose "on applicants for subdivision operation licenses the observance of maximum rents in percentage" to be defined by the Government, according to the needs of the region.

With some uncertainty as to which level of Administration corresponds to the competence for determining the percentage of plots to be fixed for economic housing, paragraph 2 of article 45 clarifies this doubt by stating that "while there are no national or regional plans or programs in the housing sector, the Government may, whenever it deems appropriate, impose the approval referred to in the previous number for the execution of municipal plans."

In 1971, two decree-laws were published on December 17, DL 560/71 and DL 561/71, which review urban legislation and define the content of Urbanization Plans (PU) and Detailed Plans (PP). However, no reference is made to the obligation, created by DL 576/70, to define the percentage of land plots intended for economic housing, which suggests that planned urbanization, decided and guided by the Administration through central and local bodies, has nothing to do with the general and partial urbanization plans and detailed plans to which DL 560/71 and 561/71 refer. In fact, the Integrated Plans (IP) developed by the FFH, internally or externally, within the scope of their competencies, configure situations promoted by central administration to fulfill the then-recent goal of effective intervention in the housing sector, which, although exploring new spatial models of city and house,<sup>[5]</sup> did not relate to the PGUs and consequently to local territorial policies. Only one case, the Guimarães Integrated Plan, results from an Urbanization Plan, prepared by the Municipality of Guimarães <sup>[7]</sup>. If, on one hand, this dissociation is strange, because the objectives of the IP went beyond mere house construction and aimed to create an urban territory that offered many more functions than residential, involving accessibility, equipment, and environment <sup>[9]</sup>, on the other hand, it would be the result of there being no framework for IP in the legislation that regulated, at the time, urban plans, PU and PP, of municipal responsibility. This statement would require a deeper analysis of the process of elaboration and approval of integrated plans, which was not done. Thus, the speculative nature of the same is assumed. Housing remains a sectoral theme that juxtaposes

territorial policy. On the contrary, to solve the problems created by informal subdivisions in the Lisbon area, there was close collaboration between the FFH and municipalities. In this case, the FFH monitored the preparation of plans intended to provide infrastructure to extensive areas built without prior urbanization and without public services provision, dealing, however, with resolving a situation and not defining and implementing a territorial policy.

The revolution of April 25 1974 does not immediately cause changes in urban legislation, land law, and urban plans. However, the increasingly evident housing crisis and the fact that the Secretary of State for Housing and Urban Planning of the 1st Provisional Government was architect Nuno Portas, one of the main thinkers on the housing problem, led to his first decisions being aimed at populations with precarious housing, having created SAAL[9] whose ephemeral duration contrasts with the results obtained and the value recognized nationally and internationally.

From an urban planning point of view, it has the audacity to build a service based on collaboration between central administration and local administration, giving municipalities "a role of urban control of location and land transfer and direct interlocutors of the organization of interested parties," residents, organized in associations or cooperatives and also support "the initiatives of poorly housed populations in order to collaborate in the transformation of the neighborhoods themselves, investing their own latent and, eventually, monetary resources." [9] It was the state that was trying a completely new path contrary to the welfare perspective of the Estado Novo, committing "future inhabitants to the projects and their construction." [10]

Four aspects stand out from this experience: The creation of multidisciplinary and multi-level teams (joining central and local power) in solving a problem; gives residents, when organized, the main role; grants them the right to their neighborhood and to the city; makes both central and local state co-responsible for financing interventions. For the first and only time, the housing problem is viewed as a national goal, and as such, a mission structure is created to solve it. Item 8 of the Order reads, "By September 15 next (1974), the necessary contacts must be made between SAAL agents, municipalities, and representatives of interested populations to establish the list of operations that were given priority and the respective program - investment calendar, in order to proceed with the respective assistance contracts."

This is followed by a period where urban legislation is sparse: on November 5, 1976, a new land law is published which, on the topic under analysis, housing, undergoes no change. It continues to be expressed that in the execution of any expansion, development or urban renewal plan, or creation of new settlements, the numbers or percentages of housing units to be built will always be fixed, subject to fixing or control of rent values or sale prices, in addition to those intended for social housing, but there is no reflection of this prerogative in the content of Urbanization Plans and Detailed Plans, because the legislation relating to Urbanization Plans and Detailed Plans is only changed in 1990, with the publication of DL 69/90 of March 2. Given the urban deregulation, despite the good principles announced with the publication of each law, legislation is being produced for the containment and regularization of clandestine construction, respectively DL 275/76 of April 13 and DL 804/76 of November 6 and, in a more interventionist perspective, DL 152/82 of May 3 is published, which creates priority urban development and construction areas (ADUP) however, still as a response to installed problems and not their prevention.

With the revolution of April 25 1974, local power was also instituted. Law 79/77 of October 25 defines the attributions and competencies of local authorities, without any reference to housing competencies being made, except for the issuance of housing licenses. This law results in the creation of the municipal master plan figure, a municipality competency, intended "to ensure harmonious development and coordination of national, regional and local sectoral policies". However, DL 208/82 of May 26, which institutes the Municipal Master Plan (PDM), does not define any content related to housing. The same does not happen with DL 69/90, published on March 2, which states that it is a general objective of municipal territorial planning plans "to determine housing needs, framing appropriate guidelines and solutions within the scope of housing policy", curiously similar to what we will find as an objective of the Municipal Housing Charter, 29 years later [11]. Here is implicit a

relationship and definition of competencies between central and local power, leaving the State to define housing policy, considering it as a national sectoral policy and giving municipalities responsibility for its application, translating it, according to the concrete situation, into municipal territorial planning plans.

The extinction of the FFH and creation of IGAPHE[12] (Institute for Management and Disposal of State Housing Assets) in 1987 shows a paradigm shift in national housing policy. IGAPHE has, as its name indicates, the objective of disposing of, or transferring to municipalities, part of the public housing stock that the government considers excessive. The incentives created by DL 366/85 of September 11, DL 226/87 of June 6, and 163/93 of May 7, which finance municipalities for the construction or acquisition of housing units intended for rehousing people living in shacks, are in the same direction. It should also be noted that on September 14, 1999[13], the Government transfers to municipalities a set of housing competencies, all of administrative, operative, and financial character. Like others, these transfers faced opposition from many municipalities, as they translated into the transfer of charges without the respective financial counterpart. None of these laws has any reference to the location of housing developments to be built, nor to the need for their correct urban insertion and framing in the Territorial Management Instruments – IGT.

The first Basic Law of Territorial Planning (LBOT)[14] published on August 11, 1998, has as its objective, among others, "the application of a housing policy that allows solving existing shortages" and confirms that the responsibility for its elaboration belongs to central administration and approval to the Government.

It is concluded that until the present, housing policy has always been considered a prerogative of central government, leaving municipalities to participate in the operationalization of defined programs, namely through the administrative regularization of existing situations, in the case of clandestine developments, co-responsibility in the execution of plans, projects and works under central government responsibility and, since the late 80s, the executive responsibility for the eradication of shacks. Always tasks of executive and operational character without territorial dimension, so much so that from the municipal territorial management instruments, the strategic dimension is absent, being responsible for defining and regulating "land use, defining foreseeable evolution models of human occupation and organization of networks and urban systems and, at the appropriate scale, parameters of land use and guarantee of environmental quality." [15]

## 2. Current Legislative Framework

In the current LBOT[17], published in 2014, housing ceases to appear among national sectoral programs, whose definition falls to the State's central administration, which contradicts the RJIGT (Legal Regime of Territorial Management Instruments), published the following year, which again considers housing as a sectoral program[18]. These discrepancies reflect the constant uncertainty of responsibilities regarding both policy definition and its execution.

The Municipal Master Plan(PDM) is, under the terms of Article 95(1) of the current RJIGT, "the instrument that establishes the municipal territorial development strategy". However, when reading Article 96, which determines its material content, we find that while for industrial, tourist, commercial activities and services, the Municipal Master Plan defines strategies (paragraph e) of Article 96(1)), for housing it merely identifies and delimits programs in the housing area. These are sectoral programs under central administration's competence. Housing has definitively lost the ephemeral importance (if it was ever applied in any plan) that had been granted to it in DL 69/90, returning to being viewed solely as a programmatic segment, emanating from central power, juxtaposed to the Plan, disregarding its strategic territorial dimension.

In 2018, for the first time in our legislative framework, completely disconnected from LBOT and RJIGT, a strategic figure appears, under municipal competence, within the scope of housing policy: the Local Housing Strategy (ELH)[18] ELHs are municipal planning instruments that aim, based on the survey of existing housing needs, "to project the future, plan and monitor public intervention and communicate with citizens, the third sector and other agents involved in its execution" [19] However,

in practice, the ELH, contrary to what its name and objectives indicate, because it is essential for accessing First Right funding, compromised its strategic character. In fact, similar to what happened in the 1st Community Support Framework (1989-1993), which forced municipalities to complete their first Municipal Master Plans (PDM) to access European funds; in PROSIURB (1994)[20], which funded the modernization and structuring of urban centers; in the Integrated Territorial Development Strategies (EIDT), Strategic Urban Development Plans (PEDU) and Urban Regeneration Action Plans (PARU), which enabled the signing of financing contracts under Portugal 2020, a situation that is now repeating in Portugal 2030, once again municipalities are forced to develop strategic documents to access funding. While the need and importance of strategic documents that allow the integration of sectoral policies, including housing, in the municipality's territorial development strategy is undisputable, the proliferation of such documents, uncoordinated and out of sync, has not contributed to building a territorial model, running the risk of becoming a cacophony and a waste of human and material resources. The purpose becomes the document rather than its implementation and, therefore, after fulfilling the objective of accessing the desired funding, it ends up, most times, stored on a shelf or at the bottom of a drawer.

Furthermore, belatedly, in 2019, the Basic Housing Law (LBH)[11] is published, in which the territorial dimension of housing policies reasserts itself as fundamental in territorial policies. In this sense, the LBH dedicates Chapter IV to this matter.

The LBH "establishes the foundations of the right to housing and the fundamental duties and tasks of the State in effectively guaranteeing this right to all citizens, under the terms of the Constitution." It specifically defines: the rights, particularly the right to housing and habitat, regional and local housing policies, the instruments for their implementation and their integration with Territorial Management Instruments (IGT), clarifying the governance structure associated with housing policy. [20]

The implementation of the LBH results in the definition of a National Housing Policy, based on effective knowledge of reality, to which Regional and Local Housing Policies contribute, that in turn are incorporated into the IGT, namely in the Municipal Master Plans (PDM).

The Municipal Housing Charter (CMH), to be carried out by the municipality, is the appropriate instrument to articulate the various levels – state, regional, and local – of housing policy with the territory, through PDMs and other territorial management or policy instruments. This Charter, beyond diagnosing existing housing needs, specifically provides for the identification of local resources and potential – expectant urbanized land, vacant, degraded, or abandoned developments or buildings and housing units –, the prospective planning and ordering of needs arising from new economic activities, and the strategic definition of objectives, priorities, and goals to be achieved during its validity period. The Municipal Housing Charter, having a similar nature to the ELH, is more comprehensive and transversal, overcoming the constraint of focusing on situations eligible under the First Right program, to which ELHs were subjected. In this sense, the Municipal Housing Charter will allow filling what was missing in the elaboration of ELHs, completing or replacing them, and will restore to the PDM its strategic role, recognizing it as the meeting point of all municipal policies, regardless of regional or national competence. On the other hand, only in this way is the right to housing and to a habitat that ensures conditions of healthiness, safety, environmental quality, and social integration guaranteed, as expressed in the LBH.[22]

### 3. The Impact of ELH and of CMH on PDMs

The preparation of ELHs and even some CMHs coincides temporally with the revision of Municipal Master Plans (PDM), thus constituting an opportunity to initiate a process of bringing the LBH and LBOT closer together. The ELHs will already be a first step towards, through the instruments and mechanisms that the PDM enables, providing municipalities with the land and financial resources necessary for their implementation. But is this happening?

To answer this question, two third-generation PDM regulations currently in force in the Northern Region were evaluated, from the municipalities of Matosinhos(CMM) and Porto (CMP).

In Matosinhos' PDM, we find three references to ELHs, in Article 29(2) which states that "for the purposes of implementing the Local Housing Strategy, the Municipality may decide to opt for payment in kind, of part or all of the areas intended for green spaces and collective use and equipment"; in Article 79(1), which states that "the Local Housing Strategy sets the multi-annual objectives of municipal housing policy, in a cross-cutting perspective that involves different municipal policies" and in paragraph 2 of the same article, which states that "the transfer to CMM, in urban operations, of areas with buildability, can contribute to the implementation of the Local Housing Strategy." These are mere discretionary references, because they are not mandatory, without any territorial expression. Where accessible housing, social housing will be built, how social stratification in the territory is combated, are questions that the PDM does not answer. We also don't find any reference to tax benefits applicable to housing, a situation that would need to be better evaluated in municipal regulations.

A different case is Porto's PDM. Not only does the Regulation have municipal housing policy rules, but these rules have an application in specific areas, having expression in the territory. It defines Inclusive Zoning Areas in which it requires quotas for accessible housing, encouraging its increase through fiscal incentives, but also of urban nature, increasing buildability. These areas located in the City Center aim to "ensure the availability of accessible housing through the private real estate market, promoting social diversity in urban areas subject to selective processes of exclusion and residential segmentation due to the strong increase in real estate market prices." Also, "urban operations that aim at regenerating social housing areas and where there is maintenance of at least 75% of pre-existing buildability as social housing enjoy fiscal and urban incentives."

The implementation of the Municipal Fund for Environmental and Urban Sustainability, which aims, among others, at "making land available for infrastructure, equipment and public green spaces and for the development of municipal housing policy" is another mechanism worth evaluating. This Fund, which results from the equalization discipline enshrined in LBOT, takes its first steps in third-generation PDMs and therefore there is still no evaluation of the results of its implementation. In our opinion, this will be a topic that is interesting to follow not only in terms of its contribution to housing policy but especially so that the exercise of urban planning becomes more transparent and fairer.

#### 4. Conclusions

From the analysis of urban legislation and housing policy legislation, it is concluded that there is an almost complete dissociation between the two, although there are some references, especially in housing-related legislation, to the need for coordination between urban planning and national housing policy. This coordination, in cases where it was done, was implemented through plans executed by central administration, without reflection in the General Urbanization Plans, which, after the institution of local power, became the exclusive competence of municipalities. It is confirmed that housing is not considered for the implementation of the territorial model. On the other hand, it is verified that the expression of this need for integration between architecture and urbanism, housing and habitat, appears very early in reflections by architects and urban planners (in Portugal, with Keil do Amaral) and is successively resumed and reinforced, with particular incidence in the sixties and seventies of the 20th century, when technicians from various institutions with competencies in housing, including recognized architects, discuss and produce reflections that shape the administration's organization and influence urban legislation, always reserving to the central state all strategic definition of housing policies.

The April 25 revolution did not bring major changes in this matter. Housing continued to be viewed as a sectoral policy under central state competence that should be transposed to territorial management instruments, these under local authorities' competence. Even in the SAAL experience, despite having shared responsibilities in solving the problem, policy definition comes from the Secretary of State, from central power.

After the institution of local power, this practice becomes even more common: the government relies on municipalities for housing policy execution, namely for land acquisition, infrastructure,

public housing construction, financing program management, and even transferring housing from central administration possession to municipalities. Never, however, for the definition of territorially-based integrated policies. Social housing is located where land is available and not where urban planning considers it correct to be installed (consider the last amendment made to RJIGT [23], which allows the reclassification of rural land to urban for the purpose of building controlled-cost housing).

The Housing Framework Law is, therefore, an innovative law: it is the document that clarifies the various levels of responsibility - national, regional, and local - in the elaboration and implementation of the National Housing Policy. The Municipal Housing Charter is the municipal instrument for planning and territorial organization in housing matters and as such will be the guarantor that housing is part of the municipal territorial planning strategy. It is verified that in the two PDMs evaluated, the integration of housing in territorial policies is incipient in the case of Matosinhos and has some expression in the case of Porto. It will be important to continue working in this direction, monitor the implementation of CMHs and evaluate their transposition to PDMs, as well as, in cases where PDMs already integrate housing measures, evaluate how they are being implemented. This monitoring requires a more transparent administration where information sharing is effectively ensured.

This dissociation between sectoral policies and local policies does not contribute, on either side, to the public administration's technical capacity to build integrated policies. We witness the permanence of an organizational culture, at all levels of public administration, based on thematic specialization, which does not contribute to work processes based on multidisciplinary teams.

It is significant, even impressive, how over more than a century the characterization of the housing problem remains identical in causes, consequences, and dimension, which leads to the conclusion that there is no critical evaluation of public policies, specifically housing policy. In this sense, the implementation of the LBH, particularly in its monitoring component, materialized in the Annual Housing Report, will be fundamental.

Without true co-responsibility between the various levels of power, without citizen involvement, and without the integration of housing in local territorial policies, it will not be possible to fulfil the constitutional right to housing and habitat.

**Table 1.** Chronological table of housing and urban panning legislation. In red: housing legislation. In black: urban planning legislation.

Date	Designation	Object	Content	Urbanism/Housing Correlation	Responsibility for its execution
25-apr-18	Decree-law 4/137	Promoting the construction of affordable housing	Define: Economic houses; health committees; co-operatives	Construction cooperatives, administrative bodies, companies legally constituted for this purpose, industrial or mining companies, when they exploit any privilege or concession from the state, Caixa Geral de Depósitos and welfare institutions, misericórdias and assistance, charity or	

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				similar institutions. The state in special or urgent circumstances,	
22-oct- 28	Decree-law 16/055	Budget Houses	Given the limited results of Decree-Law 4/137, it extends tax incentives to private individuals and regulates prices and expropriation procedures.	"There have been many examples [of 'cheap housing' being built by the state and municipalities] in Portugal, where it was not and is not possible for the state to provide direct or indirect funding to building companies. What this period has proved most is that the work to be done cannot be carried out by the state administration or [...] by the municipalities." (Decree no. 16 055, 1928, pp. 2166-7.)	
23-sept-33	Decree-law 23/052	Budget houses	Defines the conditions for the construction, acquisition and distribution of affordable housing	'Article 1: The government is authorised to promote the construction of affordable housing, in collaboration with local councils, administrative bodies and corporate bodies'	
21-dec- 34	Decree-law 24/802	General Urbanisation Plans	Obliges towns with more than 2,500 inhabitants, in two consecutive general censuses, to carry out topographical surveys and General Urbanisation Plans	"Since the government wants the sums spent on work of this nature, (...) to be of the most effective and lasting use, in fact being applied to the creation of public wealth, it is important to establish the general principles which, in matters of urbanisation, will serve to	There is no mention of housing policy

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				guide the municipal councils"	
05- sept-44	Decree-law 33/921	General Urbanisation Plans	Extends the obligation to all municipalities		There is no mention of housing policy.
06-apr- 45	Decree-law 34/486	Houses for the Poor	Demountable houses/solutions		Following DL 28/912 of 12 August 1938, which authorised the construction of 1000 houses in Lisbon; DL 33/278 of 24 November 1943, which authorised the construction of 1000 houses - 500 in Lisbon and 500 in Porto; DL 34/139 of 24 November 1949, which authorised the construction of 100 houses in Coimbra, this DL authorises the construction of 5000 houses built by the Misericórdias, financed by the State and the Unemployment Fund.
07- may-45	Law 2007	Affordable Rent Homes	Defines Economic Rent Houses, giving them tax benefits	Basis VI: Town councils must include areas for the construction of affordable housing in their Urbanisation Plans. They shall be responsible for the respective urbanisation and such plans shall always include sites for religious, cultural and welfare buildings, taking into account, as far as possible, ease of transport.	Promoted by cooperative or anonymous societies, corporate bodies, or economic coordination bodies, social security institutions, public service concessionaires, industrial companies, and other suitable private law entities." This appears to be a legal or administrative text, likely from Portuguese, describing various types of organizations and

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				entities that can promote or sponsor certain activities.
04-nov- 46	Decree-law 35/931	General Plans	Obliges respect for the Preliminary Urbanisation Plans approved by the Government	There is no mention of housing policy
07-apr- 47	Decree-law 36/212	Houses with limited rent	It defines 'a new method of constructing income-generating buildings, based on the prior setting of a maximum total rent to be charged for residential flats, by granting exceptional facilities, both in the transfer of municipal land at affordable prices and not subject to competition, and in the exemption from siza on the purchase of the same land and on the first transfer of the buildings themselves and from property tax for a long period of twelve years."	Private with supervision by local councils
28- may-69	Decree-law 49033	FFH	Creation of the FFH	The Ministry of Public Works must play a decisive role in implementing this national policy housing policy, since it must be implemented in coordination with urban planning.
24-nov- 70	Decree-law 576/70	Soils +	Defines land policy aimed at reducing the objectives was 'the	Article 21 - 1 Local authorities may choose,

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		cost of building land: establishment of a land Expropriation; Surface rights; Ownership of flats; Limited companies for building affordable housing; Lease agreements	depending on the circumstances, the most appropriate measures or processes for obtaining the land necessary for the purposes referred to in article 19.(...) Article 45 - 1 Programmes or schemes for the distribution of plots of land relating to plans or projects to be carried out by local authorities which are of general or regional interest are subject to approval by the central administration, as are the general bases or conditions to be observed in the transfer of plots of land destined for affordable housing shall be the fixed, in harmony with the circumstances, with an indication of the respective types or categories and the corresponding maximum rents. '	
23-jun-71	Decree-law 278/71	Demolition and expropriation of regularisation clandestinely of illegal constructed buildings immigrants that are spared	Requires the	Article 3 - 1. The State, through the Ministry of Public Works, shall take the initiative for expropriation, unless

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			demolition for reasons of social interest, provided they present minimum conditions of safety and habitability.	the municipality where the building is located declares that it intends to request it itself. (...) Article 6 Municipal councils may create and eventually municipalise the administration and conservation service for the buildings they acquire under this decree, as well as for any other buildings they own and which are intended for residential use.
17-dec- 71	Decree-law 560/71	PU and PP's	Determines that the municipal councils of the mainland and adjacent islands are obliged to promote the drawing up of general urbanisation plans for the seats of their municipalities and other localities, in order to achieve their transformation and development according to the requirements of economic and social life, aesthetics, hygiene and traffic, with the maximum benefit and comfort for their inhabitants - Repeals Decree-Laws Nos. 33921 and 35931	There is no mention of housing policy
17-dec- 71	Decree-law 561/71	Defines the content	The plan referred to in point c) of the previous paragraph	There is no mention of housing policy

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		of PU and PP's	must indicate, within each of the residential areas, the plots of land intended for. Single-family and multi-family houses, the latter even if for residential and other purposes, indicating their location and the number of floors
06-jun- 73	Decree-law 289/73	Allotments	<p>devices the regime approved by Decree-Law 46643 regulating the intervention of the major centres, which responsible administrative authorities in allotment operations</p> <p>The fact is, however, that the great demand for housing land around the intervention of the major centres, which ensures a high return on urbanisation operations, has given private initiative a dynamism that makes it surpass the activity of the Administration, which is all shaped by a healthy concern to respect rules designed to ensure that settlements have acceptable conditions for living together.</p>
13-apr- 06	Decree-law 275/76	Clandestine construction	<p>Approves repressive measures for clandestine construction</p> <p>It must be recognised, however, that the only way to effectively and with social justice halt this constant development of clandestine construction areas is for the public sector to quickly make land available in such a quantity as to provide the building plots needed to implement the plans for the accelerated elimination of the housing shortage.</p> <p>Article 1 - (1) The municipal administration bodies responsible for granting allotment licences may take administrative possession of buildings located in urban or rural areas.</p>

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05-nov- Decree-law 76	Soil Law 794/76	<p>It defines the fundamental principles and rules on land policy</p> <p>(...) There was a concern to provide the Administration with effective instruments to, on the one hand, prevent property speculation and, on the other hand, allow for a rapid solution to the housing problem, following the new constitutional provisions. A number of principles with a social content that had already been considered necessary before 25 April 1974 were taken up again, but which were never put into practice because they clashed with the game of interests that prevailed at the time.</p>	<p>Article 6</p> <p>1. In the implementation of any urban expansion, development or renovation plan, or the creation of new settlements, the number or percentage of dwellings to be built shall always be fixed, subject to the fixing or control of rents or sales prices, apart from those intended for social housing. Article 41</p> <p>1. Critical areas for urban recovery and conversion may be declared to be those in which the lack or insufficiency of urban infrastructure, social equipment, open areas and green spaces, or the deficiencies of existing buildings, in terms of solidity, safety or health conditions, reach such severity that only the intervention of the Administration, through expeditious measures, can effectively remedy the inconveniences and dangers inherent in the aforementioned situations.</p>
06-nov- Decree-law 76	Clandestine construction 804/76	Determines the measures to be applied to clandestine construction, as well as clandestine allotment operations	'This involves the detection and study of the various areas of clandestine construction, which, together with the implementation of the applicable measures, is entrusted to the

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			competent local bodies with the assistance of the appropriate bodies and services of the Central Administration and the participation of the populations concerned. '
25-oct- 77	Law 79/77	Local municipalities	No reference to competences in the area of housing, with the exception of issuing housing licenses
03- may-82	Decree-law 152/82	ADUP's	Allows the creation of priority urban development and priority construction areas. The legislation enacted to develop a coherent and effective urban land policy was not sufficient to prevent the almost systematic use of urbanistically inadvisable areas for housing purposes and the non-utilization of land designated for this purpose in urban studies and plans. (...) Measures are established aimed at containing speculative practices, and municipal chambers themselves are pointed in the same direction, favouring builders who propose to provide housing at lower prices. Municipal competence, with state monitoring
26- may-82	Decree-law 208/82	PDM's	There is no mention of housing policy
29- mar-84	Decree-law 100/84	local authority	There is no mention of housing policy
		competences	
02- mar-90	Decree-law 69/90	PMOT's	Regulates the legal framework for Article 5(2)(c): Determine housing shortages,

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municipal territorial management plans framing appropriate guidelines and solutions within the framework of housing policy; Article 9(2): The municipal master plan establishes a spatial structure for the municipality's territory, land classification and urban indices, taking into account development objectives, the rational distribution of economic activities, housing shortages, equipment, transport and communications networks and infrastructure.

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11-aug- Law 48/98 LBOT  
98

Article 9(3) states that sectoral policy instruments are plans with a territorial impact that are the responsibility of the various sectors of the central administration, namely in the fields of transport, communications, energy and geological resources, education and training, culture, health, housing, tourism, agriculture, trade and industry, forestry and the environment.

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14- Law 159/99 Transfer of Establishes the Article 13 Duties of  
sept-99 competences framework for the municipalities: i)  
transfer of powers  
and competences to Housing; Article 24  
local authorities Housing - Municipal  
bodies are responsible  
for: a) Making land  
available for the  
construction of social  
housing; b) Promoting

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			low-cost housing and urban renewal programmes; c) Ensuring the upkeep and maintenance of private and cooperative housing, namely by granting incentives and carrying out coercive works to restore buildings; d) Encouraging and managing social rental housing; e) Proposing and participating in the feasibility of programmes to restore or replace dilapidated housing inhabited by owners or tenants.
22-	Decree-law RJIGT sept-99 380/99	Legal Regime of Territorial Management Instruments	Sectoral programmes are the responsibility of the central administration a) Article 35(2) 'Development plans, programmes and strategies concerning the various sectors of the central administration, namely in the fields of transport, communications, energy and geological resources, education and training, culture, health, housing, tourism, agriculture, commerce, industry, forestry and the environment; Content of PDMs paragraph 1 i) The definition of programmes in the area of housing;
30-	Lei 31/2014 LBOT may-14	Establishes the general bases for	Article 6(1): Specific purposes b) The balanced

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public policy on land, distribution of the spatial planning and functions of housing, urban planning and work, culture and leisure; makes exceptions for g) The application of a the planning and housing policy that allows management of the existing shortages to be national maritime resolved; Article 14(2): space Owners' duties: b) To provide legally required areas for infrastructure, equipment, public housing, at controlled costs or for affordable rent, green spaces and other spaces for collective use, or, in the absence or insufficiency of the provision of these areas, to compensate the municipality; Article 37 - Objectives of Territorial Management) The application of a housing policy that enables existing shortages to be resolved; Article 63 - Taxation of Real Estate and Article 65 - Objectives of redistributing benefits and burdens recognising public housing

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14- Decree-law RJIGT  
may-15 80/2015

Sectoral programmes within the remit of the central administration Article 39(2) a) Development programmes and strategies relating to the various sectors of the central administration, namely in the fields of defence, public security, risk prevention and minimisation, the

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environment, water resources, nature conservation and biodiversity, transport, infrastructure, communications, energy and geological resources, culture, health, housing, tourism, agriculture, forestry, trade and industry;

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04-jun-18	Decree-law 37/2018	1st Right - Support Programme for Access to Housing	The 1st Right is a public support programme to promote housing solutions for people who live in undignified housing conditions and who do not have the financial capacity to bear the cost of access to adequate housing.	Article 23 - It is the responsibility of the competent municipality to aggregate, assess and manage all requests for support under the 1st Right that are submitted to it in line with the strategy it has defined for the housing solutions it wishes to see developed in its territory, promoting the actions necessary to ensure universal, coherent and equitable access to these solutions for people and households living in undignified conditions and in a situation of financial need. Article 24 1 - IHRU, I. P. is responsible for managing and promoting the procedures necessary to grant financial support in accordance with existing budget
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			availability and deciding on the financing of the housing solutions presented, as well as ensuring continuous monitoring and a biennial evaluation of the programme.	
03- sept-19	Lei 83/2019 LBH	<p>It establishes the foundations of the right to housing and the fundamental duties and tasks of the state in effectively guaranteeing this right to all citizens, under the terms of the Constitution.</p> <p>Article 14:2, number 2 - The guarantee of the right to housing includes the existence of a habitat that ensures conditions of health, safety, environmental quality and social integration, allowing the full enjoyment of the housing unit and the spaces and equipment for collective use and contributing to the quality of life and well-being of individuals and to the establishment of neighborhood and community ties, as well as to the defense and enhancement of the territory and landscape, the protection of natural resources and the safeguarding of cultural and environmental values.</p> <p>Article 22(11) - The Municipal Housing Charter (CMH) is the municipal planning and land management instrument for housing, to be articulated within the framework of the Municipal Master Plan</p>	<p>Article 14:2, number 2 - The guarantee of the right to housing includes the existence of a habitat that ensures conditions of health, safety, environmental quality and social integration, allowing the full enjoyment of the housing unit and the spaces and equipment for collective use and contributing to the quality of life and well-being of individuals and to the establishment of neighborhood and community ties, as well as to the defense and enhancement of the territory and landscape, the protection of natural resources and the safeguarding of cultural and environmental values.</p> <p>Article 22(11) - The Municipal Housing Charter (CMH) is the municipal planning and land management instrument for housing, to be articulated within the framework of the Municipal Master Plan</p>	<p>Chapter III Public housing and urban regeneration policies</p> <p>Section I National, regional and local housing policy: defines the responsibilities of the central, regional and local state</p>

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(PDM), with the other land management instruments and other strategies approved or planned for the municipal territory.

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08-jan-24	Decree-law 10/24	LBOT	Amends the Basic Law on Territorial Planning, considering the public and social housing for the purposes of implementation mechanisms and instruments	Article 72-A: Simplified land reclassification procedure provided for in this article shall apply, with the necessary adaptations, to the reclassification of rustic land to urban land intended for controlled-cost housing or residential use, provided that it is provided for in: a) Local housing strategy; b) Municipal housing charter; or c) Housing stock exchange. Article 154 Soil reserve:1 - Territorial plans may establish soil reserves for the implementation of urban infrastructure, equipment and green spaces and other spaces for collective use, as well as public housing at controlled costs or for affordable rent.
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## Abbreviations

The following abbreviations are used in this manuscript:

ADUP	Priority Urban Development and Construction Areas
CMH	Municipal Housing Charter
CMM	Municipality of Matosinhos
CMP	Municipality of Porto
EIDT	Integrated Territorial Development Strategies
ELH	Local Housing Strategy
FFH	Housing Development Fund
IGAPHE	Institute for Management and Disposal of State Housing Assets

IGT	Territorial Management Instruments
LBH	Basic Law on Housing
LBOT	Basic Law of Territorial Planning
MOP	Ministry of Public Works
PARU	Urban Regeneration Action Plans
PDM	Municipal Master Plan
PEDU	Strategic Urban Development Plans
PGU	General Urbanization Plans
PI	Integrated Plans
PP	Detailed Plans
PU	Urbanization Plan
RJIGT	Legal Regime of Territorial Management Instruments
SAAL	Local Support Service

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