

CO-LIVING

APPROACH TO THE
LEGAL REGIME IN SPAIN



Spain is an ideal location for the development of this new housing concept that has drawn the interest of national and international investors

WHICH REGULATIONS GOVERN TENANCY-LEASE AGREEMENTS?

LAU (Urban Leases Law)

	Residential leases	Leasing for non-residential use
Is this applicable to co-living?	<p>Co-living is not a residential lease in so far as it does not usually satisfy a need to use the leased property as a permanent residence. However, the parties could voluntarily agree to be governed by this regime</p>	<p>As a temporary (non-permanent) lease, it could fit into this category as long as the lease is for a habitable property (i.e. not just a room even with shared use of other essential common facilities such as a kitchen or bathroom)</p>
What legal obligations apply?	<p>The Protection regime for the lessee does not apply in this kind of lease (e.g. right to extend or limitation on rent review)</p>	<p>There is freedom of contract between the parties except for the lessee's obligation to provide a security deposit (equivalent to two months' rent)</p>

CC (Civil Code)

	Temporary lease of a room	Accommodation agreement
Is this applicable to co-living?	<p>This regime applies if the lease is for just a room even with shared use of other essential common facilities such as a kitchen or bathroom</p>	<p>This regime applies when, in addition to the use of space provided for habitation, other services are provided to the guest (e.g. laundry, cleaning) in exchange for financial consideration</p>
What legal obligations apply?	<p>Freedom of contract</p>	<p>Freedom of contract</p>

It will also be necessary to review on a case-by-case basis whether consumer protection legislation is applicable



HOW IS THE IMPLEMENTATION OF CO-LIVING PROPERTIES REGULATED IN SPAIN?

The authority in housing matters lies with the autonomous regional governments (and only Cataluña has announced regulations concerning co-living), while the use of land to implement co-living spaces is regulated in urban planning instruments, which are enacted by municipal authorities.

WHAT IS NEXT FOR CO-LIVING?

1 Co-living in Spain is here to stay

The sense of community that co-living generates among its users, the possibilities for collaboration it opens up between them, or the resulting in sustainable development of urban areas is increasingly valued, especially in post-COVID-19 times. Spain is an ideal place for the development of this new housing concept and investors, both national and international, are taking notice.

2 Regulatory development to promote this regime

From a legal point of view, local councils need to begin the business of adapting their regulations to clearly reflect these new housing solutions, which are in great demand by society. This will provide the greatest possible legal security for investments made in this field, improving cities on many different levels.

3 Prior legal analysis is key to ensuring the viability of the project

Until these new regulations are developed, the introduction of co-living regimes in our country require prior legal analysis to determine how they fit with the uses established in the urban planning regulations of the local areas in question, so that the investor can be sure of the project's viability before undertaking the investment.



Currently, the implementation of co-living spaces in Spain requires prior legal analysis according to the urban planning of each local area to guarantee the viability of the project

CURRENT REGULATION IN MAJOR CITIES:

MADRID

- The General Plan does not regulate emerging residential models such as co-living: it is currently based on collective housing with multiple bedrooms.
- In practice, many investors have developed co-living projects on tertiary plots for accommodation (*hospedaje*) and also on infrastructure plots (*equipamiento*).
- The urban development regulations of the General Urban Development Plan of 1997 are in the process of being updated to include changes that have taken place since the approval of the Plan more than 24 years ago:
 - To define co-living as a type of housing consisting of several independent accommodation units comprising a bedroom and bathroom, sharing the rest of the living spaces, kitchen and laundry areas of the residence, to which other leisure and work areas may be added, all within the residential premises.
 - To allow the development of co-living spaces on residential land, in the category of shared occupancy (*residencia compartida*). The housing accommodation units must consist of a bedroom and bathroom of a minimum size (15 m², no less than 10 m² per person), and the dimensions of the common areas shall be defined (living-dining room, kitchen and laundry) in proportion to the number of housing accommodation units. The leisure and work spaces can be freely determined.

BARCELONA

- Cataluña was the first autonomous region to regulate co-living, which is defined as another type of housing under the regime of "accommodation of complementary common spaces" ("AEC") (*alojamiento de espacios comunes complementarios*)¹.
- Co-living can be built on residential land intended for residential use and must comply with the following requirements:
 - useful surface area ≥ 36 m²;
 - each private space, an interior usable area ≥ 24 m²; and
 - each complementary common space, an interior usable area ≥ 6 m².
- At a local level, no amendments have been made in Barcelona to the urban planning regulations to develop AECs, currently being implemented in areas with codes 12b, 13E and 18 in which this type of occupancy use (*habitatge*) is permitted. In addition, it is important to note that if it is necessary to carry out major works on an existing building to adapt it to the co-living concept, 1/3 of the flats must be reserved for social housing.

VALENCIA

- Valencia has not yet adopted specific regulation on co-living.
- In the absence of regulation, the use of co-living could be interpreted to fall under the regime of community residential use and not tertiary-hotel use (apparently in line with the regulations to be approved in Madrid).

1.- The regime of accommodation of complementary common spaces ("ADEC") is also regulated and will be developed on land classified as infrastructure land (*equipamiento*) although they are allowed to be privately owned.

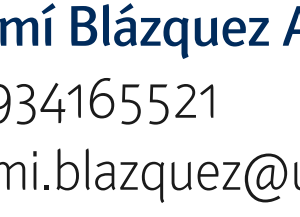
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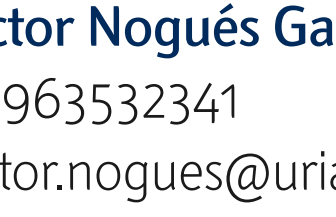
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