The Real Estate crisis and the deregulation of Territorial Planning (Land Use). The Case of the Canary Islands.

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This text is aimed at contrasting two different aspects of the same reality of crisis.

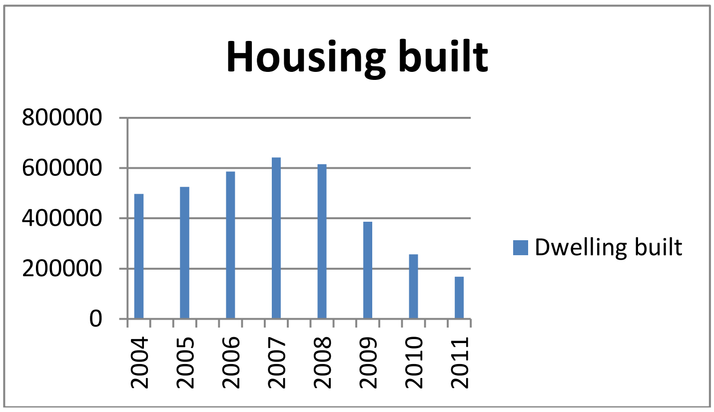
On the one hand, it examines the critical situation of the real estate sector in Spain and, correlatively, in the Canary Islands. Here, the intention is to draw out and underline the most significant indicators of the phenomenon.

On the other hand, we attempt to analyse the response offered by the public sector at the political level, through laws and urban planning regulations of a neo-liberal cut, designed, theoretically, to revitalise the building sector, in spite of the negative results given by the same in the last few years. In the Canary Islands, the justification is the rise in tourism (something which would appear to be purely circumstantial) given as the result of political instability in North Africa (the famous Arab Spring), above all in Tunisia and Egypt, the traditional competition for the Archipelago in tourism terms.

1. The crisis of the real estate sector

The bursting of the real estate bubble in 2008 hit Spain hardest (within the Euro-zone) and has been one of the major reasons for the tremendous impact of the economic crisis on the country.

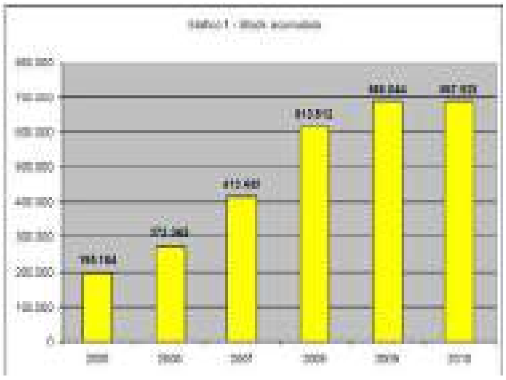
The enormous production of housing, with an annual average of approximately 500,000 units (moving from 496,000 in 2004 to 615,000 in 2008, see graph 1) has fallen off substantially since the crisis. In 2011, the housing production amounted to only 167,914, in other words, a reduction of some 70%.



Graph 1. Housing built by year.

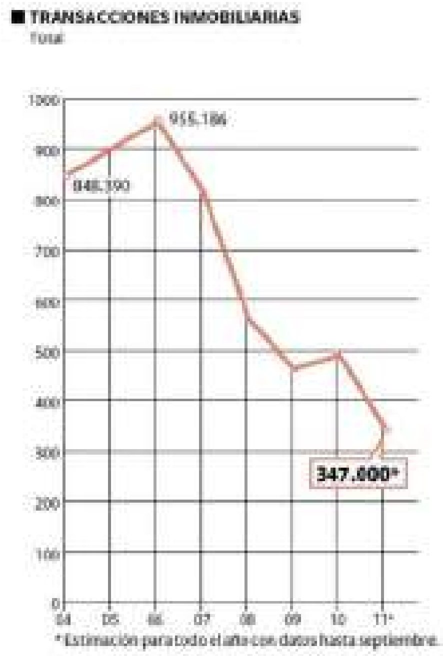
Similarly, and over the same period, unemployment in the building sector has risen from 6.06% in 2005 to 23.49% as it stood at the end of 2010.

As far as demand is concerned, the total lack of consumer potential on the part of the population has led to the economy contracting significantly. The falloff in GGDP has created a stagnated pool of some 720,000 unsold houses, above all in Catalonia, Valencia and Andalusia in percentages that range between 15% and 19% of the total stock of housing in the region. (See graph 2)



Graph 2. Housing pool by years

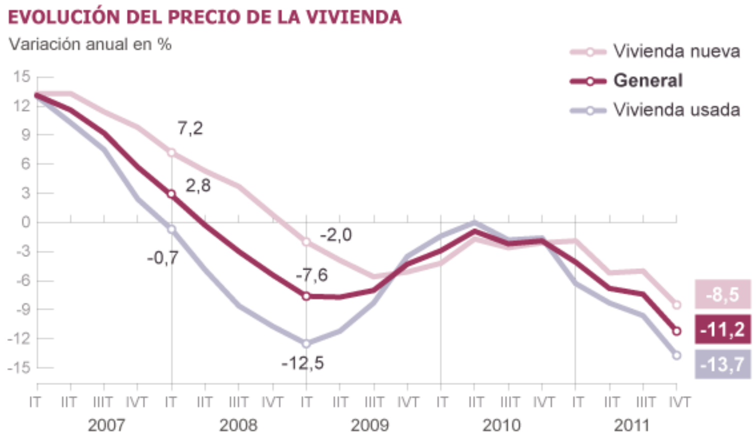
Logically, real estate transactions fell from 955,000 in 2006 to 347,000 in 2011 whereas land sales dropped from 23,566 in the first term of 2004 to 3,456 in the third term of 2011 (see graph 3).



Graph 3. Real estate transactions

With respect to mortgages on houses, the market fell off from its peak of 1,342,171 operations in 2006 to a total sum of 188,339,112 Euros, to 409,337 operations en 2011 amounting to a total of 45,825,188 Euros even although the Euribor (the inter-banking loan interests that directly impact mortgages and are passed on by the banks to the owners) moved from 5.393 %, in July 2008 to more normal levels, 2.004 % in December, 2011.

However, the price of new housing did not fall so dramatically. After a brief downward turn in 2007 and 2008, with an inter-annual variation of -6%, prices rose again from mid-2009 to the end of 2010. This has not meant, however, that the downward turn has been checked since in 2011, there was an inter-annual variation of - 8,5%. The average price per square metre has fallen from 2,905 Euros in 2007 to 2,376 Euros in 2011, in other words a decrease of 18%.



Graph 4. Evolution in house prices

This last trend is basically financial in nature and has to do with the de-capitalisation of the banking sector. The "Eurogroup" has imposed re-structuring and re-capitalisation of private banks on various States, imposing an iron hand to eliminate all trace of 'trash assets' while attempting, at the same time, to scaffold national deficits. However, these selfsame banks have been fiddling the books by including housing evicted as the result of unpaid mortgages as 'healthy assets'.[1] The banks have no interest in putting these properties on the market at their real market price because they would suffer as a result of the reduction of the value of their assets, making them eager, therefore, to keep prices as high as possible.

The outcome of this financial strategy is the stagnated pool of unsold houses because the prices remain much higher than the consumer power of the potential demand, without even giving further consideration to the part played by the rigorously stringent controls on credits given for house purchases.[2]

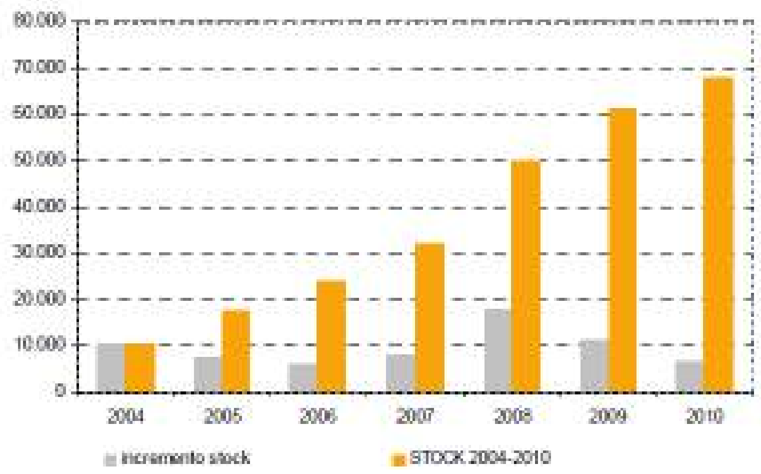
[1] Bear in mind that according to the data offered by the Consejo General del Poder Judicial (CGPJ or General Legal Jurisdiction) as published in 2011, the number of Spaniards implicated in some form of eviction due to failure to pay the mortgage amounted to a historical record 16,464 in the second term of the year, 21.2% more than for the same period the previous year.

[2] The family and company debt with financial entities in Spain went down by 0.3% and 0.2% respectively in November 2009 as compared to the same period in 2008, according to official data

2. The crisis in the Canary Islands

The situation in the Canary Islands is not significantly different from what is the picture at the national level, but rather more concentrated over certain aspects.

Between 2004 – 2010, the number of unsold houses rose progressively to 67,672 units, representing 4.9% of the national total.



Graph 5. Stock of houses in the Canary Islands

In the above graph 5, we can see how, in the period between 2004-2010, the number of finished houses has progressively grown more than the number of houses sold, giving rise, thus, to a large pool of unsold housing.

This is the result of two different trends. First, the purchase of new housing has fallen back more severely in the Canary Islands than in the rest of Spain as of 2006. And, second, the housing sector continued to build on a consolidated basis through to the maximum reached in 2008 in the Archipelago as opposed to 2006 in the rest of Spain.

In any case, and in both examples, the shift with respect to new housing can be seen with greatest clarity in 2009 and 2010.

The data with respect to 2011 confirm this trend. In the Canary Islands, at the end of the first term, there were 60.8% unoccupied houses, less than in the same period the year previous, and 46.9% less house sales.

However where the severity of the crisis was truly confirmed with respect to the economic crisis was the labour market. According to the data relating to the Survey of Active Population (EPA in Spanish) for three years back, the number of people employed in the building sector in the Canary Islands was 113,200 (data from the second term of 2008), a figure that fell in recent times to 48,600 (second term of 2011).

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of the Bank of Spain. Spanish families' debt with the financial entities amounts to 908,272 million euros, situating it at values similar to the levels of June, 2009.

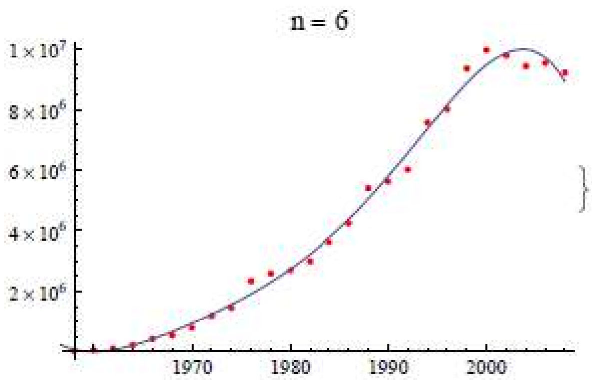
This loss of 64,600 jobs means that the workforce in the building sector has reduced 57% in the last three years, in other words, that three out of every four persons has lost their employment in the building sector.

It is also important, in this sense, to highlight the cutback in demand, also linked to the restriction on credit.

For the first time in many years, in 2010, the rhythm of advance credit given by the deposit entities in the Canary Islands was under the GDP (that is stagnant). And although this trend is barely to be noticed at a national level (with very few regional exceptions), in the Canary Islands, the Canary Islands is where the descent is most to be noted.

3. Conditions in the tourist sector.

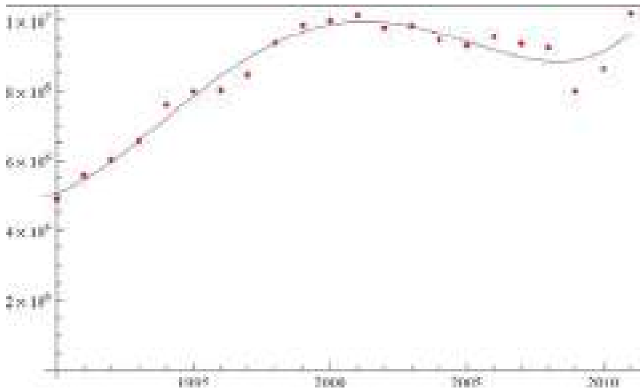
Tourist demand in the Canary Archipelago has undergone exponential growth as of the Sixties in the past century when Three 'S' tourism really took off only to fall significantly at the beginning of the century, partially due to increased consumer demands for personalisation together with changes in attitudes towards contracts (a reduction in package contracts, the impact of low-cost airlines, access to internet and changes in consumer control etc.,) besides a certain obsolescence of the product on offer



. **Graph 6.**
Evolution of the tourists in the Canary Islands between 1960-2010

There is the generalised sensation that Butler's Life Cycle is being given in that, after a period of relative stagnation, there has been a notable fall-off. Numerically, the demand has fallen by 21% between 2000 and 2009. (In 2001, the numbers of tourists received were 10,137,202 whereas in 2009, the numbers amounted to 7,982,256)

However, and contrary to expectations, in other words, that there should be a direct correlation between the fall in tourism numbers and the economic crisis, something which began to be patent as of 2008, the last few years have produced an unforeseen renaissance of the tourist demand.



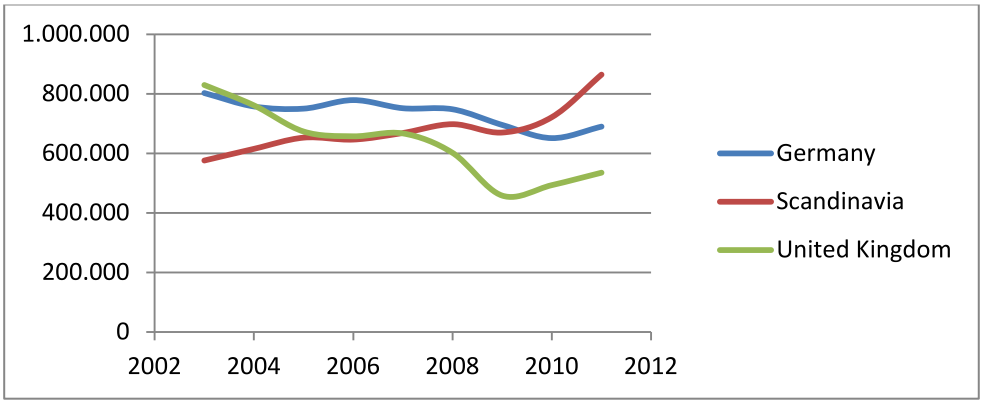
Graph 7.

Evolution of tourists in Gran Canaria 1990-2011

Between 2009 and 2011, tourism increased by 27%, climbing back in the last year to a sum total of 10,182,997 tourists in the Canary Archipelago as a whole.

The question is how to analyse the direct causes of this phenomenon.

First and most evident is the re-routing of demand from North Africa (especially Tunisia and Egypt) to alternative destinations. Turkey, one of the main competitors, also received a significant increase in demand in 2011 with respect to 2010, around 9%. Egypt crashed catastrophically: in the first term of 2011, it lost 45% of its tourist numbers, dropping from 3,363,325 tourists to 1,894,044. The same occurred in Tunisia that lost 54% of its tourists in just one year.



Graph 8. Incoming tourists (Gran Canaria) by country

However, the question is much more complicated. If we look at the demand by outgoing tourists (country), we can observe, in the case of Gran Canaria, in particular, the following trends:

The fall in demand of British tourists, around 40.5% between 2003 and 2010, with the most sensitive point between 2008 and 2009 of around 23%, reversed if only slightly, picking up 8%.

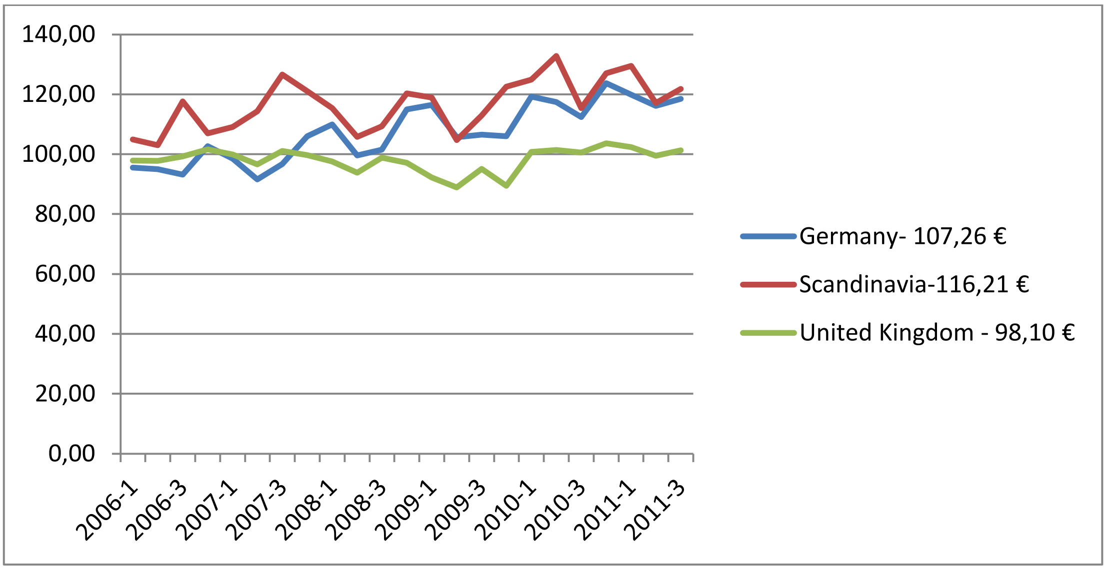
A similar trend occurred in the case of the German demand that first fell between 2003 and 2010 over 18% (five percentage points less than the British demand) only to pick up timidly, advancing 5%.

However, what was most spectacular was how the Scandinavian countries have behaved, increasing constantly to 288,440 from 2003 with over 20% of the increase between 2010 and 2011, outstripping easily the British and the German.

Year	**Germany**	**Scandinavia**	**United Kingdom**
2003	**802,403**	**575,789**	**829,381**
2004	**757,347**	**614,999**	**760,897**
2005	**750,032**	**652,625**	**673,143**
2006	**778,681**	**646,120**	**657,221**
2007	**751,364**	**668,303**	**666,763**
2008	**747,869**	**697,811**	**601,529**
2009	**695,246**	**669,773**	**457,987**
2010	**651,021**	**721,425**	**493,150**
2011	**689,642**	**864,229**	**534,947**

Table 1. Tourist arrivals at Gran Canaria by year and country

Likewise, the average outlay per consumer was highest among the Scandinavian tourists between 2006 and 2011, standing 8.3% ahead of the Germans and 18.4% more than the British.



Graph 9. Average outlay per tourist and country (term) 2006-2011

The last significant piece of data is that the number of foreign tourists who took their holidays in their own holiday homes, or with family and friends, rose between 2001 and 2007 from 9.48 million to 13 million. However, it began to fall in 2008 and, in 2010; there was an accumulated falloff of 4% according to Frontur, as a result of the economic crisis.

4. The legal response

In 2001, the Government of the Canary Islands passed a decree[3] whereby it was forbidden to give licences to build more tourist accommodation for, at least, three years except in specific cases of luxury hotel complexes and rural tourism. Later, in 2003, the **Directrices Generales de ordenación del territorio y del turismo (General Guidelines for Territorial Organisation and Tourism)**[4] were drawn up, designed, as outlined in the preamble to the law, to achieve a more sustainable and lasting model of development of tourism for the Islands, that would be more environmentally friendly and more apt to preserve natural resources, be they cultural or territorial, in search of greater social equity and greater distribution of economic wealth.

However, the pressure of the real estate sector never let up and, taking advantage of legal loopholes, they managed to build up a further 54% between 2000 and 2010, with an increase of 70,000 hotel beds although, as they themselves were frequently heard to say, “there is a bloody freeze on tourism building”. This increased accommodation was built despite the fact that over these 10 years, tourism dropped off over 13.5% with average hotel stays down 12%.

[3] Decree 4/2001 (12th January), Autonomous Government of the Canary Islands on Suspension of Planning and Licences in Tourism planning,

[4] Law 19/2003, (14th April) whereby the Guidelines for General Land Planning and Yourism Planning in the Canary Islands were passed

Since the crisis set in with a vengeance in 2008, the government began to talk about the possibility of establishing ‘emergency measures’ to get round or dismantle the legal obstacles in favour of regulations designed to give “efficient” use to the available land.

These modifications were given weight in 2009 thanks to two laws (passed as emergency measures) that were to reform both the Law of Territorial Organisation (“Ley de medidas urgentes en materia de ordenación territorial para la dinamización sectorial y la ordenación del turismo” The Law of Emergency Measures in the field of Territorial Organisation designed to dynamise the sector and to order tourism- May 2009), together with the Law on Tourism (“Ley de Modificación de la ordenación del turismo en Canarias” The Law of Modification of Territorial Organisation for Tourism in the Canary Islands - April 2009).

The crisis had created, apparently, significant restrictions on real estate investment and, as a result, on employment, blamed by the promoters on the bureaucratic restrictions created by planning laws and regulations.

The surprise factor appeared in 2009 when tourist demand began to pick up notably as we have already said. The Government saw that there was a window for consolidating the reform measures and presented a draft bill for the **Armonización en la Ordenación Territorial y del Turismo (Harmonisation of Territorial Organisation and Tourism)** in 2012.[5]

Apparently, the Draft Bill was an attempt to respond to the extended idea that the complex regulations in the field of territorial organisation of the Islands translated through into grossly slow-moving red tape for the approval of planning documents, above all, urban planning, in the last few years, all of which, together with the difficulties involved in land promotion and investment by the economic agents, made it a requirement to dilapidate the present Law of Territorial Organisation[6].

Logically, the fact that the System of Land Planning in the Canary islands is a complex structure is significant in that it produces a convergence of five different levels of administrative authorities: European, State, Autonomous, Island and municipal, each of which contributes its different laws, norms and regulations to the sector, making it abnormally complicated to manoeuvre.

The hypothetical harmonisation now publicised by the present government is characterised by two main technical differences: some of the matters are regulated directly by the draft bill itself (territorial systems, buildings outside the norms, environmental assessment, biodiversity and organisational guidelines) whereas others were modified by the laws in force.

One of the most significant contradictions of the text of the law hinges on the fact that, despite the reiterated official declaration of the need to move towards socio-economic development without consume of land, therefore prohibiting any re-classification for tourist ends, the law establishes a procedure to do exactly the opposite. It allows for new plots to be classified for tourist activities or for re-classification of existing plots to the same end simply on request to the requisite town council or via an island report or, as a last resort, via a governmental release or parliamentary resolution, with no other caps than the load capacity established under the island plan.

The most important effect is on ‘rustic’ lands. In other words, all plots considered to be ‘rustic’ (plots not apt for building on, by it special condition of agricultural land) through “rural” land (likewise, not apt for building upon except by express modification). In the same way the potential rural plots for development (apt for support infrastructure) and plots under development in progress, until such time as the urban development determinant of its classification is completed, may be considered ‘urban’ (apt for development).

[5] Canary Official Gazette (BOCA) 2012 (16th Mars)

[6] Decree 1/2000 (8th May) of the Rewrite of the Text of the Laws for Territorial Organisation in the Canary Islands and the Natural Areas of the Canaries

Besides, all plots classified as ‘consolidated urban plots’ (with infrastructure) and ‘unconsolidated urban plots’ (without infrastructure) were likewise considered to be in a basic situation of development (apt to be built upon).

The general category of ‘apt for development’ was also extended to ‘rustic land in rural settlements’ (small villages and hamlets with agricultural land) that could be subject to development plans, in direct contradiction to the rural consideration afforded to all rural land in the preamble to the regulation.

Working along the same lines, the so-called ‘territorial environmental systems’ were created by way of rustic areas to be assimilated into general urban development systems. The substantial difference is that the owners of the general systems are expropriated and compensated for the loss of their property that then becomes public property to be devoted towards public uses. However, in this case, the owners of the territorial environmental systems maintain their property and only commit to upkeeping traditional systems of agricultural production and to respecting rules of usage and building.

Thus, and due to the land falling within the boundaries of a rural settlement or next to the same, the owners have the right to build 1 m^2 for every 50 to 100 m^2 plot when the land is inside the settlement and every 500 m^2 if outside the same.

This determination introduces a ‘law’ for building on rustic plots which does not fit inside any State or Autonomous legislation, where the law is limited to specific activities for the agricultural use of the land, in line with its classification and recommends legitimisation for any activity or work outside the same.

This is a concept diverse of the systems of property used in Spain, as in France, that cannot be partially transplanted by an autonomous ruling on territorial organisation that violates their logic and the state ruling on the matter.

However, independent of this attack on the preservation of ‘rustic’ plots, the government has prepared another law on ‘renewing tourism’ that eliminates the restrictions on five-star hotels on consolidated urban plots and modifies the incentives, by using the excuse of promoting rehabilitation of obsolete tourism accommodation on offer.

The incentives, moreover, offered by the Autonomous Government to promote rehabilitation of obsolete accommodation, were modified, presumably to move fast forward with the initiative begun in the last few months of ‘Tourism energisation’. Among the incentives enumerated, there exists the possibility of increasing building potential while reducing the number of new beds built to substitute obsolete accommodation on offer. There is also an incentive with respect to density, that is, the square metres per bed required in a building to be renewed.

The Executive also covered all the suggestions made by the business sector within tourism such as the possibility of broadening the rural hotel potential and second home systems, in other words, of top quality villas and chalets on tourist plots.

First and foremost, the new law is directed at sustainability in time, without establishing limits to that time, thereby signifying that the Government assumes the responsibility for changing or suppressing the decree o incentives and criteria for building new tourism beds.

5. Conclusions

From all of the foregoing, we can conclude that the political movements are aimed, albeit subliminally, at dismantling progressively and legally all of the basic regulations with respect to organisation and preservation of territory. Beginning with the Guidelines that represent the basic regulations to be referred to, and continuing with the Law of Territorial Organisation and Tourism Planning because the Canary economy is based on the service sector, predominantly on tourism.

In other words, it is not a matter of modifying the current laws either structurally or conceptually, after a period of serious reflection but rather we are contemplating partial modifications via orders and special clauses that end up perverting and emptying the present laws of all their content and meaning.

Should we admit that in a reduced and fragmented territory such as the Canary Islands, the preservation of rustic territory in general and agricultural land in particular should be one of the basic objectives of sustainable territorial planning, allowing for future generations to enjoy an essential natural resource capable of sustaining a quality lifestyle (an inherent quality to all distant islands such as are the Canary islands), then it becomes obvious that the question takes on a significantly critical profile.

However, the political powers that be continue to advance down the road of devastation of agricultural land, via Projects for Territorial Action that can only be put in place if they have an agricultural end.

The criteria of simplification and harmonisation presumably at the root of the Draft Bill to which we have made allusion are not sufficient to stem the total divorce with the limits on territorial use included in the principle of territorial sustainability and rolled out by the Organisational Guidelines.

The increased incentives for building in the tourism sector, moreover, with the excuse of necessary renovation of the tourist accommodation on offer is a mere cover for the real possibility of increasing building potential and land consumption that can only lead to surplus offer and, thus, obsolescence in the mid-term.

The euphoria produced as the result of the rise in demand produced over the last two years is nothing if not deceptive. This is purely circumstantial, as we have already made manifest. Therefore, support for liberal and unbounded building and occupancy of scarce territorial resources will only reproduce the results of the falloff in demand in 2000.

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