

Squatters in Mallorca: What Should I Know and What Can I Do?

The Balearic Islands, especially Mallorca, are known not only for their beautiful beaches and mild climate, but also for the social and political challenges affecting their communities. One of the most notable movements in recent years is that of squatters, emerging in response to rising rental prices and gentrification. This situation raises fundamental questions about the right to housing, social justice, and the rights of property owners and tenants.

This document provides an overview of the problem, the applicable legal framework, and possible responses, focusing particularly on the occupation of vacation properties, second homes, and properties owned by banks or hotels.

I. The Problem of "Okupas"

The squatter scene has grown significantly in Mallorca and the Balearics due to the scarcity of affordable housing. Families unable to afford rent and organized criminal groups occupying homes for profit are both involved. The latter often occupy homes and offer to vacate them in exchange for payment.

The most affected properties are those vacant for long periods: hotels during off-season, bank-owned housing, and vacation homes.

II. Legal Framework

Spanish law treats illegal occupation as a criminal offense. However, the Constitution establishes both the right to private property (Art. 33) and the right to dignified housing (Art. 47), creating legal

tension.

Legal scenarios and actions:

1. If the occupation is detected within 48 hours, police may intervene without a court order, provided the owner proves ownership.
2. If a residence is currently inhabited (home invasion), police may act immediately.
3. If violence was involved, police may also act without a court order.
4. Otherwise, a court order is required, and the legal process can take months or years.

III. Legal Complexity

Spanish criminal law distinguishes:

- Home invasion (Art. 202): entering an occupied dwelling without permission. Punishable by up to 2 years in prison.
- Usurpation (Art. 245): occupying vacant property. Punishable by a fine. Police cannot evict without a court order.

A "dwelling" is defined as any closed space where someone sleeps or stores personal belongings, even occasionally.

1. Vacation Homes

Even if not regularly occupied, vacation homes are considered dwellings if the owner stays there

periodically and stores personal belongings. Each case must be evaluated individually.

2. Bank and Hotel Properties

Rented properties owned by banks are considered dwellings. Bank offices are not, unless they serve as headquarters. Hotels are considered dwellings while in use by paying guests, despite seasonal closures.

IV. Legal Interests Protected

- Home invasion protects privacy and residence.
- Usurpation protects ownership rights.

Sanctions depend on whether violence was involved.

V. Legal Reforms and Outlook

The issue is complex and difficult to resolve. Though the government issued a directive in 2020, the pandemic worsened the situation. Reforms are being considered to facilitate evictions, but no law has been passed yet.

VI. Preventive Measures

Install alarms and cameras to detect squatters early (within 48 hours). Maintain good relationships with neighbors who can alert you to suspicious activity.

The best course of action depends on each case. Gerboth & Partner offers tailored legal advice.

Contact:

Gerboth & Partner Abogados

info@gerboth-partner.com

Tel: +34 971 722 494