

Press Dossier



THE LAWSUIT AGAINST THE DIRECTORS OF THE CAJA MADRID SAVINGS BANK

THE CITIZEN'S COURT OF JUSTICE (15-M)

Press Dossier

1. The origin of the Citizen's Court of Justice (TCJ)

The Citizen's Court of Justice (TCJ) emerged from the spontaneous protest that began in Madrid's central Puerta del Sol Square on the 15th of May, 2011.

From the outset the slogan "We are not merchandise in the hands of politicians and bankers" pointed to those responsible for the crisis (fraud) and rejected both their manipulation of the causes of the country's economic collapse and the use of society as a scapegoat.

But it was on first anniversary of the 15M movement held in Puerta del Sol Square, when the TCJ was presented to the General Assembly and the initiative agreed upon by more than 2,000 people and made known to the rest of the neighbourhood assemblies in towns and cities throughout the country. Thus the Citizen's Court of Justice became known to the 15M movement and society.

Annex:

[ELPAIS 14-05-2012. A Citizen's Court is born.](#)

2. The mission of the TCJ

Our mission centres on two focal points:

- The identification and denouncement of those responsible for the economic collapse whose consequences we continue to suffer. That is to say, **those that managed the banks.**
- The continuity of procedures that will bring the perpetrators up before the law courts for crimes they committed since the start of the crisis.

To achieve these objectives, once the overvaluation of houses was identified as the origin of the housing bubble, in the summer of 2012 the TCJ initiated an ambitious plan to carry out informative nationwide workshops in the 15M popular assemblies. Titled "Know Your Mortgage" these workshops sought not only to empower those affected by providing additional arguments for their defense, but also to make them aware of the widespread fraud in which every bank had incurred by overvalueing their houses, and the serious damage that this practice had caused them . In this way those affected could know -in many cases for the first time- what was hidden behind the mortgage they had signed.

Annex:

TCJ Guide: <https://app.box.com/s/b2b0cbee2848d099a516/1/563088728/5040348476/1>

TCJ Road Map: <https://app.box.com/s/b2b0cbee2848d099a516/1/563088728/3615401417/1>

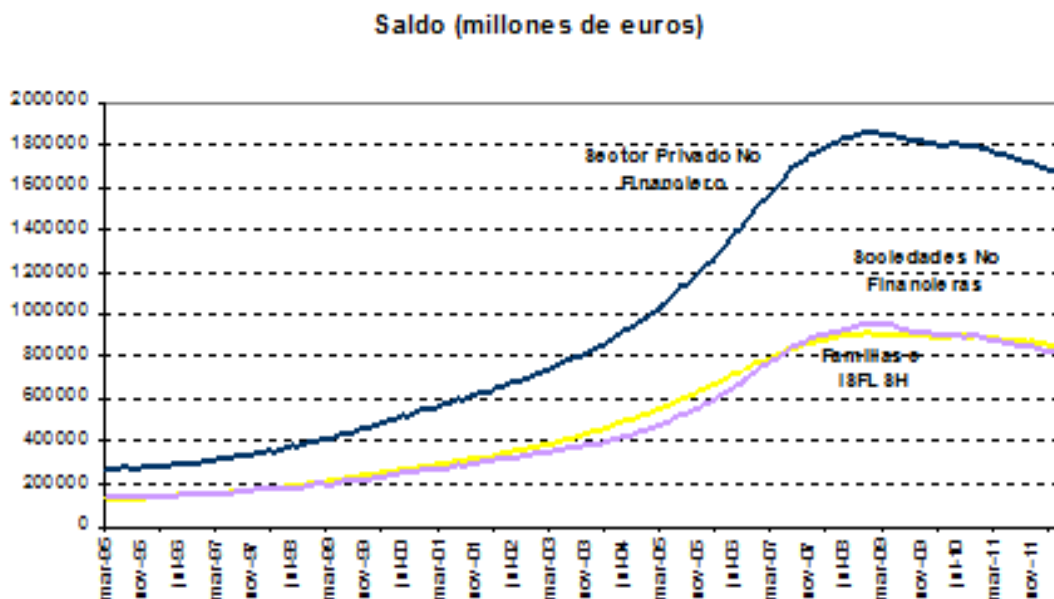
TCJ Leitfaden_Deutsch; <https://app.box.com/s/b2b0cbee2848d099a516/1/563098600/6630482634/1>

The Fraud.

3.1 Mortgages concessions and the retributive politics for directors.

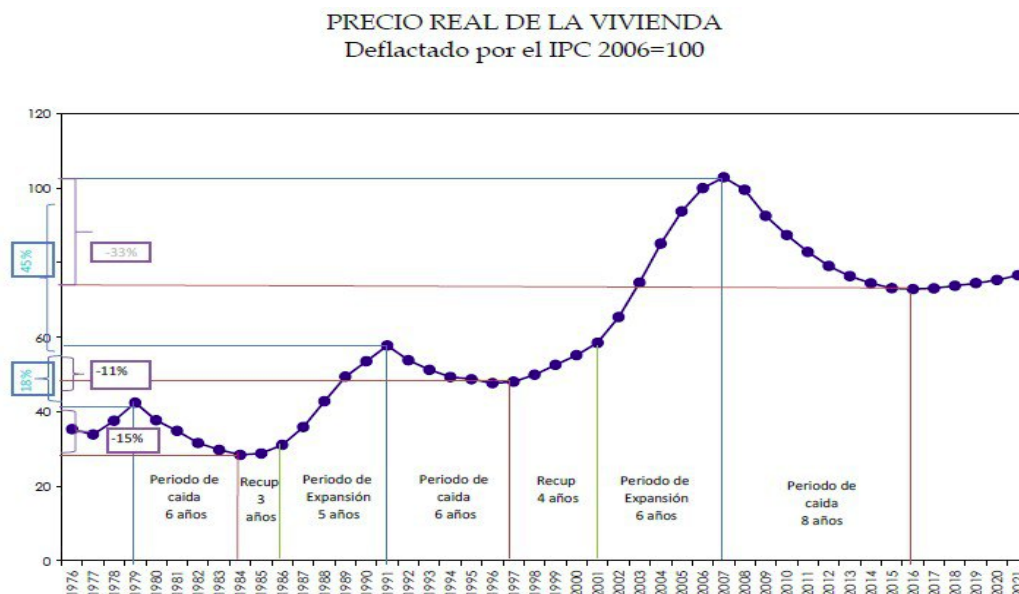
To understand how the housing bubble appeared here in Spain, how it developed, and why it burst it is necessary to focus on a law passed nearly two decades ago. The Regime for Ground and Valuation Law 6/1998 defined land use and pricing, deregulated the use of land and permitted its requalification. It opened the door for bank managers to develop a new strategy for the concession of mortgages that allowed them to increase their incomes. From 2002 onwards (see graph 1) there was a big acceleration in the purchase of homes which motivated an artificial and exorbitant increase in house prices. At the same time irreversible damage to heritage, landscapes and environment was provoked, as well as collective rights.

GRAPH 1. Loans of resident credit entities to the non-financial private sector.



Source: Bank of Spain. Blue line is non-financial private sector.

GRAPH 2. The price of new houses in Spain.



Source: Ministry of Housing, TCJ database and National Institute of Statistics (INE).

3.2 The Blackhole: Overvaluation.

Once the nucleus of the housing bubble had been identified, with the objective of documenting for a lawsuit that overvaluation was and continues to be a generalized practice, the TCJ promoted nationwide workshops titled "Know Your Mortgage". These enabled neighbourhood popular assemblies to collect the documental records of all the banks that had granted mortgages for an each-case analysis. Firstly, this fieldwork enabled us to establish that in every case **mortgage loans were signed without any possibility of negotiation by the debtor, who had to accept that the mortgage contract was to their benefit**. Secondly, with the elevated number of mortgage records collected (mortgage contracts, sales contract and valuation certificates) we accumulated a great quantity of evidence that showed there was a systematic incurrence of all the financial institutions in the fraudulent practice of deliberately overvaluing a flat or house as can be seen in the case of Caja Madrid (Madrid savings bank) where the amount of the mortgage granted was superior to the sale price of the flat or house as well as the price established in the valuation.

4. The TCJ takes the initiative and presents a lawsuit against the directors of Caja Madrid.

The analysis of the mortgage records collected highlighted the proof of criminal conduct on the part of the managers of the financial institutions as well as the permissiveness of the financial regulators or inspectors of the Bank of Spain and the CNMV (National Commission of Market Values) plus the inaction of the Anti-Corruption Prosecutor.

Faced with this situation the TCJ decided to take legal proceedings against those directly responsible for Caja Madrid, the entity for which the highest volume of mortgage records was available. The charges are for **crimes of fraud** (Article 248 of the Penal Law), **unfair administration** (Articles 302 and 390 Penal Law) and **conspiracy** (Article 515 Penal Law), based on the following facts:

I. Members of the Board of Directors of Caja Madrid orchestrated the granting of an exorbitant amount of mortgages. They totaled 53,208 million euros, according to the inspection made by the Bank of Spain in 2009.

II. This prodigious amount allowed them to inflate their extremely high salaries in accordance with the turnover of the savings bank. These managers were not the owners of the savings-fund bank. They did not themselves suffer the bank's losses or a diminution of their income though they had generated a financial black-hole of billions of euros.

III. The amount Caja Madrid granted in the mortgages exceeds the purchase price of the flats or houses by an average of 156%.

IV. The amount granted in the vast majority of loans is higher, on average, than 96% of the valuer's appraisal price, reaching 99% in 2006-2007.

V. The valuer company, Tasamadrid, belongs to the Caja Madrid Group, a breach of rules that demand independence between lender and valuer. This way the organized financial plotters had total control over the entire process of granting mortgages.

VI. In 2003 the Board of Directors of Caja Madrid eliminated the Audit Committee.

VII. The inspection by the Bank of Spain of 20 July 2009 already warned of the high rate of loans without control and the artificial raising of guarantees by means of sale-price **overvaluations**. Nevertheless the Bank of Spain **took no action whatsoever**.

To support the presentation of the case in the High Court in autumn of 2013 the TCJ General Assembly promoted a street demonstration with the slogan "Banking on Trial".

Annex:

[TERCERA INFORMACIÓN. 24-11-2012. Banking on Trial.](#)

[DIAGONAL 22-11-2013. TCJ Lawsuit presented to the National High Court.](#)

5. The long march begins: the case is admitted by the National High Court.

The lawsuit was admitted by the National High Court on 30 March 2016. From there on a long march began to overcome unexplainable obstacles, strategies and sophisticated argumentation on the part of the Attorney General. Three examples follow:

1. The Attorney General opposed admission of the case from the start, claiming that overvaluation of housing was commonplace (confirming the massive fraud perpetrated by just about everyone responsible for the Spanish financial system.) The judge had to clarify the obvious: **"the fact that the overvaluation (of sale prices) might have been, in Spain and other countries, a widespread practice before the outbreak of the 2008 crisis during a period of full expansion of the housing bubble, it cannot however justify any practice."**
2. The Attorney General has aligned every time with the principle defenses of the participants in the criminal acts, becoming the principle defender of scammers against organized citizenry whose least demand is the detailed study of the process which has led to a bank bailout of nearly 200,000 million euros.
3. The Attorney General did not doubt to request the dismissal of the case applying the reform of the Criminal Procedure Law limiting, since January 1, 2016 "non-complex" cases to a maximum of 6 months (the case was presented in 2013). The investigating judge had to defend judicial independence by prolonging court proceedings, allowed by the Law, for an additional period of 18 months.

The investigating judge added that the alleged criminal conduct should be investigated because it has criminal relevance and is encompassed within the jurisdiction of the National High Court, in as much as the facts "would have caused a serious impact on the national economy, having **affected thousands of customers and having produced a loss of millions in the bank.**" Exactly 186,000 million euros of loans were granted by the bank, of which nearly 54,000 million are mortgages that correspond to our research.

[EL PAIS 30-03-2016 TCJ lawsuit admitted by the National High Court.](#)

[EL DIARIO 05-18-2016 Judge rejects appeals against admissibility of the TCJ lawsuit.](#)

The defenselessness of citizens.

After these and other difficulties, with a clear and constant opposition on the part of Attorney General, the case was dismissed on July 19, 2016. The Third Penal Chamber of the National High Court, in accordance with the Attorney General and defense lawyers, **does not appreciate evidence of crime through overvaluation in mortgage lending**, considering that the 100 mortgage records submitted were not evidence of a systematic practice with all mortgages. A similar number of cases were used in various inspections of Caja Madrid carried out by the Bank of Spain in 2009 and 2010.

The arguments used by the Third Chamber of the National High Court are quite peculiar in considering that no criminal content exists and rely on the arguments used by the Attorney General. The Chamber recognizes that "excesses" have been committed but not that these excesses have had negative consequences for society as a whole. For any minimally impartial observer it is obvious that this is not so. The dismissal of the case is accompanied by statements such as "what is difficult to prove becomes an impossible crime" a paradox of logic worthy of Alice in Wonderland, but unworthy of a High Court that is paid by us all to defend the law and protect people from socially harmful behavior.

7. In conclusion:

The TCJ finds that:

The relation of the valuer TasaMadrid with Caja Madrid is evident as well as the absence of internal controls of a practice that clearly inflated real resources "to create money" by the securitization of the mortgages.

A hundred cases are evidently more than enough to find evidence of a crime. The judicial investigation intended to deepen the research into the evidence, a possibility that shelving the case has interrupted.

The owners of the savings bank were deceived and Bankia was the successor of Caja Madrid. Those that participated in the criminal plot must be held responsible for the consequences.

That there was a systematic overvaluation is evident. It is illegal in all cases and under all legislation.

The reality is that there has been no official investigation or audit whatsoever of the real causes of over-indebtedness that led to the bankruptcy of banks and a subsequent rescue by means of a brutal increase in public debt.

The financial and political powers know that **overvaluation** has been a widespread practice of every bank and savings bank and that **it is the origin of the suffering to which the population is subject**. The investigation, that has now been interrupted, would bring to light the truth about these issues and accurately establish the order of events and causes of the economic catastrophe that is sinking several generations, especially the younger.

Why did "the controls" fail? **That puts into question both the political and financial powers** which is why the crisis is treated as an unexpected meteorological phenomenon and gradually buried thanks to the passage of time, otherwise the "good work" of governments in recent years would be challenged.

The damage affects the entire population, not just those affected by fraudulent mortgages. The bankruptcy of financial institutions has apparently been remedied with the so-called "bank bailout" of loans totaling over 100,000 million euros from the European Union. The repayment obligation has been transferred to all citizens and **has socialized the consequences of unacceptable practices in what calls itself a social democracy under the rule of law.**

Our call for help.

The TCJ is now facing the need to access finance to cover the costs of an appeal to the Supreme Court to reopen the case against the High Court ruling. This is an essential continuation of the process we have outlined.

The campaign will be launched almost immediately to obtain support to achieve the necessary financial resources as well as the essential social and popular support that will prevent a repetition of the impunity that is crushing and dismembering society.

Annex:

[EL DIARIO 19-07-2016 TCJ lawsuit shelved by the National High Court.](#)



Contact:

tribunalciudadanodejusticia@gmail.com

Taskforces:

COORDINATION

tcj.madrid.coordinacion@gmail.com

COMMUNICATION

tcj.madrid.comunicacion@gmail.com

LEGAL

tcj.madrid.fiscalia@gmail.com

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