



# **Solutions to the challenge of the affordable rental housing**

**European experiences of succes, for example Berlin**

**Bilbao, November 28th 2019**



## Background Information Germany

- 70 – 85% of inhabitants in large cities are tenants
- Berlin is the european city with biggest part of tenants (83%), only 17% of households live in property
- Throughout Germany nearly 55% of inhabitants are tenants
- Rent acts have a long tradition
- In 2017 tenant organisations celebrated the centenary of rent acts
- Lots of Tenant organisations have been founded between 1868 und 1905, while the industrialization made a growth of city-population



## The Berlin housing market

- 3,7 million inhabitants
- 1,9 million apartments, of which 1.6 million are rental apartments (83% of Berlins inhabitants live for rent)
- Housing cost burden of tenants: 28 % to 50 % of household income
- Average rent in existing tenancies: 6,72 €/sqm (increase by 18,1% in the last five years).
- Average rent for new leases: 11 €/sqm (increase by 30,5 % in the last five years)



## Some essentials of rent acts

- Victims of First World War indirectly generated first rent acts against evictions of sailorwives in harbour cities in the northern part of Germany
- First rent regulations since 1917 have been public laws
- During a very active period of urban development between 1870 and 1910, lots of real estate have been privately covered with buildings, many of them have been called renters barracks. And, municipalities lost their treasure – public estate.
- Housing situation in the renters barracks generated more tenants shelter.
- Council housing was set, cooperatives have been founded.



## Some essentials of rent acts

- After facism and Second World War housing shortage became a huge problem.
- The private rent market was again strong regulated all over the country, for new leases and existing tenancies.
- The Government financed residential building, social housing was founded and has got own public tenancy laws.
- In the 60ies of last century the conservative government had the opinion residential trade und housing industry could solve housing problems.
- A big mistake. Already in 1971 a new law was adopted, though landlords are not allowed to give notice in cases of rent increase.
- In 2001 the tenancy law became part of the German Civil Code.



## Central marks of tenancy law

- Tenancies are unlimited, except the later self-use by the owner and plant demolition or modernisation.
- Rent level für new contracts is fixed since 2015 in lot of cities. The government gave the allowance for federal states, to restrict landlords if municipalities have a housing shortage. Rental price should be no more than 10% higher than the average price of the city. Rent cap is called “Mietpreisbremse” (Rental price brake)
- Rent increase in existing tenancies is also limited. There are two caps: Not more than 15% of the basic rent (without operating costs) in three years and not more than the average price of the city, published in an overview (“Mietspiegel”). The better cap for tenants is valid.



## Central marks of tenancy law

- Rent increase after modernisation and energy-saving measures is possible. Since January 2019, 8% of investment costs (no cost for repairs) could be given annually to the tenant, but restricted by 3 €/sq monthly or 2 €/sq, if rent before modernisation was below 7 €/sq.
- Operating costs must be brought to account annually, the average is 1,50 €/sq for “cold” operating costs and 1,30 €/sq for heating and warmwater.
- To give notice is only possible if the landlord would use the flat for himself or someone of his family, household helps and so on. It is also possible if the rents give no economic efficiency, the tenant does not pay the rent or ignore the house rules after written warning.
- Landlords are allowed to transform tenancy flats to property. Than there is a special shelter from 10 years before an owner could give notice in cause of using the flat for himself.



## The rental brake fixed in the Civil Code

### How does the rental brake (Mietpreisbremse) works

- Landlords are only allowed to re-let apartments at rents that are no more than 10% higher than the local comparative rent
- The local comparative rents are represented in tabular overviews (Rent-Index=Mietspiegel) of the rents from existing and new tenancies paid in last four years





## The rental brake fixed in the Civil Code

### What about the effects of the rental brake?

- Has not yet the hoped-for effect (we have investigated the effect of the rental brake).
- Many landlords ignore the rental brake or use the loopholes. There are no civil penalties.
- The tenant association therefore demand that the legislature tightening the rental brake



## The rental brake fixed in the Civil Code

### What about the exceptions/loopholes of the rental brake

- No rental brake for flats in new houses ready to move into up to October 2014 and comprehensive modernisation up to investment costs from more than one third of comparable investment costs of new buildings (nearly 700 €/qm, without costs for the property, in Berlin 43.500 tenancies paid nearly 6 Mio. €/year too much rent)
- The rental cap does not apply if the previous tenant already paid a rent above the 10% limit (in Berlin 475.000 tenancies from 1.8 Mio. tenancies, nearly 57 Mio. €/year too much rent)
- If the landlord has modernised between the last three years, the rent cap could be exceeded by a rent increase of 11% (since 2019 8%) of investment costs for modernisation (in Berlin 107.000 tenancies)
- Furthermore: There are no civil penalties, the rent-brake is temporally limited (five years)



## Development of population and housing market in Germany

Year	Proportion Immigration/ Emigration	Completion of flats in new houses
2011	+ 279.207	183.110
2012	+ 368.945	200.486
2013	+ 428.607	214.817
2014	+ 550.483	245.325
2015	+ 1.139.000	247.722
2016	+ 750.000	277.691

In the most big cities/metropolitan areas and cities with universities we have tight housing markets with huge rent increase



## The rental brake fixed in the Civil Code

**For example: The rent brake was urgently necessary in Berlin**

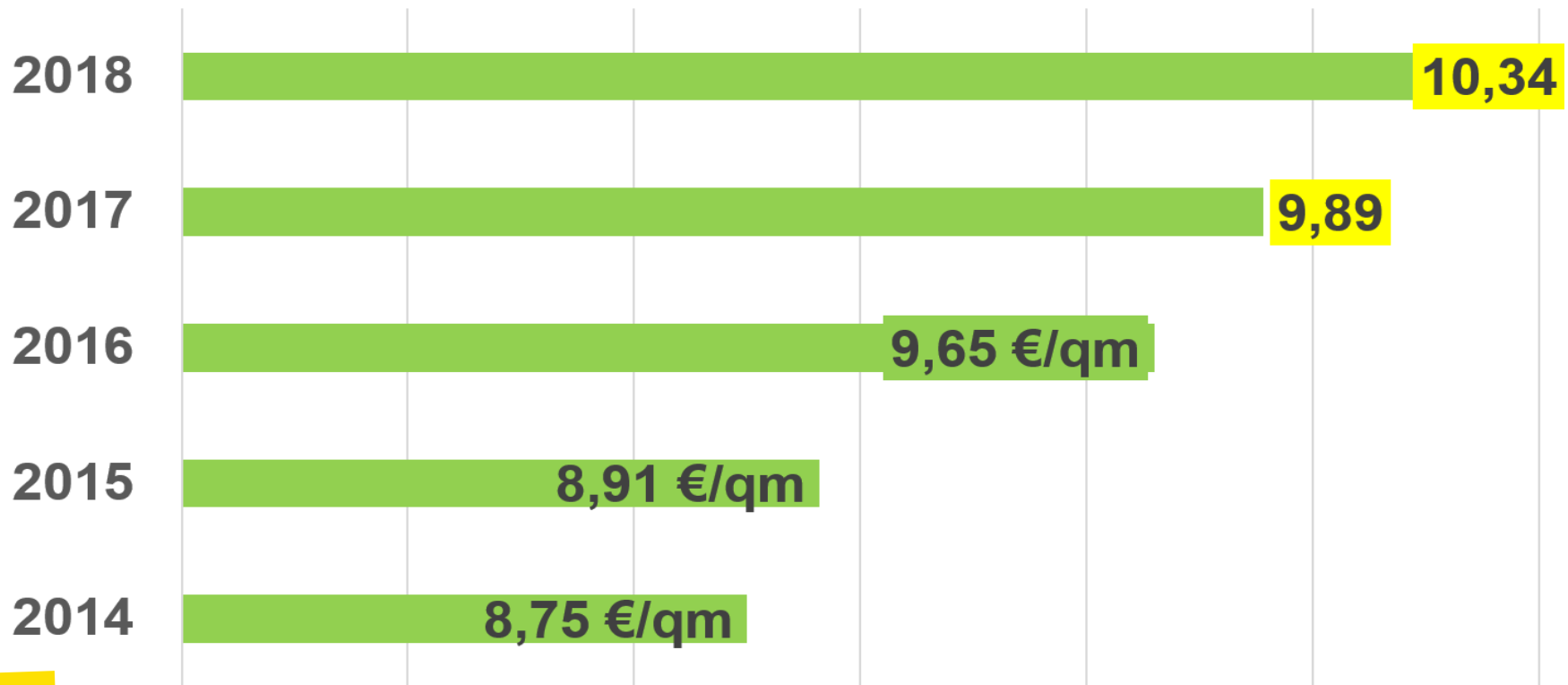
### **2013:**

- 87% of rents from new leases, registered by portal of Immoscout24 above local comparison rents (lcr)
- In the average to 2,50 €/qm, within about 47,6% (old houses: 55%) above lcr
- 74,5% of rents from new leases, registered by portal of Immoscout24 **above** rent cap (Mietpreisbremse, lcr + 10%)
- In the average to 2,31 €/qm, within about 37,9% above lcr
- Theoretically the tenants of Berlin should have save money in amount of 90 – 100 Mio. €/a year by in average 65 qm big flats



## Disappointment of rent cap, launched in 2015

### Development of rents in new contracts in Berlin





## The rental brake fixed in the Civil Code

### Research (2016) about rent cap effects

- **50.000 offers** for leases have been examined.
- **In old houses more than 90%** of the offers exceed in old houses the rent cap.
- The landlords in Berlin expect to realise in the inner-city 9,- €/qm in average, irrespective of the cap.
- Average rent of new leases in 2015 (without exceptions) **8,67 €/qm** monthly. The rent cap was exceeded to **2,18 €/qm** monthly (**31-35%**), by old houses to **3,32 €/qm** monthly.
- Exceeding rents in districts: **Friedrichshain-Kreuzberg 3,64 €/qm** monthly and **Charlottenburg-Wilmersdorf 3,10 €/qm** monthly



## The rental brake fixed in the Civil Code

### Requirements

- **The rent cap** must be **unlimited**
- **Abolition of exceptions and loopholes** (for example furnished apartments)
- **Civil penalties** for landlords exceeding the rent cap
- **Right to reclaim** overpaid rents till start of tenancy
- **Obligatory basis** of the local comparison rent overview (rent-index) for rent cap



## The Mietendeckel (New Berlin rent cap)

The rent cap is expected to come into force in January 2020 and apply for five years.

- It is a public regulation, which is important, since the state of Berlin has the **legislative authority for housing (2006)**. (For regulations in civil law, only the federal government is responsible).

### The rent cap is a public regulation because...

- a public office (district office) is responsible for enforcement
- the rental values are set
- the public sector can impose a fine on violations of the law





## The Mietendeckel (New Berlin rent cap)

### How does the rent cap work?

#### 1. Initial rent:

Rents from 18 June 2019 may no longer be increased.

They are practically frozen. Exception: Frozen only for two years, if they are less than the table values c. In this case, from 2022 - moderate rent increases up to 1,3 % annually ("breathed cap") are possible

#### 2. Furnished apartments:

the rent cap also applies to furnished apartments.

#### 3. The rent cap does not apply to

- Social housing
- New Housing (completed from 2014 on)
- Dormitories (for examples university housing)



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## The Mietendeckel (New Berlin rent cap)

### How does the rent cap work?

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#### 5. Rent Cap for new contracts

Not more than the previous rent of the tenant before, but maximum of rental values fixed in a table, increasing possibility 1 €/sqm for modern facilities (fitted kitchen, lift access without barriers, high-quality sanitary equipment, high-quality floor covering, specific value of energy consumption less 120 kilowatt-hour/sqm/yearly)



# BERLINER MIETERVEREIN

	Building age of the apartment and equipment	rent (sqm)
1.	until 1918 with central heating and with bath	6,45 €
2.	until 1918 with central heating or with bath	5,00 €
3.	until 1918 without central heating and without bath	3,92 €
4.	1919 - 1949 with central heating and with bath	6,27 €
5.	1919-1949 with central heating or with bath	5,22 €
6.	1919 – 1949 without central heating and without bath	4,59 €
7.	1950 – 1964 with central heating and with bath	6,08 €
8.	1950 – 1964 with central heating or with bath	5,62 €
9.	1965 – 1972 with central heating and with bath	5,95 €
10.	1973 - 1990with central heating and with bath	6,04 €
11.	1991 – 2002 with central heating and with bath	8,13 €
12	2003 – 2013 with central heating and with bath	9,80 €



## The Mietendeckel (New Berlin rent cap)

### How does the rent cap work?

#### 6. Energetic modernization & accessible renovation

- After energetic modernization and accessible renovation (for example outbuilding of lifts), the rent may be increased by up to 1 €/m<sup>2</sup>
- The landlord must indicate the modernization to the administration.
- For further rent increases up to 2,- €/sqm/a after a modernization the landlord must use subsidies.



## The Mietendeckel (New Berlin rent cap)

### How does the rent cap work?

#### 7. Reduction of excessive rents

- Excessive rents may be reduced **nine months after** the law comes into force
- A reduction is possible if the rent exceeds the table values by **more than 20 %**, depending from equipment/facilities and address
- Tenants need a decision from the administration for the reduction



## The Mietendeckel (New Berlin rent cap)

### How does the rent cap work?

#### 8. Hardship regulation

- Landlords who would end up in an economic imbalance due to the rental cover can apply for a permission to increase the rent
- In this case, the tenants can apply for a subsidy for the higher rent.



## The Mietendeckel (New Berlin rent cap)

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**Thank You very much for Your attention.**