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The German system of rent control – odds and deficits

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Background Information

- 70 – 85% of inhabitants in large cities are tenants
- Berlin is the european city with biggest part of tenants (85%), only 15% 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

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 goverment 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 operatings 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

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

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

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 500 €/qm, without costs for the property, in Berlin 43.500 tenancies 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)

Was the rental brake necessary?

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

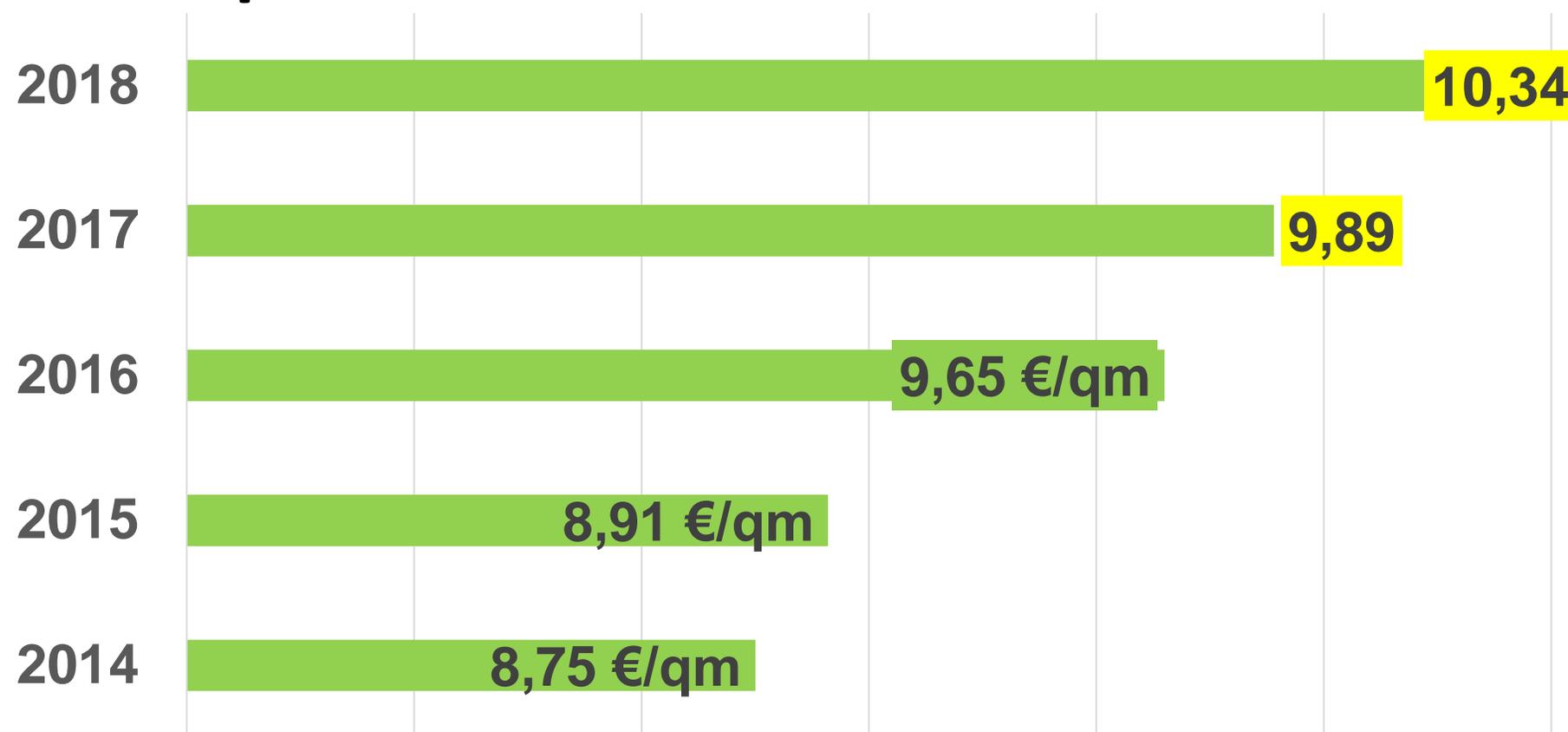
The rental brake

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

Development of rents in new contracts in Berlin



The rental brake

Research 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

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

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