

Rent control as a tool for cities to secure affordable housing in the private rented market: the case of Berlin

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**AVENUES TO ADVANCE HOUSING
RIGHTS IN AN ITALIAN CONTEXT**

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Summary

1. Rent regulation in the private rental market: more than a question of affordability

- a. Rent regulation as a consequence of security of tenure
- b. Rent regulation as a prerequisite for rental subsidies
- c. Rent regulation as a mechanism of market regulation in dysfunctional markets
- d. Rent control as a means to guarantee affordability: the case of Berlin

2. Some aspects of the rent regulation in Berlin

- a. Main aspects of the regional rent control put in place in Berlin
- b. Coexistence of a federal and regional rent regulation in Berlin
- c. Rent freeze vs. rent control in a market setting
- d. Berlin compared to Paris and Barcelona



Rent regulation as a consequence of security of tenure (1/2)

Security of tenure: need of long term or open-ended contracts.

During contract, rent increase can not be freely decided: necessity of rent regulation.

If high rent increases are admitted:

- Security of tenure can not be guaranteed despite of long term contracts

If rent increases are insufficient:

- on the long term, renting property is not profitable
- rental housing provision by the private sector becomes impossible

Rent regulation is a necessary component of any sustainable form of regulation of long term security of tenure.

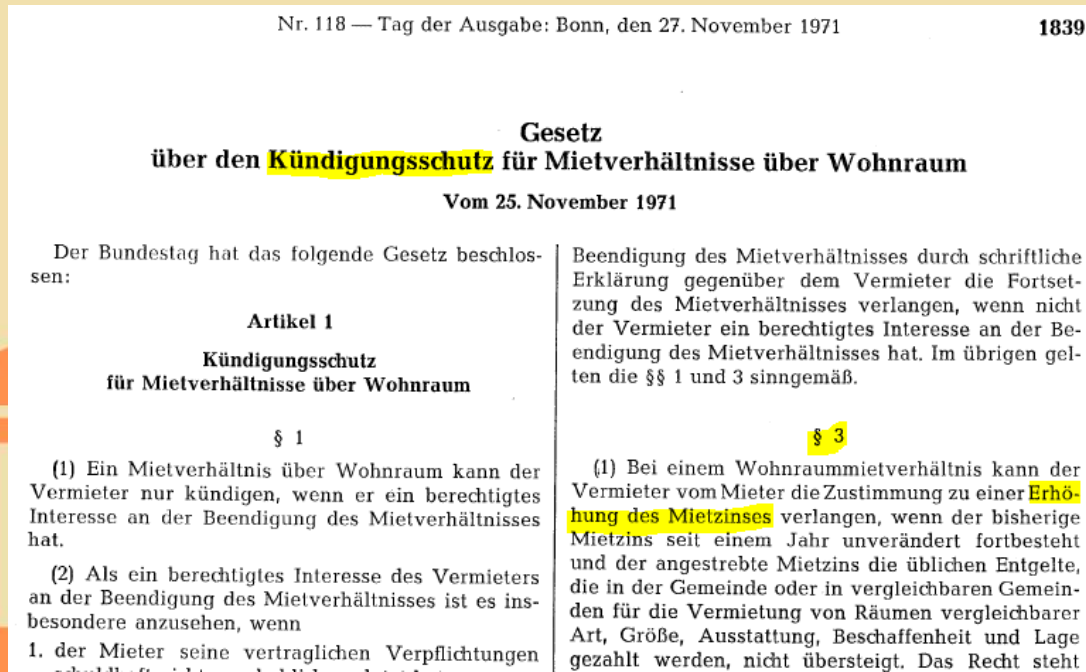
Rent regulation as a consequence of security of tenure (2/2)

Example: Introduction of an an open ended protection of security of tenure in Germany in 1971.

To assure long term sustainability of renting, the law includes a limited right to rent increases:

- no increase if the rent is already higher than the customary local rent for equivalent dwellings
- increase up to the level of usual rent if the rent has fallen below this level

The actual German rent regulation still remains basically the same. And rental dwellings still account for about half of residential sector.



Rent regulation as a prerequisite for rental subsidies

Rental subsidies might ease housing cost burden in the private rental market:

Without rent regulation, it is difficult to design efficient housing allowances.

But the benefit can go to the owner:

- housing allowance can lead to rent increases
- housing allowance can contribute to finance inflated rents



Rent regulation as a mechanism of market regulation in dysfunctional markets

- Housing is an essential good. Therefore, Household's capacity to adjust their housing demand according to market situation is very limited.
- This makes housing markets especially vulnerable to a shortage of affordable offer.
- Rent regulation as in Berlin, as compared to Barcelona, has shown it's ability to **mitigate market disfunction in the context of a tense housing market**

Median rent 2018
in existing tenancies



Sources:

Berlin: IBB Wohnungsmarktbericht 2019, p.69

Barcelona: Índice alquiler de Vivienda, Ministerio de Transportes, Movilidad y Agenda Urbana

Rent control as a means to guarantee affordability: the case of Berlin

Background:

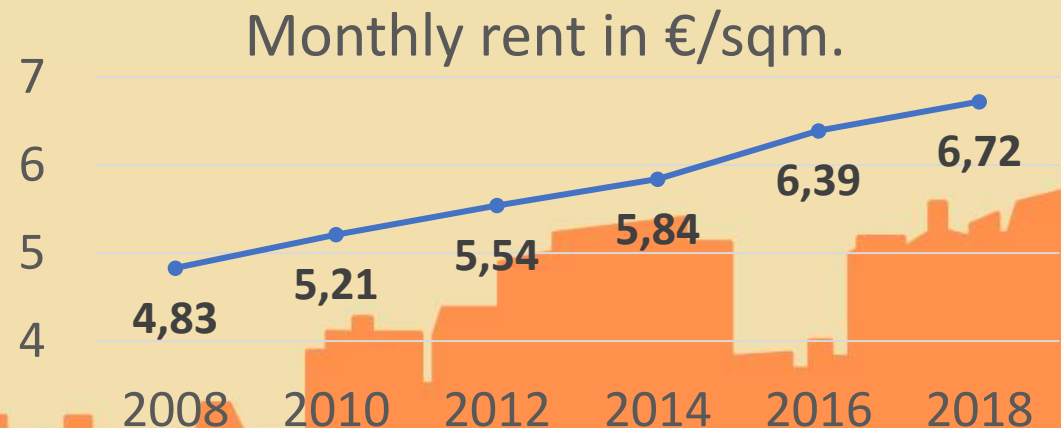
Existing German federal rent regulation limits the influence of market variation on existing rents by means of a reference rent.

But in the long term, reference rents follow market prices.

The existing regulation proved insufficient in the actual situation of a very long cycle of rising rental prices.

The federal government introduced additional mechanism of rent regulation.

Despite, rents in Berlin continued to rise far above consumer prices.



Main aspects of the regional rent control put in place in Berlin

The regional government of Berlin introduced in 2020 a new, regional rent regulation, the "*Mietendeckel*" ("rent cup").

The regulation is initially limited to 5 years.

Dwellings build after 2013 are excluded from the regulation.

Main aspects of the "rent cup":

Rent freeze: the rent of an individual dwellings can not be increased until 2022 and not more than +1,3% from then on.

Maximum rent: limited to the medium rent level of 2013 + wage evolution.

Rent increase for modernization: very limited possibilities.



Coexistence of a federal and regional rent regulation in Berlin

- Regulation of private contracts is a federal competence. Rent regulation falls under this competence.
- Housing is a regional competence.
- An article from 2018 suggested that the regional government might have the ability to **public-law regulation of rental prices**, as opposed to the federal civil law regulation of rental contracts.
- The Berlin law is exploring an unknown legal territory. Decision of the German Constitutional Court is expected for 2021.
- Federal regulation is not affected by regional law and maintains its full legal validity: a rental price must adjust to both regional and federal limits.

Rent freeze vs. reference rent in a market setting

- **Rent freeze** is easier to establish in the short term because no reference values have to be established.
- But it's no viable solution in the long term.
- Even allowing rent increments following an index value (e.g. consumer prices, as in France) might prove problematic in very long term contracts.
- **Maximum prices defined by a reference rent** can be a long term solution if they adjust sufficiently to market conditions.
- But if they are not based on market values, they are more difficult to establish and more vulnerable to legal complaints.

Berlin compared to Paris and Barcelona

Paris, France

- France: security of tenure protected indefinitely (mandatory contract renewal).
- French rent control system: limited rent increase with respect to the previous rent of the same dwelling.
- Additional exceptional measure: limited rent increase with respect to a reference rent (similar to the German customary rent).

Barcelona, Spain

- Spain: security of tenure and rent control limited to minimum contract duration (5 or 7 years, until 2019: 3 years).
- Barcelona: introduction of a relatively strict regional system of rent control, rent increase limited with respect to the previous rent and a reference rent.

Thank you

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