Rent Control in Germany:
An Overview and Lessons Learned

September 12th, 2023
Nairobi, Kenya
Agenda

- Fundamentals – Why and What (Not)?
  - Federal Rent Control – Rules and Regulations
  - Other Regulations
  - The Case of Berlin (State Law)
  - Outlook
Fundamentals – Why and What (Not)?
Is Rent Control necessary? (1/2)

- Determinants of German Housing Markets
  - Demand Side
    - 84.3m population as of December 31, 2022
      - +1.12m (+1.35 %) population Y-o-Y 2021
      - +8.5% in households 2022 vs. 2000
  - Supply Side
    - 43.4m housing units as of December 31, 2022
      - +282k (+0.7 %) housing units Y-o-Y 2021
      - But: in a decade view (2012-2022), the housing stock grew more than the population
Fundamentals – Why and What (Not)?
Is Rent Control necessary? (2/2)

- Determinants of German Housing Markets

  - Income vs. Rent Prices

Why would we need Rent Control before 2020?
Determinants of German Housing Markets

- **Why Rent Control?** Regional Differences across Germany
- (urbanization rate 77.5%, + 0.2% 2022 vs. 2021)

Blue: rental growth > inflation rate
What is Rent Control?

- **Rent Control**
  - Regulation to Adjust Absolute Rental Pricing, where Market-Based Approach Delivers Undesired Outcome ➔ Price Intervention
  - Property View: which rent is market-based?

- Not **Rent Subsidies** (➔ Price remains unchanged and market-based)
  - Eligibility for Social Housing due to Low Income
  - Eligibility for Rent Top-Up due to Low Income
  - Eligibility for Rent Subsidy due to Unemployment
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Policy Interventions Against Market-Based Rent Pricing

- **2013** Declaration of Housing Shortage for Cities and Counties on State (Province) Level, for max. 5 years
  
  Rents in low-rent properties must not be increased by more than **15% within 3 years** and **must not exceed** market rent
  
  Prohibition of Termination of Apartment Lease for 3 to 10 years after sale

- **2015** Rent Control in Areas with Housing Shortage

- **2018** Intensification of Rent Control Regulations to avoid Luxury Renovations

- **2020** Extension of Rent Control until end of 2025
How does Federal Rent Control work?

- Only applicable in Residential Markets
- Only valid in Areas with Housing Shortage (self-declaration)
- Only applicable to new leases (no intervention with existing leases)
- Only applicable to base rent (not applicable to utilities, heating/energy costs, taxes, etc.)
- Base Rent must not exceed 110 % of Market Rent
- Base Rent must not exceed this threshold at any (future) time during the lease (no workaround with step-up rents)
Are there Exceptions to Rent Control?

- Not applicable to Apartments
  - Built/finished in or after October 2014
  - Completely modernized in or after October 2014
- Not applicable, if the prior rent before introduction of Rent Control was already much higher than Market Rent (who proves?)

Discussion – what do you think?

- Why would Rent Control put New Buildings out of scope? Aren’t these the most expensive ones?
- How effective is this form of Rent Control empirically?
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Freedom of Contract vs. Market Intervention

- 20% above market rent can fulfill the elements of unnecessary overpricing and depict a regulatory offense
- § 5 WiStG (Economic Crimes Code)
  - Fine of up to 50,000 EUR (7.8m KSh)
- 50% above market rent can fulfill the elements of price gouging / profiteering (Court rulings)
- § 291 StGB (Criminal Code)
  - Up to three years of prison, in severe cases up to 10 years.
  - or Fine/Penalty
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A New Dimension of Intervention

- Also applicable for existing rent contracts!
  (other than Federal Rent Control)

- Exceptions quite similar to Federal Rent Control
The Case of Berlin (State Law)
Rent Ceilings and Rent Freeze

- Berlin’s Rent Ceiling and Rent Freeze Regulation is Unconstitutional!
  - Nullification by the Federal Constitutional Court on March 25th, 2021
  - As long as there is Federal Rent Control, no State may make own rules

- Comment: Unconstitutional FOR NOW…

Source: Bundeszentrale für politische Bildung
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Rent Control in Germany
Outlook

- **Foreseeable and Hypothetical Developments in the Future**
  - Federal Rent Control is currently under review
    - If not extended, it will end on December 31, 2025
    - What could that mean for Berlin’s Model?
    - **Discussion**: Would you invest in Berlin’s property market today?

- **Commercial Rent Control**
  - Office Markets have become increasingly tight until 2019 (OK now)
  - Logistics Markets have become increasingly tight between 2020 and 2022 (better now)
  - Serviced Senior Homes are considered a commercial property (= no rent control). **Discussion**: Should we change that?
Questions, comments, remarks: Anything to discuss?

Thank you for your attention!

Prof. Dr. Jonas Hahn
jonas.hahn@irebs.de