

Lisa Pfann
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Stronger Measures for More Affordable Housing in Areas with a Strained Housing Market

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Responsible for the Content:

Dr Max Brändle, Director of the Friedrich-Ebert-Stiftung Warsaw

Orders and contact:

polska@fes.de

Design and Composition:

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Stronger Measures for More Affordable Housing in Areas with a Strained Housing Market

Stefanie lives with her two children in Berlin-Neukölln. Thanks to her 15-year rental contract, she is able to afford her large flat in a good location. Otherwise, this would have been impossible given the sharp rent increases over the past decade. A year ago, the apartment building in which Stefanie's flat is located was sold to a group of investors who have since then been attempting to get rid of the old residents in order to rent out the renovated flats at a much higher rent than before. Stefanie's neighbours from the first floor have already been paid a settlement for moving out. But Stefanie and the other tenants want to stay. The good news is that their eviction can still not be enforced. The landlord cannot convert the flats into owner-occupied flats. This is because, since 2021, an authorisation requirement for conversions has applied to areas that the state government defines as having a strained housing market, for instance in Berlin-Neukölln. Stefanie and her children can stay for now – but she could no longer afford a new flat in her neighbourhood at the current market rent.

Abstract

The continually rising housing costs in Germany are predominantly burdening people in large cities and the lower income groups, most of whom rent. To support this section of the population, the state governments in Germany

have been afforded the opportunity to define areas with a strained housing market. Tougher rental law regulations apply within these areas (such as the rent brake). Additional areas with a strained housing market can now also be designated, in which municipalities can apply stricter measures from the Federal Building Code to maintain and create more affordable housing. In areas where the instruments are already being used, they effectively counter displacement and are strengthening municipalities in their role as key players in housing provision. These positive examples may serve as an inspiration for municipalities both within and outside Germany.

The housing crisis is a social crisis

In Germany, just like almost everywhere in Europe, rising rents and property prices, especially in urban areas, mean that increasing numbers of people have to spend far more than one third of their net household income on rent, live in overcrowded flats or in flats that do not meet their needs. People cannot take up employment because there is no affordable housing nearby. Moving is no longer affordable for many people in urban regions, which leads to even fewer flats being available on the market. Added to this is the fact that fewer and fewer people can afford property and they remain in the rental market due to dramatically increased construction interest rates and building prices. In short: each year, 320,000 flats would have to be built, primarily in multi-floor residential constructions, by 2030 in order to meet demand – although this varies greatly from one region to another (Müther et al 2025).¹

From a social perspective, too, it is predominantly lower income groups that are affected by rising housing costs. For them, housing poses a particular risk factor for poverty, especially in urban areas. In Germany, this development is increasingly contributing towards social divisions, which



Fot. Source: picture alliance / ZB | Sascha Steinach

¹ These figures are based on a current survey conducted by the Federal Institute for Research on Building, Urban Affairs and Spatial Development (BBSR) and are considered meaningful. There are, however, different studies that in some cases assume a need for 550,000 new flats (Pestel Institute), while the previous government still predicted a need for 400,000 flats per year.

are now also reflected by the fact that rising rents encourage right-wing voting decisions (Abou-Chadi et al. 2024).

Rapid and enormous efforts are called for to herald in a turnaround in housing supply. In addition to expanding social housing as one of the central pillars for affordable housing, Germany also focuses on robust and social tenancy law as well as building and land measures, whose main aim is to strengthen municipalities as key players in housing provision. To counter the crisis on the urban housing markets over the long term, the practice of designating areas with a strained housing market has proven to be effective. Within such areas, tougher rental law regulations such as the rent brake and the lower capping limit apply.²

Furthermore, areas with a strained housing market can be designated³ in which municipalities may apply additional and stricter measures from the Federal Building Code (BauGB) to maintain and create more affordable housing. By doing so, the federal government empowers municipalities to provide more affordable housing – provided the respective state governments agree to this.

The rental property market in Germany

Since the vast majority of people in Germany's major cities are renting, the price increases in quoted rents are particularly problematic here. Between 2022 and 2024 alone, the new rental contracts in the cities rose sharply: for example, by 22.2 percent in Berlin. Here, the median quoting rent in 2024 was EUR 15.74/square metres (IBB 2025). But in Leipzig, too, rents have increased by 14.1 percent and by 13.0 percent in Freiburg im Breisgau (Sagner et al. 2025). On the whole, most people in Germany rent (53 percent), whereas the proportion of those renting in other countries such as Spain (26 percent) or Poland (13 percent) is relatively low (Destatis 2025). But even there, those who rent are concentrated in the cities.

At the same time, the housing market in Germany varies greatly from region to region. While the aforementioned development applies to around one third of people in Germany, particularly in urban areas, rents in some rural regions have scarcely or only very slightly increased (Aubele et al. 2023: 10). What is more, some regions have been characterised for decades by the ongoing emigration of primarily young people and that are also predicted to have a shrinking population in the future (Müther et al. 2025). Vacancies, the desertification of town centres and the collapse of social infrastructure are the main problem in these regions.

² The rent brake stipulates that the rent must not increase by more than a certain percentage within three years. This is generally set at 20 percent.

³ These are not necessarily identical with those areas with a strained housing market where rental law instruments apply, which in Germany are set out in the German Civil Code (BGB). The extended measures for municipalities are, however, regulated in the Federal Building Code (BauGB) and the corresponding areas must be designated in each case.

The impact varies not just regionally, but also socially

The bottom income groups (20 percent of the population), most of whom rent, proportionally spend the most of their income on rent (Noka et al. 2023: 8). Those particularly affected are: low earners, single parents, singles and pensioners. In larger cities with more than 100,000 inhabitants, around half of the renting households spend more than 30 percent, and almost a third spend more than 40 percent of their household income on rent (Holm et al. 2021). Further problems such as overcrowding can be observed among low-income tenants (Kohl et al. 2024). On the whole, the proportion of renters decreases as income rises, whereas the proportion of property owners increases. Even though renting is an optimal form of housing in German cities deep into the middle class, there is a stark difference in terms of location and quality of housing (Krapp et al. 2022).

In larger cities with more than 100,000 inhabitants, around half of the renting households spend more than 30 percent, and almost a third spend more than 40 percent of their household income on rent

Thanks to the Social Democrat's participation in government in recent years, investments in social housing construction, as an important pillar of affordable housing in Germany, have been greatly increased. Despite this, social housing in urban areas in particular, continues to be scarce and waiting lists are long. And because occupancy commitments for social housing usually expire after 15 to 40 years, figures have been declining for decades despite enormous political efforts.⁴

Areas with a strained housing market – rent brake

Until investments in social housing bring about a genuine trend reversal in the amount of social housing, rigorous rental law regulations are therefore needed to remedy the situation in urban areas, to curtail the rise in new lease rents and prevent people from being crowded out. That is why the rent brake, along with other regulations, was introduced in 2015, which applies to areas designated by the state governments as having⁵ a strained housing market. To this day, the instrument is in force in 410 of the approx. 11,000 German municipalities; covering 30 percent of the German population. In these areas, the rent for new

⁴ Having said that, the declines are particularly high precisely in those federal states that have fewer problems with high rents (Mecklenburg-Vorpommern), whereas the city of Hamburg could strengthen its social housing.

⁵ Fourteen of the 16 German federal states have defined areas where rent brakes apply.

lettings must not exceed the local comparative rent⁶ by more than ten percent. Moreover, the rent brake has a positive impact on existing rental agreements because it curtails the amount of the local comparative rent up to the point that existing rental contracts may be increased. Rents in existing rental agreements may generally be increased by 20 percent over three years or by 15 percent in areas with a strained housing market (“stricter cap limit”).⁷

One of the strongest economic arguments against rental price regulation in general and against the rent brake, in particular, is the assumption that the regulation leads to less construction activity, which is urgently needed to overcome the housing crisis, however. Regulating rents is thus presented as an obstacle to more affordable housing. According to this argument, the rental price regulation also results in lower maintenance of rental properties. A 2018 study commissioned by the Federal Ministry of Justice shows that these assumptions do not apply in the case of Germany’s rent price regulation. Neither construction nor maintenance activities have declined. Quite the contrary: the study indicates that the introduction of the rent brake has actually resulted in more building investments. As new buildings are not subject to the rent brake, investors can realise higher profits in this segment.

The introduction of the rent brake has actually resulted in more building investments

The rent brake is working, but it needs to be tightened

Despite introducing the rent brake, rents in Germany have continued to rise since 2015, particularly in the cities. Due to its design, the rent brake can curb price increases especially where new rental contracts have previously risen by at least 3.9 percent per year, for example in parts of Berlin, Munich and Stuttgart (Kholodilin et al. 2018). However, existing exemptions are currently curtailing the effectiveness of the instrument (Sommer et al. 2024). If these exemptions can be eliminated, as the newly elected federal government plans to some extent, the rent brake will apply to many more rental agreements.

The first of these limitations is that the rent brake is not applied to new builds or extensively renovated flats, which means buildings from 2014 and later. Furthermore, the rent brake does not apply in full to furnished flats and the furnishing surcharge is not transparent and tied to the rent brake. By furnishing the flat, landlords justify a rent that is more than ten percent above the local comparative rent.

⁶ The local comparative rent is the average rental price that is paid in a certain region for comparable flats or houses.

⁷ Still: not all municipalities that have introduced the rent brake have also introduced “stricter capping limits”.

The rental of furnished flats in major German cities has flourished as a result of these exemptions. The supply of furnished flats has risen across Germany from eight to 13 percent since 2018. In Germany’s five largest cities, more than every third of rented flats are now let furnished (36 percent). Here, the average price per square metre for furnished flats was EUR 31.50 compared to EUR 15.57 for unfurnished flats in 2022. Another loophole: tenants themselves have to prove that their rent is too high in order to take their landlords to court. The absence of an independent supervisory body is regarded as the greatest obstacle to the rent brake. In a (non-representative) survey by the Ludwig Maximilian University in Munich on the effectiveness of the rent brake, the respondents explained that they would not complain about their rent for “fear of a termination of rent increase” (Sommer 2024: 27). The rent brake also does not apply to short-term letting of less than six months. In this case, landlords can determine the rent level themselves and are not tied to the rent brake. Ultimately, landlords who fail to adhere to the rules of the rent brake do not have to fear any sanctions. If it is proven that the rent is too high, they just have to pay back the excess rent.

The current federal government plans to remove at least some of the aforementioned obstacles in the near future; such as more stringent regulation for furnished flats and short-term lettings and the introduction of sanctions for landlords in violation of the rent brake (CDU/CSU, SPD 2025). Despite these challenges, the rent brake is an effective tool in the rental law toolbox when it comes to curbing rents in urban centres without negatively influencing construction activity, which is urgently needed to overcome the housing crisis.

The rent brake is an effective tool in the rental law toolbox when it comes to curbing rents in urban centres

Areas with a strained housing market – more stringent instruments for municipalities

Rent regulation is important to enable people with low and middle incomes to access affordable housing in areas with a strained housing market. If the housing crisis is to be overcome over the long-term, not only does the amount of affordable housing in urban centres need to be maintained, but the total number of such housing must be dramatically increased, too (Michelsen 2024). Municipalities play a key role here: in addition to increased financial resources, they need powerful instruments to acquire and provide building land for affordable homes in the urban centres or to stipulate a proportion of affordable housing in new construction projects.

Against this backdrop, new, tighter instruments were introduced in 2021 as part of the Building Land

Mobilisation Act for areas designated by the state governments with a strained housing market to intervene in the housing market on a regulatory basis with the aim of maintaining affordable homes and to create new ones.

In concrete terms, An extended right of first refusal enables municipalities in strained housing markets to adopt a statute designating areas where they have a right of first refusal when land is sold; here the aim is to ensure orderly urban development and construction with affordable housing. The right of first refusal must be justified by the fact that it is exercised for the common good. It has been made clear that this also includes the housing needs of the population.

By extending the building order, it will be easier to close gaps between buildings in areas with a strained housing market so as to strengthen inner-city development. Here, municipalities have the option of prescribing a specific use, namely housing development, to the owner.

Further measures are the authorisation requirement for conversions and the specification of subsidised housing units by means of sectoral development plans. Municipalities can use a new type of development plan (“sectoral development plan for ‘housing provision’”) to implement a plan specifically for housing construction in inner-city locations, thus facilitating the construction of socially subsidised housing even in high-priced locations. This includes exemptions from the stipulations to draw up a development plan in order to enable roof extensions without red tape.⁸ Both instruments and their effects are discussed in more detail below.

Example Berlin – authorisation requirement for conversion from rented to owner-occupied flat

With the so-called conversion ban, or more precisely the authorisation requirement for the conversion of rented flats into owner-occupied flats, conversions can be generally prohibited by state ordinance in strained housing markets to prevent the displacement of tenants. Authorisation may only be granted in certain cases. This aims to prevent rented properties from becoming speculative investments so as to sell flats individually at a higher price, with tenants then often facing high refinancing pressure from the new owners. While in Berlin 28,595 flats had been converted before this regulation came into force in 2021, only 1,526 flats were converted in 2024. By preserving rented flats, this regulation effectively combats gentrification and displacement (Böldt 2025).

Example Munich – subsequent stipulation of additional subsidised housing units (sectoral development plan)

Many municipalities with a strained housing market have difficulties creating affordable housing in city centres (unplanned inner areas), as rents are high there and the profit prospects for private investors are therefore good. That is why private investors hardly use the housing subsidy, which, compared to the high profit margins at market prices, is too unattractive. Public housing associations in particular and, to a far less extent, co-operatives and private actors, create affordable housing with the help of the housing subsidy. It is therefore all the more important that municipalities have the guidelines to define a certain proportion of publicly subsidised housing that would otherwise not be created. This could include allocation guidelines for municipal properties or cooperative building land models with private investments as part of urban development contracts. The problem in the inner-city areas is that the vast majority of plots can already be built on as long as the building fits into the existing development. Here, municipalities in areas with a strained housing market are now being given a new instrument – the sectoral development plan for housing supply – which helps them to retroactively define the proportion of subsidised housing units on plots (Bunzel et al. 2023: 8-9).

In Munich, this instrument has already been successfully applied and additional affordable housing units were created in the planned city centre area. These positive examples need to be disseminated, as they offer municipalities new scope for action to create more affordable housing units, even in expensive inner-city locations.

Instruments of the Building Land Mobilisation Act open up new scope of action for municipalities, but need to be exploited to an even greater extent

To date, only five of the 16 state governments have implemented one or more of the aforementioned construction planning measures. They have so far mainly been used by large municipalities whose administrations boast a high number of personnel and financial resources, such as Munich, Hamburg or Berlin. Even though a viable evaluation of the new plethora of instruments has yet to take place, the cases of application show that the instruments work and that their effectiveness tends to be impaired by the fact that they are still used too rarely (Bunzel et al. 2023). There are manifold reasons for this, but a lack of personnel in administrations is invariably a major factor. It takes some time to adjust to using a new instrument. In the case of the sectoral development plan, for example, its application is linked to a systematic investigation by application area, which entails a high level of auditing and assessment. What is more, legal uncertainty poses an obstacle owing to the time limit on the regulations of the Building Land Mobilisation Act, too (Münster 2024: 10-11).

⁸ This is just a selection of the measures introduced with the Building Land Mobilisation Act that are considered good practice in the context of this paper.

In this respect, it is important to give municipalities legal and planning security through the recently initiated removal of time limits and extension of the stricter instruments created under the Building Land and Mobilisation Act.⁹

It is important to give municipalities legal and planning security

Strong municipalities for more affordable housing

In addition to strong rental law instruments, such as the rent brake for mitigating the current crisis, what is needed above all are expanded instruments and financial opportunities on the part of municipalities, as key players in housing supply, to build up municipal land ownership (Kühl 2024), mobilise building land, and create affordable housing there over the long term. The opportunities afforded by the new instruments for building land mobilisation are successfully contributing to this such that state governments have implemented them and designated areas with a strained housing market. The removal of time limits and extension of instruments introduced with the Building Land Mobilisation Act, as well as the extension of the rent brake, will further strengthen these instruments.

The fact that federal states can introduce additional and stricter instruments in areas designated by them as a strained housing market makes sense in light of Germany's diverse housing market (Müther et al. 2025). The limitation to certain areas endows the municipalities with the necessary freedom of action and proportionate possibilities to intervene in property, which increases the legal certainty of comparatively stringent instruments.

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⁹ A cabinet decision dated 19/6/2025 provides for an extension or removal of the time limits of instruments initiated with the Building Land Mobilisation Act.

About the Author



Lisa Pfann is policy officer for Building and Housing Policy at the Friedrich-Ebert-Stiftung.

Stronger Measures for More Affordable Housing in Areas with a Strained Housing Market



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The state governments in Germany have been afforded the opportunity to define areas with a strained housing market. Tougher rental law regulations apply within these areas (such as the rent brake). Additional areas with a strained housing market can now also be designated, in which municipalities can apply stricter measures from the Federal Building Code to maintain and create more affordable housing.



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