

Making the Right to Housing tangible for Germany

Current situation and goals regarding the Right to Housing

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Number of homeless people in Germany

BAG W estimate for 2020:

- 306,000 homeless people
- Of these, about 45,000 are rough sleepers

Figures from the Federal Government's first homelessness report from 2022:

- 263,000 homeless people in Germany
- Approx. 37,000 of these homeless are rough sleepers





National legal framework and examples of laws

At federal level

- No Right to Housing in the Basic Law (Grundgesetz) /constitution of Germany
- But guarantee of human dignity in conjunction with the principle of the welfare state
- Federal Laws that can protect or promote the Right to Housing

At federal state / Länder level

- Four federal state constitutions include a Right to Adequate Housing or living space
- But this is only seen as an objective legal obligation in the sense of state objective provisions, so the Right Housing has to be ensured "as far as possible"



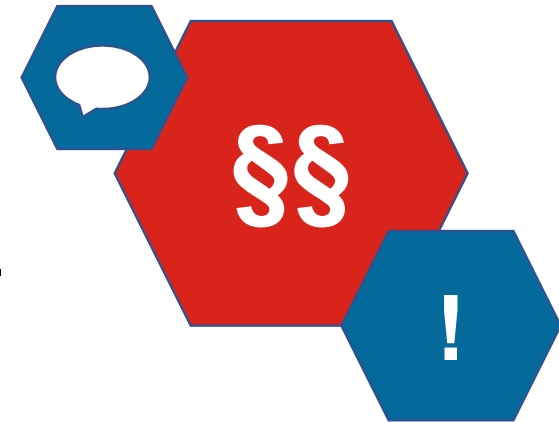
National legal framework and examples of laws – Protection against dismissal

Landlords may only give notice of termination if there is a justified interest. **§ 573 (1) of the German Civil Code (BGB)** defines when such a justified interest exists.

This is for example the case if *"the landlord needs the premises as a dwelling for himself, members of his family or members of his household"*.



Protects tenants, but for example rent debts can lead to an extraordinary termination and it is possible to combine an ordinary and an extraordinary termination, because an justified interest exists, if the tenant has violated his contractual obligations.
(29,000 evictions of flats in 2021)



National legal framework and examples of laws – Rent Control

§ 558 of the German Civil Code (BGB) determines that during the tenancy agreement, the landlord can only increase the rent up to the local comparative rent, but not more than 20% or 15% over a period of three years.



This regulation protects tenants, but rents still rise due to re-letting, modernisation or new buildings.

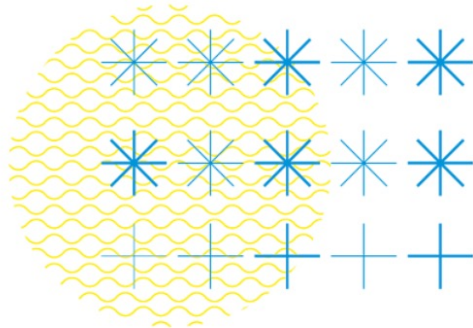
§ 556d of the German Civil Code (BGB) determines that the rent may not exceed the local comparative rent by a maximum of 10 per cent, when re-letting flats in areas with a tense market.



This form of rent control is not effective enough, as rent increases are possible when re-letting flats and also during the tenancy. Furthermore it only applies in certain areas.

**The European and
International
contribution to
the right to housing**

Standards, Litigation and Advocacy



For more information on this topic, the article "Discharge and rent control in Germany" by Max Althoff in the publication "The European and International Contribution to the Right to Housing Standards, Litigation and Advocacy" is highly recommended.





National legal framework and examples of laws – Assistance for homeless people

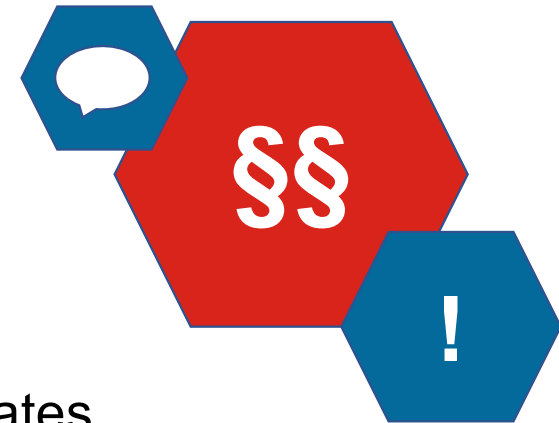
§§ 67 et seq. of the Social Code Book XII (SGB XII) applies to *"persons whose special living conditions are associated with social difficulties"*. These special living conditions can also be a lack of or inadequate housing.

§ 68 Social Code Book XII says that *"The services include all measures that are necessary to avert, eliminate or alleviate the difficulties or to prevent their worsening ..."*

Assistance must begin immediately after the emergency becomes known and must not be delayed because it is suspected that there may be a need for assistance in addition to the housing emergency, which is covered, for example, by another Social Code Book.



Promotes the right to housing, but social services are not equally available everywhere and access is sometimes more difficult than the law actually intended.

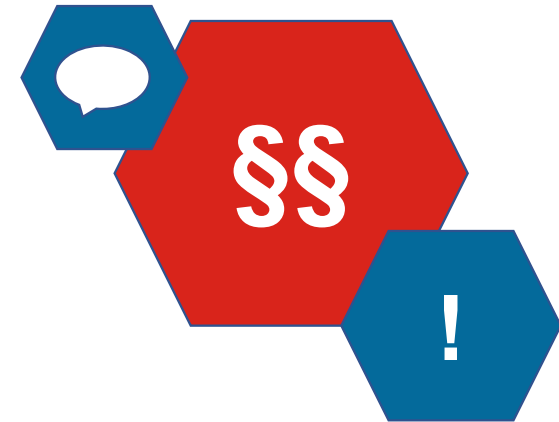


Order and police law

According to the police and public order laws of all federal states, it is the task of the police to prevent threats to public safety or order. Involuntary homelessness can endanger fundamental and human rights, above all the right to life and physical integrity, the right to health, the right to human dignity.

This is a threat to public safety and therefore the accommodation of homeless people, especially their admission to emergency shelters, is therefore a task of the police.

But this does not protect or fulfil the right to housing!



Germany's international obligations concerning the Right to Housing

The International Covenant on Economic, Social and Cultural (ICESC)

- Ratified in 1973
- The Optional Protocol to the UN Social Covenant was ratified on 11 November 2022

Revised European Social Charter (RESC)

- Ratified on 29 March 2021
- Article 31 „Right to Housing“ does not apply to Germany and the Optional Protocol was not ratified

Situation in the housing sector in Germany

Historically rents were highly regulated and there was a relatively large public/social housing sector, but now

- State and municipal housing companies were sold
- The number of flats in social housing is constantly shrinking because flats are falling out of the bond after a certain time and fewer and fewer new ones are being built. (From 4 million flats in the 80s in West Germany the number fell to about 1 million today in whole Germany).
- The non-profit status for non-profit housing (construction) has been abolished
- Many people live in rented flats (about 50%)





Our campaign Wohnung_LOS!

Overcome homelessness by 2030 - Act NOW!



5 core demands developed from our 2013 National Strategy to overcome housing shortage and poverty in Germany

1 - Create housing.

Affordable housing - also for homeless people!

Housing is a human right!

2 - Save housing.

Strengthen prevention to secure housing!

3 - Access to life.

Enable social participation!

4 - Dignity is non-negotiable.

Guarantee decent housing!

5 - Human right health.

Health care protection and access to health care for all!

Our campaign Wohnung_LOS! Overcome homelessness by 2030 - Act NOW!



- 130 organisations supported the campaign
- Events took place at over 80 locations throughout Germany
- On Homeless Day, Federal Minister Klara Geywitz was provided with the core demands of the campaign as a "blueprint" for the "National Action Plan to End Homelessness by 2030"



The German Government on the Right to Housing

Chancellor Olaf Scholz:

"In the coalition agreement we committed ourselves to overcoming homelessness by 2030. Because: Housing is a human right. For this we need more housing construction - especially in the social sector."

Minister of Construction, Housing and Urban Development Klara Geywitz:

"Housing is a human right. We will overcome homelessness together - that is our goal as a federal government and our task as a society."



Interim conclusion

What is negative?

- Laws are not made or implemented in a way that they eliminate homelessness
- Not enough affordable/ social housing
- Social rights are still often seen as a set of programmes and not as enforceable rights

What is positive?

- A national report on homelessness was introduced
- A National Action Plan to End Homelessness shall be developed
- Members of the German Federal Government acknowledge the Right to Housing

If the right to housing shall be fulfilled, appropriate measures have to be taken!



Demands that make the Right to Housing tangible

Social housing

- Social housing and long-term or permanent occupancy commitments for funded housing
- The sale of state and municipal housing companies must be stopped and opportunities to buy them back must be used
- Municipalities must actively use housing promotion programmes
- A stock of socially protected housing must be permanently available in Germany for more than one third of households - in rural regions at least for one fifth
- The impact of all public funding must be carefully assessed to ensure that there are no deadweight and socially counterproductive effects



Demands that make the Right to Housing tangible

Non-profit housing

- A non-profit housing sector must be created, framework conditions and instruments for a new non-profit housing sector must be established

Allocation of land

- Do not allocate land to the highest bidders, but give priority to social aspects of planning (concept allocation); give priority to municipal housing associations, cooperatives, etc.

Preventing rent increases

- Determine appropriate rent ceilings on the basis of rent indexes or comparative rents, taking into account existing rents and re-lettings

Specialised agencies for housing emergency cases

- Nationwide expansion of a preventive system to avoid the loss of housing

Proposal for a constitutional guarantee of housing needs in 1992

Par. 1:

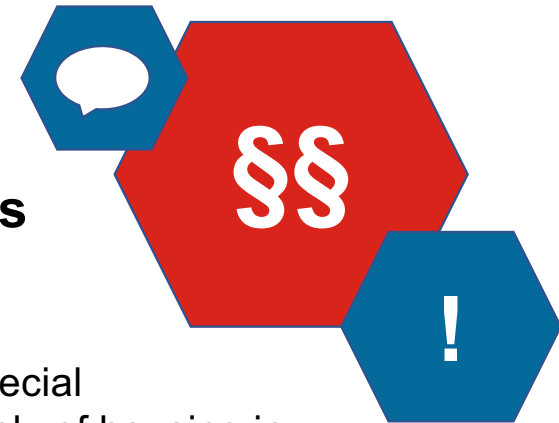
The creation and maintenance of healthy living conditions for all people is the special responsibility of the state. It shall ensure a forward-looking expansion of the supply of housing in line with the development of demand and the creation of living environments which do justice to the central importance of housing for human life. The legislature shall determine the content and limits of the economic exploitation of housing, guarantee social protection against dismissal and ensure that rents are in line with incomes.

Par. 2:

The Federation, the Länder and the municipalities shall share responsibility for providing housing for lower-income groups of the population. To this end, they shall promote social housing construction as well as private and cooperative initiatives. The sufficient creation of housing suitable for the elderly and disabled shall be ensured.

Par. 3:

Housing may only be evicted if reasonable alternative housing is available.

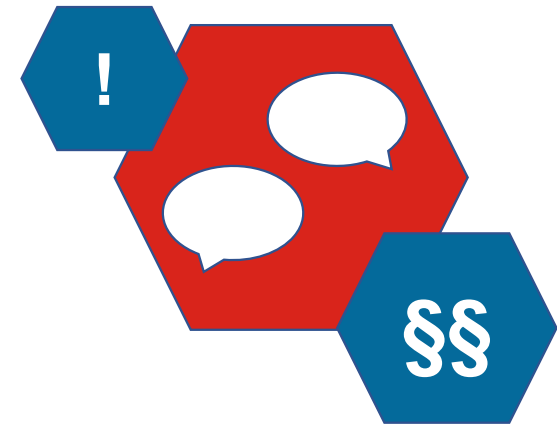




Conclusion

Housing is a human right and therefore not something that the state should only strive for. It should be part of services of general interest (Daseinsvorsorge), so the state must guarantee access for all.

The right to housing is fulfilled if all necessary measures are taken by the state. In the event of doubt, a court would examine whether this is the case or not.



Thanks for your attention!

HOUSING IS A HUMAN RIGHT!

