

PRIVATE RENTAL HOUSING IN TRANSITION COUNTRIES

—
*An alternative to
owner occupation?*

EDITED BY
JÓZSEF HEGEDŰS
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Private Rental Housing in Transition Countries

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Editors

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Preface and Acknowledgements

Three principal considerations were behind the creation of this book. First, while the emergence and importance of private residential renting was more or less taken for granted in most post-socialist countries after 1989, the sector either stagnated in much of the region or developed at a slow pace, even though political and economic transition entailed market liberalisation and the reinforcement of private property rights. The region is not, however, homogeneous. While private renting in East Germany was able to pick up quickly in the reunification process, some Central and East European (CEE) countries also saw an important diversification of housing tenures, particularly the Czech Republic, but to some extent also Estonia, Poland, and Russia. The fact that the private rental sector (PRS) has remained informal in most CEE countries is noteworthy, but there are also significant differences in the legality and professionalisation of the sector. Since the majority of CEE countries have a policy environment that does not substantially support tenure forms other than homeownership, which often results in weak and small formal rental sectors and, in some cases, 'super homeownership' societies, the continued development of informal private renting in an environment unsupportive of renting indicates that there is a social and economic need for this flexible form of tenure in the former socialist societies. The importance of a diversified tenure structure and the benefits of a tenure-neutral housing policy have also been gaining ground in the wider European

public discourse. This issue should therefore not only be explored and understood by housing researchers and professionals, but also by policy-makers.

The authors of this volume focus on the factors that have been shaping these developments and the different trends among the post-socialist states. Across the region a claim can be made for great policy potential that lies in private renting: despite a longstanding pro-ownership policy bias, the massive predominance of owner-occupation in much of CEE is unaffordable for lower-income households, and the stock of social rental housing has been decreasing and is particularly small in former socialist countries. On a more theoretical level, in the CEE context the development of niches and sub-markets for the private rented sectors reflects the development of the overall housing regime.

Private renting began a long nosedive in the post-war period in both Western and Eastern Europe. In the former, heavy state subsidies in social housing coincided with rising incomes and the growing popularity and accessibility of homeownership. In socialist countries, the housing sectors were firmly in the grip of the state which had little tolerance for private leases. By the late twentieth century, the PRS was a minority form of tenure in most—although not all—European countries. Nonetheless, external shocks to the housing and housing-finance sectors, like the Global Financial Crisis of the late 2000s, revealed how a well-functioning market-based rental sector can serve as a good source of housing for persons who do not have the resources to access homeownership and at the same time are not eligible for public housing.

The present volume takes a look at some of the key phenomena that shaped the sector in European transition countries in a set of thematic chapters and country case studies. The thematic chapters present an overview of the development of the PRS in West European countries (see chapter “The Private Rental Sector in Western Europe”) and transition countries before 1990 (see chapter “The Private Rental Sector Under Socialism”), then look at the role restitution played in the development of private renting in transition countries after 1990 (see chapter “Property Restitution After 1990”), the legal and financial context of the PRS in transition countries (see chapter “The Policy Environment of Private Renting After 1990”), and the role the PRS can play in accommodating

poor and marginalised social groups (see chapter “Poor and Vulnerable Households in Private Renting”). They also compare how the PRS is utilised for welfare purposes in Western Europe, and the potential for CEE to follow suit in this (see chapters “Private Renting in Social Provision: Social Rental Agencies in Western Europe” and “Private Renting in Social Provision: Initiatives in Transition Countries”). The information gathered in the preparation of the volume is synthesised in the concluding chapter (see chapter “Central and East European Housing Regimes in the Light of Private Renting”). The country case studies (see chapters “Croatia: Towards Formalisation”, “Czech Republic: Growth and Professionalisation”, “East Germany: Integration to a Well-Established Environment”, “Estonia: Prospects for Steady Improvement”, “Hungary: The Growing Role of a Hidden Sector”, “Poland: Gradual Growth Across Barriers”, “Russia: A Long Road to Institutionalisation”, and “Slovenia: Untapped Potential”) offer a detailed description of the sector’s development in selected transition countries: Croatia, the Czech Republic, the former East Germany, Estonia, Hungary, Poland, the Russian Federation, and Slovenia. East Germany may appear to be the odd one out on this list, but it was included in this volume precisely because it followed a completely different path, despite its housing sector being similar to other CEE countries at the start of the transformation. The specific example of East Germany demonstrates that there could have been an alternative policy route to the prevailing policy focus of most CEE governments on increasing homeownership through the giveaway sale of public housing, a route in which private renting could have played a significant role.

Regarding the methods used, for a number of historical, legal, and financial reasons, many PRS actors prefer to conceal their tenancies and rent revenues, which also means they are hidden from surveys like censuses. It is the broad consensus of statisticians and housing policy researchers in CEE countries that official statistics systematically underestimate the size of the rental sector. As a result, the statistical data that do exist had to be supplemented in the research undertaken while writing the chapters with field experience and qualitative data collection. An important source of information for this volume was the results of the project ‘*TENLAW – Tenancy Law and Housing Policy in Multi-level Europe*’, a three-year research project conducted under the European Union’s FP7 Research

and Innovation Fund between 2012 and 2015, which provided detailed comparative analysis of the tenancy regulations and policies of 32 European countries and regions. The research, editorial work, and preparation of the book were also supported by a grant from the Czech Science Foundation (grant number 16-06335S). The country case study chapter on Poland was co-financed by the Polish Ministry of Science and Higher Education from financial resources for science in the years 2012–2015 awarded for the purpose of conducting a co-financed international project. A number of expert collaborators provided invaluable input for many of the issues discussed in the thematic chapters of this volume. While some of them also authored or co-authored the chapters in this volume, we would also like to express our gratitude to Anna Zsófia Bajomi, Gojko Bežovan, Robin Cassling, Maša Filipovič Hrast, Anneli Kährik, Stefan Kofner, Alina Muzioł-Węclawowicz, Alexander Puzanov, Richard Sendi, and the support of Metropolitan Research Institute. As mentioned above, reliable statistical data on the PRS is scarce in many CEE countries. Consequently, without the insights and hands-on knowledge of national experts, meaningful analysis of private renting across the region would not have been possible.

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Part I

Private Renting in Transition Countries: Historical Perspectives and Structural Changes

1

The Private Rental Sector in Western Europe

Marietta Haffner, József Hegedüs,
and Thomas Knorr-Siedow

Introduction

Across Western Europe, private renting is viewed from very different perspectives. In some countries, especially the UK and Southern Europe, the reputation of this sector of the housing market has often been linked to insecure housing of questionable quality for the less privileged. By contrast, in Germany, Austria, and Switzerland, private rental housing has become a widely accepted and secure form of tenure for a wide variety of people; it is a solid part of housing policy and is often considered a cornerstone of market stability during economic crises.

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The Private Rental Sector (PRS) currently plays a relatively limited but stable role in European housing markets, as in many countries its decline in market share has stabilised (Peppercorn and Taffin 2013; Ball 2010; Gilbert 2003; Scanlon and Whitehead 2011). According to Eurostat data, 19 per cent of the housing stock in the 28 countries of the European Union (EU) was rented at a market price in 2014. Home-ownership is the dominant tenure form in European countries, except in Germany and Switzerland, where private rentals have been supported by the housing system since the early twentieth century. As the share of the PRS is relatively high in both of these countries and renters' rights are secure, many mainstream households see the sector as a competitive part of the general housing market. Private rental housing plays different roles on housing markets when it provides housing solutions for low-income and marginalised households, as well as for higher-income groups, as is the case in the Netherlands (Haffner et al. 2009). The PRS has also increasingly become attractive to affluent groups in a number of countries. On the demand side, upmarket private rentals fit the dynamic lifestyle of the new creative class, as well as the mobile workforce. On the supply side, the upper-middle class may see a benefit from a financial investment in the PRS as a way of supplementing their retirement income.

The potential role of the PRS in offering alternative housing options may be important in Central and Eastern European countries, where home-ownership has become predominant as a result of the post-transition privatisation wave. Furthermore, the expansion of affordable housing options could include private renting options based on (temporary) state support. Therefore, the PRS may play a key role in the future of post-socialist countries' housing regimes (Hegedüs et al. 2014). The aim of this chapter, therefore, is to provide a historical overview of the development of the PRS in Western European countries and offer insight into key factors that may influence its development in transition countries.

To provide a context for the analysis of the PRS in the post-socialist countries, the chapter clarifies the term 'private rental' in the section titled '[Tenure Types and Landlord Types](#)' and explains its different meanings. This section presents an overview of the various forms of private rental tenure. It draws attention to the legal-economic relationship of the

actors in the PRS and the sociological/legal meaning of the PRS in the context of national housing regimes. In the section titled ‘The Historical Development of the Private Rental Sector in Western Europe’, we describe the four dominant housing policy approaches of the last century that have impacted the changing position of the PRS, but not necessarily in the same way. The section titled ‘[Rent Regulation and the Subsidisation of Private Renting](#)’ focuses on key areas of housing policy intervention in the PRS that could help explain the development of the sector. The section ‘[The State of Private Renting in Europe](#)’ summarises the development of the PRS in the countries, especially in those where either a large PRS has been preserved in this century or where its market share has significantly increased in this century. The final section ‘[A Future for Private Renting](#)’ sets out the authors’ insights regarding various aspects of the sector’s future development.

Tenure Types and Landlord Types

Tenure structure is a key and dynamic characteristic of European housing systems. It reflects the social, cultural, economic, and legal use of housing as a consumer good as well as an asset. It defines the opportunities for the types of landlords that operate in a country.

Tenure Types

Tenure structure reflects a wide variety of property rights, ranging from full legal and actual ownership (as in owner-occupancy) to partial rights (as in cooperative-owned housing or shared ownership) and various grades of distinction between ownership and use (as in leases and rentals). However, the *meanings* of the various forms of rental tenure in general and of private rental housing in particular have evolved over time and across countries and are thus embedded in a sociological, economic, and cultural context (Kemp 2010; Mandic and Clapham 1996; Hegedüs and Teller 2007). This is why defining the PRS is not straightforward (Crook and Kemp 2014a, p. 5).

A two-step approach is taken to defining tenure here. First, the owner and the tenant are different roles; that is, the housing is not owner-occupied, but could be cooperatively owned. Second, private rentals are distinguished from social rentals according to the way in which the dwellings are allocated. ‘Social’ housing is allocated to households administratively on the basis of a level of need defined by society (Haffner et al. 2010). ‘Private’ rental represents an agreement between resident and landlord, which is typically based on market, or more precisely a regulated, market relation, though the agreement could be based on principles like family relations or employee–employer. The definition and the typology are based on the type of allocation of the dwelling and type of the institution and the subsidy involved in the transaction. Subsidy could be continuous rent allowance or capital grant, but, as in the case of the rental cooperatives or municipal housing, accumulated capital grant makes possible (and according to regulation forces of some countries) to set rent under market price. Ownership of the dwelling implies that the terms ‘social’ or ‘private’ are used according to the fact of whether an allocation system with subsidy is implemented as a distinctive criterion on the basis of which rental tenure can be compared across countries (Hantrais 2009). Rental housing owned by private actors can play a social role as well (Table 1.1).

Moreover, if we look at specific behavioural and cultural factors, we find that tenure forms have different social connotations depending on the socio-economic context. The most widespread tenure forms—private or market or commercial rentals; public or social or non-profit rentals; and owner-occupation, which are often considered the three ‘basic’ tenure forms—have very different meanings in different historical and national contexts. Tenure forms ‘are not fixed or immutable sets of social relations around the ownership, occupation and pricing of the accommodation. [...] As the wider economy and society change, so too do the social relations embodied in housing tenures’ (Kemp 2010, p. 122). This is demonstrated in the next chapter of this volume, which deals with tenure forms in the PRS in the socialist housing systems. While in Western Europe the vast majority of rental contracts are formally concluded in writing, in some post-socialist countries as much as 10–20 per cent

Table 1.1 A typology of the rental sector by landlord, allocation, and subsidies

	Social rental		Private rental	
Landlord type	Rental cooperative, NGO (Church, etc.)	State, municipal, or municipal company	Institutional	Private person, accidental, or non-institutional professional
Control of allocation rules	Rules set by the institution with the law or housing policy	Based on government-defined rules with reference to social need	Market based	Typically market based, but other principles influence the agreement, no specific rule
Subsidy	Accumulated (mortgage free) capital, and/or different subsidy scheme. Though the conditions are in the process of change		Typically not subsidised, but specific programmes may be involved, both on the supply side and on the demand side	

of the urban and rural housing stock may be comprised of informal forms of tenure. Furthermore, tenure forms in European countries are often barely compatible with their Third World ‘counterparts’ in spite of some similarity, because of their different social, economic, and historic environment (Hoffman et al. 1991; Mandic and Clapham 1996), making cross-country and cross-continental comparison problematic.

Landlord Types

Three landlord types of the PRS seem to be important to differentiate.

The *first type* consists of small-scale landlords, the majority of whom are individuals who are often more interested in building up wealth and securing a safe medium-term return on investment than they are in maximising profit. These individuals may also be professional, non-institutional landlords. The individual letting of inherited flats is increasingly occurring as the demographic structure and mobility patterns are changing, and the next generations choose not to live in the inherited property (O’Dwyer 1999).

In countries with a more significant PRS, the diverse composition of small landlords may be reflected in the renters' profiles. In Germany, for example, owners and renters are often from similar social strata, whether in the better-off or the less privileged segments. In the case of small leaseholds, landlord-tenant relations are often not only structured by rent laws but also by personal proximity—with all the associated advantages and disadvantages of this. The introduction of management companies can be considered a relatively recent development, which could be an important factor in the post-socialist countries. They bundle up small properties for professional private asset management, improving profitability on the one hand, but depersonalising relations and thus changing the sector on the other.

The *second major landlord type*, which generally (still) forms a small share of the market, consists of market-oriented institutional investors. They are playing an increasingly important role in large, new, or refurbished developments in attractive locations. The PRS has proved to be an attractive market segment since the Global Financial Crisis (GFC), as the appeal of traditional forms of relatively safe financial investment in life insurance or public bonds has decreased owing to the risks and/or persistently low interest rates that have accompanied those investments for more than a decade (Oxley et al. 2015). The demand for rental accommodation in the PRS is also on the rise as a growing share of the population has become ineligible for mortgage finance, in part because incomes have gone down and become insecure, and in part because of demographic changes, emerging new lifestyles, and higher mobility due to job flexibility.

There is a wide variety of institutional landlords, from wealth and asset management companies focusing on long-term goals to private enterprises that engage in short-term profiteering—for example, from former public social housing that has been privatised; this is especially the case in Germany and Austria (Elsinga et al. 2014). Some of this housing was in the past well managed by municipal owners and is still subject to some rent control and access regulations, while other housing was turned into highly speculative investment. In some parts of Germany, mostly those regions in economic decline, the privatisation of public housing has resulted in the growing neglect of the maintenance of the privatised

housing stock ('scrap properties'), which may undermine social cohesion (Enquetekommission NRW 2013).

The *third major type of landlord* is represented by the various versions of non-profit housing enterprises that exist and that may have enjoyed state subsidies for a (limited) period in the past. In Berlin, for instance, more than 10 per cent of the housing stock can be classified as a rental cooperative (Böttcher 2013). Non-profit organisations, such as cooperatives and public-private partnerships, operate in France, Germany, the Netherlands, and the UK. In the Netherlands and the UK, such non-profit social organisations (housing associations) have the capacity and are allowed to offer some housing at market rents (Haffner 2013; Haffner et al. 2014; Oxley et al. 2010), occasionally through a subsidiary that has been specially created for this purpose.

The PRS may form an integral part of the system that through an allocation system provides dwellings to households targeted by policy. This means that all types of landlords can be incentivised to offer 'social' rentals, while those landlords that typically do provide 'social' housing (like public or non-profit landlords) can also offer 'non-social' rental housing (market or private rental housing). In Germany, municipal housing companies are considered private organisations, even though the shares in these companies are owned by municipalities and they (like housing cooperatives) provide de jure and de facto social housing (also through an allocation system, see above) as well as private/market rental dwellings (Droste and Knorr-Siedow 2014).

In sum, private landlords can provide both private rental housing and social (subsidised) housing (see Table 1.1), where private renting is integrated in the affordable housing provision, which is specifically the case in Germany, Switzerland, and France (Haffner et al. 2008; Hoekstra et al. 2012; Oxley et al. 2010; Scanlon and Kochan 2011; Hegedüs et al. 2014). Social landlords can also provide private rental housing. However, both types of hybridisation of landlords may be affected by the EU's state aid regulations that aim to create a level playing field on markets, also the rental market (Elsinga and Lind 2013).

There are, therefore, significant differences to be identified between the interests and behaviours of various landlord types, where the long-term goal of asset preservation is more typical of small- to medium-hold lessors

and housing associations and cooperatives, while a more directly profit-oriented approach is more characteristic of professional institutional landlords. There are also a number of actors that represent a mixed model, either between private and social renting, or between renting and partial ownership (like German housing cooperatives).

Regardless of the nuances of landlord type, at present most private rental housing in Europe is provided by 'private person' landlords (Crook and Kemp 2014a; Haffner et al. 2008; Scanlon and Kochan 2011; Whitehead et al. 2012). Now that the actors are introduced, the history of the PRS in Western Europe follows in the next section.

The Historical Development of the Private Rental Sector in Western Europe²

A variety of pathways for private rental markets have developed across Europe that reflect specific national and regional traditions, laws, housing policies, and practices. Whether countries tend to lean towards a free-market orientation in their private rental housing or opt for a more or less regulated private market depends on a wide variety of housing customs and cultures and on legal traditions and power relations between housing providers and renters as customers. This complex amalgam of housing and regulatory traditions, cultures, and the economy of the sector also affects the user of private rental housing. The question of what social, economic, and political factors determined the development of national housing systems (in Western Europe) is examined on two levels.

First, housing systems change in interaction with general economic and social processes and these are increasingly connected to global economic changes. Thus, the first level of analysis involves a short description of the development of the political and economic systems in Europe and how they may have impacted housing policy. The aim is to provide an overview of policy changes in Europe in relation to the housing system in line with 'system embedded research' (Stephens 2011), taking into account policy transfers in the global economy and the role of international organisations. These approaches can be interpreted as the main underlying policy principles that have become integrated into national housing systems in

very different ways depending on national factors. Therefore, this is a comparative analysis across Western Europe that focuses on the broad contextual changes and their turning points and looks for the ways in which national states try to react to them (Boelhouwer and Heijden 1992), covering the history of the past century and a half.

Second, housing policy cannot be explained solely on the basis of the general global (capitalist) trends, as the effects of national political forces and demographic and economic factors are embedded in the development of the housing systems. Owing to the effects of globalisation, national factors have lost some of their importance, but they are nevertheless the main factors that translate into policies and any analysis must take them into consideration. This overview starts out with the 'tenure-focused' approach of mainstream housing sociology and then applies the 'structure of housing provision' approach of Harloe and Martens (1987) and Ball and Harloe (1992) combined with the institutional approach of Lundquist (1990).³

Based on these theoretical approaches, four time periods in the development of housing systems and policies are identified according to the mainstream paradigms that define them. Even though the four paradigms are tied to different periods in the development of capitalist societies, there will not necessarily be a direct correspondence between the paradigms and periods, as in some countries certain elements of housing policy emerged earlier than in other countries.

The following main periods are distinguished: before World War I (WWI); from WWI to the 1970s (which includes a transitional period between WWI and WWII); from 1970 to 2008; and from 2008 onwards. This periodisation is similar to the period pattern used, for example, by Malpass (2014), Power (1993), and Harloe (1995). Also referred to will be Boelhouwer and Van der Heijden (1992), who distinguish four periods in housing policy after WWII up to the 1990s.

Mainstream paradigms represent the dominant way of managing and interpreting the role of housing in different stages of the development of capitalism. The first paradigm is the liberal approach to the housing market, the second the emergence of the welfare state, the third is the World Bank's proposed enabling approach, and the fourth is the regulated market approach. While many countries have faced similar challenges, they have responded differently to them.

Industrialisation, Urbanisation, and Liberal Capitalism

Private rental contracts were probably the earliest form of agreement regarding the temporary use of dwellings. During the nineteenth century, the expansion of private renting became the counterpart to massive privately financed urbanisation and urban housing construction across Europe triggered by industrialisation. The working classes lived in so-called tenement barracks in notoriously poor socio-economic conditions and were dependent on investors such as builders and on the 'rentiers' who made a living and profit from the letting of dwellings. These very precarious private-renting relations were a regular source of social and political conflict, as evidenced by the many rent-riots that used to break out in European cities (Gauldie 1974; Geist and Kürvers 1980; Zimmerman 2011). It was only towards the end of the nineteenth century that some legal and quality standards were established, with the cooperative movement and small-scale philanthropic initiatives setting examples for more sustainable arrangements. However, before the turn of the twentieth century, private renting was also partly taken up by members of the upper classes. Engineers, officers, and civil servants and their families, who often needed to move for employment reasons, began the practice of renting luxury flats from private landlords in bourgeois neighbourhoods in multi-storey 'rent-palaces' which meant larger, good-quality tenement houses located in bourgeois neighbourhoods. But lease conditions remained generally short term, and annual or even half yearly rent rises made privately rented dwellings an unpredictable affair.

Privately rented housing became the dominant tenure form in the European cities of the nineteenth century, as the housing needs generated by massive industrialisation and urbanisation were met with large-scale development of private rental accommodations. Although exact data on what share of urban housing was made up of private rentals are rare, it was often around 90 per cent in London, Paris, Berlin, Budapest, and Vienna (Gyáni 1992; Power 1993; Zimmermann 2011; Wolman 1985; Thompson 1990 quoted in Power 1993; Munjee 2003).

The basic approach to housing policy (in Western Europe) can be described as a *liberal capitalist approach*, which determined policy interventions until the end of WWI. Housing was basically a marketable good,

where demand was triggered by industrialisation (the influx of the rural population into urban areas), and supply was provided by entrepreneurs, partly through bank financing and equity. The role of the state was limited to the regulation of building standards and enforcing minimal public health requirements (Kemp 1984; Burns and Grebler 1977; Zimmerman 2011, Lévy-Vroeland et al. 2014). The private capital flowing into residential construction was insufficient to satisfy the level of demand, so private and state-owned enterprises also had to invest in residential real estate, especially in areas where the necessary infrastructure did not exist (mining communities, railroad-company housing). The state also embarked on new residential construction even before WWI, albeit sporadically, in order to alleviate extreme housing deprivation rather than to provide a systematic solution. The rental contract was strictly considered a private agreement in which the state played little regulatory role; the details of the document were left entirely to the contracting parties, and any regulation of its content was generally considered an intrusive disruption of the free market. Rent levels, which typically amounted to 20 or 25 per cent of tenants' incomes, were considered high; rent hikes were frequent. Tenants crammed into overcrowded apartments to offset high rents. The risk defaulting on rent was also high, which led to acute conflicts. Settling landlord-tenant disputes was a central political issue, and there were many attempts to arrive at general ways of resolving such disputes (e.g. rent strikes, conciliation, and mediation committees). State intervention during WWI marked the end of the liberal-capitalist approach to housing/housing policy.

Expansion of the Welfare State

As private renting represented the only form of housing for all non-owners, increased attention to the lack of affordable rents for 'the war heroes' during and after WWI led to enhanced rent security, and rent controls were established across the countries that had been at war, culminating in many countries in rent freezes that were to last well into the 1920s and in some cases far beyond that (Donner 2000). Rent controls/regulations in the UK, according to Munjee (2003, p. 17) 'made [an] impact as far away as India'. WWI thus marked the start of a shift as stricter regulation improved renters' rights,

rent controls and, usually, freezes were brought in, and rent clearing courts were introduced/established (see first point in the section titled ‘[Rent Regulation and the Subsidisation of Private Renting](#)’). Private renting nevertheless remained the standard form of tenure until public and cooperative building programmes gradually took off in the interwar period to offset public unrest, and then more intensively after WWII in response to the post-war economic upswing. However, for decades to come, private residential renting remained a sphere of constant political conflict, which from the late nineteenth century to the 1980s occasionally led to rent strikes (Weitz 2007).

The first fundamental turn in the status of private renting occurred during the 1920s following the introduction of public housing programmes and the emergence of a social rental sector. Special taxes were often imposed upon private landlords to co-fund public rental projects, as was the case in Germany and Austria (Hauszinssteuer), reducing the profitability of private rental housing and thus investors’ interest (Geist and Kürvers 1980; Schmid et al. 2016). Private renting came under even more pressure when, after WWII, Keynesian public building programmes and the states’ co-financing of non-profit social housing resulted in a real choice for a growing group of tenants. As investment in private renting was comparatively discouraged, the quality of older private rental dwellings was often lower than that of social housing, and in turn it became more difficult to find tenants—partly leading to a downward spiral (for instance, in France, Denmark, or Italy). Where most social housing was public housing, policy makers ceased to pay attention to the PRS, even though in some countries (like in Germany) private landlords were continuously integrated into social housing programmes from the early post-war years onwards.

While during the 1960s the proportion of private rented dwellings in the housing stock of some Western European countries had reached 40 (the Netherlands) to 60 per cent—or even more (West Germany)—and a general shift occurred in the proportion of tenure categories over the following decades. In the following decades, the PRS declined sharply in the Netherlands, Spain, and the UK; was halved in France; and decreased to less than half in Sweden. The reasons were manifold. Private rental housing was bought up by public builders from the mid-1970s to the late

1980s in the course of massive urban renewal. This aimed at replacing old and often run-down privately owned tenements with new public social housing blocks (for instance, in Germany, France, the UK, and the Netherlands; Hoekstra et al. 2012). As many countries strongly encouraged owner-occupation (UK, Italy, Spain, Ireland, Belgium, and to a lesser degree France), many privately rented dwellings were also sold to their tenants after government policies (like the right to buy in Ireland and England) were introduced (Haffner et al. 2009). This often coincided with a weakening of the financial motivations of owners-landlords to invest in rental housing, as new forms of investment seemed more profitable and easier to manage (e.g. Denmark; Juul-Sandberg 2015). Household wealth increased during the 1960s and 1970s in all industrialised western countries. At the same time, as the virtues of private homeownership and the single-family house were extolled and the undeniable drawbacks of social housing—especially in the large estates of the 1950s to 1980s—were highlighted, there was a downturn in the status of rental housing in general and of private renting in particular.

In many countries, the housing policies of this period can be characterised as a reaction to the housing shortage caused by the two great wars and the subsequent economic crises (Boelhouwer and Van der Heijden 1992), and resulted in the emergence of *welfare capitalism*. State intervention turned permanent the various temporary forms of rent control that were put in place after WWI. Private investment in rental housing dried up in many Western European countries. Not only did landlord-investors withdraw from the market and decreased in numbers, but financing institutions also changed their strategy, as rental market interventions also often led to construction loan defaults. The drop in housing construction compelled states to boost construction for owner-occupation, which required, among other things, the condominium to be codified as a legal form of housing/tenure and the creation of various tax incentives. In many countries, state intervention was indispensable in the post-war housing shortage, and the further development of the interwar period's organisational and financing designs led to residential construction booms all over Europe. National construction setups differed, as did the scale of investment, but construction booms were the result (Donnison and Ungerson 1982).

In summary, an unprecedented housing construction boom played out in the more developed countries of Europe until the late 1970s, following just three or four main models (municipal housing in Britain, different cooperative models in Sweden and Germany, the non-profit sector in the Netherlands and Sweden and the French private–public housing companies). In Southern European countries, state initiative remained mostly moderate; the role of state-led investment in public housing programmes was modest compared to the importance of traditional building and housing forms. Private rental housing took on a secondary role, although its precise development was defined by separate national factors (Padovani 1984; Lewis and Williams 1984; Wyn 1984).

Throughout the twentieth century, the significance of the private rental tenure decreased to a share of 50–20 per cent of the housing stock in European countries. However, there are two types of outlier, as shown in Table 1.2: one type is Germany and Switzerland, where the significance of the PRS has overall not changed much, and the other type is England, where the share of the PRS increased substantially in recent decades as a result of the introduction of ‘buy-to-let’ mortgages.

Market-Enabling Policies: Privatisation and Deregulation

In the decades after the 1980s, another turn became apparent. The decline of the PRS slowed, stopped, or even reversed into moderate growth, as shown in Table 1.2. In many Western European countries, most prominently in the UK, new policy initiatives in the late 1980s promoting private rentals appeared, encouraging private investment in rental properties, largely as a consequence of states turning away from centrally funded and organised new public housing construction during the last decades of the twentieth century. The most influential policy was housing privatisation, initiated by the Thatcher administration (Crook and Kemp 2014b), which resulted in a transfer of a significant share of social rental dwellings into private ownership, and bank deregulation, which resulted, among other things, in the restructuring of the Building Societies in the UK.

Table 1.2 Private rental sector development in some selected European countries (%)

Share (%) of private rental housing	1950	1980	1990	2000	Latest year for which national data are available
Germany	65 ^a	61	60	60	60
Switzerland	n.a.	59	59	56	56
Sweden	52	22	22	24	24
Greece	33	n.a.	21	20	20
France	44 ^b	26	22	22	22
England	53	11	9	10	17
Italy	49	35	25	n.a.	14
Netherlands	60 ^c	24	17	12	11
Spain	55	19	15	11	7

Sources for 1950: Haffner et al. (2008) and Haffner (2010) based on: Elsinga et al. (2007) for Spain; Lawrence (1996) for Switzerland; Van der Heijden and Boelhouwer (1996) for other countries. Sources for 1980 and later: Dol and Haffner (2010); Scanlon and Kochan (2011); Germany (1965, 1980): Jaedicke and Wollman (1990). Italy (1980): Tosi (1990). Italy (1990): Eurostat-SILC [ilc_lvho02]. Greece: http://www.tenlaw.uni-bremen.de/reports/GreeceReport_09052014.pdf

^a1965

^b1955

^c1947

However, not all European countries followed this trend. France preserved its aim of tenure neutrality (Hoekstra and Cornette 2014). In parallel, it continued the privatisation of public rental housing and the bulk privatisation of social housing companies, which also contributed to the growth of the PRS (Elsinga et al. 2014). Tax incentives were brought in to support the provision of rental dwellings to young, newly formed households, the elderly, and the dynamic younger middle classes, thus stimulating the expansion of the private rental stock. These trends have intensified since the GFC in 2007, as return on investment in the PRS has generally become more competitive across the continent than many other financial investments.

The re-emergence of the PRS on the housing policy agenda has also coincided with a fundamental change in the sector's structure. Although the vast majority of private landlords are still small-hold 'accidental' or individual landlords, a growing share of the sector is being held and managed by large-scale institutional investors. There are no comparable data to support this trend, but Germany offers an illustration. Over two-thirds

of post-2000 private rentals were built by private institutional investors in cities and agglomerations like Berlin, Hamburg, Frankfurt, Dusseldorf, and Munich, mostly in upmarket rather than affordable rental housing. In 2015, 260,000 new dwellings were built, of which 120,000 were rentals. Of these rental dwellings approximately 60 per cent were built by private institutional investors, while 40 per cent were built by individual private investors.⁴ While small landlords are still predominant in Germany, as in most countries, they are shrinking in number, relatively and absolutely, in part under the scrutiny of complex housing and environmental regulation. Large private companies are gaining increasing influence as landlords on the market, even though the heat of international investment funds seems to have cooled down with the experience that annual margins of over 25 per cent per year are not feasible under policy conditions and renter protection. For the tenants the consequences are manifold and partly contradictory. The PRS has become professionalised, and the quality of private housing services has often increased, partly due to stricter state regulation. But large, cherry-picking investors have split up the parts of the private rental market into high-yield and unaffordable on the one hand, and neglected stock that defies any claim to quality housing on the other (Droste and Knorr-Siedow 2014).

Housing policy in this period typically adopted a 'market-enabling approach', a term coined in a World Bank study (Mayo and Angel 1993; Angel 2000). It was a reaction to the earlier market and policy failures and conflicts caused by state intervention, and it paved the way for deregulation and privatisation. The beginning of this period coincides with the deceleration of industrialisation and urbanisation in most developed countries, the alleviation of demographic pressure in Western countries, and the empowerment of the middle class. The Thatcher era of privatisation and the corresponding World Bank doctrine of the market-enabling approach in housing policy prompted a significant cut to direct state intervention in housing. This approach reflected a belief in the superior efficiency of market allocation, which was to give consumers what they wanted and would be able to afford, while public service providers were considered bureaucratic, inefficient, and paternalistic. This doctrine was put into practice through the privatisation of state-owned housing, the deregulation of housing finance institutions, the transformation of tax

and subsidy systems, and so on. This was underpinned by a financially stronger middle class on the one hand and by growing fiscal pressure on state budgets on the other.

Based on histories of housing policy objectives in eight West- and North-European countries, Boelhouwer and Van der Heijden (1992) describe that governments moved from the fight against housing shortages through to the phase where an emphasis began to be placed on housing quality and to the phase where housing policy began devoting more attention to distributional issues from the 1980s on. This included the move from universalistic or general to targeted subsidy, while at the same time as a result leaving private renting with more room to develop.

Revisited Market Control: Towards Smart Regulation

The GFC fundamentally changed the attitude of policy makers towards the secondary mortgage market, which used to be considered the greatest financial innovation of the 1990s. In the process of managing the crisis in order to keep the bank systems afloat governments made very dramatic interventions in the housing market (bailouts, quantitative easing, etc.). Eventually, the secondary mortgage market proved to be one of the causes of the global crisis.

Housing research advises policy makers to implement new forms of regulation in order to decrease the probability of market failures caused by information asymmetry, politically biased tenure policy, and the lack of the right incentives (Maclennan and Sullivan 2011). In general, the GFC has changed the research- and evidence-based perspective on renting and particularly on private rentals: a stable PRS with balanced landlord-tenant relations and a predictable rent structure implies for the market-enabling approach, which saw market liberalisation as a cure for state and regulatory inefficiencies, being replaced by a smart regulation approach. This approach proactively strives to create the economic and political conditions of an efficient market system (Hegedüs et al. 2016).

In some countries policy makers are in the process of (re)discovering the potential of the PRS. The sector is regarded as an alternative to other tenures as social renting becomes more limited in terms of both size and

financial sustainability. Home-ownership rates also seem to be stabilising and/or decreasing in many countries (Fernald 2013; JCHS 2013). This trend, however, cannot be ascribed solely to the impact of the GFC. In some countries, young people's access to home-ownership has worsened because the increase in house prices has exceeded the increase in salaries ('generation rent'). Changes such as structurally more flexible labour markets (Doling and Ruonavaara 1996) and stricter underwriting procedures may also result in barriers to entry (Crook and Kemp 2014a). In some jurisdictions (France, the Netherlands, Spain and the UK) politicians have increasingly been supportive of the PRS as a solution to housing accessibility barriers (Crook and Kemp 2014b; Haffner 2014; Oxley et al. 2010).

Rent Regulation and the Subsidisation of Private Renting

Discussions of the broad trends of government intervention in capitalist societies, as described in the previous section, delivered a number of government policy measures specifically designed for intervening in the PRS. This section looks at the development of the PRS in different countries from the perspective of three such policies (Hoekstra et al. 2012; Whitehead et al. 2012):

- Rent regulation
- Regulating the condition of tenancy and landlord-tenant relations
- Subsidy/tax regimes

Rent Control

Rent control, which we also call rent regulation, is one of the most important factors influencing the development of the private rental market, as the section titled "The Historical Development of the Private Rental Sector in Western Europe" indicates. It aims to protect the tenant from 'unreasonable' rents and rent increases. What is defined as 'unreasonable' has changed over time and varies across countries.

During WWI, a strict rent regulation was introduced, typically a full rent and loan repayment freeze known as ‘first-generation’ rent regulation (Arnott 1995, 2003). In the aftermath of the war, the drawbacks of regulation became clear to decision makers (see above) and European countries introduced different versions of gradual deregulation in the 1920s. Generally, these attempts were short-lived, and many of the original deregulation plans were never actually implemented (Fitzsimons 2014, p. 64).

Against the background of post-WWII housing shortages, rent regulation again was considered necessary to reduce households’ housing costs and also to help stimulate the countries’ competitiveness by curbing wage and price inflation. In many countries with hard rent controls (France, the Netherlands, Spain, Sweden, and the UK), the PRS lost ground, while home-ownership and social renting won ground. Investment in new private rental dwellings dried up, and many landlords sold their property as soon as they had the opportunity (see above).

In the post-WWII expansion of the welfare state, governments did not consider rent deregulation a priority, especially as the introduction of rent allowance systems from the 1970s onwards prepared the ground for the more flexible ‘second-generation’ rent control (Turner and Elsinga 2005; Haffner et al. 2012 based on Arnott 1995, 2003; Whitehead et al. 2012). This was typically more sophisticated than first-generation rent regulations, allowing gradual contractual rent raises within a tenancy and the resetting of rent levels between tenancies (Haffner et al. 2008; Hoekstra et al. 2012; Whitehead et al. 2012). Some form of rent regulation is still in place in the economically most developed European countries (the UK being the biggest exception) and is generally intended to protect tenants from unreasonable and unmanageably volatile rent levels (see Table 1.3). Sweden and the Netherlands apply the strictest rent regulations, according to a study by the OECD (Andrews et al. 2011); whereas other Northern and Western European countries typically differentiate between rent setting for new contracts and rent adjustment for ongoing contracts (see Table 1.3).

The application of a ‘fair rent’ type of regulation can lead not only to deferred consequences, as the British example shows, but also to unexpected and therefore unintended consequences. Moving from strict rent control to ‘fair rents’ suggests the idea of implementing a somewhat competitive rent or a kind of equilibrium rent. However, when implemented fair rents were always a kind of ‘administrative’ rent with the aim of stimulating that

Table 1.3 Rent regulation in seven European countries around 2012

New contract		Annual rent increase	
Free rent setting	England, France, Germany, ^b Netherlands (deregulated stock), ^a Spain, Switzerland	Free rent setting	England (deregulated stock) ^a
Regulated rent setting	Netherlands (regulated stock), Sweden	Tied to market changes (caps) Regulated by an index	Germany France, Netherlands (regulated stock), ^a Spain, Sweden, Switzerland (various factors)

Sources: Haffner et al. (2008), Hoekstra et al. (2012), Whitehead et al. (2012)

^aWhether or not the rent of a dwelling is regulated does not depend on the type of ownership of the building, but on the rent level of the dwelling (Haffner 2014). In 2009, 92% of the total rental housing stock was regulated

^bSeveral German cities introduced a rent cap in 2016

investment in private renting would become more attractive than under strict rent regulation. However, the introduction of the Fair Rent Act of 1978 in Italy led to the rapid decline of the PRS, during which the sector shrank from 6.7 million dwellings in 1971 to only 5 million in 1991 (or from 44.2 to a 25.2 per cent of the housing stock) (Tosi 1990; Padovani 1996, p. 192–193). Landlords no longer expected a long-term, predictable stream of income from their property after the introduction of fair rents.

Sweden has a law which stipulates that landlords and tenants must follow guidelines on rent negotiations to set the rent for new contracts. In the Netherlands, about 85 per cent of the private rental stock is subject to rent regulation that is based on a normative system of quality points that indicate what rent level can be set at the start of a lease. In countries, such as France, Germany, Spain, and Switzerland, rents for new contracts can be set freely. However, in Germany several cities with a strong demand for rental housing recently introduced a rent cap, as the maximum to an annual rent increase. In cities where local authorities (300 major towns and cities) declare a housing shortage, rents of new rent contracts may only exceed the ‘reference rent level’ in the city by a maximum of 10 per cent. Rent can only be set freely for apartments in new buildings or apartments that have been completely renovated.

Next to rent setting at the start of a lease, rent levels may regularly be adjusted during the lease term. Such a rent increase is based either on some kind of index, as is the case in France, the Netherlands, and Spain, or on market conditions for comparable housing, like in Germany. In the Netherlands the permitted maximum annual rent increase, usually linked to the consumer price index plus a variable element, is determined by the national government. In Switzerland rent increases are based on a number of factors: the rent of comparable dwellings, higher costs, inflation compensation, or a special payment plan (Whitehead et al. 2012).

Moving from first- to second-generation rent control did not automatically lead to the expansion of the PRS. Taking the UK as an example, when rents were decontrolled through the ‘fair rent’ regulation in 1988, there was no immediate surge in rental housing investment. The desired effect was only produced in England by a combination of factors inspired by the introduction of the buy-to-let mortgage scheme and the new Housing Act’s assured shorthold tenancy regulation. For banks, rent deregulation implied that the dwelling would be available free of the tenant if it needed to be sold due to mortgage arrears.

The British and Italian examples show that the effect of rent regulation cannot be interpreted without simultaneously considering other regulatory factors (which are discussed in the next section). Together with rent regulation, these other factors influence the balance between the position of tenants and landlords. While rent control will smooth out the impact of market volatility for the tenant, Hegedüs and Horváth (2015) conclude that some reasonable connection between the regulation of rents and long-term market effects (i.e. rent stabilisation) must be maintained in order to allow the sector to be economically viable.

Regulating the Conditions of Tenancy and Landlord-Tenant Relations

Rent regulation usually is not just about regulating rent levels (either initial or during the contract) or incorporating cost increases into the rent, as Andrews et al. (2011) propose but is embedded in an additional set of regulations regarding tenant security. In their 11-country analysis,

Whitehead et al. (2012) include the following aspects of tenant security in addition to initial rent setting, rent increases, and the length of a lease: the capacity of the landlord to get the property back (from a tenant) during the lease; the capacity of the landlord to sell the property during the lease; and the enforcement of eviction if the tenant breaks the contract. As the section titled ‘Rent Regulation and the Subsidisation of Private Renting’ describes, a balance between the rights and duties of landlords and tenants is necessary if the sector is to function well.

In short, the relationship between tenant and landlord is crucial and its effects on the market will depend on the legal detail. The housing quality standards involved can also have an effect on the relationship. Consequently, even though private renting is often considered to be dominated by market forces, government interventions impact a variety of legal matters that may be more far-reaching than rent control alone. One of the indicators of a stable PRS is the average length of tenancies, a matter that is particularly relevant in the case of post-socialist countries, where the question is, will the sector cater for mobile households or for those searching for stable housing forms?

Nasarre Aznar (2014) developed a framework of ‘drivers’ (i.e. facilitating factors) for landlords and tenants in terms of the content of a lease contract. In this framework, affordability (rent control and a tenant-friendly cost system), stability (for instance, long leases, and pre-emption rights), and flexibility (such as early termination of the lease and easy subletting) are regarded as crucial in the eyes of tenants. Landlords value profitability but also long-term sustainability, which provides financial incentives for renovations. They are also interested in a guarantee that they will receive payment of rent (via a deposit) and that efficient eviction processes are in place in order to level the playing field between the contractual parties. Regulating the terms of the contract may therefore have an important effect on the behaviour of landlords and tenants, as it influences the predictability of tenure on both sides; the enforceability of contracts is also important.

The example of Vienna illustrates how the impact of regulation goes beyond rent control. As Förster (1996) points out, despite controversy, elements of the 1917 Tenancy Act in Vienna/Austria are still in force today, and they provide an outstanding level of tenure security, where rental titles may even be inherited by a tenant’s children if they grew up in the dwelling. In recent years some fixed-term rental contracts have been allowed,

especially in the upmarket segment of the PRS, but the vast majority of tenancy contracts are still concluded for an indefinite term. Furthermore, tenants in both social and privately rented housing actively participate in the daily management, maintenance, and improvement of the dwelling, and landlord-tenant conflicts are resolved by city-run arbitration courts. Almost 80 per cent of Vienna's population live in rented apartments, as the well-balanced system of rights, duties, rent levels, and subsidies not only provides extensive tenure security but also ensures predictability and reasonable profitability for investors in the long run. This case therefore delivers proof of the fact that even though rent regulation undoubtedly distorts the behaviour of market actors (Arnott 1995, 2003), such distortion may be offset by greater predictability and reduced opportunity costs due to conflicts. Whitehead et al. (2012) and Haffner et al. (2008) list a number of effects that could make rent control and security of tenure desirable for landlords (and not only for tenants). Rent regulation does not just limit the return on investment, as it also leads to transparency and a stable rate of return, if cost increases are taken into consideration. There can also be an indirect positive effect for landlords, as regulation contributes to the positive image of—and higher demand for—private renting.

Hulse et al. (2011) also developed a framework for a comprehensive analysis of secure occupancy, which includes many aspects of renting, classed as the legal, market, social policy, and ontological 'lenses'. The legal lens uses the language of legal rights and responsibilities, like whether and how a contract can be terminated by tenant or landlord. The other lenses go beyond the tenant-landlord relation. The socio-cultural lens highlights concepts such as the norms that surround private renting in a society in relation to ontological security and the meaning of a home. This study therefore shows that secure occupancy is a complex matter involving the interests of tenants and landlords, as well as the government, as the next section discusses.

Tax and Subsidy Regimes

Choice of housing—whether to buy, rent, enter a cooperative, and in which sub-market—is one of the most important financial decisions a household makes. The income situation of a household, as well as the local and national housing-related subsidy and tax system, plays an

important role in tenure choice. The same also holds true for the supply side: from a financial point of view, potential landlords compare their investment opportunities and will choose housing as an investment if it is competitive in comparison with their other options.

Subsidies for private landlords—what are known as ‘supply-side subsidies’—are often available via the income tax system (Hoekstra et al. 2012). In Germany, a time-limited depreciation deduction is available for any rental property. It is often regarded as compensating for the rent control system in the country (Oxley et al. 2010).

In France there are several tax concessions for individual households that invest in the construction or refurbishment of private rental dwellings. In this case, as in the case of the German investor subsidies, special contract relations between the state and private landlords incentivise the construction and private letting of housing at below-market rents, for which allocation rules exist. The difference between the market and the social rent is paid for by the subsidy, which is typically paid to the landlord/owner over a period up to 20 years. When the period ends, the dwelling is no longer subsidised and again becomes part of market rental housing.

Subsidies and benefits designed to help tenants find affordable accommodation within the PRS—and hence utilise the private sector in social or affordable housing provision—are referred to as ‘demand-side subsidies’ (Hoekstra et al. 2012). In many countries, housing allowances are available for households in the PRS, as well as in the social rental sector and sometimes in the owner-occupied sector (Haffner et al. 2009).

The availability of housing allowances in other tenures as well as supply-side subsidies supports the argument that the impact of subsidy and tax regimes on the behaviour of actual and potential tenants and landlords should not only be interpreted in the context of the tenure in question, but also in the context of the financial position or attractiveness of other tenure forms. The fact that social renting has increased in many Northwestern European countries, while private renting decreased, can be attributed to a bias in subsidising. Furthermore, tenure neutrality has often not been the point of departure: owner-occupiers generally benefit(ed) from the subsidies, whereby higher-income groups reap more benefit than both lower-income homeowners and tenants (Follain et al. 1993; Bourassa and Grigsby 2000; Hendershott and White 2000; Ter Rele and Van Steen 2003;

Australian Institute of Health and Welfare 2004; Lux et al. 2009). The general trend in house price increases from the mid-1990s until the house price bubble burst and the GFC began in 2007 can be considered a major turning point in this sense. It became more widely evident that the ‘artificial’ expansion of mortgage debt resulting from the subsidisation of home-ownership may no longer be a sustainable policy. However, the question remains if many countries, except France, will (re)turn to a tenure-neutral policy. In the past, also Sweden implemented tenure-neutral policies, while the foundation of Germany’s policy was also tenure neutral (Lundqvist 1987; Boelhouwer and Van der Heijden 1992; Haffner 2014; Schaefer 2015).

The State of Private Renting in Europe

Private rental housing today is unevenly distributed across the countries of Western Europe, as one can observe in Table 1.2. We have seen that, in a longer historical perspective, the PRS in Europe was replaced by the owner-occupied and social/non-profit sector, with two important exceptions: Germany and Switzerland. In most Western European countries, except England, a slight increase in renting occurred more recently, partly because of budgetary cuts to social housing and to ownership support (Dinse and Schmid 2015). However, the PRS has still been decreasing, or stagnating at best, even in the countries with the widest rental sectors, including Germany (Cornelius and Rzeznik 2014, p. 5), Belgium (Haffner and Bounjough 2014, p. 6), France (Hoekstra and Cornette 2014, p. 8), and Sweden (Bååth 2014, p. 9–10).

The PRS shrank much more quickly in Southern Europe than in other parts of Europe. Southern European countries such as Italy and Spain have a relatively small PRS. This usually coincides with a marginal overall rental sector, with the exception of the recent high-quality and high-priced private rental developments in major cities.

The outliers represent a challenge: why has private renting survived against all odds in Germany and Switzerland; why has it doubled in size in England? This section speculates about explanations.

Germany stands out because of its large PRS, which has remained relatively stable over more than half a century (Haffner et al. 2008; Haffner

2011; Kemp and Kofner 2010; Oxley et al. 2010; Whitehead et al. 2012). Germany has traditionally had a large private rental market and by now has a relatively small social housing sector, one reason being its temporary supply-side system for social rental housing (see the section titled ‘Tax and Subsidy Regimes’) (Haffner et al. 2009; Haffner 2011; Kemp and Kofner 2010; Oxley et al. 2010; Whitehead et al. 2012). The reunification of former West with former East Germany also contributed to the large PRS. The rental sector in the former East Germany, which made up 74 per cent of the housing sector, was labelled private rental housing after reunification. The PRS also increased, especially in the East, because nationalised property was restituted to the original private owners and because of tax schemes that were made available for new construction and renovation of private rental dwellings (Oxley et al. 2010).

The relatively large Swiss PRS can be explained partly by the country’s traditional tax system, which has discouraged owner-occupation, and partly by the late introduction of condominium ownership in 1965 (Haffner 2010). Bourassa et al. (2006) argue that home-ownership could only be achieved at relatively high property acquisition costs in relation to income (in the 1990s) and that a high proportion of non-Swiss residents does not favour a large owner-occupied sector (FOH 2006). Another factor is that the Swiss government’s attitude to home-ownership is ambivalent. While in Germany a relatively large proportion of—legally private—rental housing is in municipal ownership and is earmarked for letting at rent levels below the market rate, in Switzerland private rentals are usually in the hands of various types of market actors. Housing policy debates incorporate both the public and the PRS and the political representation of the actors is strong.

Besides Germany and Switzerland, England seems to be the single major exception for a large increase in private renting. The introduction of the buy-to-let scheme in combination with the assured shorthold tenancy and auxiliary incentives have resulted in the near doubling of the PRS in recent decades. The PRS has been re-entering the political and economic agenda. As public budgets have grown tight, supporting and regulating private investment in the PRS is seen as a way to meet the demand for housing. Instead of the expected investments by institutional investors, buy-to-let mortgage holders, that is, private persons, stepped in (Crook and Kemp 2014b). This development was aided by demand-side

factors (new demand from smaller, more flexible households), while supply-side factors (low alternative returns) and government regulations (a mortgage interest deduction available for landlords) caused rent deregulation to turn out favourable for the buy-to-let mortgages.

These examples show that today private renting is playing different roles when it provides housing solutions for low-income and marginalised households and when it provides a source of housing for higher-income groups. The PRS has increasingly begun to appeal to affluent groups in a number of countries, especially in urban settings. Upmarket private rentals fit the dynamic lifestyle of the new creative class and mobile workforce, and the sector has flexible, shorter-term housing to offer. In a number of countries, the sector is also providing a longer-term secure housing option for wider income segments of the population. Often, regulation protects sitting tenants for a certain period.

Especially where the PRS is integrated into welfare and public housing policies, access and restricting rent regimes are usually geared in favour of lower-income groups. In these cases, the landlords' willingness to accept below market rents may be compensated by various subsidies. 'Supply-side' subsidies come in the form of building subsidies, tax benefits, and the provision of land at below market price, and often a combination of these subsidies, designed to encourage landlords to buy, build, and lease a proportion of dwellings at below market rents (for instance, in England, and Switzerland). In the Austrian and German examples, these dwellings are considered social rentals until the subsidy scheme ends. 'Demand-side' housing allowances, on the other hand, may allow renters to pay market rents to private landlords. Both forms of intervention steer affordable housing provision through the private rental market and, if smartly-regulated, stimulate private investment, while alleviating demand for social or non-profit housing.

A Future for Private Renting

This chapter aimed to provide a historical overview of the development of private renting in Western European countries and offer insights in key factors that may influence its development in transition countries. Rent control, tenant protection, the subsidisation of other tenures, including

non-neutral policy interventions stimulating the rise of social renting and home-ownership, are attributed to contribute to the decline in the PRS in many countries. Private renting only continued to form a large share of the sector (more than 55 per cent) in Germany and Switzerland. However, except for the fact that private renting seems mainly to be a business for 'private person landlords' in most European countries, no clear tendency is visible regarding the position and future development of private renting. Changing lifestyles, household structures, and socio-economic conditions are producing contradictory developments to which policy makers respond in a variety of ways.

However, unlike in the past, a number of countries' policy makers are or have been rediscovering the PRS, especially because of the difficulty younger cohorts are having in accessing home-ownership and because social renting is increasingly being reserved for the needy. In some of these countries, the PRS has increased its market share (most notably in England) or its share has stabilised (France, Sweden).

In countries where access to social rental housing (post-GFC) has become difficult due to shrinking stock, long waiting lists, and bureaucratic uncertainties, the PRS has seen increasing demand from very diverse groups. Young workers, migrants, and marginalised groups often see private renting as one of their few options. These groups are often in a weak market position and have to be satisfied with lower-quality housing, especially where tenants' rights are not universal. But with changing job markets and rising regional mobility across Europe and within the countries, the PRS has also become a market for affluent younger and more mobile higher-income groups in the cities across Western Europe.

These developments are broken down in this chapter into four periods, each of which is characterised by similar housing policies in a number of countries: industrialisation, welfare state development, market enabling, and the re-emergence of regulation in the aftermath of the GFC. These four periods are characterised by different socio-political developments, but housing policies often evolved in similar ways.

However, the PRS has played different roles and catered to different social groups in different countries. It is therefore hard to discern a linear path of development; each period reacted to the challenges of the previous

one within the context of each country, and the different contexts do not necessarily lead to the same outcomes.

However, when considering the case of social housing, there may be consensus in that the rise of the welfare state can be regarded as more of a historical episode, as Harloe (1995) has argued. In the field of housing policy history, Malpass (2005) made a similar claim with respect to post-war state interventions. In his view, public housing was more a temporary reaction of the state to the huge housing shortage than it was a lasting trend. If this is indeed the case, social renting may be increasingly replaced by private renting for those who cannot access home-ownership.

Countries like Germany and Switzerland have a long-standing history of (in Germany tenure-neutral) support for private renting, and France joined this group in the 1980s (Haffner et al. 2009; Schaefer 2015). The UK also took measures relatively early to stimulate institutional investment in private renting by reinforcing investor trust and providing subsidies (Crook and Kemp 2014b). Even though the strategies for strengthening the trust of institutional investors did not bring the expected investments, or did so only temporarily, the buy-to-let mortgages for private person investors were successful. These examples show that the long-term trend of a declining PRS in many countries may not be inevitable. The buy-to-let mortgages can be considered a market initiative, not a government one (Whitehead et al. 2012), while in Belgium Social Rental Agencies were an innovative approach that today the government subsidises (see chapter 'Private Renting in Social Provision: Social Rental Agencies in Western Europe' in this book).

So what exactly are the ingredients of a successful and accessible PRS? What are the most crucial conclusions Central and Eastern European policy makers could draw from Northern and Western European examples?

First of all, a housing market that offers mostly (tax-stimulated) home-ownership may be an incomplete and inflexible supply of housing. It is important to underscore the role of the PRS in catering for households in a transitory position or on flexible labour markets—such as the young, and the mobile. In addition, the more flexible model of the PRS that functions in the UK, Germany and Switzerland offer examples of how the PRS can be a source of stable housing for a large segment of the population which cannot or can no longer access social renting or home-ownership.

Second, government needs to be sensitive to the needs of the sector for it to develop resiliently. If it is the investor that needs to provide the funds—policy makers in many countries are studying options to attract institutional investors to the market—investors need to be able to earn profits that are acceptable given certain risks that require a certain return compared to other investments. Landlord-investors will be discouraged by changes that are unpredictable and possibly ‘too’ tenant-friendly. On the other hand, tenants may not consider private renting a full-fledged alternative if tenant security is considered ‘insufficient’. As the long-term declining trend in private renting in many countries shows, a sensitive balance has to be reached between the interests of landlords and tenants, will the PRS be resilient.

Third, in the countries where private renting has continued to make up a large share of the housing sector, policy explanations can be found for this fact—for example, when private rental housing has been subsidised temporarily to serve as housing for policy-targeted groups in need. An explicit implementation of a tenure-neutral system may also help to maintain a stable PRS. Such policies offer the possibility to remove some of the burden on social housing.

Furthermore, housing policies should not be viewed as separate from other policy areas and market contexts. Consideration should be given, for example, to the relationship between a flexible rental market and capital or labour mobility. A move towards a stable role of private renting on the housing will need patience and fine-tuning: a new balance will often require decades to establish itself.

Notes

1. The focus is on common trends in a number of countries rather than all countries; and more so on Western European countries than other geographic regions.
2. The focus is on common trends in a number of countries rather than all countries; and more so on Western European countries than other geographic regions.
3. On this approach to housing regimes, see Hegedüs 2017 (forthcoming). The main element of this approach is that the tenure structure and its

social context are considered products of different macro-sociological/institutional forces.

4. Die Zeit Online (15. 09. 2015) <http://www.zeit.de/wirtschaft/2015-09/deutschland-wohnungsmarkt-pestel-institut-studie>.
5. The focus is on common trends in a number of countries rather than all countries; and more so on Western European countries than other geographic regions.

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2

The Private Rental Sector Under Socialism

József Hegedüs and Alexander Puzanov

Introduction: The Ideology and Practice of Private Renting Under Socialism

This chapter aims to shed light on the role that the private rental sector (PRS), in its various versions, played in centrally planned economies during the Soviet period and how it affected the development of housing systems during the period of transformation. The PRS was already in decline before WWII in Europe as state intervention—most notably in the form of rent control and the strong protection of tenants' rights—discouraged investment in the rental sector for an extended period. As discussed in the preceding chapter, various forms of public housing provision and an

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expanding owner-occupied sector replaced private renting as the dominant form of tenure in most of Western Europe. The housing policies of socialist countries drove the PRS into sharp decline as private/commercial renting was considered a form of 'exploitation'. Nevertheless, certain forms of private rental tenure survived. This chapter will explain how and why this happened.

The first question is how politicians in the early period of socialism envisioned the 'socialist housing model': what their expectations were in terms of the allocation, financing, and production of housing. Thus, the first part of the chapter summarises what the classic Marxist ideologues thought to be the best model of socialist housing and how in theory it was expected to work. The main interest, however, is 'applied' socialism, that is, how the political and economic system in Central and Eastern Europe managed the housing sector and what role the PRS played in the housing system. In the second part of the chapter, the East European Housing Model (EEHM) is redefined (the first approach was introduced by Hegedüs 1988; a more 'mature' version was applied later by Hegedüs and Tosics 1996). Drawing on recent data, the varieties of EEHM are explained as resulting from the economic and political development and the global challenges of centrally planned economies. The socialist housing system was the product of a compromise between political objectives, socialist ideology, existing power structures, and economic reality (on housing specifically, see Hegedüs 2016; for a more general discussion, see Kornai 1980; Fehér et al. 1986). The third part of the chapter sums up the subtypes of the PRS that changed over time and analyses the role of the PRS in 'mature' socialism.

While in the international literature and general discourse, the countries of the former Eastern bloc are often called 'communist states'; here we refer to them as 'socialist states', based on their internal ideological shifts and use of terms. 'Socialism' and 'socialist states' are terms that refer to those Central and East European countries that had a centrally planned economy, single-party rule (almost invariably the ruling party was called the communist party), and an ideological background rooted in communist ideology. With the end of the hardliner Stalinist era in 1953 and the obvious impossibility of putting pure communist ideas into practice, state ideology shifted towards calling these regimes 'socialist'. The long-term goal of an ideal new

society was to achieve pure communism; however, this goal was gradually modified as the practical challenges of fulfilling it became more apparent.

The authors of this chapter are aware of the fact that during socialism the PRS was mainly part of the informal sector and that, consequently, very little reliable data and analysis are available. The chapter therefore rarely uses official data as its source and draws more on small-scale surveys and studies by Western visiting scholars and literary sources, such as observations from contemporary visitors, newspaper articles, interviews, and even descriptions in novels. Without this historical overview, however, it would be impossible to understand the typical attitudes of the PRS actors in post-transition countries.

Private Renting and Socialist Housing Theory

The classic Marxists were of little help to the ‘housing politicians’¹ of the socialist system, whose task it was to formulate a socialist theory of housing. They argued that the housing problem was a product of capitalism and would disappear once the new social system was established. For this reason, it was not of crucial importance for them to establish the ideal that the socialist housing system and socialist policy sought to achieve. Nevertheless, Marxist ideologues’ analyses of the housing situation and discussions of contemporary theories provide some clues as to the main principles of socialist housing. These reflect the ideals of socialist housing theory but do not constitute the principles of practical housing policy principles and should therefore be considered more of an ideology than a theory.

In formulating their housing theory, socialist thinkers had to respond to four basic challenges that were emerging in modern societies: (1) the goal of attaining equal distribution of housing wealth, (2) the question of property, (3) the role of the state and the market, and (4) the rural-urban divide.

Equal Redistribution of the Housing Stock

In ‘The Housing Question’ (1970[1872]), Engels argues that the problem of housing is basically a distribution problem. He claims that the housing shortage would disappear if the housing stock were more equitably distributed among households.

But one thing is certain: there are already in existence sufficient buildings for dwellings in the big towns to remedy immediately any real ‘housing shortage’, given rational utilization of them. This can naturally only take place by the expropriation of the present owners and by quartering in their houses the homeless or those workers excessively overcrowded in their former houses. Immediately the proletariat has conquered political power such a measure dictated in the public interests will be just as easy to carry out as other expropriations and billetings are by the existing state. (Engels 1970[1872], p. 30)

This argument lent support to the widespread practice of nationalisation and the confiscation of ‘surplus’ housing in the early stages of socialism in the Soviet Union and other Eastern bloc countries. However, an egalitarian allocation of consumption goods ran counter to the merit principle, which was considered the most important principle of (property) allocation during the early stages of socialism. Moreover, in practice, the redistribution of the housing stock in the first years of socialism (the 1920s in the Soviet Union and the 1950s in Eastern Europe) often only had the effect of replacing the old ruling classes with the new political elites, as shall be seen below.

Engels’ principle of egalitarianism was an important element of socialist ideology, and it had an effect on the policy of housing allocation as well. One of the main features of socialist societies was that they sought to control housing needs (Fehér et al. 1986). The socialist state was supposed to be in control of housing consumption, but it was not clear based on what principles this scarce resource was to be allocated among households. Basically two approaches are hinted at in the literature (and used in practice): need-based and merit-based allocation.²

According to the theory, the principle of merit was the more important principle of allocation in the first stage of socialism, while need would be the dominant principle in later stages, as socialism was expected to eventually develop into a more advanced stage where it became communism. However, the mainstream ideology of socialist housing did not reflect contemporary social reality. This is why, for instance, the political elite in Hungary were disappointed when sociological research conducted by Iván Szelényi and György Konrád in 1968–1969 forced them to recognise that housing policy had actually benefitted the middle and upper-middle classes (Szelényi 1978).³

The Difference Between Private and Personal Property: Housing Classes

The second element of socialist housing theory was based on the doctrine that capitalist exploitation and the ownership of capital are tied together. This gave rise to a theoretical question about housing as a type of property: is housing an instrument of exploitation, or is it possible to make sure that it is only for personal use? According to Marxist theory (Marcuse and Schumann 1992, p. 65), there is a difference between *private property* and *personal property*. While private property allows exploitation (i.e. it is possible to have an income without work), personal property is property is for direct personal use, with a limited right of disposal, and it cannot be used to make a profit.

The classic Marxists did not discuss forms of housing tenure as such, although the debates between Proudhon and Engels may be relevant for the modern sociology of housing. Proudhon argued that if the working class became homeowners (through cooperatives or individually), exploitation based on housing assets would disappear. Engels countered that the structure of capitalist exploitation in the production sector was what really mattered and argued that there was only one way to put an end to the housing shortage: end the ruling class's exploitation and oppression of the working class altogether (Chelcea 2012).

Mainstream socialist ideology saw property relations as hierarchical, where the highest form of ownership was state ownership, followed by

cooperatives, with personal ownership at the bottom. As society developed, state ownership was supposed to become the norm, but political compromises allowing inferior forms of property to exist were necessary during the transition to communism.

The focus of attention was the effect that various tenure forms could have on the social position of households. Some sociologists on the left tried to use housing tenure as a determinant of social class, arguing that class was determined not only by property relations in the production sector but also by property relations in the consumption sector (Rex and Moore 1967; Saunders 1978, 1984).

The State and the Market—Housing Provision

The third element of the ‘ideal’ socialist housing model is the relationship between the state and the market. According to the theory, the state should be the main provider of housing. However, a great deal of resources would have been needed to exercise such control, especially as housing is a ‘special good’ (a highly valuable good with a long lifespan). Given the amount of investment required for industrialisation, the resources that were available for housing were very limited. In order to reduce housing shortage, almost all socialist countries introduced financial schemes for housing investments that used state-controlled loans rather than the state budget financing the housing construction directly. However, compromises such as cooperatives and private investment in housing weakened the state’s control over housing provision, which Hegedüs (1988) called ‘cracks’ in the system.

Matthews (1979) applied the same perspective as Hegedüs in his analysis of the social dimensions of Soviet urban housing and defined the areas in which the state controlled the sector:

State control of housing was always, in theory at least, rigorous for both public and private sectors. From a social point of view seven levers may be distinguished ... They included, at the level of general planning, the overall amount of housing available at any given time, its location, the type of building put up (from the traditional wooden *izba* to the skyscraper), and

the type of ownership promoted. In the sphere of occupancy the authorities determined the amount of space, allotted the rents, and the actual distribution procedure. (Matthews 1979, p. 106)

The role of the state and the market has been the key issue in research on socialist housing systems. The role of the market varies in different countries and from one period to the next, and some researchers have claimed that the role of the market in the socialist housing systems increased over time. Donnison and Ungerson (1982) argued that the housing policies of socialist and capitalist countries converged as more and more market elements were incorporated into socialist housing policies. However, Hegedüs and Tosics (1996) argued that in socialist countries the state continuously determined how the housing system operated and politically managed what limited role the market played.

The Urban-Rural Divide

The fourth element is the urban-rural balance. This was a very important issue, as during the processes of industrialisation and urbanisation the reallocation of housing stock was ineffective at resolving the housing shortage (contrary to Engels' assumptions). The acceleration of industrialisation exacerbated the housing shortage, and the additional investment in the 'unproductive' housing sector would have taken resources away from investment in industry.

The socialist policy of urbanisation sought to create an optimal balance between the rural and the urban population, and this had consequences also for housing policy. The political aim of speeding up industrialisation and economic growth to compete with the capitalist system caused industrial jobs to increase rapidly in number, while the investment in housing was unable to keep up with demand. Forced industrialisation (and the economic policy based on industrialisation) tried to minimise investments in 'unproductive' areas like housing and avoid the social problems of over-urbanisation. One school of socialist urban theory favoured decentralised urbanisation and that was the 'disurbanist school', which argued that in socialism there would be an even spread of population

throughout the country, bringing the city to the peasants' (Paul and Percival Goodman 1960, p. 73). It also rejected urban concentration as a form of state capitalism.

Controlling urban growth in traditional industrial centres was a huge challenge for urban policy. Targets on limiting urban growth, especially in big cities, were never met, and this fuelled the housing shortage, even if housing production was initially planned properly (Andrusz 1984, 1990). However, there were attempts to control urbanisation from time to time in line with socialist ideology; extreme examples of this have been seen in China, Cambodia, and Ethiopia. Konrád and Szelényi (1977) developed the 'under-urbanisation theory', according to which 'peddlers' (a large group of commuters) are the product of a specific model of urbanisation. From the early 1980s, industrial growth slowed and new housing construction increased; this eased demographic pressure but did not eliminate the housing shortage.

Varieties of the East European Housing Model and the Role of Private Rentals

European socialist economies, under the influence of the Soviet Union, followed a course of development that was characterised by certain specific features. The ideology behind the socialist housing system had a limited impact on real-life outcomes as 'theoretical constructs imposed on historical reality' (Marcuse and Schuman 1992, p. 60). It is important to understand that in the socialist political system housing was ideologically important, but actual policies were determined more by practical considerations and political interests than by socialist housing ideology.

Housing policy was influenced much more by the practical needs of the institutions of the socialist system than by the ideology. As Beyme argued (1982, p. 334), there was no uniform theory of socialist housing policy across countries in the early stages of socialism, but given that in most cases socialist systems were born out of war or civil wars that had caused widespread destruction, living space was in particularly short supply. Hegedüs and Tosics (1996) defined a specific model—the EEHM—

that captures the main principles and features of the housing system under the socialist, political, and economic structure. Nevertheless, housing systems in the region were not identical, partly because each country had different institutional, legal, and political traditions, which influenced housing policy, and partly because the development of the socialist political and economic system followed a specific path, which also had an effect on housing policy.

The main characteristics of the EEHM (Hegedüs and Tosics 1996; Hegedüs 2016) were single-party political control over the housing sector, the subordinate role of market mechanisms, the absence of market competition between housing agencies (replaced by bureaucratic coordination), and extensive control over the allocation of housing services (in the form of huge, non-transparent subsidies). In his analysis of the Soviet urban housing system, Matthews (1979, p. 106) defined the 'seven levers' with which the state was able to control the housing system, and these were through the amount of housing, the location of new housing construction, the type of new housing construction, the type of ownership, the amount of space allocated, rent level (and housing costs), and distribution procedures. Hegedüs (1988) defined different types of housing provision based on the type of control exercised over the land market, building materials, the labour market, housing finance, building regulations, and the type of developers. Although the socialist political system sought total state control over society, the state's capacity for control was limited, which explains the different varieties of EEHM that existed. According to Hiroshi (1970), consumption-related private property allowed people to access unearned income. Attempts were made to limit these incomes through legislation, but perfect enforcement of this was unfeasible and in some cases even detrimental.

However, several versions of this model emerged as individual countries responded differently to problems within the socialist economy (Turner et al. 1992). Structural factors thus form the main features of EEHM, while divergences from the model can be explained as 'policy options' taken by individual governments.⁴ Marcuse and Schumann (1992) speak of system-dependent features of the housing system and features that are system independent. This is very similar to the approach used by Hegedüs and Tosics, which defines the EEHM as the ideal type,

while the versions of it in individual countries differ owing to the influence of system-independent variables. However, the factors used to explain this are very different in the two approaches. For instance, Marcuse and Schumann attributed more importance to ideological factors, while in the approach of Hegedüs and Tosics, economic and political factors play a more important role.

From an economic point of view, the housing system was part of the shortage economy (Kornai 1980). The various sectors of the economy were bureaucratically coordinated rather than being governed by market mechanisms. The allocation of resources to the housing sector (e.g. investments and loans) was managed by the state decoupled from factors of supply and demand. In East European socialist countries the state meant not only the central government and the councils (deconcentrated units of the state) but also state-owned enterprises, which made up the majority of actors in the economy and which were integrated into the economy through the communist party. Housing was extremely decommodified and the vast majority of services were provided 'in kind' or at a below-market price and allocated on the basis of 'merit'. The artificially low, subsidised housing services and prices in the state housing sector resulted in constant shortages of housing, which led to the development of a dual housing market. This meant that a quasi-informal economy existed alongside the state-controlled housing sector, consisting of self-built housing, private transactions in the rental sector, private transactions in the real estate market, a subletting market, and a small, entirely PRS (Alexeev 1988, 1990; Hegedüs and Tosics 1996).

In sociological terms, the problems in the socialist housing system were caused by the disparity between the ideological aims of housing policy and reality. Rapid industrialisation and urbanisation brought the socialist housing system face to face with insurmountable difficulties. This caused 'cracks' (Hegedüs 1991) in the housing model: in order to get around the problems with the system, the actors in the housing system began to behave in a way that was at odds with central planning, and the institutional and legal framework could not easily prevent this behaviour. Countries responded differently to the appearance of these 'cracks': they either maintained strict control mechanisms (Bulgaria, Russia, East Germany) or allowed quasi-market processes (Yugoslavia, Hungary).

Yugoslavian guest workers, for example, brought home earnings from Western Europe and invested them in private housing. Similarly, in Hungary, income from the informal economy—mainly from agricultural production—was used to improve housing conditions (Fig. 2.1).

As their informal economy contributed to economic growth, in Yugoslavia and Hungary the state accepted its existence as a compromise. Informal activities forced the system either to allow such transactions to take place within a controlled framework or to apply tough penalties in order to minimise the scope of the private sector. Although these countries were in a position to intervene and rectify this situation, they chose not to. Several examples illustrate this lenient policy, such as uncontrolled market-like transactions in the public sector, for example, an apartment exchange where one side compensated the other for the difference in value of the two properties; the informal use of state labour force and scarce materials in private construction; and so on.

It is difficult to establish a concept of social housing for the EEHM because state or council housing was clearly not identical to public rental housing. State housing included the provision of housing with different forms of tenure (rental, cooperative, and owner-occupied),⁵ and the state exercised tight control over all of them in terms of investment, housing standards, costs, and prices. There was no specific subsector or sphere that could have been called 'social housing'. Thus, there was no need for housing assistance in the formal housing market because of the heavily subsidised (or in some countries, in some periods, entirely free) rents, housing, and utility services. As the informal market was not officially acknowledged, no income support was applied there.

The 'public rental' sector was a comprehensive category that included various types of state housing: enterprise housing, municipal council housing, and rental stock that were jointly managed by councils and state enterprises. 'Enterprise housing' was especially important in socialist economies dominated by the sectoral ministries. Large state-owned enterprises (called 'trusts') developed and managed their own housing stock. Workers' hostels were a special type of enterprise housing that provided accommodation for the first generation of industrial workers who had migrated to urban centres from rural areas. Enterprise housing was widespread in the Soviet Union, but it also made up 13 per cent of the

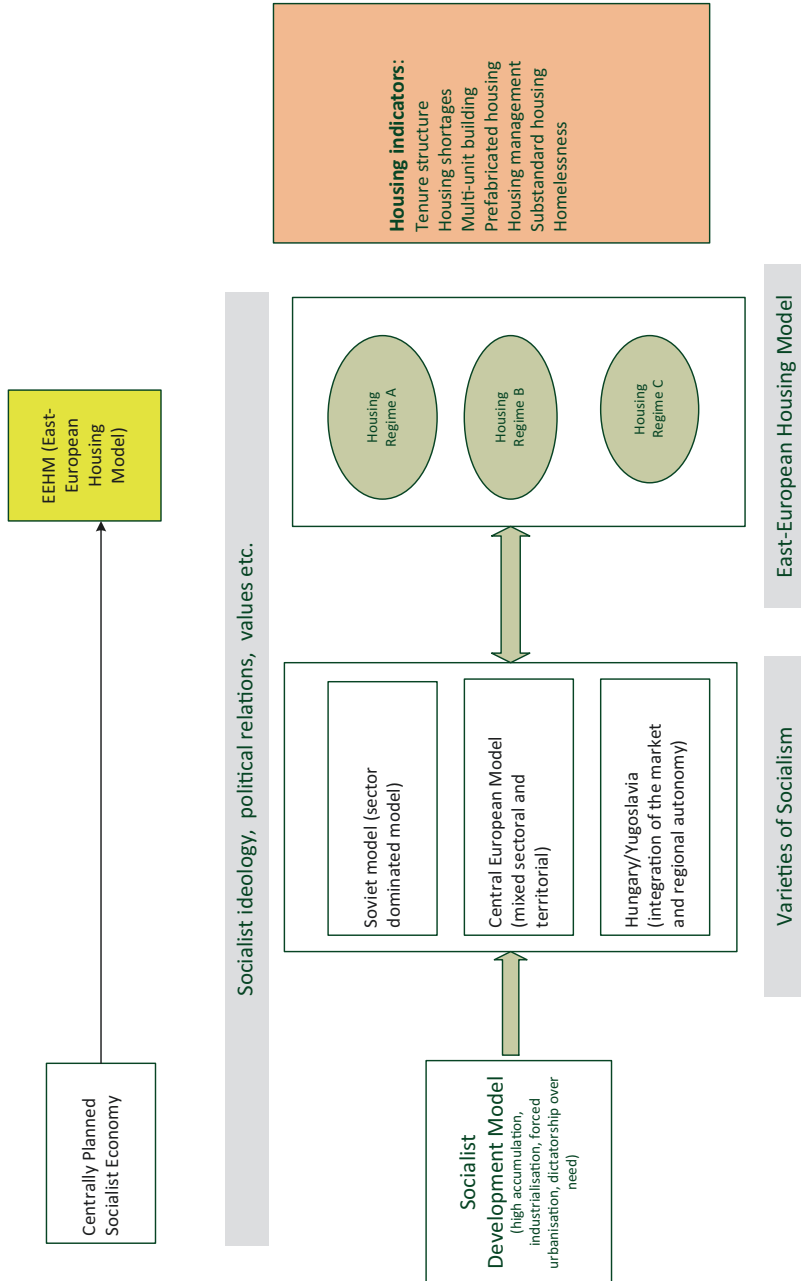


Fig. 2.1 A description of the EEHM and its different versions

housing stock in Poland and 6 per cent in Slovakia (Hajduk 1996). In the council housing system, local governments (as decentralised agents of the central government) had developed, managed, and allocated their own public housing. This system was typical in Poland, Hungary, and the Czech Republic, among other countries. There was a third type of public housing in the former Yugoslavia, where, according to the model of socialist self-management, public housing was under the joint control of local enterprises and local councils. There were also other special forms of tenure that fell into the category of public rental. ‘Tied accommodation’, of which there were various kinds, was a form of rental accommodation tied to certain jobs, such as being a member of the army or a police officer, or to work for state companies such as the national railway companies. In Hungary, public housing management companies provided the caretakers of multi-unit buildings with apartments. Tenants in all of these tenure forms typically had strong tenancy rights: they often had the right to exchange, pass on to descendants, and even ‘sell’ a tenancy (Alexeev 1988; Hegedüs and Tosics 1996). Only the tenants in tied accommodation in some cases had more limited tenancy rights.

This overview of the EEHM shows that social housing policy was part of the broader welfare system and should be analysed within this wider context. However, comparative studies have had difficulty conceptualising the Soviet ‘welfare system’. Classifications such as the ‘Industrial Achievement-Performance Model’ (Wilensky 1975) or ‘authoritarian welfare state’ (Aidukaite 2009) do not bring us any closer to understanding the welfare regimes of socialist countries. According to the ideology (constitution, laws, and policy guidelines), these societies ought to have been quite egalitarian, but detailed analyses have shown that in reality, people’s long-term prospects were determined by their political and economic status (Szelényi 1983; Szelényi and Manchin 1987). According to research on pre-transition socialist housing systems, state housing subsidies increased inequality and favoured higher income and more influential groups (Szelényi 1983; Hegedüs and Tosics 1996; Alexeev 1988).

Private renting did not, in theory, fit into the socialist housing model, but it did exist as a ‘crack’ in the system in every one of the countries as a result of the shortage of housing and the extreme pressure on urban hous-

ing markets. Its actual role, however, depended on how housing policy (and politics in general) managed the ‘anomalies’ attached to the different forms of private renting.

Informal Private Renting: A Compromise in the Socialist Housing Model

The main feature of the housing problem in the socialist economies was the housing shortage, which was a consequence of the overall socialist ‘shortage economy’ (Kornai 1980), and intensive industrialisation, which meant transforming predominantly agrarian economies into industrial economies and gave urban centres a bigger role. The pressure this put on urban housing markets meant that huge investment in housing was required, but according to socialist industrialisation theory, this was considered an ‘unproductive’ form of investment. Consequently, housing always lagged behind industrial investment and became a driving force of under-urbanisation.

One of the most important consequences of industrialisation (especially before the late 1960s, when what is known as the ‘extensive stage of development’ of socialism was in progress) was the increasing number of long-distance commuters and the hidden homelessness in urban areas. In socialist societies, street homelessness was not tolerated; people who moved to the city without permanent accommodation had to share an apartment with relatives or friends, rent a bed or room, or live in low-quality shelters without being visible to the authorities.

The ‘least favored’ urban dwellers are those clustered beyond the border of Moscow, Leningrad and other large cities; they commute long distance to work by bus or train. Living in crowded tenements and dormitories, often in sight of the city’s outermost high-rise buildings, they are the ‘Soviet urban poor’, the people who lack access to the amenities of the cities. (Morton 1985, p. 63)

This pressure on urban housing markets created a quasi-private rental market, where the landlords were both tenants in the state sector and pri-

vate 'owners' of their home. They typically sublet their property, leasing only a part of their home to a subtenant, though in the later stage of socialism people, could often sublet a whole house or apartment without facing trouble from the authorities. However, before analysing the subletting sector, which existed throughout the history of state socialism, it is important first to understand the housing measures that were introduced immediately after the communist coup and led to the massive redistribution of the housing stock.

The confiscation or nationalisation of privately owned housing and forced cohabitation were typical methods the socialist state used to expand the state rental sector and ease the pressure on the market. However, in several countries, nationalisation was not comprehensive, and often in the case of smaller dwellings, ownership was not transferred; but the state housing authorities controlled tenancies, resulting in a 'forced private rental sector', in which the state retained control over who lived there and in what conditions (rent, maintenance, etc.). This sector thus consisted typically of housing units that were not nationalised, but all control over the apartment (rent setting, allocation, and leases) was transferred to the council. The reason this sector existed was that it was administratively difficult to manage small units scattered around a large area. Different forms of subletting were considered a temporary solution until socialism reached a more developed stage, and subletting state-owned rental and privately owned housing units was legal.

Redistribution of the Housing Stock in the Early Years of Communism

After WWII, all socialist countries (except, of course, the Soviet Union, where the transition started in the 1920s) took administrative and legal control over the housing stock and within a few years had nationalised a portion of the stock. However, the timing of nationalisation and how it was regulated were quite different across the countries. Nationalisation did not necessarily begin immediately after the communist parties took power because the housing authorities were already able to intervene in

the private sector. In Hungary, the state did not officially initiate nationalisation of the housing stock until 1952.

In the first years after the communist regimes established themselves, drastic methods were employed to redistribute the housing stock. In Budapest, Hungary, 13,670 people were deported to the countryside in 1951, and their vacated dwellings were allocated to communist party members (Széchenyi 2010). In Romania, a similar expulsion process took place in 1949–1951, where the homes of ‘class enemies’ were confiscated and redistributed to the new political class (Chelcea 2012). These processes generally unfolded chaotically as several state organisations competed for control over housing (Hegedüs and Tosics 1983; Chelcea 2012, p. 286–287). Forced cohabitation was one of the most radical methods used to redistribute the housing stock, and even a single individual could initiate the process. In general, the shortage of dwellings meant that in a dwelling with occupants, those occupants could be forced to share the living space with other occupants/another family assigned to the dwelling by the authorities; the two cohabiting families had the same tenancy rights. Often, therefore, two or more families shared the same apartment, with complete strangers crammed together in overcrowded dwellings. In the Soviet Union, as much as 20 per cent of the housing in urban areas in 1980 had occupants who were forced to live together, while 5 per cent of the urban population lived in workers’ hostels and dormitories (Morton 1985, p. 62). This process of forcing households to live together resembled what Boris Pasternak described in his famous novel *Dr Zhivago*.⁶ In East Germany, the authorities assigned households to dwellings that they considered to be under-occupied (Marcuse and Schumann 1992, p. 71).

The Forced Private Rental Sector

Not all the housing stock was nationalised; rural stock and buildings with fewer than the minimum number of units typically remained privately owned, although the exact regulations varied from country to country. Forced private renting meant rental property that was not legally confiscated so that, for example, a rented apartment continued to have a pri-

vate owner or landlord, but the landlord's property rights were extremely limited.

In Hungary, multi-unit buildings that had fewer than six apartments were not privatised. In East Germany, which was an outlier in this respect, only a very small part of the housing stock was nationalised. The rent freezes and extremely strong tenant protections introduced in the inter-war period there remained in place after WWII, which made private renting entirely unviable, but because a large portion of the population were already living in rented housing, this also made the confiscation of housing unnecessary.

Since investment could not produce a profit, rents could not be raised, buildings could not be profitably sold. Often landlords offered their buildings for no payment to communities and generally were turned down; the communities as well as the landlords saw ownership only as a burden, requiring investment but no financial return. (Marcuse and Schumann 1992, p. 71–72)

For the owners of the property, 'forced private rentals' were more of a financial burden than a source of income, and initially, the owner may also have had the nuisance of having to accommodate a household. Most households that rented from these private landlords resided in buildings that were old and in disrepair, and there was nothing in this arrangement to encourage the owners to take proper care of the dwellings. It was possible for this kind of housing unit to be sold to sitting tenants, but this was unlikely to happen. Tenants seldom had the resources to buy, and the run-down units were unappealing. 'Protected rents' functioned similarly in Yugoslavia, and tens of thousands of such units continued to exist long after the dissolution of the Federal Republic. In 2002, 49,000 households in Croatia lived in apartments with regulated rent, and 12,500 rented an apartment that they shared with the owner, compared to 50,000 households that were living in privately rented housing (Council of Europe (CoE), 2003. p. 127).

In East Germany, it was possible to offer this kind of dwelling to the state for sale, but the state did not automatically accept the offer 'because of excessive repair maintenance and running costs compared with the low

level rent' (Stammler 1984, p. 238). This situation resulted in a growing number of vacant units in East Germany.

Despite thousands of urgent applications for flats a large number stood empty. The extremely low rents (0.50 DM per square metre to 0.90 DM per square metre) as well as security of tenure—made possible by strong protection against the possibility of being sacked—were looked upon as indicators of social successes. (Tanninen et al. 1994, p. 15)

Ball and Harloe reported a very similar situation in Poland:

The third form of tenure is privately rented housing. 14.7 per cent of Poland's urban housing stock was in this form of tenure in 1971. This might seem surprisingly high but in many cases the landlord/tenant relationship bears no resemblance to the situation in the UK. Privately owned blocks of flats, which constitute most of the stock for renting, are strictly controlled by the municipality. Rents are set at the level for equivalent state housing, major repairs are undertaken by the municipality and tenants are selected in the same way as state housing. This leaves the landlord solely with the nominal role of administrator and a guaranteed right to accommodation. A considerable part of this stock lacks adequate amenities and it is in a poor state of repair. (Ball and Harloe 1974, p. 24)

In the forced PRS, the owners were responsible for the maintenance of the dwelling, but the rent paid by tenants was insufficient to cover the costs, which resulted in frequent conflicts between tenants and landlords. The only way a landlord could remove a tenant from their apartment was if they offered the tenant comparable alternative housing, similarly to buying out a tenancy right.

In Hungary, forced private renting was a by-product of partial nationalisation. After 1953, the authorities ended the practice of forced private renting, and the Housing Law of 1971 made it impossible to legally create more such tenancies, although the existing ones continued under unchanged conditions. Depending on the 'market' position of the dwelling, some owners spent years or decades trying to recover their property for their own use or for sale. In Hungary, there were some cases where third-party 'investors' bought such apartments at a reduced price, hoping

to get rid of the tenants at a reasonable cost. The number of tenancies of this kind decreased throughout the socialist period, and by 1990, there were only 1911 such cases.⁷ The first democratically elected government launched a programme to subsidise municipalities that offered tenancy rights to their inhabitants to help owners access their property.

Subletting Public and Privately Owned Rental Housing

Perhaps the tenure form most like the PRS in socialist societies was subletting. Hardly anyone in these societies had multiple dwellings, as ownership or tenancy rights to more than one dwelling were usually not permitted. Although there were ways to circumvent this regulation, it was still limited to a very small segment of socialist societies. There are no reliable statistics on the size of the subletting sector, but it can be estimated that in each state subletting accounted for 2–5 per cent of the entire PRS (which includes subletting and the private rental of whole flats), and in urban areas, the share of people living in some form of private rental was as much as 10 per cent in most socialist countries. In widely published national statistical analyses ignoring the subletting/PRS was in line with state ideology, which denied both the role of private entrepreneurship and the existence of the housing shortage, though the authors of contemporary statistical analyses were well aware of its importance (HCSO 1984, p. 9). As shown above, nearly 15 per cent of Poland's urban housing was some form of private rental (Ball and Harloe 1974, p. 24), while in Moscow, more than 10 per cent of flats in some housing blocks in Moscow were sublet/private rentals, and the demand for such housing was consistently high in central areas (Morton 1984). A statistical survey conducted in Hungary in 1983 found that 10 per cent of the national stock was rented privately (which includes forced rentals as well as for-profit renting) and another 6 per cent were sublet. In the capital, the share of dwellings in which some space was being sublet had reached 10 per cent by 1970. In Croatia 41,293 units were categorised as private rentals in 1991, accounting for 2.8 per cent of the total housing stock.

The need for housing and the pressure on the urban housing market was an important feature of socialist industrialisation. Moving to major urban areas was usually strictly regulated with a view to counter-balance their dominant role. Morton (1984) describes the Kafkaesque bureaucratic obstacles put in place to prevent people from attempting to settle in Moscow:

To move to a major city, a *propiska* (residence permit) is required. But to be eligible for a *propiska*, it is necessary to have housing accommodation, for which one needs a *propiska*. Therefore, to gain a *propiska* one must find accommodation...because residence permits are issued for specific street addresses and are attached to one's internal passport. (Morton 1984, p. 21)

One legal channel by which people were able to move to a major city involved what were called 'limits', which were permits provided to workers so that large industrial enterprises could attract the labour they needed. A person on a 'limit' work assignment in a city would/could be issued a temporary *propiska*, on which basis they then usually resided in a dormitory, and after a certain period of time, such workers could be put on a waiting list to eventually obtain a permanent *propiska*.

A family with an extra room in their home—for instance, after the children had grown up and moved out—could choose to sublet the rooms for additional income. Rooms for rent near city centres were in especially high demand and were the most expensive, although rents across the subletting sector were several times the rent level of public housing. Morton describes how this semi-regulated solution was an inevitable compromise within the Soviet housing system:

Prospective sub-tenants must file an application with the local housing office, and once a *propiska* is obtained, permission to sublease⁸ is usually granted. Soviet authorities accede to this practice, realizing that the black market in subletting is a necessary safety valve which takes care of a portion of the overflow demand for housing. To suppress such activities would place housing officials under even greater pressure to distribute rooms and apartments which they do not have. (Morton 1984, p. 23)

In the Soviet housing system, sublets therefore served the housing authorities as a crucial tool for alleviating the social pressure caused by the serious housing shortage. Due to the semi-formal nature of sublets, however, they were also used as a policy tool in an attempt to stem mobility housing patterns that state policy deemed undesirable. Once a *propiska* was obtained, it was the task of the 'passportist' at the local housing offices to take the application to the district police station, where it would be processed and permission to sublease granted; but passportists as well as the police often denied applicants a place on the housing waiting lists. People that Morton (1984) describes as the class of 'urban poor' settled in peripheral areas with very limited amenities and were rarely given permission to move from the outskirts or suburbs of urban areas closer to the city centres—at least, not without 'official sponsorship'.

This system of contradictory incentives triggered a series of behaviours in people in need of an acceptable residence and with no resources to bribe officials, 'trickeries' undertaken to 'beat the system'. Discussing the challenges of Soviet housing Morton describes some of these tricks, which were not, however, limited to the Soviet republics.

One quick route out of the provinces and into a large city is to find a marriageable resident who has a *propiska*. Fictitious divorces also take place so that couples can receive more spacious accommodations than they would have obtained if they remained legally married. More important, however, to circumvent the system, one must resort to *blat* (influence), a bribe, or both. [...] As even Pravda complained (2/11/73), 'too often the decisive factor is not the waiting list, but a sudden telephone call...' (Morton 1984, p. 23)

While the practice of subletting a part of one's dwelling was widespread and well-known, it was a compromise in the system resulting from the housing shortage, and no statistics whatsoever were collected on sublets. Renting part of a dwelling could mean anything from a subtenant-tenant cohabiting arrangement to renting a single room or even a single bed. Subletting was legal both in public rental units and privately owned housing. The rents and the maximum area of a flat that could be sublet was regulated. However, authorities rarely had the capacity or the political will to enforce rent regulation in this submarket, which led to the

development of a full-fledged informal subletting market dominated by 'market' prices and, perversely, the rents in this 'market' sector could be much higher than the rent the sublessor was being charged as rent on the entire public rental dwelling.

Most observers noted that the 'market rent' in sublets was significantly higher than the legal rent ceiling. In Hungary, the 1971 Housing Act set the legal rent limit in sublet public rentals at three times the level of rent in a state-owned rental unit, adjusted to the area of the sublet. Private rent levels in the capital Budapest could be as high as 2500 forints per month for a room in an apartment where total public rent was one-fifth this amount, and since the average salary in the 1970s was around 2600 forints, a couple could spend 50 per cent of their income on housing alone—in a single sublet room (Kacsenyák 1959, p. 61).

Sillince came to the same conclusion studying the Soviet system. He noted 'widespread illegal subletting at exorbitant rates' in the cities of the USSR in the 1980s (1990, p. 33). He compared heavily state-subsidised official housing, where rents and utility costs were kept artificially low, to unofficial (although legal) subletting and found that 'the average Soviet family spends a little less than 3 per cent of its income on rent and utilities, that is, 12 roubles a month', while subtenants paid anywhere between 50 and 150 roubles a month for the part of the dwelling that they used. Manning (1980, p. 154) found similar informal rent levels at around 100 roubles a month, while, he noted, public rental flats typically cost 7 roubles. He also quoted Matthews' estimate that 5–10 per cent of the urban population in the Soviet Union were living in sublet housing.

In Poland, Ball and Harloe (1974, p. 24) found that properties that contained fewer than four dwellings were exempt from rent regulation, and renting a unit in such a building cost 5–10 times more than renting public housing. Although there were no estimates of what share of the population were living in housing in the informal rental sector, Ball and Harloe believed that at least 5 per cent of Polish society were living in sublet housing.

In Bulgaria, rents on privately sublet units in the 'black market' could be as high as 50–80 per cent of a person's monthly household income in families with two employed persons. Although municipal regulation in Bulgaria established a maximum rent level, the authorities again lacked the capacity to enforce the regulation (Tsenkova 2009, p. 28, 126). In the

early 1990s, the housing shortage was still a major issue, and the availability of housing units was further reduced as many urban units were converted into office space (Johnson 1992, p. 133).

The typical tenants in costly semi-legal sublets were first-generation workers and intelligentsia from a rural background who had moved to the city. The market in housing was very tight with almost no vacancies, and without personal connections or substantial help from their modest-income families, these young people had no other way to find accommodation except as subtenants paying high rents (Johnson 1992).

There was also housing trickery on the part of the (would-be) sublessors. In Hungary, Kacsenyák (1959, p. 61–62) noted the problem of profiteering and the abuse of tenancy rights in state-owned flats that were larger than what the housing legislation permitted, whereby tenants sometimes exploited the housing system by subletting and thereby earning income without work—a situation in direct contradiction with communist ideology. Nonetheless, we can safely assume that sublessor landlords were very diverse in background and many of them had limited income, so subletting provided them with more financial security but not the kind of outstanding income levels associated with Western Europe's (real or perceived) 'rentier class'.

There is a noteworthy parallel in how socialist-era subletting worked with Crook and Kemp's (2011, p. 7–14) description of the perception and reality of private landlordism in the post-war period in England discussed in the previous chapter. Without much research or statistical evidence, landlords were portrayed as 'greedy capitalists' by political leaders and perceived as such also by most strata of society. When systematic research was eventually conducted on this, however, it found that the majority of landlords were in fact low-income households who supplemented their meagre revenues by making use of their extra living space as rental units. Although profiteering may have been an issue in some cases, our knowledge of the socialist societies and shortage economies in Central and Eastern Europe suggests that many sublessor landlords were probably low-income persons themselves, and the fact that they usually only had a room or a bed, rather than an apartment, to share supports this observation. Unlike in England, statistics on this form of tenure were not because policymakers were careless but because the entire sector was semi-legal

and at odds with the ideology of the state, and consequently policy ignored the sector as a whole.

‘Maintainer contracts’ were not a form of sublease per se but involved an arrangement where people made extra income off a public tenancy right. The ‘maintainer’ in this sense was an ‘investor’, who entered into a ‘maintenance contract’ with an elderly public tenant, whereby the maintainer undertook to care for the tenant until the tenant’s death, after which the maintainer would receive the tenancy right. ‘Maintenance’ was provided in kind, as opposed to an annuity contract where the contractual party with regular income provides financial support to the elderly party. Maintenance contracts—like annuity contracts—were usually signed for the main purpose of obtaining housing, although the content of the contract could vary according to the agreement of the parties. While the ownership right/title of a dwelling was the subject of most of these contracts was, they also frequently involved transferring the right to lease.

Conclusion

This chapter showed how private residential leases were inconsistent with the theory and ideology of the socialist housing system and that therefore the PRS was nominally inexistent in socialist housing systems. Neither privately owned real estate nor public tenancy rights were (according to ideology) supposed to be used for financial ‘exploitation’: housing was solely for personal use and only to an extent corresponding to a household’s needs. Using it to make a profit was considered damaging to the social fabric of communist society.

However, in practice every socialist state was forced to accept a compromise and overlook the existence of various forms of private housing in the rental sector and in self-built housing because the state was unable to provide the amount of housing required given the demand on its resources by industrialisation and urbanisation. Different versions of private renting emerged as a result of this political compromise, and most notable among them was the practice of subletting and the regulated forced system of private renting.

The urban housing shortage and the limited state resources for dealing with the shortage produced ‘cracks’ in the EEHM, and different countries responded to these cracks in different ways—using restrictive regulations, forced cohabitation, administrative procedures, tax and subsidy schemes, and so forth. While sublets were legal in all Central and East European socialist countries, there was no administrative ability or political will to enforce rent or floor-area regulations and control informal private renting. Accordingly, rent levels in this informal sector were much higher than state-controlled and subsidised housing rents. Real ‘market’ rents found a way to emerge in the black market in accommodation and were a big financial problem for low-income renters with no other housing options. Contemporary observers pointed out that landlords (holding either private property or right to lease a state flat) charged several times the amount officially allowed as rent by law, and this gave them access to extra income from their ‘housing wealth’. Subletting property presented itself as a possible financial strategy for well-off households. Although becoming a landlord did have an effect on social stratification as a result of income from the ‘exploitation’ of property, this never became a determining factor of the class structure of society.

The existence and operation of the PRS in the socialist economy had an effect on the transition and partly explains through path dependence why the PRS played a limited role in the transition. As private rentals did exist in socialist countries, despite the fundamental ideological considerations against it, a ‘social awareness’ of the PRS existed in Eastern bloc countries and had an effect on policymaking and micro-level PRS-related behaviour in the transitional period of the post-socialist countries.

Notes

1. ‘Housing politicians’ were the ‘scientists’ of Marxism-Leninism (which was considered a part of the social sciences under socialism, and was later called ‘scientific Marxism’). They occupied important political positions in the ruling party or in the government in a number of cases. After the transition, most of these scientists joined the field of political science.

2. 'Merit-based allocation' may have several interpretations, but here it is enough to differentiate between a political reward for loyalty to the party and an economic reward for a better performance in the job market.
3. When Konrád and Szelényi formulated more systematic criticism of socialist society (published in 1979), they were expelled from Hungary. Szelényi left the country in 1974, while writer György Konrad, despite losing his job, stayed in the country as he did not want to give up his 'Hungarian language community'.
4. This could be considered the 'soft structuralist' approach, which combines a rational choice (policy choice or agency choice) explanation with structural elements. In an earlier work, Hegedüs (1988, 1991) followed this line of argument, for example, in explaining 'self-help' housing in Hungary.
5. State housing, according to our approach, includes state-controlled housing irrespective of the form of tenure. For example, cooperative housing and condominiums built under strict state control legally cannot be defined as state housing.
6. In *Doctor Zhivago*, Boris Pasternak described the process by which a forced communal apartment was formed. Dwellings considered too large for their tenants could be forcibly made available to share with other families allocated to them by the Housing Department of the Council. Large apartments and private houses had a shared bathroom, kitchen, and other shared amenities. In the Soviet Union, this was called a communal apartment, in Hungary, a co-tenancy. Forced private rental was different: in this case, the owner's rights were limited; the apartment was allocated and the rent level set by the Housing Department, but the apartment was used by just one family.
7. According to a Parliamentary Report in 1996. <http://www-archiv.parlament.hu/naplo35/255/2550140.htm> downloaded 8/30/2016.
8. Usually the procedure was not to sign a sublease but to accept the new resident as a member of an 'enlarged family'.

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3

Property Restitution After 1990

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Introduction

Property restitution is the process in which property expropriated by communist regime was returned to the previous owners or their descendants. It has been applied to industries, forests, and agricultural and

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urban land but also apartment buildings. The restitution of the housing property in kind became an important impulse for the emergence of new private rental sector (PRS) in post-socialist countries.

This chapter seeks to (1) explain the differences between the housing restitution strategies adopted by post-socialist countries (Section titled “[An Overview of Restitution Approaches—In Kind or Financial Compensation?](#)”); (2) present in-depth case studies in four countries (Czech Republic, Estonia, Slovenia, and Poland in section titled “[Case Studies of In Kind Property Restitution](#)”); and (3) discuss, though to a limited extent, the impact of property restitution on the development of the private rental sector in these countries (Section titled “[The Impact of Restitution on Private Renting](#)”).

An Overview of Restitution Approaches—In Kind or Financial Compensation?

Governments in former socialist countries largely nationalised the economic sector after World War II. Nationalised residential property was transferred to state or social ownership. With transition to the market economy and with free democratic elections after 1990, the privatisation and restitution of residential property became one of the major political issues in these countries. To satisfy the general public desire to leave behind relics of the former socialist regime, many countries embarked on a fast structural transformation process. In the residential property sector, the end of the socialist regime ushered in a demand for occupancy rights to be transformed into the basic forms of property established under the civil law system (ownership and leasing) as well as to introduce remedies against the injustices caused by nationalisation in the past. Most of the former socialist countries began addressing property restitution claims already in the early 1990s. On the other hand, the restitution process was much delayed in Poland and Romania, as well as in the Balkan countries that were engaged in regional conflicts.

To provide brief overview of restitution approaches and explain the differences in restitution strategies, a short survey among informants

from sample of following post-socialist countries was made: Bosnia and Herzegovina, Bulgaria, the Czech Republic, Croatia, former East Germany, Estonia, Hungary, Lithuania, Montenegro, Russia, Serbia, Slovakia, and Slovenia.¹

The countries in our sample predominantly opted for in kind restitution of housing properties, which means the physical return of the actual housing properties that were expropriated during socialism. Large-scale in kind restitution was applied in the Czech Republic (involving 6–7 per cent of the housing stock), Poland (4–5 per cent of the housing stock, although not under any special restitution law), and the former East Germany (no figure on the exact amount of property restituted in kind is available, but according to Steinführer (2004), restitution claims concerned 14 per cent of the East Germany housing stock and, from a rough estimate, it was ultimately applied to about 4–7 per cent of the housing stock). The scale of in kind restitution was smaller in Estonia (2–3 per cent of the housing stock), Slovenia and Slovakia (1 per cent), Serbia and Montenegro (0.8 per cent), Lithuania (0.6 per cent), Bulgaria (0.5 per cent), and Croatia (0.3 per cent). In contrast, in Hungary real estate property was never restituted in kind; those who suffered financial damages as a result of the nationalisation of property by the communist regime (and were still living in Hungary in 1990) were eligible only for symbolic compensation, which was paid in the form of compensation notes or agricultural vouchers. In Croatia, in kind restitution was applied only to vacant dwellings with no sitting tenants, and in all other cases, previous owners or their heirs received only symbolic financial compensation. In Russia and Bosnia and Herzegovina, there has as yet been no restitution of properties.

Within the process of restitution, countries had to deal with the conflicting rights and interests of the former owners on the one hand and sitting tenants (the occupancy right-holders to the apartments in nationalised buildings) on the other. While Russia, Croatia, and Hungary prioritised tenants' rights over those of former owners, the situation was reverse in the countries that followed in kind restitution. However, even the countries that applied in kind housing restitution is far from being uniform, as shown in the next section of this chapter in detail. The tenants in restituted dwellings in Estonia, Lithuania, Slovenia, Slovakia, and

Montenegro, for example, received additional financial or in kind compensation from the government, whereas no compensation for sitting tenants was provided in the Czech Republic, Poland, East Germany, and Serbia. The explanations for the differences in the approaches taken to housing property restitution can be sought in (1) fiscal considerations, (2) diverse historical roots (legacy), and (3) diverse public housing privatisation and housing policy strategies.

First, in Central-North European and Baltic countries the amount of housing stock subject to restitution was relatively large compared to the other former socialist countries. The governments in these countries might view in kind restitution as a less burdensome alternative to providing extensive financial compensation to former owners. However, the governments in these countries could still opt to avoid restitution, and similarly, countries with a much smaller amount of housing stock for restitution also adopted in kind housing restitution. Rational fiscal considerations are thus not sufficient to fully explain the variation in restitution approaches.

Second, the experiences and legacy of history might play an important role in the decision to return properties to their original owners or their heirs. In the Baltic countries, property restitution was a very important part of de-sovietisation and establishing the sovereignty of new independent states. The restitution of property symbolised an important step in cutting ties to Russia. Similarly, in Slovenia the law on restitution was adopted even before the new constitution and represented an important declaration of the country's sovereignty from Yugoslavia. By contrast, the strong legacy of communism in Russia prevented restitution from being introduced. The war among the Balkan countries delayed property restitution (especially in Montenegro, Serbia, and Bosnia and Herzegovina), and after the consequent waves of migration, demographic changes and the creation of new national borders made adopting a restitution policy much more complicated.

Third, the transformation of occupancy rights in many former socialist countries required the implementation of massive right-to-buy policies. By right-to-buy policy, we mean the give-away sale (or transfer) of public housing to sitting public tenants who obtained full ownership of the property. In some countries, the privatisation of public housing to the

ownership of tenants started even before 1990 (Hungary) or before restitution legislation had been approved (Croatia). In such cases, the governments might want to avoid creating new tensions between potential restitutees and the new owners of dwellings and opted for a financial compensation approach rather than restitution in kind. The Czech Republic, Poland, and East Germany did not adopt a right-to-buy policy, and their focus on home-ownership was less pronounced than in other former socialist countries. Unlike the latter group, which implemented right-to-buy policies, these three countries significantly differ from the rest of our sample in terms of restitution strategy: in kind restitution was large in scale, and the governments in these countries did not offer any additional support or compensation to sitting tenants in restituted buildings (unlike in Estonia, Lithuania, Slovakia, Slovenia, and Montenegro where sitting tenants were compensated).

Case Studies of In Kind Property Restitution

This section provides more details about residential property restitution in four selected post-socialist countries (and a little information on their neighbouring countries): the Czech Republic, Estonia, Poland, and Slovenia. There are significant differences in terms of the scope and form of restitution even within this group of countries that all applied restitution in kind. While in the Czech Republic, Estonia, and Slovenia the governments passed restitution acts soon after the change of regime, in Poland no general property restitution act has been passed to date. Similarly, while in Estonia and Slovenia tenants affected by housing property restitution were additionally compensated financially or in kind, in Poland and the Czech Republic, these tenants received no public compensation. Private landlords were partially compensated for the conservative rent controls in Poland, but there was no such compensation in any of the other countries analysed.

However, the purpose of this section is also to point out some similarities observed in the divergent restitution processes. These similarities are more implicit than formal, and they concern both the reasons for in kind restitution and the consequences of using this approach. First, in all the

countries where in kind property restitution was applied, it is possible to identify strong ideological reasons behind its introduction, rather than support for the hypothesis that it was opted for as a result of efficient lobbying of former owners or their heirs. In most cases, property restitution was introduced very early after the regime change because there was a perceived and socially accepted need to atone for the wrongs of the past. It reflected the strong ethical, emotional, and moral outlook of the new democratic political elites; in some countries, it became part of the process of defining new country identity and sovereignty.

Second, housing restitution formed only a part of the larger process of property restitution, and therefore, the social consequences of returning housing property with sitting tenants to the property's owners or heirs were not fully considered and discussed. This fact points to another similarity across all the countries in the consequences of property restitution: sooner or later, in every country it created strong tensions between landlords and tenants, judicial disputes between landlords and governments, and inequalities in access to secure housing among different groups of tenants. Consequently, it lost much of its original ethical and moral appeal few years after its introduction.

Czech Republic and Slovakia

In the Czech Republic (or Czechoslovakia in the early 1990s), the first step in the subsequent transformation process was the restitution of housing stock that had been expropriated by the socialist regime. The process of property restitution began in April 1991, and it applied to that part of the housing stock that was nationalised between February 1948 and January 1990. According to the restitution legislation, the original owner or his/her heirs were eligible to apply for the return of property through restitution in kind. By 1993 most of the property transfers had been completed. Approximately 6–7 per cent of the national housing stock was affected, representing around 250,000 flats. Relatively large number of blocks of flats suddenly came to be owned by private and in most cases physical persons and this was an important step in the development of professional private rental investments in the Czech Republic.

An analysis of the reasons for such large-scale property restitution in kind reveals two main motives (Lux and Mikeszová 2012). First, there was the need to atone for the wrongs of the past. Second, there was the need to create a free and unregulated market, which necessarily required the existence of private property. The second reason had universal appeal and was rarely questioned. Given the long tradition of rental housing and private renting in the Czech Republic (or Czechoslovakia), stretching back before 1948, the restitution of residential buildings was also seen as a way of establishing continuity with the much idealised pre-war first Czechoslovak Republic, and that was the third, albeit clearly weak, factor that helped bring about the relatively rapid and widespread acceptance of property restitution in kind.

Lux and Mikeszová (2012) conducted in-depth interviews with government representatives, influential policy-makers, government advisors, and high-ranking representatives of interest groups in the Czech Republic. According to the interviews, the atmosphere of rapid change, the sudden collapse of the socialist system, nostalgia for the inter-war First Republic era (1918–1938), and the crimes of the socialism widely discussed in the media contributed to the rapid introduction of restitution legislation. *‘After the revolution there was a sudden turnaround, people were prepared to sacrifice. There was willingness in the public mind to sacrifice, a sense of redemption from feelings of personal failure, a purgatory. We have to make sacrifices for our children. For a time that willingness existed here.’* (Respondent #5)

One respondent spoke about how *‘at the start of the 1990s a group of idealists got into Parliament who tried to push through restitution despite some slight resistance from the government. They were not pursuing a personal interest; they were pursuing the long-term interest of the state. (...) There was zero pressure from potential restituted. It was a group of MPs driven by a sense of justice and a historical settlement with the past, and they promoted and asserted restitution laws. At the time opponents were partly dumbfounded and partly incapable of “sabotaging” it.’* (Respondent #8)

However, unlike the restitution of industrial assets, there was a specific dimension to the restitution of residential buildings: most restituted flats had sitting tenants. The state not only left intact the protections tenants enjoyed, it also maintained rent controls on restituted properties up until

2007. After 1993, 'free market' rents were only allowed in the case of newly signed leases. The increases in the rent levels in regulated flats lagged behind the pace of increasing costs involved in maintaining and regenerating flats. Nevertheless, the state did not offer restitutions any form of financial compensation. Private landlords used the phrase 'fictitious restitution' (Filer et al. 1995), as they had not fully regained their ownership rights.

However, property restitution also generated other forms of inequalities. Tenants in restituted flats suddenly found themselves in a position different from that of tenants in flats owned by the state (later transferred to municipalities). Although rents were regulated, restitution denied private tenants the opportunity that public tenants later got—the option to buy their flats at very advantageous prices in the process of public housing privatisation. Moreover, in 2007, the government initiated the process of deregulating rents for all running tenancies; rents were gradually increased to reach close to market levels by the end of 2012. In addition, the new civil code, which came into force in 2014, significantly reduced tenure security for all running tenancies. Tenants in restituted houses thus face decreasing tenure security, and since 2007, they have seen substantial hikes in rents. Despite this fact, the government never offered tenants in restituted buildings any subsequent compensation to redress such inequalities nor did tenants receive any priority status during the allocation of vacant public housing. The potential problems that could arise from the restitution of residential buildings with sitting tenants were never given serious consideration.

Although at the start of the 1990s the property restitution as the ideal method of privatisation prevailed, it was later tarnished by the conflict between tenants and private landlords. Both private tenants and private landlords had grievances about how the way the restitution process was set up, and because of the wide media coverage of these conflicts, the PRS came to be associated with problems, insecurity, costliness, and tensions.

In *Slovakia*, the restitution acts were applied in the same way as in the Czech Republic at the beginning of transition; acts on property restitution had been already passed by Federal Parliament of former Czechoslovakia before the country split. However, the scale of housing stock by property restitution was much smaller than in the Czech

Republic. According to a survey conducted by the Ministry of Construction and Regional Development in 2008, the number of households living in restituted apartments was estimated to be around 1000.² Unlike in the Czech Republic, tenants still enjoy regulated rents to date and the government passed a strategy in 2009 and Parliament passed two Acts in 2011 designed to resolve any tension that regulated rents generate between landlords and tenants. Act No. 260/2011 sets the date at which rent regulation will end, but it also assigns municipalities with the obligation to offer all households affected by restitution a substitute public rental flat with social rent. Act No. 261/2011 introduced subsidies for construction of public housing intended for tenants from restituted houses. The process of relocating tenants is still under way. Unlike in the Czech Republic, Slovak tenants in restituted houses thus received the right to obtain substitute housing in public housing stock—a situation similar to that in Estonia.

Estonia

Like in former Czechoslovakia, restitution in Estonia was initiated very early after regime change and was already under way by 1991. Restituted dwellings are estimated to make up 2.6 per cent of the total housing stock (a total of 23,385 dwellings were restituted) and restitution affected 47,200 tenants and 22,500 households (*Eesti Konjunkturiinstituut 1998*). About half of the sitting tenants in restituted housing lived in the capital city of Tallinn, accounting for about 5 per cent of the city's population (*Eesti Konjunkturiinstituut 1998*). The scale of in kind restitution in Estonia was therefore lower than the Czech Republic.

Restitution was initiated by the law on property reform (the Basics of Ownership Reform Act) passed by Parliament in June 1991. Buildings and dwellings that had been confiscated, nationalised, or in any other way expropriated after WWII were restituted to the former owners or their heirs. If there were no 'pre-war' owners, or if the former owner did not submit an application for the property to be returned, the sitting tenants were given the option to buy the occupied flat. In most cases restitution was made in kind, and in fewer cases, monetary compensation

was carried out (Hussar et al. 2014). Previous owners or their descendants could reclaim their property if at least 50 per cent of the original building was preserved. In other cases, compensation vouchers were issued, irrespective of the value of the property.

In Estonia, the extensive property nationalisation, large-scale deportations, emigration, and forced evictions that took place between 1940 and 1953 generated an outrage that lent support to restitution at the beginning of the 1990s (Feldman 1999, p. 167). The renewal of Estonia's political independence in 1991 was interpreted as the enforcement of historical justice. The symbolic restoration of the original and 'authentic' Republic of Estonia was paramount in the political agenda, and it was to be accomplished by de-sovietisation, that is, by eradicating the Soviet legacy as much as possible (Feldman 1999, p. 167). The consensual meta-narrative about the return to democracy and the revival of authentic Estonian traditions is summed up in the following political statement: 'The continuation of the Estonian state and statehood is directly related to the continuation of the ownership' (Leppik 1996, online). There was also a general faith in neoliberal market reforms promoting the withdrawal of the state from the housing market and as an instrument for enabling the creation of an efficient market economy (Kein and Tali 1995, p. 142).

The law required that former owners or heirs seeking restituted property had to maintain leases with sitting tenants for at least 3 years after a positive decision was made about the restitution claim. This 3-year period was later prolonged for another 10 years. The Dwelling Act (passed in 1992) granted tenants some protection against rent increases: the fixed rent levels for running tenancies in restituted dwellings were set by municipalities. For restituted tenants, the legislative requirements obstructed the effective maintenance of the housing stock and for a long time blocked the transition to market rents (unlike in the case of other private rental dwellings). However, in 2004, rents were deregulated, and the maximum extension of the original lease term expired in 2007. Since then, property owners have made extensive use of the legal opportunities to increase rents in order to bring them up to market level (Õmblus 2009, pp. 71–73).

Despite legal measures designed to temporarily protect the rights of tenants in restituted housing and other important incentives to support the relocation of tenants (e.g., the legal obligation of local municipalities

to provide tenants in restituted housing with a municipally owned apartment of comparable quality and size if they have to move; public loans that were specifically for tenants in restituted housing to help them purchase housing on the free market), these tenants felt there was some social injustice in their situation compared to public tenants, who had the opportunity to buy their dwellings for almost no cost (Kährik et al. 2003; Ömblus 2009). The PRS has also come to be associated with high insecurity. Many restituted tenants took various legal steps in an effort to force tenants they don't want in their property to move, and tenants have been faced, especially since 2004, with rising rents. At the same time, the public sector has been unable to fulfil the legal obligations that it had towards tenants in restituted houses (Ömblus 2009). In Tallinn, all of the sitting tenants in the waiting list had either become renters in a new municipal dwelling or had moved to other type of housing by 2009 (Ömblus 2009, p. 11).

The restitution of property in Estonia was again a political decision that reflected the ideals of the early 1990s about the need to redress past wrongs with the past and moral atonement for society. Basically, everything that was stolen ought to be returned. This political decision was more a consequence of the early enthusiasm of the transition and an expression of the radical change in political ethics than a reflection of the political interests of certain social groups (e.g., restituted tenants were few, regionally dispersed, and not formally organised).

Similarly, in neighbouring *Lithuania*, the Act on the Procedure and Terms of the Restitution of Citizens' Property Rights to Existing Real Estate (the Restitution Act) was passed in 1991. This legislation gave any Lithuanian citizen whose property had been nationalised or made public in some other way during the period of Soviet occupation the right to have their property returned to them. Statistics on restitution are very sketchy—according to the UN/ECE Country Profile (UN/ECE 2000), by 1998, 8500 applications for restitution had been submitted and 53 per cent had been restituted to that time. According to recent estimates of the Ministry of Environment in Lithuania, more than 90 per cent of applications have been processed to date. As of 2011, property rights had been restored to about 6800 restituted tenants, of whom 4600 got back their real estate in kind (this includes cases of plots of land) and 2200 had

received compensation or substitute real estate (Mikelėnaitė 2014). The ethical dimension of property restitution and compensation for those who were persecuted under the Soviet regime became part of the process of defining new Lithuanian identity and sovereignty.³ If residential buildings with sitting tenants were the subject of restitution, the tenants were given financial compensation or obtained alternative housing. The estimated number of families relocated from restituted houses is 7100 (Mikelėnaitė 2014): 46 per cent of them were accommodated in municipal housing and 54 per cent had their problem resolved in another way (through financial compensation or by being granted a plot of land).

Former Yugoslav Republics

Soon after the declaration of independence, Slovenia adopted the Act on Restitution. In 1991, restitution was definitely one of the top priorities and hottest political issues in Slovenia. Its importance can be illustrated by the fact that legislation on restitution was adopted already in November 1991, a month before the new Slovenian constitution. As Mandič (1994) noted, restitution was incorporated into the general political discussion of ‘injustices, caused by the socialist regime’ and the prevailing notion was that these injustices had to be corrected and the expropriated property returned to the original private owners.

The Act on Restitution applied to housing properties that were nationalised between 1946 and 1963. The estimation is that 13,000 dwellings were subject to restitution, approximately 9000 claims were filed and around 6000 dwellings were actually restituted to their original owners or their heirs (about 1 per cent of the total housing stock). The primary principle of the restitution of housing stock was to restitute in kind, but this became a source of great dissatisfaction on the side of both tenants and owners. Although restituted owners regained the ownership title to the property, many of them could not take possession of the properties because they were occupied by tenants. Sitting tenants were protected by the tenancy rights that had been introduced under the previous regime. Like in the Czech Republic and Estonia, the tenure security gave the tenants unlimited occupancy rights that could moreover be inherited by or

transferred among relatives, and the rent they had to pay was well below market rent (Lux et al. 2012). Restituents could not evict their tenants or rescind the rental contract. The tenants could on the other hand relinquish their right to housing in exchange for compensation equal to 30 per cent of the value of the housing and a loan of equal amount granted under favourable conditions, or they could purchase their apartment under the same (heavily discounted) conditions as people in social housing stock whose apartments were being privatised, but not many landlords were willing to sell under these terms (Sendi 1994).

In 1994, new provisions in the Housing Act were introduced to encourage tenants to buy either the restituted unit they were living in (if the owner was willing to sell) or some other unit on the housing market in exchange for compensation amounting to 36 per cent of the value of the housing unit provided in cash, 25 per cent of the value of unit in bonds from the Restitution Fund, and 25 per cent in Slovenian government bonds. Tenants could also apply to the National Housing Fund for a housing loan under favourable conditions in an amount almost equal to the full amount of the cost of purchasing housing. Around 3000 tenants decided to solve their housing issue in this way; however, some tenants held on to the rental arrangement they had and then experienced increases in the regulated rent. The rent for running tenancies rose in 1995, 2000, and 2003 and now equals 4.68 per cent of the administrative value of the apartment or about EUR 3 per m², which is well below market rent, especially in larger towns and in the capital city Ljubljana.

In Slovenia, the principle of in kind restitution cast strong doubt about the fairness of legal arrangements (Mandič 1994). Restitution led to constant clashes of interest between restituted owners and sitting tenants. The tenants were excluded from the privatisation of the housing stock and they also had to deal with new owners, who were trying to regain a hold over their property and increase rents. According to 2005 Housing Survey, tenants in restituted dwellings reported feeling they were at a much higher risk of losing their dwelling and that they had problems with high rents and with restrictions being laced on how their household could use the dwelling. The Slovenian Human Rights Ombudsman has been pointing out the discriminatory position sitting tenants have been

in since 1995. In 2004, tenants also brought legal action against the Government of Slovenia at the European Court of Human Rights. In 2014, the European Court of Human Rights ruled that the government was not discriminating against sitting tenants, but bitter feelings about restitution nevertheless remain on both sides.

Other countries of former Yugoslavia approached restitution at a different pace. Slovenia and *Macedonia* adopted legislation on restitution already in the 1990s, but only Slovenia is now approaching the end of this process (Lazarević-Ule 2013). *Croatia* passed a property restitution law in 1996. Restitution in *Serbia* was delayed by the war and the internal political situation. Eventually, in 2011, the Republic of Serbia adopted the Act on Property Restitution and Compensation, effective as of 6 October 2011. *Montenegro* started its restitution process when it was still part of the Federation of Serbia and Montenegro. In 2002, it passed its first law on restitution, but replaced it with a new law in 2004. In general, real estate is restituted in kind. In contrast to Croatia and Serbia, the Montenegrin Restitution Fund must provide assistance to the sitting tenants (who have the so-called occupancy tenancy right but do not own other dwelling) to buy an equivalent dwelling under the same conditions as those enjoyed by tenants who were exercising their right to buy during the privatisation of public housing. The Fund must fulfil these obligations within 10 years and must also pay compensation to the owner of the restituted property for the loss of income due to rent regulation during the time the tenant is living in the restituted dwelling. In *Bosnia and Herzegovina*, the Republika Srpska, one of the country's autonomous entities, adopted a restitution law already in 2000, but the law was later suspended by a decree of the Higher Commissioner for Bosnia and Herzegovina, who insisted that the issue of restitution must be resolved on the level of the state as a whole (Lazarević-Ule 2013; *Projuris: Denacionalizacija—Bosna i Herzegovina* 2014). Several attempts have been made to pass new legislation, but as of 2014, the country still had not adopted any legislation on restitution and remains the only country in Europe that has not yet even started to deal with this issue.

Poland

In Poland, the process of restitution was different from the case studies presented above. Although the Polish Sejm (Parliament) worked on 20 drafts of bills on restitution after 1989, it has to date failed to pass any bill. Poland still has no specific restitution act for restoring the rightful ownership of housing properties expropriated by the communist regime, and the obstacle has been the on-going political disputes over the scale of restitution, the eligibility criteria, and the form of restitution (restitution in kind, property replacement, and compensation in the form of bills of capital or as cash benefit).

However, the former owners may apply for in kind restitution or appropriate compensation on the basis of a judicial annulment of the decision to expropriate their property, and this possibility, in fact, substituted largely missing legislation on restitution. At the same time, most private landlords remained the formal landlords also during socialism—unlike the situation in many other socialist states. For them, no formal restitution of property was needed. Their property rights were substantially limited by tenancy security and rent control during socialism, but they formally remained the owners of the housing stock. Although the state did not expropriate the property of most private landlords, it deprived them of an essential component of property rights: the right to derive a profit from one's property. The owner of the building could not decide who could rent the dwelling in their building or for how long and how much rent. Rents were controlled by the state and set at an extremely low level, that is, a level equal to rent in public stock. In 1988, these private landlords got the right to freely set the level of rent for new or vacated units, but rent control continued to apply for running tenancies for a long time after 1990, and this gave rise to similar tenant-landlord conflicts observed in other post-socialist states. Since January 2005, private landlords have been allowed to increase the rent of a running tenancy to a 'reasonable' level, but the legislation does not specify what 'reasonable' means and leaves it to the courts to decide if there is a dispute.

The Act of 12 December 2003, on offsetting the value of abandoned real estate that lies outside the current borders of the Polish state against the sale price or fees for the right of perpetual usufruct of real estate of the State Treasury, was designed to resolve cases of the restitution of what is called ‘Bug River property’. ‘Bug River property’ refers to a specific case of property abandoned within the pre-war borders of the territory of the Republic of Poland but which then lay outside the territory of Poland after 1945 and is now located within the territory of present-day Belarus, Ukraine, or Lithuania. The owners of such property are entitled to receive the compensation equivalent to the value of property abandoned outside the present-day Polish borders if they jointly fulfil the following conditions: on 1 September 1939 they were residing on the territories referred to in the aforementioned republican agreements; they are Polish citizens; and they have resided in Poland permanently for at least 5 years preceding the date on which the act of 2003 came into force.

As mentioned above, owing to the absence of legislation on other property restitutions in Poland, a specific form of ‘procedural restitution’ has taken place, whereby former private landlords whose property was nationalised after 1945 pursue their claims through administrative or judicial review. If authorities passed individual decisions on nationalisation that confirmed the takeover of a given property by the state, it is possible to submit motions demanding the decisions to be pronounced invalid pursuant to Articles 150–160 of the Code of Administrative Procedure of 14 July 1960. Determining which organs are competent to consider the validity of the decision depends on what type of property was expropriated by way of nationalisation. With respect to situations where a property was seized by the state pursuant to a legal act (without a separate decision, with the very power of law), it is still possible to apply for the revocation of nationalisation based on a resolution of the Supreme Court of the Republic of Poland from March 2011. This especially concerns housing property expropriated in Warsaw; a debate on legal action concerning ‘Warsaw properties’ is constantly on the agenda. The Municipality of Warsaw deals with restitution claims on an individual basis; the Office of Real Estate Management of Warsaw City Hall reported that more than 3500 claims were approved between 1990 and 2014 (Górczyńska 2016). At the beginning of the transformation, it was esti-

mated that around 6000 Warsaw buildings may be subject to restitution.

In assessing the current situation of property restitution in Poland, it is important to note that the lack of statutory regulations that would adequately cover all restitution claims leads to legal uncertainty. The given administrative and judicial avenues for resolving restitution claims offer no guarantee of what the outcome might be. People who are interested in keeping the acquired property or interested in acquiring it have no certainty as to whether property rights, if they require them, will be permanent. Some people with a potential right to seek restituted property instead sell their claims (usually under their value) to companies specialising in the investigation of such claims or take their case to the European Court of Human Rights in Strasbourg.

The Polish government has recently allocated some financial compensation to private landlords to make up for past rent controls, based on the provisions of the Act of 21 November 2008 on supporting thermomodernisation and the renovation of residential property. Landlords whose rent revenues were limited by the 'special rent scheme' in the past and who made repairs or renovations to the units may apply for a 'compensation bonus' paid from the subsidy fund operating in the National Economy Bank. The compensation bonus programme was passed following a successful appeal that one private landlord, Mrs Hutten-Czapska, made in the European Supreme Court of Civil Justice. The Polish government never offered and still does not offer any compensation to tenants affected by restitution (also due to the fact that significant part of private rental stock was never, in fact, formally expropriated), and instead, they offered small compensation to private landlords for rent control applied after communism collapsed.

The Impact of Restitution on Private Renting

According to Lux and Puzanov (2013) and expert estimates made by informants and authors of country studies in this book, around the year 2010, private renting formed an important part of the housing stock in East Germany (29 per cent of the housing stock), Czech Republic (14 per cent),

Russia (13 per cent), Estonia (10 per cent), Hungary (8–10 per cent), and Poland (9 per cent); in Croatia, it formed 6 per cent of the housing stock and 5–6 per cent in Slovenia. These estimates are again rough and based on different kinds of sources; even censuses do not provide precise information on housing tenures within the category of rental housing.

According to data provided by informants, the professionalisation of private renting (defined by the legal status of private renting and the existence of professional or even institutional landlords) is most advanced in East Germany and the Czech Republic, that is, in countries with the largest private rental sectors and, as shown above, where the large housing property restitution was provided in kind. There is, therefore, probably a link between the amount of housing property restitution and the size of private rental sector and between the size and form of property restitution (in kind or financial compensation) and the professionalisation of private renting. There are also other countries with relatively large private rental segment than those mentioned above, such as Estonia, Hungary, or Russia, but here private rental housing represents more a part of the shadow economy; the professionalisation of the operation of the sector is therefore on a lower level. However, in the Czech Republic, this housing tenure did not become a real substitute to home-ownership; as country study included in this book shows, most Czechs still strongly favour living in owner-occupied housing, and private renting has become just a transitional and residual form of housing. In most countries in our sample it is common for lease terms to be of short duration, usually for just one year.

In kind restitution also enabled faster renovation and modernisation of the old dilapidated housing stock. In the 1990s, the majority of the restituted housing stock was in a very bad condition following years of deferred maintenance. If the sitting tenants moved out of the restituted dwellings, these dwellings were to a large extent gradually renovated. This is clearly visible in the central parts of major cities, where housing was significantly affected by restitution. However, in kind restitution also contributed to faster gentrification processes in cities, since the great majority of old residents were replaced by residents with a higher social status (moving into renovated properties). A process of gentrification is being observed also in neighbourhoods that used to be working-class areas.

Case Studies of PRS Development

In the *Czech Republic*, the share of private rental housing out of the total housing stock increased very quickly compared to the pace in advanced countries, going from almost zero in 1990 to 14 per cent in 2011. A substantial part of private rental stock is owned by institutional and professional landlords, and the overwhelming majority of census-surveyed private rental tenancies are legal, that is, based on written and properly signed rental contracts between landlord and tenant. Since 1993, landlords have been allowed to charge market rents on new or vacant tenancies, and since 2012, all rents, including those for running tenancies, have been deregulated and liberalised.

However, the shift in the meaning and role of rental housing after 1990 is obvious: it has become less a form of life-long housing tenure to become more of a residual and transitional form of housing. Using EU-SILC data, Lux and Sunega (2010) showed that compared to homeowners, tenants in private rental dwellings ‘typically’ tend to work in a lower occupational category or are unemployed, have low per capita income, are younger, single, and their household size is small. Similarly, private rental dwellings are ‘typically’ associated with fewer rooms, poor technical standards (problems with humidity, insufficient light, or external noise), and a location in a less-developed Czech region. As a result, the majority of citizens seek to avoid it. The attitudes of most of the population (half of which used to live in rental housing before 1989) turned to owner occupation as the only secure housing tenure.

The exact share of private rental housing on the total housing stock in *Estonia* is difficult to measure. However, the share of the PRS out of the total housing stock increased quickly; from zero in 1990 to 10.7 per cent in 2000 and 7.3 per cent in 2011 (the drop in PRS share observed in the 2011 census is, however, only statistical). New construction of private rental housing has been marginal as new rental housing development is not seen as profitable (Hussar et al. 2014). The highest concentration of the private rental sector is in Tartu—a city with a large share of university students.

In Estonia the private rental sector is fully deregulated as regards rent control (since 2004). Rental contracts are usually set for one year; after that, the term of contract can be prolonged. Rental contracts are not subject to registration, and rental income from renting out private dwellings by individual households is often not officially declared to the tax authorities; a large part of the rental sector therefore operates in the shadow zone of the economy. Using EU-SILC survey data from 2010, Lux et al. (2012) showed that private rental housing in Estonia is mainly a form of transitional housing for students or young people at the beginning of their professional career.

There has been a private rental sector in *Slovenia* throughout its post-war history. Although it was small and was never included in official housing statistics, it was quietly tolerated and catered to the needs of those who could not find other housing (Sendi 1999). With the transition to a market system, privatisation, and the restitution of housing stock, private rental sector came to be acknowledged as an alternative housing tenure. However, the sector remains relatively small, ineffectively regulated, and largely overlooked by official housing policy. Census data for 2011 reveal that within the occupied dwelling stock, 1.9 per cent is market rental housing and 0.7 per cent is housing offered by employers (Statistical Office of Republic of Slovenia 2014). Sendi (2014), however, questions the accuracy of the official data on the private rental sector and argues that the true size of the PRS is probably larger. EU-SILC data for Slovenia (2011) report a 5.6 per cent share of rental housing with market rent, in contrast to the 2.6 per cent in official records.⁴ The size of the market rental sector remained unchanged between the last two censuses in Slovenia.

Private renting is more concentrated in and around the capital city Ljubljana and in the coastal area. Both regions are strong economic and university centres and have the highest housing prices in Slovenia. An analysis of tenants in the private rental sector, based on the EU-SILC data, reveals that, compared to homeowners, tenants in the private rental sector are on average 10 years younger, and they have both a higher rate of workforce participation and a higher incidence of unemployment,

while the retired population in most cases own their dwellings. In the private rental sector, it is also possible to observe the overrepresentation of single and single-parent households. Equalised disposable income in the private rental sector is on average 37 per cent lower than the income of homeowners and also lower than the income of tenants in the rental sector with reduced rent or living rent free.

A written lease is required by law and must include provisions on the rent, termination conditions, and some landlord-tenant obligations and duties. Rents are not subject to regulation, except protection against usurious rent. Although the rental contract can be concluded for either a fixed or an open term, short-term contracts dominate the market. Private landlords, mainly acting as accidental small-scale landlords, comprise 47 per cent of the market rental sector. Sendi (2014) established that the majority of landlords operate on a contractual basis. However, around 45 per cent of landlords receive rental payment in cash, probably to avoid taxation.

The popularity of private renting in *Poland* is also very low. Despite the fact that not all apartments are being rented officially, which distorts the statistics, the share of private renting is estimated at about 9 per cent of the total housing stock. The desire for home-ownership is so great that most people give up renting as soon as they have a chance to buy an apartment. The Report on the Situation in the Markets of Residential and Commercial Real Estate in Poland in 2013, published by the National Bank of Poland, shows that in all big cities the costs of mortgage service were lower than market rents. The supply of apartments is still small, and in the cities that are academic centres the rental market is seasonal. This is somewhat surprising because the current level of rents guarantees investors higher rates of return than investment in bonds or bank deposits, and a similar rate of return as investment in commercial real estate. It is worth mentioning that the National Economy Bank (the finance institution of the state) created the Fund for Rental Housing, which uses the bank's sources for institutional investment into residential properties. By renting an apartment from this institutional investor, the tenant gains a guarantee that the landlord behaves reasonably and predictably.

Conclusion

This chapter documents the wide variety of housing property restitution strategies. In Hungary, for example, citizens who suffered property-based injustices under the socialist regime received only financial compensation. The entire housing stock thus remained in the hands of the state administration and was privatised through a centralised right-to-buy policy. Conversely, in many other post-socialist countries, housing property restitution was applied in kind, but some form of compensation was also given to those tenants who owing to the restitution of residential buildings were unable to benefit from the give-away privatisation of public flats. Finally, there were also countries where significant in kind housing property restitutions were not accompanied by any additional compensation to tenants in restituted houses. Poland, East Germany, and the Czech Republic belong in this group of countries. Explanations for differences between approaches to housing property restitution included (1) fiscal considerations, (2) diverse historical roots (legacy), and (3) diverse public housing privatisation and policy strategies.

In the Central-North European and Baltic countries, the housing stock subject to restitution was relatively large, and in kind restitution was rationally selected as a fiscally cheaper option than extensive financial compensation of former owners. Historical experience and legacy played an important role. In the Baltic countries or Slovenia, property restitution played a very important role in new independent states' assertion of their sovereignty. Moreover, in all countries where in kind property restitution was applied there were strong ideological reasons behind its introduction, contrary to the hypothesis that this form of restitution was the outcome of efficient lobbying by former owners or their heirs. In most cases, property restitution was introduced soon after the regime change owing to the perceived and socially accepted need to atone for the wrongs of the past. Conversely, the strong legacy of communism prevented restitution from taking place in Russia.

In some countries, the privatisation of public housing to the ownership of tenants started even before 1990 or before restitution legislation had been approved. In such cases, the governments did not want to create

new tensions and opted for the approach of financial compensation rather than restitution in kind. The Czech Republic, Poland, and East Germany substantially differ from the rest of our sample: in kind restitution was large in scale and the governments in these countries did not offer any additional support or compensation to the sitting tenants. Similarly, the size of the PRS and the level of professionalisation of its operation were found recently to be the highest in these three countries. Consequently, there seems to be a link between the scale of housing property restitution and its form, and the recent size of the private rental sector and the level of its professionalisation.

Housing restitution lost much of its original ethical and moral appeal a few years after its introduction. In almost all post-socialist countries, private renting did not become a real substitute for home-ownership (the only exception being East Germany); private renting became only a transitional and residual form of housing. However, in kind restitution resulted in the faster renovation and modernisation of the old, dilapidated housing stock and contributed to quicker gentrification processes.

Notes

1. This comparison would not be possible without the kind assistance of a group of informants who were asked to fill in the standardised questionnaire. We would like to thank the following informants for their greatly appreciated assistance: Alina Muzioł-Węclawowicz (Poland), Alexander Puzanov (Russia), Stefan Köfner (East Germany), Vera Horvath and Jozsef Hegedüs (Hungary), Gojko Bežovan (Croatia), Ave Husar (Estonia), Boyan Zahariev (Bulgaria), Veronika Reháková, and Elena Szolgayová (Slovakia). Information on other countries (or additional information on similar countries) was provided by the authors of this chapter: Katarzyna Miaskowska-Daszkiewicz (Poland), Martin Lux (Czech Republic), Anneli Kährik (Estonia and Lithuania), and Andreja Cirman (Bosnia and Herzegovina, Montenegro, and Slovenia).
2. http://www.telecom.gov.sk/index/open_file.php?file=vystavba/bytovapolitika/dokumenty/informacie/i_bdsv.pdf.
3. The situation may be demonstrated by the fact that by July 1989, that is, when the USSR still existed, the Council of Ministers of the Lithuanian

SSR had already passed Resolution No. 160 'On Compensation for Damage to Rehabilitated Individuals, Individuals Who Were Detained or Convicted between 15 June 1940 and 1 June 1981'. Similarly, in August 1991, the first independent Lithuanian government passed Resolution No. 327 'On the Compensation for Material Damage to Persons Brought to Forced Labour Camps in Germany during WWII, Former Prisoners of the Ghetto, and Other Places of Imprisonment, and Persons who in 1951-1952 Were Unlawfully Displaced from a Locality in Lithuania to Another Localities'.

4. Housing offered by an employer is considered rental tenure with market rent. The rent in this sector is not regulated, and owing to income tax provisions, the rent in housing offered by employers is usually close to market rent.

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4

The Policy Environment of Private Renting After 1990

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Introduction: Super Home-ownership in the New EU Member States

The 1989 revolutions in Central and Eastern Europe (CEE) set out to overthrow the centrally planned economic systems, move away from the socialist housing model, and establish Western-style multiparty democracies characterised by the rule of law and liberal market capitalism. The restructuring of the economy and the central states' involvement in it included a set of shared processes throughout the region. Two of these were mass privatisation of state-owned housing and the restitution of the formerly nationalised stocks; although—similar to the initial state of the housing stock in these countries—the methods used to implement these processes and the scale of the processes varied greatly. By the end of the 1990s, the vast majority of housing in CEE countries was privately owned—a larger percentage, in fact, than in most developed capitalist countries, even though the latter countries also experienced a wave of privatisation starting in the early 1980s (Fig. 4.1).

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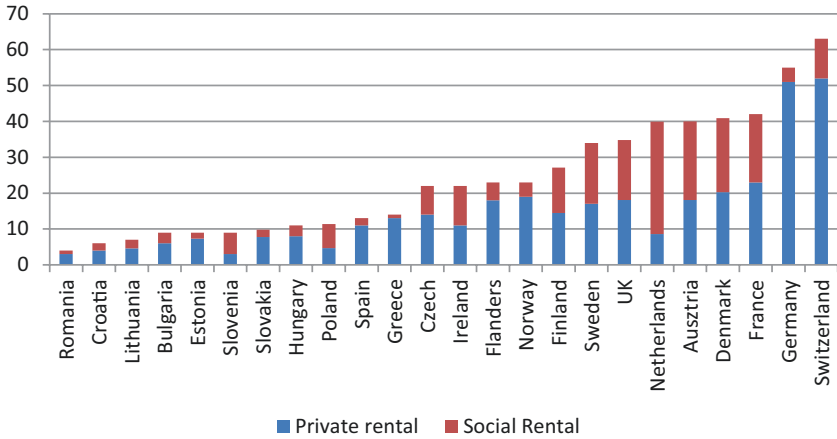


Fig. 4.1 Share of the private and public rental sector in selected European countries around 2010–16. Source: TENLAW National Reports (2014), Flanders and Ireland: Haffner et al. (2011), Norway, Spain and Greece: Whitehead et al. (2012)

There is an ownership bias in nearly all of Europe’s housing systems. In the European Union (EU), the owner-occupation rate is around 70 per cent,¹ following decades of decline in residential renting after World War II in most countries (Howenstine 1981; Scanlon et al. 2014; Malpass 2014; Dinse 2016). According to Eurostat data, the share of owner-occupied housing was above 80 per cent in most transition countries in CEE in 2014 and in some countries, even above 90 per cent. Unlike old (pre-2004) EU member states, this change did not come about gradually; it happened very abruptly in the transition period, leading to the emergence of ‘super homeownership’ states in the CEE region (Hegedüs and Tosics 1996; Kemeny 1995; Stephens 2005). In post-socialist countries, the share of public housing in the total housing stock decreased from between 7 and 60 per cent in 1988–90 (ranging from 7 per cent in Bulgaria—by far the smallest share—to 59 per cent in Poland and 61 per cent in Estonia) to 9 per cent on average in the EU-11² in 2011, when the figures ranged from 17 per cent in the Czech Republic to 0.4 per cent in Latvia (Balchin 1996; Hegedüs et al. 2013; Scanlon et al. 2014). In these countries, the role of the rental sector is, therefore, more limited, but the picture is not fully homogeneous as the Czech Republic and Poland are outliers in the sense that either the public rental sector (in Poland) or the private rental sector (Czech Republic) still

plays a substantial role and their moderate rental stock reaches the share of some old EU member states, such as Ireland, Flanders in Belgium, or Norway (Podrazil et al. 2014; Panek 2014, 2015; TENLAW National Reports 2014; Haffner et al. 2010; Whitehead et al. 2012).

The small share of social rental housing overall in CEE countries—and the typically poor quality of it—has been widely studied and discussed in recent years (Balchin 1996; Szolgayová 2003: 99; Hegedüs et al. 2013; Hegedüs et al. 2014). However, the paradoxically limited role of private renting in CEE countries, despite their liberal housing policy environments and their having completed the transition to a market economy, has also been widely noted and so far has remained unexplored (Clapham and Kintrea 1996; Lowe 2003: 70; Drofénik 2015; Hussar 2015; Panek 2015).

This chapter will therefore try to explain this apparent paradox: in a number of countries where social renting is highly residualised and the homeownership rate so high that overall tenure structures can be considered ‘distorted’, how did the private rental sector (PRS) remain so neglected? This chapter argues that the small size of the PRS is explained first by the financial disadvantages of private rental tenure compared to other tenure forms due to tax and subsidy treatment and second by the lack of the necessary legal environment to ensure that tenant-landlord relationships in the private rented market are balanced and well-regulated. While a number of external factors—such as path dependence and cultural factors—may also play a role, analysis of how policy changes have impacted tenure structure developments suggests that the financial and legal environment strongly influences these factors. The key factors constraining the expansion of the PRS are explored in this chapter with the intention to contribute to understanding the housing policy potential of private renting in CEE countries with narrow and ‘distorted’ tenure structures and to lay the foundations for the recommended policy of expanding the sector and using it for social purposes.

The Financial Disadvantages of Private Renting

The central tenet of *tenure choice theory* is that households base their housing strategy on an evaluation of the advantages and disadvantages of different tenure options. The factors that influence tenure choice are

housing regime-dependent variables, and as a housing regime changes, preferences may shift. However, the market supply of a certain form of tenure depends on political decisions (subsidy programmes, budget outlays, political considerations, etc.), and consequently, the demand from households (tenure choice) has a limited impact on supply through the price mechanism in those housing systems where the state plays an important role. The limited supply of different tenures (e.g. the lack of public resources for social rental investment) also has an effect on tenure choice. Consequently, the causal relationship between tenure choice and tenure structure is 'bi-directional', where tenure choice has to be interpreted in the context of housing regimes.

Modelling 'Asking Rent' and 'Demand Rent'

Following the logic of the user cost approach (Elsinga 1996; Green and Malpezzi 1999; Diaz and Luengo-Prado 2008; Haffner and Heylen 2011; Hulse et al. 2011), the rational housing market actor (both on the demand side and the supply side) first evaluates the cost and benefits of the different tenure alternatives. The user cost theory seems to be the most adequate way to conceptualise the decision-making process of households, although we know that other factors (cultural, historical, etc.) may also play an important role in explaining tenure preferences.

The basic formula for assessing user cost in housing is $R = u * V$, where 'R' is the rent, 'u' is the user cost, and 'V' is 'value', which is the market price of the housing unit. The coefficient 'u' is a composite of different factors, such as the interest rate on a mortgage, property tax, the change of house price, tax treatment, subsidies, and so forth. The basic question is: how does R (rent for the same unit) relate to V? There are different ways to operationalise this formula depending on the research question. From the perspective of households, the question is what is the maximum rent households are willing to pay in rental housing? In this case we look for what demand price of rent, or what 'demand rent', will keep the rental sector competitive with home-ownership from the household perspective?

From the perspective of landlords, we ask what level of rent is competitive with alternative types of investment. The key consideration is whether

a certain level of rental income is competitive with alternative investments or what reservation or asking price of rent (what 'asking rent') would make investing in rental housing profitable. The potential landlord calculates the opportunity cost of purchasing a house, that is, the return a potential homebuyer could earn from an alternative investment.

The two approaches are deployed here in an attempt to explain the behaviour of the prospective landlord and the would-be tenants. The differences between the asking rent and the demand rent in the private rental market will be examined with the help of two simple excel models, which—depending on market variables like house price increase, interest rates, and so forth—determine the minimum rent a landlord has to ask (asking rent) and the maximum rent a tenant is willing to pay (demand rent).

Both models assume that the potential landlord or tenant has capital to invest, and both of them have two options. The landlord may invest on the capital market or in a rental property. His/her investment decision is influenced by expectations about rent increases, returns on investments, price increases, real estate tax, and the tax treatment of private renting. We are looking for the asking rent, which is the minimum level of rent that is competitive with the return on a capital investment in a 10-year period. Households also have two options: they can either invest in the capital market and rent a home or choose the owner-occupied solution and buy a home. The model calculates the results over a 10-year period, looking for the rent level where for both the landlord and the potential tenant, the two options, respectively, have the same gain.

The result of the simulation analysis shows that the asking price for rent in the base case is higher than the demand price.

$$Rs \times (1 - t) = Rd$$

where '*Rs*' is the asking rent, '*Rd*' is the demand rent, and '*t*' is the tax rate on the rental income.

There can be a substantial difference between the asking price and the demand price, depending on the tax and subsidy system. It is thus

possible to conclude that rational landlords and households do not enter the private rental market, which is explained by two tax factors:

1. No imputed rent: while owner-occupation is tax-free once the owner has fully paid for the dwelling, every rent payment is taxed, which means that the (legal) PRS is more expensive, even when direct costs are the same.
2. Capital gains tax exemptions and other subventions make owner-occupation more affordable, while there are no subsidies for private renting, which leads to the predominance of owner-occupation.

However, the fact that at least half (most probably more) of the PRS functions in the black or grey economy in virtually every CEE country³ suggests that a significantly larger share of the housing stock is rented privately than what statistical figures suggest. Despite the disincentives, there are several factors that explain the existence of a PRS:

1. Accidental landlords have typically inherited (not bought) their property; they have a low level of trust in the capital market, and they do not expect to earn a very high income from their property.
2. In their investment behaviour, households with savings (the upper two income quintiles) sometimes favour real estate investment because of the low returns on savings deposits and the high risk of investing in the stock market;
3. Households typically do not have the savings (capital) that they were assumed to have in the simulation model. If they rent instead of buying, they pay a higher price, but they do so owing to a lack of other options.
4. If the landlord does not pay the full or any tax on his/her rental income (does not acknowledge the income), the asking price for rent will be lower.

The Role of Expectations

Households' decisions are based on expectations and not on past experience, although the expectations are strongly influenced by past trends. The decisions of actors in the housing market are based on a subjective

evaluation of different factors, which can be conceptualised as an individual risk-adjusted pricing of the (same) factors that are included in our basic formula. This means that households intuitively know that the factors will change in time and that there is a risk that their expectations will not materialise. In principle, this theoretical value can apply to every household (and in the case of different types of home-ownership and rental tenures⁴) and can be referred to as the ex-ante user cost. Individual decisions will deviate from this theoretical value, but at this stage of the analysis, the assumption is that the expected average value of the deviations is zero. Furthermore, R may differ for different types of actors because different tax and subsidy regulations apply to households, institutional landlords, and accidental landlords.

Our model simulates the decision-making process of rational households in a 10-year period, which is a relatively long term from the perspective of housing market actors. On the demand side, rational households will compare the present value of rents (R_D) to the present value of the (demand side) user cost (u_D) for a housing unit of the same quality.

$$R_D = u_D \times V$$

where ' R_D ' is the maximum rent households are willing to pay, ' u_D ' is the user cost coefficient, and V is the value of the housing unit.

If $R_D < R_F$ (R_F is the actual market rent), a rational household would choose home-ownership, and if $R_D > R_F$ he/she would choose to rent. This scenario would help to explain⁵ decision-making on the demand side.

On the supply side, potential professional and accidental landlords made decisions according to the same line of reasoning, but their formula will be different from the formula used by households because of the different tax treatment, subsidies, and so on:

$$R_S = u_S \times V$$

where ' R_S ' is the landlord's asking price (rent), ' u_S ' is the user cost coefficient, and ' V ' is the value of the housing unit.

However, due to the lack of effective legislation to regulate the PRS in CEE countries and the inefficiency of judicial procedure in enforcing the terms of a contract in most CEE private rental markets, landlords have typically faced the additional risks of tenants defaulting on rent or utility payments or of increased costs in the case of damage to a housing unit, and so on. As a consequence, from the landlord's perspective, the expected risk-adjusted net rent (R_E) is higher than the normal R_S rent by a special risk factor (R_R)—the expected loss because of the risk of non-payment, damages, and so forth.⁶

$$R_E = R_S + R_R$$

where R_E is the expected risk-adjusted rent, R_R is the risk factor, and R_S is the landlord's gross rent.

Professional landlords should take these risk factors into account. Accidental landlords have slightly different considerations, and they may accept a lower rent. On the one hand, the typical accidental landlord tends to overestimate the security of a real estate investment and has a long-term investment goal in mind besides making a profit off the purchased housing (such as future housing for family members). On the other hand, a typical strategy of many small-scale landlords is to let the dwelling to someone within their own network, who pays a lower rent but is considered reliable.

This explains the marginal share of professional landlords in most CEE countries. The typical landlord will be an individual 'accidental' landlord, a second-home owner who owns and rents out a housing unit for reasons other than profit (e.g. to have a future home for their children and to generate income to cover the housing's costs in the meantime). CEE countries typically overcame the transitional recession by the mid-to-late 1990s, and starting from the late 1990s and early 2000s, a growing number of individual households began to invest their savings in second homes as a way to supplement their pension in the future. This contributed to the growth of PRS, still dominated by accidental landlords; since here too the primary goal has been securing savings through acquiring property, while this trend is generally favourable for the sector's development, it does not directly lead to its greater level of professionalisation.

Regulation, Legal Disputes, and the Main Risks in Practice

There are two key aspects to the under-regulation of the PRS commonly observed in the CEE region:

1. The existing legal framework is liberal to the extent that it offers hardly any help in real life. Individual tenancy contracts are the principal source of the rights and obligations of landlords and tenants and the starting point for resolving any disputes, yet many people who depend on rental housing do not have access to lawyers/legal counsel in drawing up/signing a contract.
2. Even when there is a regulation in place to address a particular issue (of private renting), the terms of a contract are often unenforceable, and the resolution of legal disputes (civil litigation) is so expensive, complicated, or time-consuming that parties will often turn to other solutions—for example, they turn to other intermediary actors (like real estate agents, debt-collection companies, etc.) or resort to informal solutions.

Housing policy reforms in the transition period typically had two or three major objectives:

1. to resolve the privatisation of the public housing stock;
2. to make a clear distinction between rental tenure and ownership after the quasi-ownership character of tenancy under socialism;
3. and (in some countries) to restitute formerly nationalised property.

While there were certainly differences between the national approaches to housing system reform and restructuring, the legislation in all countries in the region adopted a fundamentally liberal approach (Baar 1993; Schmid 2008; Dinse 2016). Mass privatisation of the housing stock, often to sitting tenants at a heavily discounted price, was encouraged and implemented widely. On the other hand, the regulation of tenant-landlord relations—in particular as regards private rental—was based on

the civil law principle of the contractual freedom of the parties. In practice, this means that the contracting parties should draw up very detailed tenancy contracts to regulate every potential source of dispute. Since the vast majority of landlords and tenants have been ‘accidental’, they rarely have in-depth knowledge about their rights and existing regulations required to do this.

As an obvious part of the transformation and restructuring process, there have been numerous amendments to housing legislation in the region over the past 25 years (Drofenik 2015; Hegedüs and Horváth 2015; Hussar 2015; Panek 2015). However, these amendments did not alter the legislation’s fundamentally liberal approach to private renting. A good illustration of this is the fact that it often took a decade or more before written contracts became a condition of validity for the legality of a tenancy. Housing legislation often still contains no more than just the most general regulations regarding tenancy contracts: the basic obligations of the two parties (e.g. the tenant is obliged to pay the rent; the landlord guarantees that the dwelling is suitable for proper use), some dispositions regarding maintenance and renovation (although details depend on the individual contracts), and the basic rules for terminating a lease. Many of these legislative provisions are vague and open to interpretation, which leaves landlord-tenant relations unpredictable and potentially unequal, and the very general provisions of the Civil Codes in this respect seldom help to solve issues not specifically addressed in the housing act. The provisions the national Civil Code do not contain solutions designed to resolve the types of disputes that can arise in a tenancy relationship. Moreover, in line with the general civil law principle of contractual freedom, the parties are often free to deviate from the provisions of the national housing acts as long as they do not contravene any action that is explicitly prohibited. While over-regulation in some terms, such as tenant protection after breaching the contract, entails the risk of hindering the development of the sector, the extremely liberal approach of legislation in CEE countries means that the PRS in other areas suffers from chronic under-regulation, such as the general lack of reliable enforceability of general regulations and individual contracts. These housing sectors are in great need of a careful combination of flexibility and legal certainty in their rental sector to make it attractive for both parties.

Entering into a Contract: Preliminary Checks and Deposit

While in some Western European countries (like Germany and the Netherlands) it is customary for landlords to ask a potential tenant for a bank statement or salary statement, in CEE countries neither the future tenant nor the landlord has the right to perform preliminary checks on the other party's ability to uphold their contractual obligations before entering into a tenancy contract. Although there is usually no outright prohibition on such actions, any party doing so runs a great risk of discouraging the other party from entering into the contract. The tenant consequently has no proper control over the quality of the selected dwelling or the behaviour of the owner. The landlord, on the other hand, cannot check the prospective tenant's ability to meet their contractual obligation of regularly paying the rent and utilities or the person's housing history, and they face the risk of having to deal with antisocial behaviour (conflicts with neighbours), damage to the property, and tenants defaulting on rent or, conversely, of their refusal to leave the property when the contract ends or is terminated.

In CEE countries, the amount or even the use of a deposit is highly variable. In the legislation of different countries, landlords have the right to ask for as much as 3–6 months' rent as a deposit, but it tends to be lower in reality as most tenants could not afford to pay this amount in advance. Notably, the deposit must be kept in a separate account from the landlord's assets, but it is doubtful that is actually done given how widespread informal renting is. In practice, therefore, the deposit tends to amount to 1 or 2 months' rent, and at the bottom end of the market (i.e. poor-quality dwellings, low-income renters), there may be no deposit at all.

Tax Evasion and Registration of Contract

The most important factors that undermine the stability of tenancy relations are widespread tax evasion on the one hand and the authorities' apparently permissive attitude towards residential renting on the other.

In most CEE countries, there is no obligation to register tenancy agreements with the tax authorities, and from all available evidence—however, limited it may be—it is safe to say that *most* of the PRS is part of the informal market. At the same time, tenants and landlords are usually well aware of the risks they face in the PRS and are careful to avoid getting into disputes. Most tenants and landlords play by the unwritten rules of the sector, which functions in an informal yet self-regulatory way: actors have obvious incentives to cooperate on most matters and both sides try to avoid conflicts for as long as possible.

Yet, as an obvious consequence of tax evasion and efforts to hide most private rentals, there are no reliable statistics on the extent of tax evasion, and even professionals are rarely willing to estimate its scale.⁷ In Hungary and Bulgaria, many market-rate contracts are reported as rent-free tenancies. In fact, Eurostat data shows that 10.9 per cent of Bulgaria's population was living in 'reduced price or free' rental flats in 2010, which could create the impression that there is a large amount of social housing stock. CECODHAS (2012) reported Bulgaria's social housing stock at 3.1 per cent in the same year. The significantly large share of reduced price or free rentals includes far more semi-formal forms of renting than Bulgaria's social housing alone. In Slovenia and Croatia, a typical practice is to report tenants, who are not relatives, as family members in order to gain a tax exemption (Jakopič and Žnidarec 2014; Petrović 2014; Drofenik 2015).

A problem stemming from widespread tax evasion is that landlords object to their tenants registering the rented residence as their current address due to fear of being discovered by the tax authorities. In Bulgaria, the law does not require a written contract, which makes it pro-landlord: tenants cannot seek legal help as only the landlord has any proof showing any relation to the property. While registering contracts is obligatory in Croatia, the Czech Republic, Hungary, and Slovenia (in the latter, only for contracts concluded after 1 July 2013), the obligation to register is often circumvented in practice. In Hungary, the registration of a new address is a condition for collecting social benefits and using public residential services (e.g. voting in the district, local schools, or medical attention), but landlords often explicitly forbid tenants from registering their apartment as their current address.

Determining Rent Levels and Rent Increases

There are caps/limits on rent increases in Croatia, Estonia, Poland, and Slovenia among the discussed countries, but the level of initial rent is fully left to the discretion of the contracting parties in all of them (Jakopič and Žnidarec 2014; Petrović 2014; Hussar 2015; Panek 2015). This results in very flexible local markets, with unpredictable rental incomes for landlords and housing costs for tenants, depending on the situation in the market. Tenants are therefore left in a difficult situation because rent levels are unpredictable and at the same time transaction costs (the cost of moving somewhere else) can be high, and this in turn may decrease the demand for private rental and further promote the preference for owner-occupation. In order to safeguard the interests of the tenant, general civil law instruments usually allow civil courts to declare tenancy agreements invalid and lower the rent in the case of ‘blatant disproportionality’, but such cases are extremely rare because of the cost and the length of the necessary judicial procedures. What constitutes disproportionately high rent is quantified in Croatia, where the rent level cannot be set at more than 120 per cent of the local average rent, and in Slovenia, where it cannot be more than 50 per cent of the local average rent—although it is unclear whether either country has reliable local rent statistics. In Estonia and Poland, rent can only be increased once every 6 months, after advance notice, in justified cases. The real impact of these regulations is uncertain because informal renting is so pervasive and because the law is often dispositive as long as the contract’s content is not in clear violation of any law.

While the landlord’s interest is to be able to gradually increase the rent, at least sufficiently to compensate for inflation, a long-term tenant may seek to negotiate a lower price in exchange for the secure income the landlord gets from the tenant’s continuous payment of rent (i.e. lower transaction costs for the landlord). Contracts are another means by which rent increases could be regulated, but this does not usually happen in practice, simply because accidental landlords and tenants seldom have the knowledge and experience to deal with this potential source of conflict at the start of the tenancy relation. It is difficult to recommend the introduction of strict rent regulation as experience shows that even in old EU member states this has led to a shrinking rental market (see chapter

titled ‘The Private Rental Sector in Western Europe’). Yet, flexible national regulations adapt to market fluctuations with some delay, and the requirement that landlords provide advance notice in writing can be recommended in order to make the sector sufficiently attractive for landlords, while also providing tenants with enough time to prepare for a change in their options, and also to contribute to the predictability of the future rent and encourage longer-term tenancy relationships.

The Duration, Extension, and Termination of a Contract

In the vast majority of cases, contracting parties are also entirely free to decide on the duration and on any possible extension of the tenancy contract.⁸ It is also up to the contractual parties to decide on whether to conclude a fixed-term or open-ended contract. The main difference between contracts for a determined and an undetermined term relates to the termination of the contract: a contract for an undetermined period can be terminated simply by giving the tenant due notice in advance, while tenants enjoy protection for the duration of the term in a fixed-term contract. Termination rules are usually fairly straightforward for open-ended contracts: written notice is sufficient, but the length of time between giving notice and the tenant’s obligation to leave ranges between 1 and 3 months. Most national legislations provide for tacit renewal if neither of the parties indicates a wish to terminate the contract at the end of the contractual period, and in some countries, the contract is automatically considered indefinite if neither the duration nor the indication of definite or indefinite term is specified in the contract. Otherwise parties are also free to negotiate extensions of the contract, which will usually only happen if both sides are satisfied with their arrangement, though renegotiating the level of rent remains a possible source of conflict.

Tenant protection measures in CEE countries are problematic in multiple aspects. Renters in the private market are almost never eligible for any substantial rent allowance that would help them to meet their regular payment obligations. There are just a small number of local initiatives designed to help tenants with market rent payment, and they target only very low-income households; even though in CEE countries—like in old

EU member states—private market tenants typically spend the largest share of their income on their housing costs. Instead, tenants are protected by the guarantee that they will be able to remain in a dwelling for a long period even after a breach of contract. From the landlord's perspective, this looks like the terms of a contract being rendered unenforceable as they are unable to recover the free use of their property when a contract is terminated. The most serious risk landlords face is the extreme (and relatively rare) case of a tenant refusing to leave the dwelling while also ceasing to pay rent and utility costs. Given how long such a tenant may ultimately continue to reside in the property before they can be forced to leave, the landlord could end up with a huge loss. While there is usually some legal remedy in place to recover this loss, this too requires lengthy litigation and is far from being fail-safe, particularly in countries where a written contract is not required and in regions where informal tenancy agreements are more widespread. Because of the informal nature of so many tenancies, there is no evidence on the frequency of such cases, but the anecdotal evidence is enough for many potential landlords to stay out of the market or to reject what to them seem like potentially low-income or 'risky' tenants. In the end, this solution makes the market less attractive for landlords, while failing to provide real tenure security and stability for tenants. In response to this risk, landlords usually seek tenants for at least a 6-month period to reduce their transaction costs and strongly favour fixed-term contracts for only a year or two 'to be on the safe side'. This tendency is even more pronounced at the bottom end of the market where landlords may be more likely to question the long-term solvency of tenants.

Dispute Resolution

If the contractual parties face irreconcilable dispute, their first (and in many cases only) legal option is to turn to the general civil court system. The length and cost of the procedure usually deter parties from pursuing litigation for as long as possible. On the one hand, this reinforces the self-regulatory nature of the sector, which in turn allows it to remain informal, and on the other, it also encourages the use of semi-legal (or illegal) methods. It does not, however, seem realistic that many sources of disputes would be resolved by civil procedure. For instance, legislation in

most CEE countries gives parties the option to seek court adjudication if they cannot agree on the rent amount, while in practice they will rarely enter into a tenancy contract without first agreeing on the amount of rent. Accordingly, it is only when one party to the contract has already suffered a significant loss that it is worth their while to seek a court ruling on a dispute with the other party. In this light, it is all the more obvious that either specialised tenancy (or general housing) courts or some other alternative methods of alternative dispute resolution would be required to stabilise the tenure status of many low-income private tenants.

It might then be surprising to learn that many CEE countries *do* have alternative dispute resolution instruments in place—they are available, for example, in Bulgaria, the Czech Republic, Estonia, Poland, and Slovenia. At the same time, in most cases these instruments have been introduced very recently and have been so rarely used that they have very little practical impact. In some cases, they involve only an accelerated court arbitration process. The lack of institutional landlords and the generally limited information that parties entering into a tenancy contract usually have also means that most of them are not aware of these instruments or options, while the lack of coherent housing strategies—and particularly tenure-neutral approaches—in CEE countries also means that little effort is made to promote alternative dispute resolution in private residential renting.

Ultimately, parties often resort to informal conflict management. In most cases, this means negotiations without the involvement of a third party; however, the use of aggressive methods or even various threats against a party is also not unheard of. As mentioned above in relation to the long eviction process, both parties may engage in semi-legal or illegal action to gain the upper hand. On the side of the tenant this might involve threatening to report the landlord to the tax authorities, changing the lock on the door, and/or not responding to the landlord's inquiries. Uncooperative landlords have been known to cut supplies to utilities to get rid of non-paying tenants. Either party may threaten the other with physical force, and while this would allow the other party to file a lawsuit, parties who cannot afford lengthy and expensive methods for resolving disputes or are less informed about their rights and obligations will be less likely to assert their rights through judicial procedure. While the tenant's right to privacy and right to their possessions in the dwelling also provide

protection, the landlord may also take property belonging to the tenant in the dwelling as a pledge on the tenant's debt.

In summary, legal dispute resolution does not provide tenants with sufficient tenure security or landlords with financial security and necessarily swift access to their property, particularly at the bottom end of the market where the most vulnerable households rent and where landlords are also in a relatively vulnerable position. Alternative dispute resolution is barely accessible, and the risk of having to resort to informal dispute resolution methods pushes tenant households towards owner-occupation and keeps many prospective landlords away from the market—although the cost of legal procedure and the threat of irreconcilable conflict probably both play a part in underpinning the self-regulatory behaviour of the parties. Ultimately, the outcomes of disputes are more a reflection of the power relations between the parties, rather than a product of a balanced relationship that could make the sector safer and predictable for both sides.

Owing to the lack of reliable statistics, the scale of the problems discussed above can only be assessed on the basis of anecdotal information, and this lack of information is a problem for prospective landlords and tenants, as well as researchers. In any case, these problems discourage many owners from becoming private landlords. Given that most people who become tenants are forced into the renting sector, the risks they are faced with will not decrease their reliance on private renting, although, as we saw above, they will enter the ownership sector as soon as they can, despite the risks of low-income home-ownership and household indebtedness. The risks prospective landlords have to face also directly hurt the sector, as faced with the risks many owners will prefer to sell or even to leave their property vacant instead of letting it.

Conclusion: Tenure Choice, Risks, and Volatility in Private Renting

The goal of this chapter was to shed light on the distorted tenure preferences in a region that is already full of 'super home-ownership' societies. Although housing tenure literature also considers a set of arguments about the role of cultural historical factors and even about the basic

human need for ontological security in the form of owner-occupation, we often find very different tenure structures in countries with similar cultural traits and historical starting points—or, conversely, very similar tenure structures in culturally and historically distinct countries. Moreover, apparently a great number of people in many European countries feel comfortable renting in the long term. Although the housing tenure structure is clearly also shaped by market demand and supply, it is important to note that the market cannot always flexibly react to their changes. Accordingly, in this chapter, we took into consideration the factors besides market demand and supply that we believe to have the most significant effect on the structure of housing tenure in the long run: the policy environment defining the housing sector's financial and legal risks—or in other words, the predictability of the sector for potential market actors.

The PRS has been a neglected area of housing policy in transition countries for a variety of reasons. In an environment where entire economies and whole bodies of legislation had to be restructured, only the most urgent issues in housing were treated: the dismantling of the hugely loss-generating sector of state-owned housing and the boost of the private sector through housing privatisation (and restitution in some of these states). The regime change thrust CEE countries into an international environment where privatisation was the general trend in Europe, and as it became obvious what difficulty many households would have in securing ownership, pro-ownership support measures were launched. Finally, when the prospect of joining the EU was opened to these counties, housing was not part of the EU accession and harmonisation agenda.

By now it has become clear that an inflexible housing sector disproportionately dominated by owner-occupation has numerous drawbacks, from constraining labour mobility to the fact that low-income households are not able to afford ownership once an intensive economic growth period weakens or comes to a halt. As a consequence, the recent crisis was extremely damaging in these 'super home-ownership' societies. The key reason for this lies in the fact that housing is now fully integrated into the national economy, and while the market is increasingly volatile, household incomes cannot possibly keep up with changes in house prices, housing costs, and financial opportunities (e.g. the crash of credit

products after the crisis). Based on the considerations discussed in this chapter, the housing policy environment in CEE countries represents a market failure in terms of fiscal and legal conditions, where a fundamentally liberal housing market has not led to the optimal allocation of housing, and a policy failure, where the legal framework and dispute resolution opportunities drive low-income persons into owner-occupation, which easily turns out to be unaffordable for them. The widespread informality of the sector stems from the combination of these factors and results in CEE countries' inability to balance their tenure structures in a way more suited to both private sector development and social needs (affordable market rentals). Legal experts have criticised CEE housing frameworks for being chronically under-regulated in certain aspects, while overregulated in others, failing to ensure a balanced relationship between the contractual parties of a private lease. The generally liberal regulation in these countries risks to make the markets fundamentally pro-landlord, and in an attempt to compensate for this, regulations provide tenants with extensive protection so that it may be very difficult to evict a tenant for a prolonged period, even after a contract has been terminated. Clearly tenants only get to benefit from this protection when they are already on the verge of losing their housing tenure, and these protective measures can also be a source of massive financial loss for landlords. These challenges in dispute resolution deter actors from entering the PRS and hence slow down the development of the market.

Striking a good balance between the needs and interest of tenants and landlords, and sustaining an affordable yet stable tenure for the most vulnerable groups, is a significant challenge in all European countries. Still, despite some signs of gradual economic convergence, new EU member states continue to lag behind EU-15 countries in creating balanced conditions for tenants and landlords. Improving housing policy in transition countries is an extremely difficult process politically; the changes needed to bring about tenure neutrality are ones that are unlikely to make voters happy, at least not in the short run. A review of the fiscal and legal risks that potential actors in the private rental market face makes it clear why the vast majority of people have a strong preference for home-ownership, even if paying their monthly mortgage instalments takes a huge bite out of their disposable income. The global financial crisis, which reached the CEE

region in 2008, demonstrated that ignoring housing policy, and private renting within it, is particularly harmful to medium- and low-income households in transition countries. There is a dire need for incremental changes in the areas of legislation and the financial provisions. On the fiscal side, steps should be taken to introduce meaningful benefits for low-income or vulnerable households living in private rental housing owing to a lack of any other available options. While it seems highly unlikely that a fully tenure-neutral package of policies will be introduced in the post-socialist countries of CEE, a gradual move away from pro-home-ownership subsidies that are only sustainable for the middle class towards a slightly more tenure-neutral tax and subsidy system is much needed in the region.

Notes

1. Distribution of population by tenure status, type of household, and income group (source: SILC) [ilc_lvho02]. According to Eurostat data, the average owner-occupation rate was 70.1 per cent in 2014 in EU-28.
2. EU-11 covers the 11 new member states in the CEE region: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia having acceded the EU in 2004; Bulgaria and Romania in 2007; and Croatia in Croatia in 2013.
3. See Tenlaw report. The only important exception is Czech Republic, see Chapter X case study on Czech Republic.
4. The formula may differ according to the sub-type of the tenure because of the differences in tax treatment and subsidy conditions.
5. Other behavioural factors (culture, past memories, etc.) may play an important role in the tenure choice, so the final result may deviate from this 'theoretical' value.
6. From the households' perspective, we do not calculate with the tenants who intend not to pay the rent, although avoiding payment for months, and then 'disappearing' (moving to a new tenancy without leaving contract) is an existing survival strategy on the demand side.
7. In interviews with private market actors conducted in Hungary (Hegedüs, Horváth & Tosics 2014), they placed the share of informal renting between 50 and 80 per cent of all private residential contracts, based on the share of landlords who preferred to receive the rent in cash.

8. The sole exception among the examined countries is Bulgaria, where owner-landlords are only allowed to enter into tenancy contracts for up to 10 years, whereas landlord managers without ownership have a limit of 3 years.

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5

Poor and Vulnerable Households in Private Renting

Martin Lux, Nóra Teller, and Petr Sunega

Introduction

After 1990, the new democratic governments in post-socialist states wanted to re-introduce private property and establish a market economy. Governments in most countries in Central and Eastern Europe shared the view that large parts of existing public rental housing should be privatised and new social housing policies should help people who were unable to afford housing available in the free market (Pichler-Milanovic 2001). In most countries, privatisation ultimately took the form of a massive give-away sale to sitting tenants who obtained housing almost or wholly free of charge (Lux 2003; Lowe and Tsenkova 2003). With mass privatisation,

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public housing almost disappeared in a short period, although in some countries the pace of privatisation was slower (Tsenkova 2009).

As Lux and Sunega demonstrated (2014), new social/public rental housing policies have also been implemented in very specific ways. Notwithstanding the large differences in measures adopted, Lux and Sunega (2014) showed that almost all attempts to build new social housing proved to be unsustainable, and they explained it mainly on the basis of the following two phenomena:

- *The privatisation trap*: owing to the legacy of giveaway public housing privatisation, when new social/public rental housing is built, there sooner or later arises a demand for the privatisation of this housing;
- *The paradox of decentralisation*: municipalities, that is, the main social landlords in the region, are too small and financially weak and thus do not have sufficient fiscal resources to maintain a long-term social housing policy and refuse to make financially costly and politically unpopular decisions connected with housing the poor.

While public renting experienced the most dramatic decline in history of post-socialist countries and new social housing policies were mostly unsustainable to substitute it, the private rental sector (PRS), by contrast, grew significantly in importance after 1990. Most post-socialist countries started their new democratic history after 1990 with an officially small and overregulated PRS, but they also had experience with unregulated informal subletting run by both homeowners and public tenants under socialism. Hegedüs et al. (2014, p. 2) showed that different versions of PRS had existed under socialism 'as a result of political compromise, namely subletting and a controlled (forced) system of private letting'.

Despite the sharp growth of the PRS after 1990, many private landlords in post-socialist countries continued to rent a flat without a proper contract; if contract is concluded, enforceability of contract provisions is low and it is typically for a fixed and short period of time, mostly one year, because the landlords fear tenant arrears and long judicial proceedings surrounding evictions. The illegal status, weak or non-existent tenure security, the absence of rules on rent reviews, and the short term of a typical contract became the main features of the post-1990 PRS in many countries.

This chapter demonstrates that market (private) tenants differ from the rest of the population in almost all former post-socialist European Union (EU) member states by their lower age and higher odds of being unemployed (in some countries, low-income people are also overrepresented in the sector while in some other both high- and low-income people are overrepresented). The fact that mobile (young), unemployed, and low-income households are becoming overrepresented in the PRS increases the risks and costs for private landlords, and this may logically cause higher rents. The dominant position of home-ownership in housing systems, its preferential subsidisation, and relatively high rents (when compared to the user costs of home-ownership) due to increasing risks and tenant turnover make private tenancy expensive, stigmatised, and financially unattractive. The vicious circle of an unbalanced housing tenure structure may thus condemn private renting to residualisation.

The Social Structure of Market Rental Tenants

The purpose of this section is to show how the social structure of private (market) tenants differs from the social structure of the rest of the population in all post-socialist EU member states. This analysis employs Eurostat data, including data from Statistics on Income and Living Conditions (EU-SILC) national surveys.¹ Unfortunately, EU-SILC survey does not distinguish the type of landlord in the rental housing sector, only the type of rent paid by a household—market or regulated. However, given that rents in running tenancies in the private sector, or a portion of them, may in some countries still be subject to rent controls, it is impossible using this survey to properly analyse the social structure of distinct rental tenures. Moreover, what ‘market’ or ‘regulated’ rent means can vary widely from country to country because rents may be controlled in significantly different ways and have diverse impacts on landlords, tenants, and markets. Finally, a large part of the private sector of post-socialist countries operates in the shadow zone of the economy, which cannot be covered in a questionnaire survey, and similarly, a significant section of poor and vulnerable households may not be covered by any quantitative survey. However, there is no other comparative survey of living conditions in EU

Table 5.1 Share of population living in market rental housing (2013)

Country	Total population	Population below 60% of median equalised income
Bulgaria	1.8	0.6
Czech Republic	16.0	31.4
Estonia	3.4	4.7
Croatia	2.0	3.7
Latvia	8.3	11.2
Lithuania	1.4	3.0
Hungary	3.2	3.7
Poland	4.2	4.8
Romania	1.4	1.0
Slovenia	5.7	13.4
Slovakia	7.6	12.8

Source: Eurostat SILC, Distribution of population by tenure status, type of household, and income group

countries and Eurostat data are officially accepted by EU governments. Despite this fact, the results from our international comparison presented below should be taken and interpreted with caution.

Table 5.1 shows the share of population living in market rental housing, and the share of population below 60 per cent of median equalised income living in market rental housing in all post-socialist EU member states based on official Eurostat data (in 2013). The table demonstrates that there are at least four countries (Czech Republic, Latvia, Slovenia, and Slovakia) where the share of poor households living in market renting is relatively high when compared to the national average. A significant share of poor households may also live in some form of private renting where they do not actually pay market rent; they live in dwellings of relatives where they pay reduced rent or live for free.

We employed the EU-SILC (cross-sectional) datasets from 2011 to test whether tenants paying market rents have significantly different socio-economic characteristics from the rest of the population. The units of analysis were respondents (R-file); the dependent variable was the tenure status, and it was set at a value of 1 if the respondent was a tenant or subtenant paying rent at a market rate and a value of 0 for all other tenures. With respect to the distribution of the dependent variable (binary), a logistic binary regression was employed. The independent variables

were as follows: age of the respondent, household type, basic activity status, quintiles of the equalised disposable household income, education, marital status, sex, and whether the respondent lives in an overcrowded household or not.² Other variables were omitted from the analysis due to multicollinearity or weak impact.³ Regression models were computed for each country.

The tables presented in Appendices 5.1 and 5.2 show the results. The values presented in the tables are the odds ratios and must be interpreted in relation to the reference categories (labelled 'Ref.'). The indicative results confirmed that young people (ages 18–34), singles (except in Lithuania and Poland), and unemployed or economically inactive people (except in Lithuania and Croatia) are more likely to live in market renting than other social groups. However, there are differences between CEE countries when it comes to the income variable, but there will be no attempt to interpret them here owing to the data and statistical constraints on this analysis mentioned above.⁴ As the country studies in this book show, in many countries, the PRS accommodates a wide range of households, including high-income managers, middle-income students, and low-income households. Thus, no clear tenure division according to household income can be found in the aggregate data. However, data analysis confirmed the temporary, and in some countries also residual, features of market renting.

Social and Spatial Segregation in Post-socialist Countries

The discussion above showed that the PRS may accommodate a significant number of lower income (singles, economically inactive, and unemployed) households in some post-socialist states. The question then is whether the PRS also provides housing to the most vulnerable (the lowest income) households, and if so, whether such housing is located in segregated neighbourhoods of low quality or is a substandard cheap form of housing. If demand-side subsidies (housing allowances or other welfare benefits on housing) were too restrictive (e.g. because of eligibility restrictions or the fact that benefit levels do not reflect market rents), which is probably the

case for most post-socialist states (Lux and Puzanov 2013), one would assume that for vulnerable low-income households searching for affordable private renting the only option would be in stock of low-cost spatially segregated housing.

In the literature on social and spatial segregation, there are scholars concluding that there is increasing spatial segregation in post-socialist cities (Enyedi 1998; Weclawowicz 1998; Kovács 2014) and papers demonstrating that segregation is only occurring on a very small scale, and in fact, on a macro level of analysis (using census data), it is possible to find little or even no sign of increasing social polarisation in the city space (Marinczak 2012; Gorczynska 2014). Marinczak et al. (2014) write, for example, that the global trend in residential segregation patterning (supported with census data) indicates an increase in socio-occupational mixing in Bucharest, which confirms similar results from Prague and Warsaw. It is called the paradox of post-socialist segregation, according to which rising incomes and social inequalities are accompanied by socio-spatial mixing, at least in the capital cities.⁵

However, this 'macro perspective' based on census data may conceal some subtler 'micro processes' of differentiation on a smaller scale that, in fact, happened in all these cities and were acknowledged by social research. As Kovács (2014, p. 179) notes, traditional measures, such as the educational structure, 'obscure rather than reveal new forms of socio-spatial inequalities in post-socialist cities'. For example, spatial segregation may only concern outlier social groups, such as rich families in gated communities and the exclusion of ethnic minorities (mainly Roma) in less attractive parts of the city (Sýkora 2009). Segregation processes may be ongoing outside the city borders in the form of social suburbanisation, where poor families escape the urban landscape and find cheap housing in under-served areas (Ladányi and Szelényi 1999).

For an overview of the micro-processes of spatial segregation in the countries analysed in this book, a short survey has been conducted among informants from a sample of the following post-socialist countries: Bulgaria, the Czech Republic, Croatia, Estonia, Hungary, Poland, Russia, and Slovenia.⁶ Based on the information provided, with the exception of the Czech Republic and Hungary, there is no regular and properly defined monitoring of socially segregated areas in the remaining post-socialist countries.⁷

In the Czech Republic, the Ministry of Labour and Social Affairs commissioned the Map of Socially Segregated Areas. For monitoring purposes, a socially segregated area was defined as a locality in which more than 20 people live in unsatisfactory conditions and which is physically or symbolically delineated (on the basis of external identification). According to this research, there were 606 socially segregated areas in the Czech Republic in 2015, which is nearly double the number of socially segregated areas in 2006 (310 areas). The population living in these areas is estimated to range between 95,000 and 115,000 inhabitants, which again represents a rise in comparison to the 60,000–80,000 inhabitants in 2006. In Hungary, research on spatial segregation was conducted in 2010 (commissioned by one of the managing authorities in Hungary). Based on this research, there were over 1600 segregated neighbourhoods that have more than 300,000 residents. Because of the different methodology used, the Hungarian figure cannot be compared to the one provided for the Czech Republic. However, both sources demonstrate that socio-spatial segregation in transition countries indeed exists and may actually affect a substantial part of the country's population.

It was clear both from the survey and previous research that socio-spatial segregation has an important ethnic dimension and the Roma minority in particular is strongly impacted by it. In the Czech Republic, the largest number of socially segregated areas is in economically weak regions, where there are high unemployment rates and a less skilled workforce. Roma people represent the majority of inhabitants of socially segregated areas. The roots of the migration of Roma from other urban centres to economically weak regions are probably in the public housing privatisation policies and the eviction of Roma from public rental housing for rent arrears. Occupants of public flats were not able to participate in the privatisation of flats and thus buy the flat they were living in if they were in arrears on their rent or utility payments; consequently, they were often excluded from privatisation and later evicted, or they voluntarily moved to other region after they had received the offer to cover their debts by speculators who wanted to buy public dwellings they were living in. In Bulgaria, public housing privatisation was also cited as one of the main drivers of increasing segregation. In Hungary and Poland, socio-spatial segregation that again affects mainly the Roma population is

mainly linked to the dilapidation of the municipal housing stock in urban areas. In Russia, international migrants to cities (especially Moscow) are mentioned as a driver of increasing socio-spatial segregation. The process, however, is still in its initial stage.⁸

However, private rental dwellings, while occupied more by younger, single, and often less well-off households than other housing tenures, as demonstrated by data analysis in the preceding section, is not, according to the informants, the form of housing used by the majority of the most vulnerable households in any country of our restricted sample. In most countries, it is still mainly the home-ownership sector that houses the most poor and this obviously has to do with the general super home-ownership systems that exist in most of these countries. In Hungary and Bulgaria, most Roma households (in Estonia, Slovenia, Croatia, and Russia most vulnerable low-income households) are owner-occupiers.⁹ In the Czech Republic and Poland, most Roma and other vulnerable households live in public housing,¹⁰ but in the Czech Republic a very significant share of them (an estimated 30–40 per cent) live in the PRS, often in substandard housing or non-residential premises, dormitories, low-quality flats, and hostels with weak tenure security. Consequently, while PRS accommodates the most vulnerable households elsewhere, only in the Czech Republic this phenomenon is really strong and PRS is also significantly present in spatially segregated areas.

The PRS and Selected Vulnerable Groups

The PRS had a role in serving vulnerable groups' housing needs even before the transition, mostly for those who did not get access to housing through the official housing allocation system. After 1990, informal or 'shadow' private rentals continued to form a submarket of the rental sector. Income-poor homeowners often lease their own home or flat or a part of it in order to informally increase their monthly incomes (Hegedüs and Teller 2006). In the late 1990s and early 2000s, these 'subsistence landlords' were reported to represent a substantial share of private landlords, for example, in Sofia and Budapest (Dübel et al. 2006). The informal aspects of this relationship pertain to (1) the absence of a written contract, which heavily limits the security of both the landlord

and the tenant in the case of disputes, (2) the fact that the tenants do not register the housing as their place of permanent residence, and (3) informal and discriminatory filters during the allocation procedure.

Table 5.2 summarises the information provided by country informants about the specific features of how the PRS serves vulnerable people in our sample of countries now. With the exception of the Czech Republic and to some extent Poland, in the other countries, tenant-landlord relations are mainly informal (i.e. there is no signed lease). Moreover, in all countries, private rental dwellings for the most poor tend to be of inferior quality and overcrowded, and in the Czech Republic, they typically suffer from spatial segregation and weak tenure security, and leases tend to be very short term.

The low end of the PRS is reported to operate in a different way than the general private rental stock, especially when it comes to segregated neighbourhoods. Informants reported that in such neighbourhoods tenancy relations are unclear, mainly because administrative procedures are

Table 5.2 PRS serving poor people in selected CEE countries

	Private rental serves the major part of the poor	Contracts in the PRS differ for vulnerable groups	Typical landlord-tenant issues in PRS
Bulgaria ^a	No	Most of the tenancies are informal	Inferior quality, informality
Czech Republic ^a	Increasingly, mainly in private hostels	Shorter terms and sometimes informal	Inferior quality, spatial segregation, discrimination
Hungary ^a	No	Most of the tenancies are informal	Informality, discrimination
Poland	No	Shorter terms and informal	Occasional renting
Estonia	No	Most of the tenancies are informal	Informality
Croatia	No	Most of the tenancies are informal	Inferior quality, overcrowding, informality

Source: Information provided by country informants and authors of country studies in this book

^ameans that spatial segregation relates especially to Roma ethnicity. Slovenia is excluded from the table as spatial segregation is considered an unimportant social issue there

neglected by both parties. Unclear tenure relations make tenants feel more fearful of being informally evicted and may push tenants into a situation where they are even more vulnerable—for example, due to a lack of access to social and health services. In the Czech Republic, recent discussions have focused on the issue of private lodging houses and hostels (where people pay an accommodation fee that is fully covered by a special welfare benefit, rent supplement, from the government) that accommodate a large number of Roma and other vulnerable (homeless) households. Despite the fact that there is often a formal contract signed to obtain this form of accommodation, the quality and space standards are low and buildings are often located in socially segregated areas. The number of people living in hostels (privately owned for the large part) has risen dramatically in the last decade in the Czech Republic, to about 27,000 people living in about 700 hostels in 2014 (from about 11,000 people living in hostels in 2008).

There is, however, no systematic research on hostel accommodation in the Czech Republic. Alongside seasonal workers and people who have voluntarily chosen to live in hostels, the hostels often accommodate households with heavy debts and suffering from long-term unemployment that have been evicted from their previous housing because they were in rent arrears or have lost their housing for some other reason and cannot find suitable standard housing on the free market. Due to risk aversion or even discrimination, private landlords are not willing to rent a standard housing to them, despite the fact that these people could afford it under the generous housing allowance system (see country study on the Czech Republic in this book for more details).

Because the regulations and especially the controls on the use of the generous housing allowance system in the Czech Republic are not optimal, private landlords are able to charge above-market rents for dwellings that are of inferior quality and located in declined regions or segregated neighbourhoods; and the same is true in hostels occupied by vulnerable households. The profitability of this form of housing (or accommodation) provision creates financial incentives for speculators, and a public discussion has emerged on whether this ‘business with poverty’ is fair and sustainable. However, the generous housing allowance system also makes it possible for regular private rental dwellings to be used as social housing, and several NGOs are involved in acting as intermediaries between vulnerable households and private landlords. For example, the NGO Centrom

concluded an agreement on cooperation with the largest private landlord in the country, RPG, in 2010, and based on this agreement, they managed to find accommodation for several vulnerable and homeless households in flats owned by this professional landlord. Another active NGO, Romodrom, was involved in a social innovation project and based on its own experience formulated a methodology for acting as effective intermediaries between Roma households searching for rental housing and private landlords, including small accidental landlords. According to this methodology, they work only with those landlords who are not 'usurers' (i.e. they do not charge rent that does not reflect the size, quality, and location of the dwelling) and their dwellings are not located in spatially segregated neighbourhoods; the landlord must also agree with the tenants registering the flat as their permanent residence. The scale of private rental dwellings used to accommodate the poor in the Czech Republic is significantly constrained by the lack of a system of guarantees that would further decrease the risks connected with providing housing to vulnerable households. The potential benefits and weaknesses of this mechanism have been researched by Vobecká et al. (2014) and Mikeszová and Lux (2013).

In Hungary, there are newly emerging segregated neighbourhoods that serve as a temporary solution for households who leave the cities for cheaper housing. In addition to such urban downscalers there are also migrants from poor rural areas who move to the former recreational areas of cities in search of better job opportunities. These recreational areas are within the administrative boundaries of the cities, but the function of the area had largely been as a site for holiday homes with limited infrastructure and services. Families move to these areas and rent a house or a part of a house informally (shacks, cottage houses, etc.), and this deprives them not only of tenure security but also, often, from transportation facilities and therefore also denies them employment opportunities because of the difficulty accessing them (Lengyel 2009; Teller 2009).

The PRS has also long played a key role in low-skilled temporary labour migration in Hungary. Before the transition, labour migrants were served by workers' hostels, most of which were closed during the transition years, and some were converted into homeless shelters. The economic changes in the 2000s created a new stratum of labour migrants who had to move, for example, from the northeast of Hungary to look for work in the chemical or construction industries elsewhere. Workers were often

recruited by 'agencies' and moved in groups to take up jobs in factories or on construction sites, and they were housed in low-standard PRS units arranged for them by the agencies, usually, for example, in former youth camps or abandoned workers' hostels (Hegedüs and Teller 2007).

In the Hristo Botev neighbourhood of Sofia, Bulgaria, where most residents are Roma (with population of about 7000 people), the district operates a small stock of about 130 social housing units. The main target group for this social housing stock is vulnerable families from the neighbourhood who live in precarious housing conditions. They have to register on a waiting list and wait for a vacancy, and they have to have been residents in the neighbourhood for 10 years. This requirement means that many families stay in private rentals for a long time. The rent in PRS is tenfold that of the rents in social dwellings but still lower than in surrounding neighbourhoods in general. In the focus group discussion held in May 2015,¹¹ private tenants reported a general lack of basic amenities, overcrowding, and conflicts. They reported being dependent on the goodwill of the landlord in terms of rent levels and how long they can stay as they have no rental contract. Having no other place to stay, their only hope is to be housed in the social dwellings because they cannot afford to own a home.

Another phenomenon related to the PRS and poverty is the highly intertwined nature of lettings and informal ties in segregated neighbourhoods. In the course of an urban rehabilitation project launched in 2013 in Pécs, one of the largest county seats in Hungary, the local authorities mapped the stock of housing in one segregated neighbourhood as there were plans to use substantial EU funding to upgrade the social housing there. It turned out that only a small fraction of the local residents had clear titles to homes they occupy. The reason was that friends and family members tended to exchange, let, and sublet the dwellings, or even adjacent buildings like wood storage huts, according to 'market demand' and based on oral and pocket contracts. It involved a long and costly administrative procedure to formalise and legalise the resident's rights to their housing in this segregated Roma neighbourhood, and it was a politically difficult issue to evict selected squatters who were, for example, criminally active and would have endangered the progress of the project (Kovács 2015). Similar issues were reported in Budapest's Magdolna District, where social housing was also upgraded using local and EU funds (World Bank 2015). Whilst

some cities opted for a formalisation process, in other cases, such ‘tenancy checks’ were followed by forced evictions (like in the 2015 case of Miskolc in Hungary (Amnesty International 2015)).

Conclusion

Due to the sharp decline in the share of public housing and the unsustainability of new social housing strategies, the growing PRS may in the future play a more significant role in housing the poor and vulnerable households in post-socialist countries. Based on Eurostat data, we saw indeed that lower income households are more likely to live in market renting in some countries, such as the Czech Republic, Slovakia, Estonia, or Slovenia, than the population in general. However, in most countries in the sample, the majority of poor and vulnerable households tend to be homeowners or public tenants rather than tenants in private rental housing. It seems that the Czech Republic alone is a special case; in this country the share of poor people living in private tenancy is already large and has been growing over time. This is a consequence of the size and professionalisation of private renting in the Czech Republic and of the generous housing benefit system that creates sufficiently strong financial incentives for private landlords to accommodate the poor.

Country experts mention informality as the most common specific feature associated with the use of private renting for housing the poor. But informality is, at the same time, characteristic of the PRS as a whole (except the Czech Republic and partially Poland). When dwellings are offered by the private sector as rentable housing for the poor, they are often of substandard quality and located in segregated areas. Informality, very low tenure security, short-term tenure (if any contract is signed at all), spatial segregation, and sometimes overpricing are significant barriers to the wider and socially acceptable use of the PRS to house vulnerable households. In view of this, a guaranty mechanism could improve social segregation and the legal conditions and security of housing for poor people, who have serious difficulties finding standard quality and spatially unsegregated rental housing on the market. The implementation of such innovative models is, however, still in its infancy.

Appendix 5.1 Market rental housing versus other tenures

Factor/model	Bulgaria		Czech Republic		Estonia		Croatia		Hungary		Lithuania	
	Exp (B)	Sig	Exp (B)	Sig	Exp (B)	Sig	Exp (B)	Sig	Exp (B)	Sig	Exp (B)	Sig
Household type												
One-person household (Ref.)		0.000		0.000		0.000		0.000		0.000		0.000
Two adults, no dependent children, both adults under age 65	0.458**	0.000	0.873**	0.000	0.805**	0.000	0.658**	0.000	0.657**	0.000	1.334**	0.000
Two adults, no dependent children, at least one adult age 65 or over	0.028**	0.000	0.596**	0.000	0.439**	0.000	0.139**	0.000	0.219**	0.000	0.000	0.821
Other households without dependent children	0.036**	0.000	0.318**	0.000	0.237**	0.000	0.032**	0.000	0.049**	0.000	0.000	0.776

(continued)

Appendix 5.1 (continued)

Factor/model	Bulgaria	Czech Republic	Estonia	Croatia	Hungary	Lithuania
Single-parent household, one or more dependent children	0.227**	0.443**	0.000	0.336**	0.000	0.000
Two adults, one dependent child	0.125**	0.475**	0.000	0.125**	0.000	0.000
Two adults, two dependent children	0.166**	0.265**	0.000	0.231**	0.000	0.000
Two adults, three or more dependent children	0.000	0.892	0.000	0.151**	0.000	0.000
Other households with dependent children	0.025**	0.261**	0.000	0.062**	0.000	0.000
Other Economic activity status	0.000	0.984	0.000	0.986	0.000	0.000
At work (Ref.)						

(continued)

Appendix 5.1 (continued)

Factor/model	Bulgaria	Czech Republic	Estonia	Croatia	Hungary	Lithuania
Unemployed	1.021	1.322**	0.911**	0.000	0.000	0.000
Retired	0.174**	0.645**	0.330**	0.000	0.806**	0.167**
Other inactive person	0.503**	0.754**	1.134**	0.000	0.763**	0.158**
Overcrowded household				0.700**	1.274**	0.716**
Not overcrowded (Ref.)						
Overcrowded	3.636**	3.107**	2.313**	0.000	3.106**	2.953**
Equivalised disposable household income						
1st quintile (Ref.)						
2nd quintile	3.119**	0.728**	0.913**	0.000	1.663**	0.522**
3rd quintile	2.975**	0.625**	0.827**	0.000	1.000	0.331**
4th quintile	4.669**	0.638**	0.787**	0.000	1.286**	0.385**
5th quintile	6.020**	0.362**	0.662**	0.000	1.285**	0.104**
Age						
18–34 (Ref.)						
35–49	0.553**	0.712**	0.431**	0.000	0.514**	0.167**
50–65	0.183**	0.517**	0.127**	0.000	0.130**	0.046**
65+	0.223**	0.496**	0.233**	0.000	0.102**	0.161**
Intercept	0.044**	0.526**	0.139**	0.000	0.137**	0.270**

(continued)

Appendix 5.1 (continued)

Factor/model	Bulgaria	Czech Republic	Estonia	Croatia	Hungary	Lithuania
Model						
descriptives						
N	15061	17229	10812	14284	23949	10786
Nagelkerke R ²	23.5	12.2	12.6	18.4	18.3	28.7
-2LL	803985.8	5849592.8	218414.9	479496.1	1705195.2	242313.1
Corr. predict	98.4	87.7	97.6	98.4	97.2	98.8
Hosmer-Lemeshow	5054.767 (0.000)	6465.764 (0.000)	1474.898 (0.000)	5614.434 (0.000)	17745.502 (0.000)	8529.806 (0.000)

Source: EU-SILC UDB 2011—version 4 of August 2014, authors' calculations

Note: The asterisks indicate significance at a 1 per cent significance level (**), a 5 per cent significance level (*). The dependent variable is the housing tenure of the adult respondents: (1) tenant or subtenant paying rent at prevailing or market rate and (0) other tenures. Ref. indicates the reference category in the estimated model. The model coefficients are the odds ratio [Exp (B)], where values >1 indicate a higher probability of the particular choice and conversely parameters <1 reflect a lower probability. Independent variables were controlled for collinearity. The last four rows show model fit. The values of Nagelkerke R² range from 7.8 (Latvia) to 29.2 (Romania). In the next row there are listed values of -2 log likelihood (-2LL) statistics. The predictive power of the presented models is weak (despite relatively high values of the statistics), that is, the models can't be used for predictions; however, the prediction was not the aim of our explanatory analysis. The values presented in the row 'Corr. Predict' show the percentages of the correctly classified cases (respondents) into the categories of the dependent variable. The last row presents the values of the Hosmer and Lemeshow statistics including significance values (in parentheses). If the significance value of the Hosmer and Lemeshow statistics is higher than the expected significance threshold (usually 0.05), we can't reject the null hypothesis postulating that there is no significant difference between the observed and predicted values; this is the case for all presented models

Appendix 5.2 Market rental housing versus other tenures

Factor/model	Latvia		Poland		Romania		Slovenia		Slovakia	
	Exp (B)	Sig.	Exp (B)	Sig.	Exp (B)	Sig.	Exp (B)	Sig.	Exp (B)	Sig.
Household type										
One-person household (Ref.)		0.000		0.000		0.000		0.000		0.000
Two adults, no dependent children, both adults under age 65	0.841**	0.000	1.036**	0.000	0.835**	0.000	0.615**	0.000	0.689**	0.000
Two adults, no dependent children, at least one adult age 65 or over	0.401**	0.000	0.421**	0.000	0.121**	0.000	0.494**	0.000	0.287**	0.000
Other households without dependent children	0.234**	0.000	0.095**	0.000	0.019**	0.000	0.270**	0.000	0.357**	0.000

(continued)

Appendix 5.2 (continued)

Factor/model	Latvia	Poland	Romania	Slovenia	Slovakia
Single-parent household, one or more dependent children	0.654**	0.393**	0.447**	0.476**	0.759**
Two adults, one dependent child	0.473**	0.325**	0.260**	0.583**	0.693**
Two adults, two dependent children	0.384**	0.310**	0.092**	0.325**	0.460**
Two adults, three or more dependent children	0.466**	0.212**	0.138**	0.250**	0.323**
Other households with dependent children	0.224**	0.133**	0.003**	0.218**	0.271**
Other Economic activity status	0.000	0.975	0.000	0.939	-

(continued)

Appendix 5.2 (continued)

Factor/model	Latvia	Poland	Romania	Slovenia	Slovakia
At work (Ref.)	0.000		0.000		0.000
Unemployed	1.159**	1.073**	2.061**	1.108**	1.037**
Retired	0.974	0.744**	1.107**	0.592**	0.529**
Other inactive person	0.812**	0.882**	0.824**	0.724**	0.697**
Overcrowded household					
Not overcrowded (Ref.)					
Overcrowded (Ref.)	2.048**	3.848**	5.221**	4.880**	3.387**
Equivalent disposable household income					
1st quintile (Ref.)					
2nd quintile (Ref.)	1.237**	1.324**	0.974*	0.741**	0.831**
3rd quintile	1.065**	0.980**	1.837**	0.409**	0.684**
4th quintile	0.633**	1.063**	1.079**	0.508**	0.657**
5th quintile	0.787**	0.866**	0.361**	0.176**	0.674**
Age					
18–34 (Ref.)					
35–49	0.708**	0.538**	0.271**	0.868**	0.664**
50–65	0.542**	0.319**	0.077**	0.648**	0.527**
65+	0.355**	0.286**	0.017**	0.359**	0.382**

(continued)

Appendix 5.2 (continued)

Factor/model	Latvia	Poland	Romania	Slovenia	Slovakia
Intercept	0.188**	0.000	0.034**	0.000	0.212**
Model					
descriptives					
N	13224	29603	15538	23918	13025
Nagelkerke R ²	7.8	12.8	29.2	17.4	11.3
-2LL	821516.9	7686375.5	1421358.1	568111.9	2204960.1
Corr. predict	92.9	96.8	99.0	94.8	92.5
Hosmer-	683.669	38161.587	1855.888	1914.561	7197.593
Lemeshow	(0.000)	(0.000)	(0.000)	(0.000)	(0.000)

Source: EU-SILC UDB 2011—version 4 of August 2014, own calculations

Note: Asterisks indicate significance at a 1 per cent significance level (**), a 5 per cent significance level (*). The dependent variable is the housing tenure of the adult respondents: (1) tenant or subtenant paying rent at prevailing or market rate and (0) other tenures. Ref. indicates the reference category in the estimated model. The model coefficients are the odds ratio [Exp(B)], where values >1 indicate a higher probability of the particular choice and conversely parameters <1 reflect a lower probability. Independent variables were controlled for collinearity. The last four rows show model fit. The values of Nagelkerke R² range from 7.8 (Latvia) to 29.2 (Romania). In the next row there are listed values of -2 log likelihood (-2LL) statistics. The predictive power of the presented models is weak (despite relatively high values of the statistics), that is, the models can't be used for predictions; however, the prediction was not the aim of our explanatory analysis. The values presented in the row 'Corr. Predict' show the percentages of the correctly classified cases (respondents) into the categories of the dependent variable. The last row presents the values of the Hosmer and Lemeshow statistics including significance values (in parentheses). If the significance value of the Hosmer and Lemeshow statistics is higher than the expected significance threshold (usually 0.05), we can't reject the null hypothesis postulating that there is no significant difference between the observed and predicted values; this is the case for all presented models

Notes

1. The objective of this survey is to obtain data on income distribution; the quality and affordability of housing; the durable goods the household is equipped with; and the employment, material, and health conditions of adult persons living in the household. The EU-SILC is a representative sample survey (households and individuals were selected using a several-stage random sampling method). Data from the EU-SILC surveys were used on the basis of Contract No. EU-SILC/2007/16 between the European Commission, Eurostat, and the Institute of Sociology, Czech Academy of Sciences.
2. The age of the respondents was classified in the following categories: 18–34 years, 35–49 years, 50–65 years, and 65+ years. Both the continuous and the categorised forms of the variable were tested; the model with the categorised age yielded better results (explanatory power).

The following types of households were distinguished: 1—One-person household; 2—Two adults, no dependent children, both adults under age 65; 3—Two adults, no dependent children, at least one adult age 65 or over; 4—Other households without dependent children; 5—Single-parent household, one or more dependent children; 6—Two adults, one dependent child; 7—Two adults, two dependent children; 8—Two adults, three or more dependent children; 9—Other households with dependent children; 10—Other.

Following types of basic economic status were distinguished: 1—at work, 2—unemployed, 3—retired, 4—other inactive person.

The equalised disposable income per consumption unit of the respondent's household was assigned to each respondent. The income level of individual respondents was thus not taken into account.

A person's educational attainment is the highest level of an educational programme the person has successfully completed and the study field of this programme. The ISCED categories were recoded here as follows: 1—pre-primary and primary, 2—secondary, 3—tertiary.

The following types of marital status were used: 1—Never married, 2—Married, 3—Separated, 4—Widowed, 5—Divorced.

A person is considered as living in an overcrowded household if the household does not have at its disposal a minimum number of rooms equal to: one room for the household; one room per couple in the household; one room for each single person aged 18 or more; one room per

pair of single people of the same gender between 12 and 17 years of age; one room for each single person between 12 and 17 years of age and not included in the previous category; one room per pair of children under 12 years of age.

3. Since there is a strong correlation (multicollinearity) between age and marital status, the marital status did not enter the model (the model specification with the age of respondent showed better results—i.e. higher percentage of explained variability of the dependent variable—than the model with marital status). For the same reason it is not possible to include both the equalised disposable household income and highest ISCED (education) level attained. The model specification with the equalised disposable household income showed better results (higher percentage of explained variability of the dependent variable) than the model with the highest ISCED (education) level attained. The analysis was limited to the subsample of the adult respondents (aged 18+). Inclusion of the sex among independent variables yielded no increase in the explanatory power of the model; therefore, we omitted this variable.
4. In Bulgaria, Hungary, and Romania, higher income households (respondents from households with higher equalised income) are more likely to live in the PRS than in other tenures; in Croatia, Latvia, and Poland, this is true of middle-income households; and in the Czech Republic, Estonia, Lithuania, Slovenia, and Slovakia, that is, in five countries of the sample, it is low-income households that are most likely to live in the PRS than in another form of tenure.
5. These findings may be the result of the increasing attractiveness of urban areas that used to be in decline (city centres, former industrial neighbourhoods, former working class neighbourhoods which got attractiveness due to proximity to city centre) where a gentrification process started a few years after 1990 and immigrating higher income strata began to mix with existing occupants; but it is also the result of the giveaway privatisation of the public housing stock and strong rent controls that effectively protected sitting occupants from the negative impact of changes in market demand.
6. This comparison would not be possible without the kind assistance of a group of informants who were asked to fill in the standardised questionnaire. We would like to thank the following informants for their greatly appreciated assistance: Petr Gibas (Czech Republic), Alina Muzioł-Węclawowicz (Poland), Alexander Puzanov (Russia), Vera Horvath and

- Jozsef Hegedüs (Hungary), Gojko Bežovan (Croatia), Anneli Kährrik (Estonia), Boyan Zahariev (Bulgaria), and Richard Sendi (Slovenia).
7. In Russia, the Institute for Urban Economics conducted only its own study on the definition of segregated areas of the city of Khabarovsk in the mid-2000s.
 8. In two countries in the sample, the governments passed policy strategies to tackle the increasing socio-spatial segregation affecting mainly the Roma minority (Czech Republic, Bulgaria); in Hungary, such a document is in preparation, but in most countries (Russia, Estonia, Croatia, Slovenia), no such policy has been passed or is in preparation because the problem of social segregation is not as acute. In the Czech Republic, the special governmental Agency for Social Inclusion operates in selected structurally impaired areas (municipalities), implements and tests innovative measures (preventive as well as alleviating), and functions as a tool of the Government of the Czech Republic to support the process of social inclusion in localities (municipalities). Funding from the European Regional Development Fund and European Social Fund in the field of social housing and related areas helps also in implementing projects designed to increase social inclusion in EU-member post-socialist states.
 9. In Bulgaria or Slovakia, much of this housing is illegally built, the housing quality is unsatisfactory, and the surrounding social infrastructure is largely missing. The limited amount of regulation in such neighbourhoods makes it impossible to go beyond pocket contracts, where many times the occupied land is not a residential area in the master plan, so there is no record in the land registry for the particular dwelling (Metropolitan Research Institute 2011).
 10. The Czech Republic is an exception based on the quoted UNDP results: 'The Czech sample, with a predominantly urban social housing-based Roma sample, was an isolated case in this respect, with only 11 per cent of surveyed Czech Roma households, compared to 43 per cent non-Roma households living in their proximity, residing in property they own. In all the other countries, the relevant share of Roma sample ranged from 75 per cent in Albania to 88 per cent of Croatian, Macedonian, Moldovan and Serbian Roma households inhabiting own property' (UNDP 2012: 36).
 11. Organised by the District Housing Department and the evaluation team of the Council of Europe Development Bank for the referred social housing stock.

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Part II

**Country Case Studies: History,
Current Status, and Future
Prospects**

6

Croatia: Towards Formalisation

Gojko Bežovan

Introduction

Private rental housing in Croatia is a widespread practice and is the fate of young migrants moving from the countryside to urban areas or from smaller to larger cities. Private rental, in fact, is a phenomenon on the periphery of society and mostly serves the needs of young and low-income social groups. The complicated relationships between landlords and tenants, which in Croatia traditionally tend instead to be subtenants, is a common topic for magazines, novels, and TV documentaries, but there has been no relevant empirical survey on the practices and challenges of meeting the housing needs in this sector. A policy debate on housing or the private rental sector (PRS) is not part of the social policy agenda.

This chapter provides an overview of the development of the PRS in Croatia since the socialist period. Stories about the PRS and an analysis of specific cases provide insights into the dynamics of the sector, which

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even today largely remains part of the informal economy. Rental contracts are rare, and rental income is not properly taxed. This chapter also provides information on the features of the PRS in the coastal region of Croatia, which is highly attractive for foreign tourists.

Socialist Legacy

The socialist housing system was initially part of the centrally planned economy. After 1945, a large part of the private housing in urban areas was nationalised, sometimes with the payment of compensation to the owners. In 1958, with the last programme of forced nationalisation, a law was passed regulating the maximum permitted home-ownership, which allowed families to own a maximum of two large or three small dwellings. From that time, the government introduced a new form of tenure—housing rights in private rented flats—characterised by the strong security given to tenants and the same rent control as in the public housing sector.

An important shift in housing policy occurred during the 1960s: the decentralisation of housing policy to the level of the local authorities and, later, under workers' self-management ideology, to the level of state companies. Housing provision was planned and implemented on the local level through the 'self-management interest community', the key institution for the building and maintenance of the local housing stock. The system was based on the concept that employees paid housing contributions on a monthly basis to the state companies' 'collective consumption fund'. The same regulations on the allocation of the money from the fund were more or less at the level of the working organisations. The workers' council and housing commission were responsible for the distribution of funds for defined purposes: (a) the construction of public rental flats, (b) loans to buy a flat, (c) loans to build a detached house, and (d) loans to improve the housing standard in an existing housing unit.¹ The largest allocation from that fund went to the construction of new public rental flats. These flats were the property of the working organisations and tenants received rental contracts, which often entailed the obligation to work in the respective organisation for 10 years. This process was politically controlled.

In addition, a relatively small number of social rental housing units were provided on the municipal level as an expression of the political will to have 'solidarity flats' for low-income workers and socially vulnerable groups. There was also a cooperative housing programme that was part of the system of housing provision under socialism.² Unlike in other socialist countries, in the former Yugoslavia the construction of flats for free sale on the market never really stopped. Investment came from people who had earned money from the tourism sector, from other well-off families and, especially, labourers who had migrated to the west. Therefore, the free market of newly constructed flats largely contributed to the pluralism of housing provision in the 1980s.

After 1945, the PRS was mostly involved in the renting out of rooms inside large flats or renting part of the space in family houses. In the 1970s, the private rental market began to emerge, and the legislation on the maximum number of dwellings a person could own was not applied in practice. The PRS was part of the unofficial economy and of activities outside the control of the tax offices; no contracts were used to regulate relationships between owner and tenant. Most tenants in the PRS were students, young singles, young families and migrant labourers. For young families in urban areas, the PRS was a normal part of their housing career. They received additional points on the waiting list for living in this housing tenure (Bežovan 1987). The share of the PRS on total housing stock in 1971 reached already 7 per cent (home-ownership made up 67 per cent of the total housing stock and public renting 26 per cent).

The quality of housing could be questionable and the conditions of renting under 'unwritten contracts' precarious in the PRS³ (Bežovan 1987). A survey conducted among young workers at that time in the City of Zagreb identified two types of tenants in the PRS. The predominant type consisted of young, low-skilled and low-income workers, most of them migrants from the countryside, sharing rooms with friends in cheaper housing in the suburban part of cities (usually workers' communities consisting of family houses). The second type of tenant, making up a smaller group of the sample, was better educated, had a higher income and could afford to rent a small flat. Box 1 provides insight into the unfavourable position and quality of life of private tenants at that time.

Box 1 Private renting in the 1970s

The tenant lives in a rented room shared with a colleague and has the right to use the bathroom and the kitchen. She signed a contract, which gives her the right to use a part of the apartment. She has been there for 2.5 years. Before, she used to move every three or four months. After moving in, she believed that she could lead a normal life but that never happened. She was forbidden to use the bathroom and toilet regularly. She could not make a proper cup of coffee. No one was allowed to come to visit her. She had to walk on tiptoes and was not even allowed to cough. Had she refused to comply, she would have been evicted. The landlord has announced cancellation of the 'contract'. She is aware that the selection of rooms for rent is very poor and rents are high.

Such housing conditions have had a demoralising effect on her work and life satisfaction. They have been a source of her frequent bouts of depression. She knows the fates of her female colleagues, women up to the age of 30, who told her that they could not have a serious relationship or expect to marry owing to their homelessness. 'You simply have to get used to somebody, get a sense of the man and become close to him, and for that you do not have the basic conditions: you cannot even meet him alone in your apartment in the afternoon. The bad thing is that most of the men we spend our time with live in even worse conditions than we do' (Bežovan 1987: 76).

The aforementioned study (Bežovan 1987) also highlighted the deprivation endured by children living in private rentals as subtenants. Landlords, especially in cases where only part of a family house was being rented, limited the children's use of the garden for play and visits from the children's friends. Children also complained that they were not allowed to have pets.

Croatia has had the unique experience among socialist countries in the region of having a PRS develop along its coastline and on its islands because of its tourist industry. From the 1970s, the government regulated this business, but a part of it remained in the black market. In the late 1980s, the government had a plan for better tax control in the PRS but lacked the genuine political will to implement it.

Private Renting After 1990

The Period of Turbulent Changes (1990–1995)

The political changes in 1990 led to the withdrawal of the state from the provision of housing, rapid privatisation of the public housing stock to the ownership of sitting tenants and the domination of the free and largely speculative market (Bežovan 2013). Municipalities became ‘responsible’ for housing policy. Amidst the turbulent developments related to the war,⁴ local housing policy was not a priority, even in large cities. Some of the money from privatisation was supposed to be spent on social housing construction and for social groups who were victims of the restitution process. However, only a few cities and a small number of companies⁵ met these obligations.

After privatisation and restitution, a very limited number of housing units remained in the hands of the local authorities and various state bodies. These flats were small in size (55 m² on average), poorly maintained, old and inhabited by low-income and marginal social groups. In total, there were about 50,000 units, approximately 2.5 per cent of the total housing stock. The privatisation of public (state) rentals and the restitution of housing stock to the previous owners largely changed the landscape of the housing tenure structure. Together with housing problems caused by the war, the destruction of housing stock and population migration, it caused an increase in the share of private renting in the total housing stock (Table 6.1). Buyers of public housing in which they had to that

Table 6.1 Housing tenure structure in Croatia, 2001

Housing tenure	Households	
	Nr.	%
Home-ownership	1,225,235	83.2
Private rental	141,835	9.6
Social housing	42,195	2.9
Housing with relatives	25,002	1.7
Others	38,110	2.6
Total	1,472,377	100.0

Source: Census 2001

time resided as tenants were well-to-do families with other 'hidden' property, such as a second flat or house, and finally, they were in a position to rent out the flats they had bought without any negative repercussions. There was also a public housing resale market and well-off families often bought several such housing units with the intention of renting them out in the private sector.

Large cities witnessed an increasing demand for private rental housing from international organisations and foreign companies on one hand and from migrant families on the other. The growing demand was particularly evident in Zagreb, the capital of the newly independent state. Owing to a shortage of office space on the market, many flats, in particular large flats in the centre of Zagreb, were rented out as office space. The pressing demand and limited supply drove up rents in the PRS during the economic crisis and the war. After that, investment in the PRS in more attractive locations became a profitable business for several small developers.

The introduction of a tax on 'weekend houses' in 1993 addressed the issue of second homes in coastal cities that were not the permanent residences of their owners. Because this is a local tax, the local authorities were from the outset very eager to identify anyone subject to this tax. Again, the issue of income taxation in the PRS has been raised but no concrete action has been taken. However, at the request in most cases of foreign clients, since that time the culture of making rental contracts and the registration of rental contracts with the local tax office along with the payment of tax finally appeared.

The Period of Stabilisation (1996–2000)

The milestones during this period were the end of the war, the relative prosperity of the country and the new Act on Rental Housing adopted in 1996. This act stipulates the type of rent according to the type of housing tenure: free market rent for the PRS and protected rent for social housing. Until 1996, there was no VAT on housing construction. The introduction of VAT on building materials and services in 1996 (22 per cent, more recently 25 per cent) increased the price of newly built housing

units. While there is no VAT on rental fees, developers who were contemplating investments in the PRS calculated that such investments would not be profitable.

The government introduced incentives for citizens to save their income in housing savings banks and established a system of housing allowances for which the local authorities were responsible (1998). The residual concept of the housing allowance under the circumstances of rental without a contract actually made tenants in private rentals ineligible for such benefits. In some cases, local authorities are willing to recognise the status of tenants in private rentals and provide a housing allowance when neighbours furnish the appropriate testimonies (Bežovan 2010).

The Period of Prosperity (2001–2007)

This period of economic prosperity was marked by the introduction of a programme of state-supported housing provision (POS), tax incentives for citizens to purchase housing and a boom in housing construction. The POS, which provided government support to first-time buyers, also increased the number of available housing units in the PRS. This programme was indirectly supported by a tax incentive for first-time buyers as follows: all investments related to buying a housing unit, including interest rates from housing (mortgage) loans used for the purchase, were accepted as eligible and deductible expenditures in the calculation of income tax. In addition, rent paid on the free market (as confirmed by a written rental contract) was also deductible from income tax. The total annual tax exemptions were restricted by a ceiling of HRK 12,000 (EUR 1644) per person per year. However, as part of anti-recession measures, the law was changed and tax incentives for housing loans and rent deductions were abolished in 2010.

During the housing boom, well-off families from the diaspora invested money in new housing construction as a strategy for saving and earning money through renting. Also, families from provincial cities began taking housing loans and, combined with their household savings, made housing investments for their children or for their own retirement years. However, these investments were often not profitable in the long term due to the later economic crisis. An example is described in Box 2.

Box 2 Lay investments into private renting during the boom period

A case of this type of investment involves a well-off physician with three children from a city along the coast who bought a 76 m² flat in 2006 at a decent location in the City of Zagreb for EUR 2350 per m². He got a housing loan for part of this amount and paid the rest from household savings. The selling price of a flat at this location today is approximately EUR 1500 per m². Since none of the children attended the University of Zagreb, the flat is being rented out on the unstable market at the current rent of EUR 400 per month, which does not cover the monthly repayment of the loan. Throughout this period, the rent for this flat went down, and about 15 per cent of the time the flat was empty. The physician does not report income from this business activity to the tax office.

Since 2003, there has been a new tax policy for the PRS. Previously, rent revenue had been included as part of the owners' taxable income, but since 2003 it has been taxed separately: if the rent was EUR 1000, the tax credit was 30 per cent and the tax rate on the remaining EUR 700 was 15 per cent. However, even this change did not push private renting out of the shadow economy: in 2005 only 17,000 rental contracts in the whole county were registered with the local tax authority (Table 6.2).

Special research of the private rental market in Zagreb was conducted in 2006: it was based on a telephone survey of landlords offering flats, an analysis of data from rental agencies and estimates of supply and demand for private rental housing on the basis of information in the media. The research provided evidence that the market was alive, dynamic and competitive (CERANEO 2006). It was relatively easy to rent out decent flats in good locations. However, the telephone survey revealed that landlords are still very reluctant to enter into formal contracts with tenants. In the event that they agree to have a contract, they increase the rent by the amount of tax they have to pay. Only landlords renting out new flats are

Table 6.2 Tax revenue from the private rental housing sector in Croatia, in HRK

Year	Number of housing units	Tax base/income	Tax revenue
2002	7,434	36,616,972.86	6,626,684.20
2003	10,838	51,258,499.14	8,558,353.57
2004	13,877	64,538,254.25	10,751,089.04
2005	17,059	78,726,994.03	13,055,945.65

Source: APIS IT, Zagreb, 2006

more willing to draw up contracts; they also expect the term of the contract to be long. Those landlords who were renting out only a part of their family home, most of whom were in suburban areas, were not willing to enter into contracts with tenants (CERANEO 2006). According to information from the rental agencies, the greatest demand was for small flats with a rent of EUR 300 or less not including utilities. In one case study, a family with two children in which the parents were both working and were tenants in a private rented flat of 60 m² in a suburban location, housing costs (rent plus utilities) accounted for 38 per cent of the average monthly household income. Because of the income ceiling in the eligibility criteria this family was not eligible for a housing allowance. In 2001, the first institutional investments in the PRS appeared in Zagreb. However, Box 3 explains on a concrete case why institutional investments remained marginal in Croatia.

Box 3 Professional investments into private renting during the boom period

An insurance company sought to make an investment in real estate as an asset, with the expectation of a reasonable return: The investment project took the form of the construction of a new building with 21 flats, from 48 m² to 100 m² in size, while most of the building contains office space. These flats, in the project manager's opinion, are competitive on the private rental market. They are of very good quality and standards and because it is an office building the entrances are monitored all day, which provides additional security. The fact that the project is located in the city also adds to the market competitiveness of the flats. Tenants can also rent a garage or parking space in the building for a moderate fee. The rent is EUR 7 per m² and as part of the contract the tenant is required to make a downpayment of three months' rent. In the event that rent is not paid for three months, the landlord will terminate the contact and initiate litigation. In only two cases was there a dispute that had to go to court. The shortest contract is for one year. This project was competitive on the private rental market from 2003 to 2010 because tenants were eligible for an income tax deduction.

However, the turnover of tenants in the housing units was much greater than in the rented office space. This increased the costs for flat decor and services. The profit level was relatively low, less than for the leasing of office space in the building. Moreover, the housing units required minimum kitchen furnishings and bathroom installations, which increased the costs of the project and, given that the VAT is 25 per cent, the insurance company does not see investment in housing rental as a profitable business and does not plan to expand it.

There is a new and growing market for private renting in the tourism industry. In the past, tourists were not drawn to the large cities in Croatia, but a new generation of tourists has new ideas and they have discovered large cities, with new and innovative offers for active vacations. Families renting out flats/apartments to tourists pay a favourable flat tax rate per bed. During the tourist season, parents move in with their children or go to places in the inland areas where they have old family houses so that they can rent out their own flats.⁶ For example, one flat was in the City of Split and was registered as an apartment with four beds, and it earned HRK 148,000 (EUR 20,300) in one tourist season, but only had to pay HRK 1200 (EUR 164) as a flat rate tax. This yield is equal to two yearly net salaries for a primary school teacher. With this development in the cities on the coast, native Croatians looking to rent flats in the private sector have been left at a disadvantage. Rents are high and the supply is dwindling, and students in particular are being squeezed out of the market.

In large cities and in Zagreb in particular, businesses that had used flats as office space in the 1990s left them and moved into newly built easily accessible offices in office buildings. This trend increased competition on the private rental market. In addition, the introduction of a POS and an affordable municipal programme for first-time buyers in Zagreb, with regulated prices and affordable loans, influenced the housing market and changed the structure of housing tenure. Young families, as tenants in the PRS or living with their parents, acquired an incentive to become homeowners. The City of Zagreb started public housing rental programmes for young families with affordable rent.⁷ The increased housing supply from these programmes brought down the house prices and helped reduce rents in the private rental market (Bežovan and Pandžić 2015).

The Period of Economic Crisis (2008–2015)

Until 2009, the housing construction boom was largely driven by demand from well-off families who considered housing to be a safe investment for generating a stable income in the future. The decline of the housing market in 2009 was influenced by an economic recession and a rise in

interest rates. The limited availability of mortgage financing and a general credit crunch brought housing prices down.⁸ Under pressure from the banks that provide project financing to housing developers, the government introduced a specific incentive in the summer of 2010 in the form of favourable loans for first-time buyers if they bought newly built but unsold housing units. The very limited response to that incentive shows how deep and structural the crisis on the housing market is.⁹

Since first-time buyers in Croatia lost governmental incentives in the form of tax deductions in 2010, their economic position has become more strained. Many young families have mortgages that are recalculated in Swiss francs, and they have difficulty paying their monthly instalments; they have become the most vulnerable group and a unique type of socially excluded people. According to recent estimates, about 40 per cent of all housing loans have been recalculated in Swiss francs.¹⁰ Families unable to meet mortgage payments often move in with their parents and then, in order to obtain some extra income, rent out their own flats. An increase in the number of evictions of homeowners unable to meet their mortgage payments became part of the public agenda. As a result the government amended the relevant legislation.¹¹ Before the elections in 2015, under strong public pressure, the government made a decision on regulating the mortgage market that gave borrowers a favourable exchange rate for Swiss franc loans and more equitable interest rates.¹²

An assessment of housing needs on the national level (CERANEO 2011) drew attention to the disadvantaged position of subtenants, one of the most vulnerable groups in the housing market, especially in large cities, where they live in small flats and pay high rents. Better educated people more often rent flats, while singles more often rent rooms that are a part of a landlord's flat or house. They usually do not have rental contracts. More than 70 per cent of the persons from the survey strongly agree with the statement that the government must take measures to control this part of the market in terms of making contracts and paying taxes (CERANEO 2011).

Many more life stories could be told about the experiences of tenants and landlords based on another survey conducted by a real estate agency in 2008 (Centar nekretnina 2008). This national survey used a sample representing 63 per cent of all private tenants and 58 per cent of all

private landlords in Zagreb. More than half of the tenants in this sample were under the age of 30. In terms of income, private tenants represented the national average. The majority of them were employed; 11 per cent were students; and 3 per cent were unemployed. In the survey 92 per cent of the respondents were renting flats; 9 per cent were renting a family house; 9 per cent were renting a room in a separate part of a flat or in a family house; 44 per cent of tenants were living in a flat with a floor area up to 50 m²; and 29 per cent were in flats with a floor area between 51 and 71 m².

According to survey data, 43 per cent of tenants rented housing because they were not eligible for housing loans, while 20 per cent of them were saving money to invest in home-ownership. More than 70 per cent of them paid monthly rent between EUR 120 and 220; 61 per cent of them, however, consider the amount of rent to be high; and only 22 per cent of them signed a proper rental contract. Relationships between landlords and tenants are complex. Among the tenants, 44 per cent complained of problems with landlords imposing various restrictions on housing use and often visiting them unannounced. Also, 58 per cent of tenants complained about poor quality and worn-out furniture; 54 per cent of them about poor thermal insulation; 44 per cent about poor-quality walls and floors; and 32 per cent about generally poor conditions. Similarly, 55 per cent of the landlords declared that they have problems with tenants. The most frequent problems were rent arrears (55 per cent of landlords); arrears on other housing expenses (52 per cent); and damage to furniture (36 per cent). In some cases, it is evident that such relationships ended in serious conflicts, which are real risks in this business.

Housing boom construction in the 2000s increased the housing stock by 18 per cent in the country as a whole and by 22 per cent in Zagreb.¹³ With the availability of favourable housing loans, young families decided to make the lifetime investment of becoming homeowners. Evidence of changes in the housing tenure structure from the 2011 census (Table 6.3) is the increase in the number of homeowners and the decrease in the number of households in the PRS, which was down to 6.3 per cent of the total housing stock. Compared to 2001 (Table 6.1), the share of private rental housing on total housing stock decreased by 3.7 per cent during this decade.

Table 6.3 Housing tenure structure in Croatia, 2011

Housing tenure	Households	
	Nr.	%
Home-ownership	1,349,283	88.9
Private rental	95,623	6.3
Social housing	27,312	1.8
Housing with relatives	34,975	2.3
Others	11,845	0.7
Total	1,519,038	100.0

Source: Census 2011

The housing market has been seriously affected by the lengthy economic crisis. From 2008 to 2014, the GDP decreased by 13 per cent and the unemployment rate reached 17 per cent. The government cut welfare spending and made the eligibility criteria for social assistance more stringent. Furthermore, no active employment policy is part of the agenda, and these circumstances are leading to a growing number of young people to migrate to Western Europe. In September 2014, 318,000 bank accounts of citizens were blocked, with a total debt of HRK 29 billion (EUR 3.8 billion). Data from October 2014 show that citizens' debt is almost equal to the public debt.¹⁴ The government has not come up with the appropriate social measures to deal with the new social risk of indebtedness. According to public estimates, there are more than 10,000 unsold housing units on the housing market, and most of them are in the hands of banks. Private developers offer unsold housing units for rent, with the option of purchasing the unit in the future.

At the beginning of the economic crisis, the tax authorities began tax inspecting in an effort to trace HRK 300 million (EUR 39.1 million) of unpaid taxes on rent revenue owing to unregistered rental contracts. According to unofficial published estimates, there are 144,000 private landlords who are not registered with the tax offices (Večernji list 2013a)¹⁵ and official statistical estimations say that from 2008 to 2013 the level of informal economy on yearly basis in PRS is about 0.7 per cent of BDP. The 52 per cent increase in the taxation of private rental businesses between 2009 and 2014 (Table 6.4) can be attributed to increased political willingness for better monitoring of this business that is traditionally hidden in the shadow economy.

Table 6.4 Number of decisions of tax offices issued for the taxation of income from rent, 2009–2014

Year	Number of decisions
2009	32,967
2010	37,902
2011	42,110
2012	48,700
2013	60,154
2014 (January–November)	69,451

Source: Tax Administration, Head Office

The demand for private rental housing is evident in large cities. Tenants are typically students, young people, singles, migrants from the countryside, young couples without children, and young couples with children. In the wake of the protracted economic crisis, there are fewer international corporations operating in the country and thus less foreign staff that need housing and previously rented the best private rentals on the market, especially in the capital. Landlords are typically the owners of family homes and belong to low-/middle-income social strata, and they are often: pensioners who rent out one or two rooms; families with second flats renting out what will eventually be a flat for their children; speculators on the housing market and landlords living outside the county. Most landlords do not correctly calculate how much they have invested or earned. The case study analysed above showed how difficult it is for landlords to use rental fees to cover monthly mortgage repayments. In the recent crisis, the private rental market has become increasingly competitive. Prices have gone down, the supply is diverse enough to meet different needs, and tenants have more options. The tax authorities are monitoring this business more than in the past. Real estate agencies published data showing that higher number of young people is recently interested in renting than buying (Večernji list 2013b). Despite this fact, rents in the PRS can be as much as 10–15 times higher than in social rental housing. Considering the drop in income and the unstable labour market, finding a decent and affordable private rental flat is a challenge for many tenants.

Future Prospects of the Private Rental Sector

Although private renting is a peripheral form of tenure, it has an impact on the social and economic development of the country. As demonstrated, it is a relevant topic for research and a policy programme. Under circumstances where supply exceeds demand, the PRS will further diversify. Despite the fact that most private renting will still go on in the shadow economy (as in the case of the leasing of rooms in family homes in suburban areas), a portion of the stock of urban flats will increasingly become part of the regular rental sector, where tenancies will be based on signed rental contracts registered with the tax office. The business of private renting will in this way become more transparent. With greater pressure from the tax authorities to make such business legal, individual landlords will come to rely more on the services of rental agencies. In the process of the professionalisation of housing rental, tenants will be afforded greater security in terms of their rights.

The fact that subtenants in the PRS tend to be socially excluded is always used as an argument for promoting investment in the social rental sector. Nonetheless, bearing in mind the current budget deficit and recommendations for retrenchment, investment in social housing is not a realistic agenda. On the other hand, it is also unrealistic to have a housing allowance system, which might increase the affordability of housing for tenants in the PRS. In this context, it is important to stress the problem of the unsustainability of the existing level of home-ownership in the housing tenure structure of the country. A growing number of young homeowners are already faced with the life challenges of the repayment of mortgages for the very expensive flats they bought during the housing boom.

For the time being, there will be no additional institutional investment in the Croatian PRS. Government plans to introduce more tax control in this business, tax income from rents or introduce a real estate tax will definitely put more pressure on the PRS and increase the supply of flats for private rental that are currently empty. The rentier economy in the cities along the Croatia coast is already a challenging task for tax authorities and awaits the necessary political will to resolve it.

Notes

1. Moreover, there were very strong and visible separate housing programmes for privileged groups in society, such as state and party officials, the military and police.
2. Housing co-operatives were self-governing units that could be freely established by 20 citizens with housing needs or established at the level of companies. In 1988, there were 165 housing co-operatives and at the time there was pressure to privatise the provision of housing. Co-operatives were entitled to obtain land for construction and loans under favourable conditions. Moreover, as non-profit organisations they were exempt from profit tax and VAT for building materials. When the government cancelled these incentives in 1992, co-operatives became less competitive. Now, only a few of them are active and have the same status as other companies.
3. Among the general public, the expression 'bloodsucker' is used to describe a landlord, which, in one way, can be considered as a part of the local mores and subjects for literary pieces.
4. The Homeland War, 1991–1995, caused many economic, social, and housing problems. From 1992 to 2003, 126,297 housing units that had been destroyed or damaged in the war were restored or renovated.
5. Establishments that owned flats, in most cases state agencies, were selling them to sitting tenants and using part of the proceeds to provide favourable housing loans to improve their housing situation.
6. It might be viewed as a typical type of rentier economy with a touch of 'Dutch disease', which hinders the development of the country.
7. In varying stages of project implementation, about 850 households obtained contracts for public rental housing units.
8. According to estimates, housing prices decreased in the capital city of Zagreb by 25–30 per cent from 2010 to 2016.
9. Only 77 housing units have been sold under this programme. In February 2011, the government provided additional subsidies for the sale of housing units, counting on the revenue from the VAT, and by June 2011 about 1000 housing units had been sold.
10. In the meantime, associations of families affected by this issue, which the general public perceives as fraud, have issued strong statements concerning the devastating impact it has had on their lives and are now seeking justice in court. Approximately 60,000 families are paying off such recalculated housing loans.

11. As of the beginning of September 2014 a new Enforcement Act has been in effect, which provides the option of postponing the evictions of debtors who can offer some other property to settle claims.
12. Banks consequently declared a major loss for the year 2015. The ongoing debate has shown that there are no easy solutions to this problem.
13. According to reliable estimates, there are more than 40,000 empty housing units in Zagreb and this figure represents a potential increase of supply in the private renting sector.
14. CERANEO (2015). With some recent cases evictions can be considered as political issue.
15. <http://www.vecernji.hr/hrvatska/inspektori-u-lovu-porez-bi-morale-placati-144-tisuce-najmodavaca-623904>. The leading daily newspaper published an extensive article on this subject.

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7

Czech Republic: Growth and Professionalisation

Martin Lux and Petr Sunega

Introduction

Kemeny's (1981) influential housing theory views private and social housing sectors as a reflection of two separate and competing ideologies: privatism and collectivism. Based on this ideological cleavage, Kemeny (1995) distinguished housing policy models as being either dualist (stigmatising tenancy and unilaterally supporting owner-occupancy) or unitary (tenure neutral) in nature. The dualist model is strongly associated with policies that discourage social housing and develop it only as a safety net 'to take care of those who become the casualties of the workings of the profit market' (Kemeny 1995: 9). Unitary models in contrast encourage social housing, thereby allowing the public rental sector and owner-occupied sectors to compete.

However, Kemeny's influential typology undervalues key feature of German and Swiss housing systems where a policy allocates an important

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role to private renting. The type of policy that does not favour any tenure but, at the same time, does not encourage cost renting to compete directly with the private sector and instead respects the market principles in rental housing occupies a 'middle' place in his typology and represents a half-unitary, half-dualist hybrid. The real essence and role of private renting are missing in his considerations, and his typology remains incomplete (Lux and Mikeszová 2012). Consequently, contradictions between private and social may be much weaker if we assess the role of private renting properly and if we especially take into account its potential role in the social field. This chapter seeks to demonstrate this thesis on the case of the Czech Republic.

While Czech housing policy changes share many features in common with the changes introduced in other post-socialist states (such as the end of central planning, withdrawal of the state from direct financing of public housing construction, etc.), there have also been important specific trends. The Czech Republic (a) did not apply a right-to-buy policy, (b) introduced the largest in kind restitution of residential properties in the Central Eastern European (CEE) region, and (c) after two decades of strong rent control finally liberalised rents for all running tenancies at the end of 2012. This specific development, together with other factors mentioned below, has led to the recent situation in the country, where (a) the size of the private rental sector (PRS) is large compared to other post-socialist states, (b) most private rental housing is done on legal terms and with properly written contracts, and (c) market rent levels are effectively competing with the user costs of home-ownership, which means that households may be indifferent in their housing tenure choice from a strictly financial point of view.

The Czech Republic embarked on a new democratic history after 1989 with de facto zero private renting stock, and the perceptions and expectations attached to this tenure were not as strongly influenced by history, past stigmatisation, cultural values, and social norms, as was the case in the West. Private renting was able to start with a 'blank slate' and could develop into a number of very different forms: it could become a form of stable life-long housing, like the system in Germany, or it could become a form of residual, transitional housing, like the systems in countries such as the UK and Belgium. The goal of this chapter is to show that specific

interventions and regulations, often short term in nature (such as property restitution, rent regulation or public housing privatisation), had a significant impact on the long-term meaning of private renting in the Czech Republic, especially on its size, operation, and affordability but also its stigma and perception. Such an association between short-term policies and their long-term consequences can provide added theoretical knowledge about dynamics of housing systems.

A Short Historical Sketch

Since the founding of Czechoslovakia (1918) there has been some form of regulation of the PRS (as in other countries in Europe). Regulation historically involved rent control and restrictions applied to the leases signed between landlords and tenants, the purpose of which was to benefit certain individuals, defined by the municipalities (Mildschuh 1931; Kratoška 1920). However, rent controls were gradually slackened, so that after 1920 there was no rent control in all buildings built after 27 January 1917, and protections were gradually withdrawn also from other categories of tenants (e.g. tenants in large flats or high-income households). This gave impetus to the construction boom that occurred early after 1920: it was driven mainly by private investors in residential rental buildings (Poláková 2006). Private renting became a dominant urban housing tenure. Following the Munich Agreement (1938) and Germany's annexation of the border regions of Czechoslovakia, the construction of private rental housing ground to a halt.

After 1948 Czechoslovakia's economy shifted to central planning and housing construction began to be centrally controlled by the state. Most private residential buildings, built during the boom between 1920 and 1938, were expropriated or sold to the state and became the property of the state. In a few cases landlords were able to keep their title to properties, subject to the condition that they would respect other regulations (rent, tenant security). During socialism, state rental housing gradually became the dominant tenure in urban centres. Owing to low rents and strong tenant security the form of tenancy that existed under socialism later on came to be described as quasi-home-ownership (Šmídová 1996).

Main Milestones on the Path of Private Renting Growth After 1990

In 1991, the home-ownership rate was only 38 per cent, co-op housing formed 19 per cent and public rental 39 per cent of the housing stock; private renting was almost non-existent and formed only 1 per cent of the total housing stock. By 2011, the year of the last census, the home-ownership rate was already 56 per cent, co-op housing formed 9 per cent, public rental only 8 per cent, and private rental housing 14 per cent of the housing stock. Private renting thus substituted public renting as a dominant form of rental housing in the course of economic transformation. While in the 1990s the new private tenancies (concluded on the open market) operated mostly in the shadow economy and market rents strongly exceeded the user costs of home-owning, in 2011 most private rental contracts were based on properly written contracts, and for example, in 2008 market rents in most regional capitals had levelled off user costs of home-ownership. The private rental market gradually changed from supply-driven to demand-driven (though it is changing with cycles on the market), and this substantially cut the yields of landlords and increased market efficiency. The question dealt with in this chapter therefore is: what were the main milestones on the path of booming private renting in the Czech Republic?

Milestone 1: The Restitution of Residential Properties (1990–1993)

The process of property restitution began in April 1991, and it applied to that part of the housing stock that was nationalised between February 1948 and January 1990. According to restitution legislation, the original owner or his/her heirs were the persons entitled to apply for the return of property through restitution in kind. By 1993 most of the property transfers were completed. Approximately 7 per cent of the national housing stock was restituted to previous owners. However, in central Prague as much as 70 per cent of the housing stock was restituted (Sýkora and Šimoníčková 1994). Consequently, due to the relatively large scale of

restituted property, whole blocks of flats started to be owned by private persons, in most cases physical persons, especially in central locations of bigger cities, and this was an important starting point in the creation of both professional and institutional private rental investments in the Czech Republic.

However, the long-term equity consequences and enduring impact of restitution on the housing system were essentially ignored. Unlike the restitution of industrial assets, there was a specific dimension to the restitution of residential buildings: most restituted flats had sitting tenants, and their rights remained unaltered—and inviolable—in the restitution process. The state did not do away with the protections tenants had under the previous regime and kept the conservative rent regulation in restituted properties. In the 1990s the regulated rents were so low that they were not sufficient to cover the maintenance costs of new private landlords. The way restitution unfolded left some tenants and private landlords unhappy. Disputes between landlords and tenants were widely covered in the media and that created an image of private renting as an unstable form of tenure beset by problems and conflict.

Milestone 2: The Residualisation of Municipal Housing (1990 Onwards)

The second unique milestone in the development of the Czech housing system is that no right-to-buy legislation was passed in the 1990s. This contrasts with the situation in most other post-socialist states. Consequently, the tenants in public housing did not receive the right to buy their dwellings under preferential terms set by the central administration. However, the state decided to retain the untargeted system of rent regulation and to allow only small and gradual rent increases until 2006. Consequently, municipalities began at their own initiative to privatise their flats. The flats were mostly sold to sitting tenants at a low price, though conditions varied from one municipality to the next. The share of public housing decreased from 39 per cent (1991) to 8 per cent (2011) of the housing stock. Despite later rent deregulation (see below),

the municipalities continued and still continue to privatise public housing to tenants under giveaway conditions.

Milestone 3: Rent Deregulation (2007–2012)

For a long time the Czech government maintained a very conservative rent control regime, which applied to both municipal and private (restituted) running tenancies (open-term contracts concluded before 1993). The maximum rent levels per square metre of dwelling floor area for all running contracts concluded before 1993 were determined in a decree issued by the Ministry of Finance (Decree No. 176/1993 Coll.), which was amended in July each year between 1990 and 2002.

Governments in the transition countries knew that they could not control all rents and keep them at a very low level because that would prevent any new housing market investments from emerging. Therefore, in most post-socialist countries market rents could be charged in newly signed rental contracts (Hegedüs et al. 2013). Similarly, in the Czech Republic it has been possible since 1993 to charge market rents in newly signed rental contracts. The segment for new tenancies operated under very liberal conditions: the legal regulations did not set any caps on initial rent levels, subsequent rent review, or the terms of tenancy. Most contracts were signed for one year.

The housing market thus split into two segments: the ‘privileged’ and ‘non-privileged’ segments (Lux 2009). Instead of a universal policy towards the PRS as a whole, two extremely different regimes were applied to it. Strict first-generation rent control with open-term contracts and strong tenant protection for all running tenancies existed simultaneously with an extremely liberal system of no regulations on rent-setting or lease term and no effective tenant protection for new tenancies. Therefore, from a legal point of view the difference between private and public ownership was less important than the fact of whether the rental contract was concluded for an open term before 1993 or for a fixed term after 1992.

Most rental housing continued to be occupied by ‘privileged’ tenants up until 2005–2008. In the 1990s, these ‘privileged’ tenants still enjoyed

extensive protections that had basically been inherited intact from the socialist period:

- Rents could not be changed unilaterally by the landlord (and without state intervention would remain frozen at a low level);
- The contract, which was open term, could not be terminated by landlord in circumstances other than those specified in the Civil Code¹;
- Tenancy right to a flat based on an open-term contract could be transferred by a tenant to his or her descendants or other family relatives, or it could be exchanged with other 'privileged' tenants;
- A landlord could only give a tenant notice via the court and if a tenant did not agree with the reasons for the termination of the contract a long legal procedure ensued. According to estimates of private landlords, in the 1990s it took on average between two and three years to bring about a justified eviction²;
- Even in the case of justified notice the landlord had to find a substitute housing acceptable to the tenant. The landlord had to offer a tenant at least three alternative dwellings, and the tenant had a right to refuse all of them. Moreover, the tenant had a right to get the same level of security and contract conditions in the substitute housing as he or she had in the original dwelling, including low regulated rent. If the tenant refused to cooperate the court could make a decision about the substitute housing. However, these requirements (i.e. the duty of a landlord to find the tenant an empty flat with regulated rent) often made eviction a practical impossibility.

Strong tenure security gave rise to a black market and relatively extensive rent arrears. There were basically two forms of black market contracts: illegal sublease agreements concluded between 'privileged' tenants and subtenants without the consent of a landlord and usually on market terms, and the 'sale' of user rights (open-term contract) for rent-regulated dwellings on the open market. While the first form of black market is straightforward and common also in other countries with a rent control system, the second one was relatively specific and depended on more complex black market operations. Officially, a contract was exchanged with another holder of a contract, but in fact the 'purchasing' party had

only a temporary rental contract to the flat acquired from a trade intermediary, which was usually a real estate agency that had a special flat for this purpose. When the 'selling' party got payment and the rental contracts were exchanged, the dwelling of the intermediary was vacated and could be used for the next black market activity. The state and the municipalities were wholly ineffective at stopping black market practices; such practices became very common and to some extent even socially accepted.

The conservative form of tenant security only began to weaken slowly after 2000 when several amendments were made to the Civil Code. For example, originally landlords had to turn to the court to pursue notice; by a later amendment, notice could be sent directly to a tenant, and it became the tenant who had to turn to the court if he or she disagreed with termination, otherwise the notice was valid. Tenant security was weakened further by the new Civil Code that came into force in 2014. A tenant's right to substitute housing was abolished. In extreme case of very serious breach of good conduct rules by a tenant or a tenant's family members, the landlord has a right to give a notice without any notice period (which is, otherwise, three months). Rent arrears are explicitly mentioned as an example of a serious breach of good conduct rules.

Although there are no precise statistics, according to private landlords the judicial process of justified eviction (e.g. due to arrears) has decreased substantially in the last decade: while it could take two and half years around 2000, it is estimated to now take about one year on average. However, even one year is seen by landlords as too long and risk-laden for a justified eviction. The risk of possible arrears is mitigated in new rental contracts by reducing the duration of the lease (usually to one year) and by requiring a deposit from a new tenant when the lease is signed (usually equal to one or two months' rent).

The changes in the rent control system have had an even more important impact on the recent nature of the PRS than changes in tenant security described above. Figure 7.1 illustrates the rise in the rates of maximum regulated rent for Category I flats according to municipality size categories between 1990 and 2006.³ In 1999 the government policy led to a freeze in nominal rent values (rents were increased only with inflation), and between 2002 and 2006, the rents were frozen both in nominal and real values.

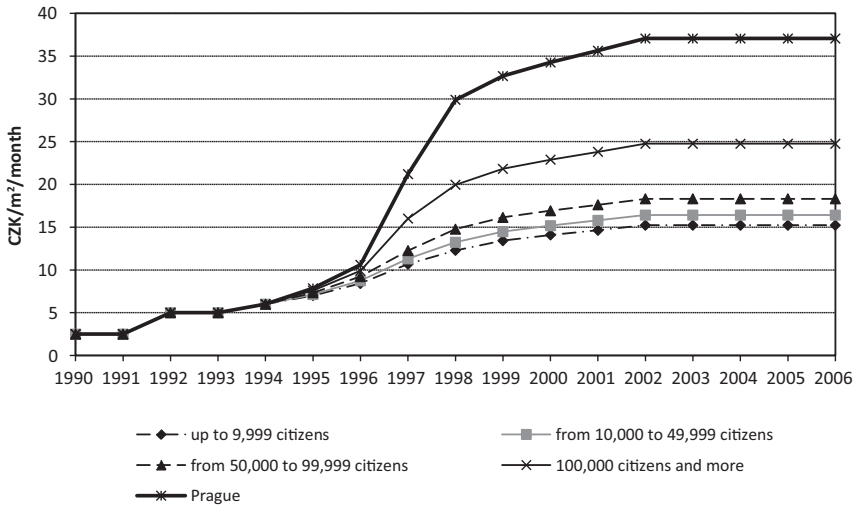


Fig. 7.1 Maximum controlled rents (CZK/m²/month), 1990–2006 (Category I quality). Source: Ministry for Regional Development

In 2000 the Constitutional Court ruled that Decree No. 176/1993 Coll. regulating the level of rent violated certain articles of the Charter of Basic Human Rights and Freedoms and Article 1 of the Constitution of the Czech Republic. The Court ruled that the decree should be rendered null and void by the end of the following year (2001), and that new terms and conditions for negotiating the level of rent should come into force in the beginning of 2002. However, Parliament did not adopt a new act until 2006 and rents have remained frozen between 2002 and 2006.

In 2006 the situation suddenly changed when Polish landlord Hutten-Czapska won her case against the Polish state in a dispute before the European Court of Human Rights. The Czech government quickly prepared a plan to deregulate all rents until 2010 (later prolonged to 2012 in large towns) to avoid the possibility of having to pay financial compensation to private landlords of rent-controlled dwellings. The Act on Unilateral Rent Increases was passed in 2006, came into force in January 2007, and set the maximum rents per square metre for the next five years (intermediary period) according to the implicit value of a dwelling sorted by region and municipality size. The plan aimed to reach a target rent of 5 per cent of the dwelling implicit market value (or 3 per cent in central

Prague locations). This led to an increase in regulated rents and a reduction in the gap between free market rents and regulated rents.

Nowadays, all rents in both municipal and private rental segments and for both running and newly signed rental contracts are not determined by the state. For running contracts, they can be changed only by mutual agreement between tenant and landlord, and if the tenant does not agree with the new proposed rent level, he or she can turn to the Court. According to the Act, rents cannot exceed general market rents in the given area for the same type of dwelling. In the case of a dispute, the Court bases its decision on individual valuation survey made by the tenant or landlord for a particular dwelling. The whole system of second-generation rent control is very similar to the system applied in Germany.

As most landlords prefer to retain tenants for as long as possible, they usually do not change the rent level if the tenant decides to stay for another term, and the contract is extended for another term (usually one year) under the same conditions. In many cases, the rental contracts themselves include the option that allows the tenant to stay in the flat under the same contract (and rent) conditions automatically for another term as long as the tenant was not in violation of any of the contract rules in the previous term.

Milestone 4: The Introduction of Generous Housing Allowances and Tax Subsidies

Since 2006, the risks connected with rent arrears have been effectively managed by the relatively generous benefit system in the Czech Republic. Housing allowances had been paid since 1996 but the system was substantially amended in 2006. All tenants registered as a permanent resident in the given property are entitled to a housing allowance if 30 per cent (in Prague 35 per cent) of the family income is insufficient to cover housing costs, and at the same time this 30 per cent (in Prague 35 per cent) of family income is lower than the relevant prescriptive housing costs. The remainder of the housing costs above the amount paid by a household (computed from its income) is covered by a housing allowance. Thanks to rent deregulation, prescriptive housing costs have recently been set at levels that reflect rents in the free market. Moreover, an additional

benefit—the housing supplement—addresses cases where a person's or family's income, including the housing allowance, is insufficient to cover justified housing costs. The benefit is provided to households who are entitled to an allowance for living (living minimum). The amount of the supplement is determined separately for each individual case by the Labour Office and in such a manner that after the person or family has paid all justified housing costs, they are left with an amount equal to the living minimum. Consequently, for families with no income the housing supplement may actually cover total housing costs.

Both social benefits can also be paid directly to the landlord if the social security department of a particular municipality approves the request from the landlord. The generous benefit system is an important part of the rental strategies of institutional landlords, but it is not uncommon for small accidental landlords to lease their property to people who are eligible for the benefit. Some landlords, especially of private lodging houses, abuse the generous benefit system to make large profits by providing low-quality accommodation to poor people. The prescriptive costs are amended annually by the Ministry of Labour and Social Affairs based on the changes in the housing expenditures of Czech households.⁴

The state also introduced generous tax provisions, allowing both professional and small investors to deduct house depreciation from rental income, that is they may discount each year the part of the total value of their investment from annual rental income (usually for a period of 30 years). This is an important tax incentive because annual depreciation may be almost as high as annual rental income when depreciation is applied or it can, at least, substantially decrease the tax duty of a landlord.

Milestone 5: The Rise of Institutional Investors and Increasing Legality

Besides property restitution, rent deregulation, introduction of generous tax provisions and housing benefits the privatisation of former state enterprise housing stock and also of some municipal housing stock to the institutional investors served as an additional impetus to growth in the supply of private renting. There gradually appeared a few private institutional investors in the Czech housing market during the economic transition; two of them

even became major private landlords on the local level. For example, in the North Moravian Region the privatisation of a large state coal-mining company (in 2004) also included the sale of more than 44,000 enterprise flats (rental flats for employees of the company) that are now owned, rented, and managed by the institutional investor RPG. The second largest institutional investor, CPI, owns and rents out more than 12,000 flats, especially in the North Bohemian Region. Other professional investors also bought housing stock from restituted. It is impossible to obtain precise information, or even a robust estimate, of the shares of stock owned by different types of landlords; the share of stock owned by institutional and professional landlords is, however, substantial in the Czech Republic.

The overwhelming majority of the 2011 census-surveyed private rental tenancies (14 per cent of housing stock) are legal, that is based on written and properly signed rental contract between landlord and tenant. There may be several reasons why most of the private rental contracts are based on legal written agreements, a situation that distinguishes the Czech Republic from most other post-socialist states. The reasons may include, for example: (a) the relatively large amount of property restitution that occurred in kind, which created professional landlords (physical persons), who own all the flats in an apartment building, (b) the emergence of institutional investors, who in recent years have come to own from hundreds to several thousands of flats, and (c) generous tax deductions. Tenant security, which was previously very conservative, was weakened by several amendments to the old Civil Code and by the new Civil Code that came into force in 2014.

A Snapshot Analysis of the Status of the PRS Today

The question dealt with in this section is: what is the status of the PRS today? The rapid growth of private rental stock and in particular the anticipated deregulation of regulated rents helped to stabilise market rents. While the average flat price between 2000 and 2008 increased by almost 200 per cent, the increase in average market rent was much more gradual—it grew only by 64 per cent (Lux and Sunega 2010).

As Table 7.1 shows, the value of the price-to-rent ratio increased, for example, in Prague, between 2000 and 2008, from 13.7 to 26.0, so it almost doubled. This substantially increased the financial appeal of market rental housing for the end user when compared to its main alternative—owner-occupancy.

This is confirmed by a comparison of net market rent and the user costs of owner-occupied housing—the user costs of owner-occupied housing were calculated in conformity with established practice as the annual interest costs of buying an average flat (taking into account possible tax savings). In 2008, in most regional capitals in the Czech Republic it was for purely financial reasons more advantageous, according to this comparison, to rent than to buy housing. After 2008, home-ownership became more financially attractive due to the decrease in house prices and cuts in interest rates, but the difference between the user costs of home-ownership and private rents remained small.

Table 7.2 shows the changes in yield (average rent to average house value) for a ‘typical’ flat⁵ in all the Czech regional capitals between 2000 and 2013; the data are drawn from the Institute for Regional Information, the only institution in the Czech Republic that monitors both price and rent trends by using advertisement data. The difference between rental yields and yields acquired from investments in government bonds is presented in the final section of Table 7.2. Note that in 2008 this difference was on average close to one and was even negative in Prague. The rapid growth of the PRS and rent deregulation thus substantially decreased private yields.

Figure 7.2 shows the trends in the market rent-to-income ratio for 14 Czech regions between 2000 and 2011. The average regional market rent is compared to the average regional household income for the 60 most common types of Czech households (defined by household size, economic activity, and the occupation of the head of the household). Data on rents were obtained from Institute for Regional Information, on household incomes from the Czech Statistical Office’s labour income statistics and a micro-simulation of taxes and social transfers. All Czech households were assumed to be paying market rent for private rental flats with a floor area appropriate to their size. Consequently, the ‘affordability

Table 7.1 Price-to-rent ratio in regional capitals of the Czech Republic (2000–2013)

Price-to-rent	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Brno	12.5	12.7	13.1	13.7	12.8	12.4	14.2	19.0	22.0	20.8	20.7	21.4	21.8	22.6
České Budějovice	11.9	11.9	12.3	12.4	13.1	13.1	14.1	16.3	19.5	20.4	18.8	19.0	19.2	18.7
Hradec Králové	12.5	12.7	13.1	13.7	15.0	15.7	17.7	22.7	24.5	23.8	21.1	21.4	20.7	21.7
Jihlava	12.2	12.0	12.4	12.9	13.8	13.5	15.0	19.3	20.4	18.2	17.4	17.8	17.5	16.3
Karlovy Vary	12.3	12.2	12.8	13.4	14.6	14.2	15.0	18.3	19.7	21.4	21.2	19.4	19.8	19.3
Liberec	10.9	11.2	11.7	12.6	12.2	12.7	16.2	22.3	22.3	21.3	19.4	18.4	18.1	17.8
Olomouc	11.6	11.4	12.1	13.1	13.2	14.6	15.2	22.4	24.7	20.8	18.4	17.7	17.5	18.0
Ostrava	8.9	8.6	9.2	10.2	10.7	10.4	10.4	12.7	14.6	13.6	13.2	13.0	12.2	12.0
Pardubice	11.8	12.0	12.2	13.1	15.5	14.7	16.7	20.0	21.7	20.4	19.0	17.9	18.4	18.7
Pízeň	12.0	11.9	12.3	14.1	15.1	15.9	18.4	19.8	21.8	21.2	21.1	20.9	20.6	20.2
Prague	13.7	13.9	14.2	15.0	15.6	16.4	18.7	22.7	26.0	25.6	25.4	24.8	24.1	23.5
Ústí nad Labem	8.2	7.9	8.3	9.2	9.8	10.4	9.5	11.3	11.9	12.7	12.1	11.4	10.8	10.4
Zlín	12.2	12.5	12.7	13.0	13.9	14.8	15.9	19.1	19.2	19.3	17.5	16.0	15.9	16.3

Source: Institute for Regional Information, author's computations

Table 7.2 Rental yields in regional capitals of the Czech Republic (2000–2013)

Rental yield (%)	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Brno	7.98	7.89	7.65	7.32	7.82	8.09	7.04	5.26	4.55	4.81	4.82	4.67	4.58	4.42
České Budejovice	8.39	8.38	8.11	8.05	7.63	7.63	7.08	6.13	5.13	4.91	5.31	5.27	5.21	5.35
Hradec Králové	8.03	7.88	7.63	7.29	6.68	6.37	5.65	4.41	4.09	4.21	4.74	4.67	4.83	4.60
Jihlava	8.22	8.31	8.06	7.73	7.27	7.41	6.68	5.18	4.91	5.49	5.74	5.63	5.73	6.14
Karlovy Vary	8.11	8.21	7.80	7.44	6.84	7.06	6.65	5.48	5.06	4.66	4.71	5.15	5.05	5.17
Liberec	9.20	8.93	8.55	7.96	8.23	7.87	6.16	4.49	4.48	4.69	5.15	5.44	5.52	5.63
Olomouc	8.58	8.80	8.26	7.64	7.58	6.85	6.56	4.47	4.04	4.80	5.44	5.66	5.70	5.55
Ostrava	11.26	11.60	10.86	9.84	9.32	9.62	9.62	7.88	6.85	7.34	7.60	7.67	8.18	8.31
Pardubice	8.44	8.32	8.18	7.64	6.45	6.82	5.98	5.00	4.61	4.91	5.25	5.58	5.44	5.34
Plzeň	8.31	8.42	8.11	7.09	6.62	6.31	5.44	5.05	4.59	4.72	4.74	4.79	4.84	4.96
Prague	7.31	7.21	7.05	6.68	6.40	6.11	5.36	4.41	3.85	3.91	3.94	4.03	4.15	4.25
Ústí nad Labem	12.15	12.71	12.10	10.92	10.22	9.59	10.54	8.87	8.39	7.89	8.24	8.75	9.22	9.59
Zlín	8.19	8.03	7.86	7.70	7.18	6.77	6.30	5.23	5.21	5.19	5.70	6.24	6.30	6.15
Yield 5 years state bonds	n.a.	n.a.	n.a.	n.a.	3.90	2.78	3.38	3.87	4.21	3.89	2.76	2.54	1.64	1.13
Yield 10 years state bonds	6.98	6.22	4.82	4.08	4.73	3.47	3.83	4.40	4.63	4.90	3.88	3.63	2.73	2.19

(continued)

Table 7.2 (continued)

Rental yield (%)	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Difference between rental yield and yield from five-year state bonds (in percentage points)														
Brno	n.a.	n.a.	n.a.	n.a.	3.92	5.31	3.67	1.39	0.34	0.92	2.06	2.13	2.94	3.29
České Budějovice	n.a.	n.a.	n.a.	n.a.	3.74	4.85	3.70	2.26	0.92	1.03	2.55	2.72	3.57	4.22
Hradec Králové	n.a.	n.a.	n.a.	n.a.	2.78	3.59	2.27	0.54	-0.12	0.32	1.98	2.13	3.19	3.47
Jihlava	n.a.	n.a.	n.a.	n.a.	3.37	4.63	3.30	1.31	0.69	1.60	2.98	3.09	4.09	5.01
Karlovy Vary	n.a.	n.a.	n.a.	n.a.	2.95	4.27	3.27	1.61	0.85	0.77	1.95	2.61	3.41	4.04
Liberec	n.a.	n.a.	n.a.	n.a.	4.33	5.09	2.78	0.63	0.27	0.81	2.39	2.90	3.88	4.50
Olomouc	n.a.	n.a.	n.a.	n.a.	3.68	4.07	3.19	0.60	-0.17	0.91	2.68	3.11	4.06	4.42
Ostrava	n.a.	n.a.	n.a.	n.a.	5.43	6.83	6.24	4.01	2.63	3.45	4.84	5.13	6.54	7.18
Pardubice	n.a.	n.a.	n.a.	n.a.	2.55	4.04	2.60	1.13	0.40	1.02	2.49	3.03	3.80	4.21
Plzeň	n.a.	n.a.	n.a.	n.a.	2.72	3.52	2.06	1.18	0.38	0.84	1.98	2.25	3.20	3.83
Prague	n.a.	n.a.	n.a.	n.a.	2.50	3.32	1.98	0.54	-0.37	0.02	1.18	1.49	2.51	3.12
Ústí nad Labem	n.a.	n.a.	n.a.	n.a.	6.32	6.81	7.16	5.00	4.18	4.00	5.48	6.20	7.58	8.46
Zlín	n.a.	n.a.	n.a.	n.a.	3.29	3.98	2.92	1.37	1.00	1.30	2.94	3.70	4.66	5.02

Source: Institute for Regional Information, author's calculations

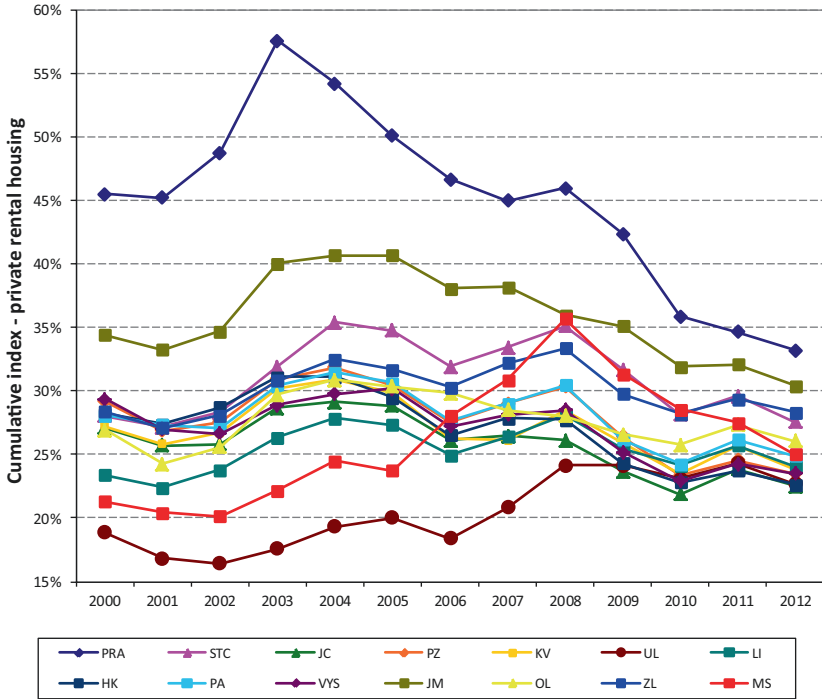


Fig. 7.2 Average hypothetical *market rent-to-income* ratio in 14 regions of the Czech Republic (2000–2012). Source: Institute for Regional Information, Regional Statistics of Labour (RSCP), Czech Statistical Office, author's computations. Note: PRA means Prague

ratio' does not show how much households actually pay for their housing but how much they would pay if they all lived in market rental housing.

It is clear (in the figure) that this hypothetical rent-to-income ratio decreased especially in Prague and the JM (South Moravia) Region (where Brno, the second-largest Czech city, is located): in Prague it dropped from 58 to 33 per cent between 2003 and 2012. However, the trends were not uniform: there were also regions where the rent-to-income ratio increased (such as the MS [Moravian-Silesian] Region, where it increased from 23 to 25 per cent in the same period).

This section also shows the differences between the private rental segment and owner-occupied housing tenure (as the main substitute) both

in the structure of the housing stock and in the social structure of inhabitants. The data analysis was done by Lux and Sunega (2010) using merged data sets from the EU-SILC surveys in 2007 and 2008. The data analysis confirmed that smaller flats with lower technical standards (problems with humidity, insufficient light, or external noise) were associated with a greater chance that the flat would belong to the PRS. Analogically, the 'typical' PRS tenant is associated with the characteristics of unemployment, low per capita income, a young age, single status, and small-sized households (Lux and Sunega 2010).

Consequently, the results of the data analysis showed that the PRS in the Czech Republic had acquired the character of a transitional and residual form of housing rather than a stable life-long housing alternative to owner-occupation. Despite the substantial growth of private renting and its legal and professional status, the demand for this form of tenure resembles the situation in countries like the UK or Belgium and not the situation in countries like Germany or Switzerland. Private renting did not become popular and remained a kind of temporary housing for people at the start of the housing career or a form of residual housing for people on low income who cannot afford to buy their own housing.

Future Prospects of the PRS

There are currently no major barriers in the Czech housing market to growth in supply of the PRS. Housing allowances are relatively generous and flexible (moving with the tenant household), and rent regulation has been abandoned. However, the growth in supply of the PRS is almost exclusively from the second-hand housing stock. The investments into construction of new private renting remain marginal (due to low yields and restricted demand), with the few exceptions of accidental landlords who buy new properties for the purpose of renting them.

The only barrier to the PRS becoming a strong tenure in the long term is the vicious circle of an unbalanced housing (tenure) system. Throughout the transition period, state subsidies of owner-occupied housing were several times greater than public subsidies of rental housing; the skewed

state housing policy was further reinforced by the giveaway privatisation of public housing by the municipalities. Home-ownership gradually became a popular and powerful social norm, while renting, by contrast, became stigmatised as a form of residual and temporary housing. The demand for private renting became more volatile, and rent deregulation increased the turnover of tenants in the PRS (something mentioned by private landlords in personal interviews).

The judicial proceedings that accompany justified eviction are still very lengthy, and as a result, private landlords continue to conclude contracts only for a fixed period of time, in most cases one year, despite increasing competition on the market. However, the short duration of a typical contract shapes the demand in the PRS and adds to its temporary status. Most households who stay longer term as private tenants are those who cannot afford to buy their own housing because they have low income. It is clear that the PRS became a partial substitute for the non-existent social housing sector. The fact that socially vulnerable households are beginning to become concentrated in the PRS may encourage landlords to ask for a higher risk premium and, consequently, may lead to higher rents in the future. This could further decrease the attractiveness of the PRS and lead to a decrease in its size (as investors may sell their stock).

The most likely explanation for private renting becoming only a residual and transitional form of housing is that the rapid increase in the supply of private renting was accompanied by quick structural changes in the demand for rental housing generally. The conditions that unilaterally supported the quick supply of new private rental dwellings on the market at the same time constrained the long-term demand for them. The policy that favoured strict rental housing segmentation (conservative rent control in one part of the stock and full liberalisation of rents for new tenancies), instead of reforming the general rules of the game (the introduction of a second-generation rent regime and new universally applied tenant protection rules), is very likely—after taking into account the features of the general context of the 1990s—the main reason why nowadays the PRS is perceived only as a residual and transitional form of housing.

Private Renting Used to Meet Social Goals

As the government cannot be expected to subsidise the new social rental housing output on a large scale, the discussion about the use of private rental housing stock for social purposes already started six years ago in the Czech Republic. The governmental Agency for Social Inclusion launched a pilot for the system called ‘guaranteed housing’, which is designed for households at risk of social exclusion and low housing affordability. The main idea of the system is to use existing private rental housing for social purposes, especially as permanent rental housing for vulnerable, excluded, homeless, Roma, young, and low-income households. However, the Agency failed to conduct the pilot, and owing to management failures and legislative gaps, the scheme has not been tested in practice.

Conclusion

The share of private rental housing out of the total housing stock increased very quickly compared to the pace in advanced countries, going from almost zero in 1990 to 14 per cent in 2011. This is a consequence of several factors, such as that the Czech Republic (a) did not apply right-to-buy policy, (b) introduced the largest in kind restitution of residential properties in the CEE region, and (c) after two decades of strong rent control fully liberalised rents for all running tenancies at the end of 2012. Moreover, it was possible to charge market rents for new tenancies already since 1993.

A substantial part of the private rental stock is owned by institutional and professional landlords, and the overwhelming majority of the census-surveyed private rental tenancies are legal, that is based on written and properly signed rental contract between landlord and tenant. The reasons for this specific features of PRS in the Czech Republic when compared to situation in other transition countries may include the fact that: (a) property restitution created professional landlords, (b) the privatisation of the housing stock helped institutional investors to emerge who in recent years have come to own from hundreds to several thousands of flats, and (c) tax provisions allow investors to deduct housing depreciation from rental income.

However, the shift in the meaning and role of rental housing after 1990 is clear: it has moved from being a form of life-long public housing tenure to a residual and transitional form of private rental housing. The German-specific 'unitary-rental' housing system, which may be viewed as traditionally close to the Czech cultural environment, was not achieved, and it seems that it will take much longer than expected for any potential change in recent trends to occur. The use of private renting for a social purpose has already been under discussion for at least six years in the Czech Republic, but no concrete examples have to date been tested in practice.

Notes

1. Justifiable reasons for terminating a contract included: the tenant was in rent arrears for three months (more precisely, cumulated arrears amounted to three months' rent); the tenant owned or used as a tenant another dwelling suitable for housing; and the tenant very seriously violated the rules of good conduct or tenant duties.
2. The first court issue that had to be ruled on concerned the justifiability of the notice, the second concerned the justifiability of execution (eviction), and the third concerned the implementation of execution (eviction). If a tenant was in arrears, he or she could stay in the dwelling until the courts had ruled on all three issues, that is, for another few years.
3. Exchange rate: EUR 1 = CZK 28.
4. In 2012, the Ministry of Labour and Social Affairs paid out CZK 5.7 mil. (EUR 228,000) in housing allowances to about 4 per cent of Czech households, and about CZK 1.7 mil. (EUR 68,000) in housing supplements to about 1 per cent of Czech households. Tenants are the main recipients of both benefits.
5. A flat with a floor area of 68 m², in an average location, with a 40 per cent depreciation rate.

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8

East Germany: Integration to a Well-Established Environment

Stefan Kofner

Introduction

This chapter traces the transformation of the housing market, housing policy, housing industry, and the private rental sector in East Germany since 1949 with special attention on the period after the German reunification. The measures and actions taken by stakeholders in politics and the housing sector are presented in the context of economic and demographic developments and trends in the region. The chapter provides an overview of the development of the legal framework of the housing industry in the wake of the transformation of the centrally planned economy of the German Democratic Republic (GDR) to a social market economy as part of the united German economy.

Describing the complex and changing problems that the East German housing sector, and especially private landlords, has faced since the reunification should contribute to a better understanding of the specific situation

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of East Germany. The initial problems that existed in 1990 (a housing shortage and maintenance backlog, urban development problems, unclear allocation of property rights, and debts) could be blamed largely on the housing policy of the former GDR. The problems and challenges of today, on the other hand (high vacancy rates and persistent maintenance backlogs, urban redevelopment challenges, regionally focused housing shortages), are not least a consequence of the housing policies chosen in response to the difficult initial situation.

The Housing System in East Germany Before 1990

The Role of the Private Rented Sector in a Centralised Economy

According to the idea of central management and planning in a socialist society, housing needs were primarily addressed through central planning in the GDR. The socialist housing sector was therefore subject to extensive intervention and tight control by the government. The planning authorities had a decisive influence on housing investment planning and the allocation of credit funds. Legal interventions focused on rental rates and the allocation of dwellings. However, housing cooperatives were considered important actors in housing construction, and worker housing cooperatives were subsidised through generous government loans and the provision of free public land for development.

In contrast to the legal practice in the USSR, private ownership of real estate was not completely abolished in former East Germany, but to some extent, urban land and urban houses were expropriated (e.g. through *Aufbaugesetz* of 1950) for the purpose of mobilising land for residential development. From 1950, it was possible to expropriate contiguous areas and to declare them to be 'development areas'. Landlords of existing properties were given only minimal compensation because under East German law, land had almost no monetary value (Topfstedt 1999: 426 et seq.). However, most privately owned multi-family houses remained

private property throughout socialism. Nevertheless, private ownership of real estate was restrictively limited and subject to regulatory control (transfer of ownership subject to approval, right of pre-emption by the state). In these conditions, it was impossible for a free housing market to develop (Topfstedt 1999: 425 et seq.). The state had monopolised the allocation of dwellings, and rents were tightly controlled. As a result, net cold rent (i.e. without extra costs like heating or waste) amounted to around just 4 per cent of household net income in the middle of 1990 in East Germany—which was only one-fifth of what it amounted to in West Germany. The subsidies the East German housing sector received eventually amounted to approximately four times the total rent revenue. All households have financed these subsidies in the form of a higher tax burden or a lower wage (Frick and Lahmann 1991: 396–398, see also Kronberger Kreis 1990: 2).

Privately owned multi-family rental buildings were thus subject to what could be referred to as ‘creeping nationalisation’ because the tenancy laws introduced during and immediately after WWII were static, while the environment was subject to dynamic changes. The business of letting was made economically unattractive (Bernhardt and Reif 2009: 15). No rent increases were allowed, and private landlords as a result lost any prospect of earning a profit over time. The rent controls of the socialist era even made the proper maintenance of the buildings impossible.¹ A point was finally reached where rental income did not even cover the variable costs of the properties, and many landlords were economically forced to sell their property at ‘bargain prices’.

Basically, throughout the socialist era, although there was considerable new residential development, significant housing shortages prevailed. The wartime and post-war housing plight was never really overcome, and therefore, in the face of a permanently inadequate housing supply, the emergency rental laws remained in force more or less unchanged. In the western part of Germany, on the other hand, the regulatory corset of the housing market was steadily liberalised. The decisive step on the long road to liberalisation was the Dismantling Act of 23 June 1960 (BGBl., p. 389 et seq., Kofner 1999), which was designed to gradually exempt all old dwellings from the special allocation, pricing, and tenant protection rules.

New Housing Construction During Socialism

The differences between the two German economies were most apparent in the field of investment planning. Admittedly, in West Germany, residential construction activity was also largely directed by the government, especially in the years of reconstruction (i.e. until the mid-1960s), but the steering instrument—social housing—was ultimately compatible with the social market economy, since it left some leeway for decentralised decision-making and corporate responsibility (Hanauske 2001: 31). In the GDR, on the other hand, residential construction activity was much more directly controlled by the central government. It was centrally decided how many dwellings were to be built and how they should be distributed in space. Three key institutions had an impact on urban planning: the Planning Commissions, Economic and Technical Planning Offices, and Party Committees of the communist party of GDR (SED).

General housing development planning was supposed to be functional, economically efficient, and respond to the needs of socialist urban development (Hoscislowski 1991: 294 et seq.). The key data for general development plans were included in the five-year plans that were drawn up by the economic planners. Investment funds were not allocated according to market demand, but they reflected the objectives of the office of central planning. Instructions (directives) of the SED on all levels of government ensured that all plans were in accordance with the ideas of those in power (Raasch 2004). The objectives of the abovementioned plans were derived from the programmes of the SED, and the instruments to enforce them were managed by the SED's functionaries (Werner 1981: 89). Discussion and decision-making remained at the level of expert communities and the party without much civic participation.

At the end of WWII, there were around 18.4 million people living on the territory of what would become the GDR. As a result of flight and expulsion of Germans from other countries, this was 1.7 million more people than what the size of the population was in 1939. Of the originally 5 million dwellings, only 60 per cent had remained undamaged when the war ended. A quarter of the dwellings had been destroyed

(as compared to a fifth in the Western zones), and a further 16 per cent was severely damaged (20 per cent in the West zones). Supplying the population with living space was an urgent problem. Although the population of the GDR decreased by 2.1 million between 1949 and 1989 and ultimately fell below its baseline prior to WWII, the housing supply problem was never satisfactorily resolved in the GDR until its collapse in 1989 (Schretzenmayr 2011: 25).

From 1973 onwards, East German housing policy clearly favoured complex industrial housing construction. The coupling of panel construction technology with large housing estates was characteristic for residential construction. The schematic addition of identical housing complexes, regardless of the surrounding buildings, led to the creation of spatial mono-structures. This policy reflected social relations in the GDR (equalisation, the convergence of classes, and strata; Hannemann 1997), but the oversized housing estates were also a consequence of the industrialisation and economisation of construction in the socialist economies.² A total of 125 large housing estates were built, including 70 estates that had more than 5000 residential units each, and some estates had even more than 30,000 residential units. In 1990, more than 20 per cent of the resident population lived in large housing estates, while the comparable figure for West Germany was only about 2.3 per cent.

The private rental sector was not meant to play an active role in the efforts to solve the housing shortage in the GDR. On the opposite, private finance and private initiative in the construction of new rental housing was discouraged. The construction of private apartment buildings began to be systematically suppressed in the 1950s and was soon halted altogether (Topfstedt 1999: 429). On the other hand, homeowners and cooperatives played a certain role in housing construction. Private residential construction accounted for 10–15 per cent of new residential completions (almost exclusively owner-occupied private homes). Condominiums were almost non-existent in the GDR: in 1990, condos made up only about 0.5 per cent of all private housing units, since this tenure was regarded as a ‘potentially capitalist property form’. Sales of condominiums were not allowed.

Apart from pilot projects, hardly any funds were provided for the maintenance of old buildings. Of the housing grants paid directly from the central budget between 1971 and 1980 in the amount of 15.1 billion marks, only 10.7 per cent (corresponding to 1.61 billion marks) were grants to modernise housing stock. Nearly 90 per cent of the grants were thus used for new residential construction (Melzer and Steinbeck 1983: 89). That was far too little to maintain the quality of the old housing stock. In the final years of the GDR, approximately one-third of the volume of new construction was offset by the loss of old residential dwellings due to the fact that they had become uninhabitable. Eventually, around 50 per cent of the multi-family houses had severe damages or were already useless (Kabus 1990: 64).

The ownership structure of the housing stock underwent a considerable change during the socialist era as rental housing construction was exclusively in the hands of public construction combines, cooperatives, and, to some extent, private house builders, while the property of private landlords was gradually expropriated. In 1990, 40 per cent of the housing stock was public property and 18 per cent was cooperative property, while the share of private property including owner-occupied housing had more than halved since 1959 to only 40 per cent of housing stock (Statistisches Bundesamt 2000: 107, Table 71).³ Rental housing (including coop housing) accounted for about 75 per cent of the total housing stock in 1990, and the share of private renting was 15 per cent of the total stock (20 per cent of the total rental housing stock). After 1990, the share of private renting in the total housing stock significantly increased, reaching approximately 29 per cent of the total stock (or 44 per cent of all rental housing) in 2011 (Statistische Ämter des Bundes und der Länder 2014: 26, Table 9). This is in part a reflection of the political changes, which allowed the privatisation and restitution of property: many residential buildings were restituted to previous owners or their descendants, and some larger housing portfolios were sold to interim acquiring companies and financial investors. The private sector also became responsible for the bulk of new housing construction, while residential development activities in the public and cooperative sector remained negligible in the years after German reunification.

From Housing Shortage to Housing Oversupply (1990 Until Today)

Macroeconomic development in the East German states since 1990 has been less favourable than most people had expected. The macroeconomic shock of the monetary union initially led to the collapse of large parts of the East German industry, a slump in production, and a sharp rise in unemployment. The subsequent economic catching-up process (the modernisation of products and the capital stock) slowed down more and more in the course of the process and even today cannot be considered to have reached completion. In 2013, per capita production was about two-thirds of the West German level (62 per cent in 2001), and per capita income stood at 84 per cent as compared to the West. The deficit in the current account balance is financed by transfer payments (Ludwig 2015). The unemployment rate in the eastern part of Germany was around 15 per cent by the early 1990s, and it increased to 20.6 per cent in 2005 (later it fell significantly—according to the Federal Employment Agency, in January 2016, the unemployment rate was 9.6 per cent in the East and 6 per cent in the West).

Of the 6.67 million dwellings that existed in 1990, one million had severe structural damages. The pre-war housing stock suffered from an enormous backlog in maintenance. Entire neighbourhoods were at risk of soon collapsing due to decades of neglected maintenance. The supply situation was close to a housing shortage. In 1989, the authorities registered 781,000 applicants requesting allocation of a dwelling. However, many of those requests were prompted by the poor conditions of the dwellings that the applicants currently occupied (Kronberger Kreis 1990: 3).

The revival of housing construction in 1992 was driven again by government subsidies. Residential construction experienced the biggest boom of all construction sectors after reunification, and it made a significant, though not sustainable, contribution to overall economic growth in the early years of economic reconstruction. Housing completions increased steadily after 1992, and residential development peaked in 1997 with almost 180,000 newly built housing units (Fig. 8.1). Public housing

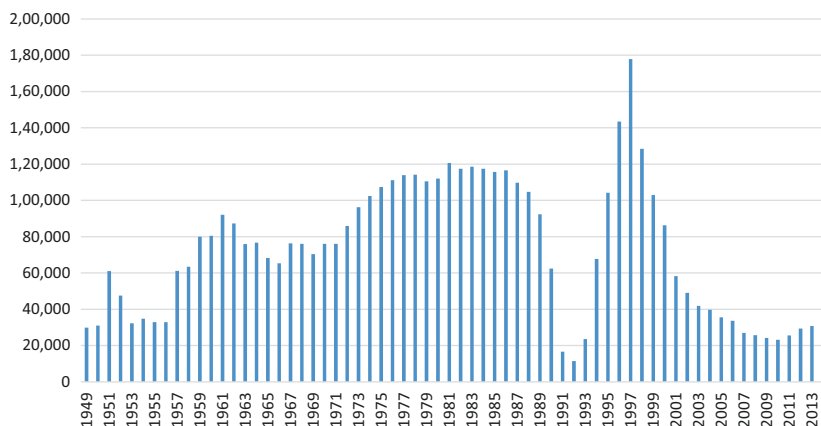


Fig. 8.1 Housing completions in East Germany 1949–2014 (since 2005 incl. West Berlin). Source: Statistisches Bundesamt: Bauen und Wohnen: Baugenehmigungen/Baufertigstellungen, Lange Reihen z.T. ab 1949, Erscheinungsjahr 2014

organisations and housing cooperatives were little engaged in new residential construction, which became the domain of private investors.

Residential construction in East Germany received special tax incentives during the 1990s. Until 1998, housing construction was subject to intense completion pressure in order to secure the high special depreciation rates. Investors based their investment decisions primarily on the possible tax benefits and often paid too little attention to the long-term market potential of rental properties. Not infrequently, investment did not match demand. Given the stagnating number of households, the massive investment in new housing construction has resulted in a large excess supply of housing. Meanwhile, the housing stock in the East German states (including Berlin) amounts to 8,865,900 units (2014). In the face of 8.4 million households, the calculatory housing overhang is 466,000 units (5.2 per cent of the total stock). In 2002, the calculatory housing overhang was more than a million units (13.5 per cent of the total stock). The demolition of about 450,000 dwellings supported with government subsidies (especially from the Urban Redevelopment Programme for East Germany) between 2002 and 2014 has significantly contributed to the reduction of the vacancy rates.

The rapidly growing excess supply of housing since the mid-1990s has resulted in steeply rising vacancy rates. This has left many landlords—public as well as private—with financial difficulties. As early as 1998, the vacancy rate had reached 13.2 per cent, and it increased to 14.4 per cent in 2002. Since then, vacancies have fallen to only about 7 per cent of the total housing stock (corresponding to about 520,000 dwellings).⁴ About a third of the vacancies relate to municipal housing organisations and cooperatives (176,000 vacant dwellings in 2014 out of a total of 2,451,000 dwellings in the sub-sector), and the other two-thirds relate to private sector. Thus, the vacancy rate in the private rental sector is about twice as high as the overall average (an estimated 14 per cent out of 2,500,000 private rental dwellings). In the case of older buildings, vacancies can often be attributed to the poor condition of the buildings. The rise in vacancy rates had destabilising effects on both housing market and the housing industry. Due to the oversupply of housing, the rehabilitation of historically valuable old buildings is endangered in many places (Fig. 8.2).

The vacancy crisis was mainly caused by the increase in housing supply (Dohse et al. 2002; Michelsen and Weiß 2009). It was the result of the intense tax benefits for residential construction, combined with net emigration driven, at least partly, by the de-industrialisation of many East German regions. Massive subsidies for construction and renovation activities coincided with steady population declines (see Henger and Voigtländer 2015: 12): between 1990 and 2000, the East German population decreased by more than 1.3 million people. In the period 1993–2009, the East German population shrank with annual rates between 0.4 and 0.6 per cent. In many major cities, the sharp rise in vacancy rates was also due to suburbanisation.⁵ The overall excess supply of housing on the East German housing market is not evenly distributed in space. For example, the former GDR industrial development towns (Franz 2001: 29) have been especially strongly affected by outward migration and high vacancy rates. The state comparison provides a differentiated picture of recent vacancy rates (GdW 2015): Berlin 2.0 per cent, Mecklenburg-Western Pomerania 6.7 per cent, Thuringia 8.1 per cent, Brandenburg 8.2 per cent, Saxony 9.4 per cent, and Saxony-Anhalt 11.8 per cent. However, urban neighbourhoods are back in demand. Also, some East German cities are reporting noticeable population growth, which is supported by

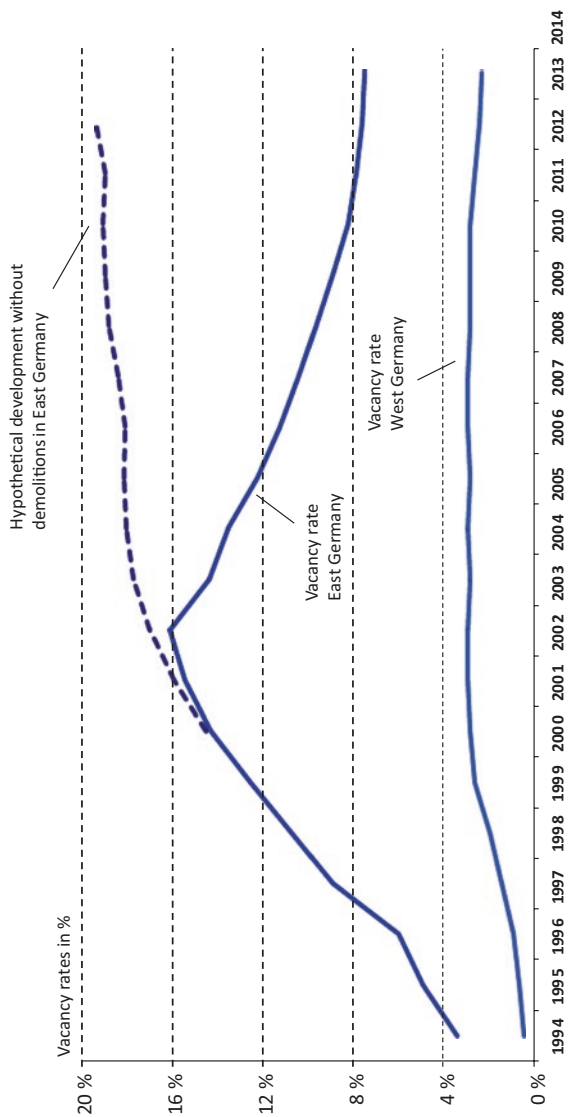


Fig. 8.2 Vacancy rates in East and West Germany 1994–2013. Source: GdW Jahres-Presskonferenz am 17. Juni 2013, Präsentation “Daten und Trends der Wohnungs- und Immobilienwirtschaft 2012/2013”: 41; GdW Jahres-Presskonferenz am 06. Juli 2015, Präsentation “Daten und Trends der Wohnungs- und Immobilienwirtschaft 2014/2015”: 32

Table 8.1 Stylised patterns of population change in 132 East German cities and their distribution

Development	Number of cities
Permanent population growth	2
U-shaped with growth since 1990	7
U-shaped with losses since 1990	8
L-shaped no more losses	2
L-shaped, still minor losses	12
Permanent population decline	101

Source: Kauffmann (2015: 10)

net immigration (e.g. Potsdam, Dresden, and Jena). The high emigration figures of the early years have also since declined rapidly. Table 8.1 shows the distribution of the population growth curves for the 132 largest East German cities in the period 1990–2013. Of these, 101 had recorded a permanent decline in population. Only nine cities have experienced a population increase in this period, including six edge cities around Berlin.

The Reorganisation of Property Rights

The tenure structure relating to land and residential properties in East Germany underwent a fundamental change after German reunification. This was not so much a consequence of individual privatisations of public dwellings, like in other Central Eastern European countries, but rather of the restitution of residential properties to their previous lawful owners. This process, however, took a long time and hindered necessary investment. The respective legislation affected asset transfers (the transfer of formerly public property), restitution (the return of expropriated or otherwise unjustly confiscated assets to former owners), and investment regulations. The principles for addressing these three problems were laid down in the ‘Joint Declaration’ of the Federal Government and the Government of the GDR for the regulation of open property issues of 15 June 1990 (Bulletin des Presse- und Informationsamtes der Bundesregierung, 19 June 1990). The constitutional principle of ‘restitution rather than compensation’ was applied, that is, the properties were returned to their former owners in kind. However, the restitution of land

was impossible if complex public housing estates had been built on it (§ 5 Vermögensgesetz). Claimants had to make their claims to retransfer assets by 31 December 1992 (§ 30a Vermögensgesetz).

Restitution of property faced many problems in practice. Contrary to West German property laws, in the GDR the legal separation of the ownership of a plot and of the buildings erected upon it was possible and common (see Harder 1998). Also, the cadastres and land registers had not been continuously kept up to date. The confusing ownership structures were aggravated by the fact that complex housing projects had been built without consideration for existing property boundaries. On top of all this, unresolved inheritances and claims made by former owners required legal clarification.

Owing to the lack of documentation and competing claims, restitution cases take a long time to process. In total, restitution claims were made on around one million dwellings. This figure was equal to one-seventh of the East German housing stock in the year 1990. Taking into account demolitions since 1990 and dwellings that have remained the property of ‘intermediate purchasers’ (see below), roughly 400,000 dwellings (equal to 6 per cent of the total housing stock in 1990) have been restituted in East Germany in total. It is important to note that another one million dwellings have always remained in the private rental sector (see above). And around 675,000 dwellings were added between 1990 and 2010 by new housing construction. Based on 2011 census data, 2,263,150 dwellings thus belonged to the private rental sector in East Germany in 2011.

Housing Subsidies

The transformation of the East German housing sector was cushioned by substantial subsidies. Their purpose was primarily to attract investment funds for the renovation of the housing stock. The three following major funding instruments accounted for a subsidy volume of EUR 26.7 billion between 1990 and 2000:

- Loss of tax revenue due to special depreciation: EUR 13.8 billion
- KfW-programmes for housing modernisation: EUR 5.4 billion
- Programmes for urban renewal: EUR 7.5 billion

Regarding the mix of funding instruments, there was a move away from the tax depreciation allowances, which were most important in the early years after the reunification, towards a system of investment grants. Until the end of 1996, it was possible in East Germany to write off 50 per cent of the acquisition or production costs of a residential building in the first five years. This way of reducing the tax base was tempting, especially for high-income private investors with a correspondingly high tax rate. Losses resulting from letting could be deducted indefinitely against profits from other types of income (negative gearing). These special depreciation schemes were designed to provide incentives for investing funds in the East German states. However, the distributional effects of the depreciation allowances were regressive. Special depreciations give high-earning taxpayers extensive tax design options that can put the ability-to-pay principle of taxation into question. Special depreciations also carry the risk of efficiency losses due to bad investments. However, in a high-tax country, investors react very sensitively to new ways to save on taxes. Scarce capital is withdrawn from uses that have a higher pre-tax return, and this causes welfare losses for society. Apart from these efficiency losses, the abrupt discontinuation of the special depreciations was a macroeconomic disaster for East Germany.

By the end of 1998, the special depreciation allowances finally expired. The subsidisation of housing nonetheless continued in East Germany using investment grants. Rather than the creation of new housing, the priorities were the further modernisation of the existing housing stock and the development of urban centres. The modernisation of residential apartment buildings was supported until 31 December 2004⁶; investment grants for new residential developments were only paid until the end of 2001. The design of the investment grant was marked by increasing differentiation over time. Also, a deductible of EUR 50 per m² (to be paid by the investor himself) was introduced for all subsidised projects.⁷

With the introduction of the Housing Modernisation Programme of the federal public bank KfW, a significant contribution to the modernisation of the East German housing stock has been made since 1990.⁸ By 31 August 2015, around 5 million dwellings had been financed with subsidised KfW mortgages. A total of around EUR 68 billion

has been granted as mortgage loans under this programme since 1990. The approach taken by the KfW Housing Modernisation Programme was initially quite broad. The programme subsidised not only the rehabilitation and modernisation of housing but also the creation of new rental housing. In addition to substantial interest subsidies for the first ten years of the loan term, grace periods (without principal payments) of up to five years were granted. The KfW Housing Modernisation Programme II (since 2000) had a much narrower focus. Buildings completed after 1948 were only funded if they were listed buildings or had more than eight storeys (traditionally designed buildings) or, if they had not received any modernisation or repair funding until then (industrial housing).

With the wisdom of hindsight, it is apparent that the subsidies for housing construction were too generous and partially misguided. Scarce investment and funding resources were directed into the East German housing sector without clear priorities. In retrospect, the massive scale of the subsidies for residential construction can be criticised from the perspectives of housing policy and urban planning. The subsidies not only destabilised the housing markets, they also jeopardised the restoration of historically valuable old buildings. These problems were addressed by a programme called 'Urban Redevelopment East', which the Federal Government introduced to cope with the urban consequences of rising vacancy rates and the declining population. The programme relied on a strategy consisting of the elimination of excess supply, upgrading neighbourhoods affected by demolitions, and the channelling of residential investment into inner-city buildings. Under the programme, the demolition of 420,322 dwellings in East Germany had been approved by the end of 2014. This programme continued until 2016.

Rent and Tenure Security Deregulation

In both parts of Germany, the Tenant Protection Act (Mieterschutzgesetz: MSchG) remained more or less unchanged until 1960. Apart from a few exceptional cases, a landlord had no legal right to terminate a lease. The only way to do so was by means of a court action for annulment

decided in favour of the landlord. However, in Western Germany, minor amendments to the law were made, and it ceased to apply to privately financed new dwellings (ready for occupancy after 31 December 1949). With the West German Dismantling Law of 1960, a clearly differentiated legal development was initiated. While the Tenant Protection Act remained in force and was not amended in the GDR until 1975, this act and the special rent price regulation was revoked in more and more West German cities, starting in 1963. In the GDR, the Tenant Protection Act was replaced by the Civil Code in 1975, which essentially adopted the provisions of the former Act. A lease could still only be terminated by court action. The Unification Treaty contained particular constraints on the rights of landlords to terminate a lease in East Germany after reunification⁹: lease termination for the reason of adequate economic exploitation of the property was excluded in the case of old leases, and lease terminations based on the personal need of the landlord were permitted only in exceptional cases before 1 January 1995.

A major challenge for German housing policy was the conversion of the GDR rent system into the local reference rent system reigning already in West Germany. The maximum rents inherited from the socialist era were far below cost and insufficiently differentiated. They were low and only symbolic in value. The rents in old dwellings had not been adjusted since the regulation stopping any rent increases introduced in 1936.¹⁰ In 1989, the typical rent for an old dwelling ranged between 36 and 41 Euro cents per m² of living space. The GDR housing policy kept rents in new dwellings at a level close to those in old dwellings. Small differences were allowed only if the new housing had better amenities. However, these differences did not reflect differences in residential quality.

After 1989, as stipulated in the Unification Treaty, existing housing stock was subject to special rent controls for a transitional period. The Federal Government was authorised to gradually adjust controlled rents in accordance with general wage increases. For newly built dwellings, the local reference rent system was to be applied from the beginning. Finally, the Unification Treaty contained a letter of intent to transfer all former East German rents into the local reference rent system. The catching-up process of East German rents was made possible by a stream of rent deregulations introduced over time in conformity with the principles

stipulated in the Unification Treaty. With the introduction of the two Basic Rent Decrees ('Grundmietenverordnungen') and later the Rent Transition Act ('Mietenüberleitungsgesetz'), rent adjustments on the rent-controlled housing stock built in the GDR or earlier were allowed for. Only dwellings that were either newly built or reconstructed from uninhabitable rooms after 2 October 1990 were excluded from rent controls. For these dwellings, rents could be agreed freely within the wide legal limitations against rack-renting. Under the Basic Rent Decrees, not only general but also differentiated rent increases were permitted. They depended on the level of maintenance, quality features, and community size. For example, the rent increases could only be claimed in full if the roof, the windows, and the exterior walls were in good condition. This led to limited incentives for the rehabilitation of dwellings with significant structural damages. The Rent Transition Act allowed for further rent increases in the rent-controlled sector. On top of these, in case of re-letting, the rent could be raised by a further 15 per cent until 30 June 1997. Since 1 January 1998, a uniform tenancy law has been applicable throughout Germany. By historical standards, this was a grand success. The crucial prerequisite for the rapid dismantling of rent controls in East Germany was the intensive housing subsidisation that has steadily con-

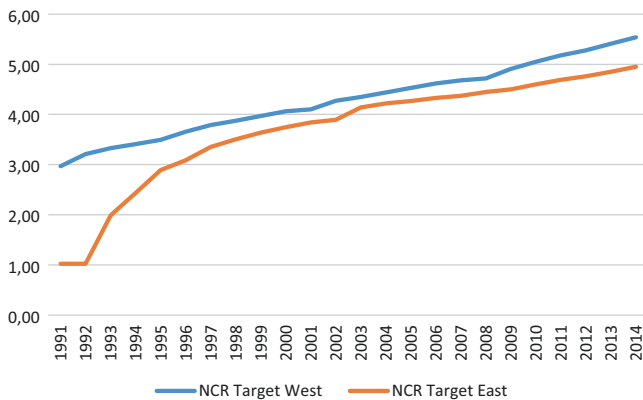


Fig. 8.3 Average net cold rents (NCR) in East and West Germany 1991–2014. Note: Both curves show the target rents of GdW member organisations in Euro per m² and month. Source: GdW Bundesverband deutscher Wohnungs- und Immobilienunternehmen

tributed to the further relaxation of conditions in the housing market. In tenuous market circumstances where the removal of rent controls might have sparked significant rent increases, the government probably would not have deregulated the market as quickly. Figure 8.3 shows the course of rent adjustment in the housing stock of public, cooperative, and publicly listed landlords (joint-stock companies) between 1991 and 2014.

Public and cooperative landlords reached an average gross cold target rent (including 'cold' extra costs, i.e. without heating costs) of about 5.80 Euro per m² and month in East Germany in 2010. The overall German average in that year was 6.37 Euro. The affordability of rents was slightly better in East Germany compared to the German average for that year. The rental burden of tenant households as measured by the gross cold rent-to-income ratio stood at 22.5 per cent in Germany in 2010. While in Berlin, it was above the German average (23.6 per cent), in other eastern states, it was below an average: 22.3 per cent in Mecklenburg-Western Pomerania, 22.1 per cent in Brandenburg, 22.0 per cent in Saxony-Anhalt, 21.4 per cent in Thuringia, and 20.5 per cent in Saxony. Saxony had the lowest figure in Germany, and Berlin had the second highest after Hamburg.

The statistics on the quoted rents (provided by immowelt.de) suggest that since 2010, in a few East German cities, rent increases have been well above average. Rents increased mainly in thriving regional and national centres such as Berlin, Potsdam, Dresden, Leipzig, and Erfurt. The quoted rents in East German cities with more than 50,000 inhabitants now range between 4.30 Euro in Plauen and 9.10 Euro in Berlin and Potsdam.

East German Private Landlords

East German private landlords are a heterogeneous group by age, income, and ownership status. With a share of just under 44 per cent, freelancers¹¹ form the largest group of East German landlords (in West Germany, they account for 22 per cent). In East Germany, the share of young owners is larger than in West Germany. Pensioners, on the other hand, are underrepresented, accounting for only 23 per cent of

owners in East Germany, as opposed to 45 per cent in West Germany (BMVBS and BBR 2007: 64). The share of owners aged 65 years and over is only about 16 per cent in East Germany, while it amounts to 36 per cent in West Germany. The majority of private owners of apartment buildings (75 per cent) are 'amateur landlords' (BMVBS and BBR 2007: 65), that is, people who own fewer than 15 housing units; 71 per cent of them manage the apartments they own by 'themselves or through family members'. They have a relatively good reputation among tenants. This is probably not least because they serve a wide range of target groups according to quality and income levels.

Private rental properties in West German cities are almost exclusively owned by West Germans. On the other hand, according to survey results in 2005, about one in four owners of apartment buildings in East German cities lived in West Germany. The large share of West German owners of East German real estate is a consequence of restitutions and purchases by West German investors after 1990 (BMVBS and BBR 2007: 62). The age structure of the residential buildings held by private landlords in East Germany is marked by a very high average age. Nearly 90 per cent of privately held residential buildings had been completed before 1919 (as compared to only 8 per cent of all buildings). In West Germany, only 46 per cent of privately held buildings were completed before 1919. Quite often the properties are heritage buildings (BMVBS and BBR 2007: 70). Hence the private owners are important partners for all issues of urban renewal and urban redevelopment.

The investment motives of private landlords in East Germany are not completely uneconomical but are typically long term in outlook and very conservative. Profit expectations play only a secondary role (BMVBS and BBR 2007: 90). The greatest obstacles to investment in East Germany are low rents and a lack of equity capital (BMVBS and BBR 2007: 91). The main source of funding for stock investments is equity capital (63 per cent for Germany as a whole, 50 per cent for East Germany) and not debt capital. Seventeen per cent of landlords in East Germany assessed their economic situation as 'bad' or 'very poor' (compared to only 7 per cent of West German landlords). For Germany as a whole, 41 per cent of landlords make a profit. Just as many achieve cost recovery and 9 per cent

of owners lose money. East German landlords are worse off. Only 20 per cent of their dwellings generate a profit and 43 per cent are in the red.

Conclusion

In 1949, private landlords were by far the most important landlord group in East Germany. In the socialist period their property slowly and creepingly began to be expropriated by the state, which induced many owners to give up their property. New residential construction took place almost exclusively outside the private rental sector. After 1989, housing properties were restituted whenever possible to their original owners or their descendants. The gradual elimination of administered rents in conjunction with the massive promotion of investment in new and existing residential buildings helped to revitalise the private rental sector in East Germany. Currently, due to low demand in many East German regions, the economic situation of many East German private landlords is not satisfactory. However, in certain boom towns, the market situation has changed in the favour of landlords.

Notes

1. Furthermore, the availability of building materials was very limited for private persons (Führer 1995: 390).
2. The change was initiated by Khrushchev's speech about the 'too expensive gentlemen architects' at the Moscow All-Union Conference on 07/12/1954. Ultimately, the demand for industrialisation and economisation of construction was a consequence of the Leninist concept of socialism, according to which socialism must fully develop the productive forces of society first in order to create the foundations for the transition to communism. See (Martiny 1983: 91 et seqq.) and (Hannemann 1997).
3. In 1971, the share of private property was 62 per cent.
4. In the last General Housing Census in 2011 (GWZ 2011), 559,334 vacant dwellings were counted. This is a vacancy rate of 7.6 per cent.

5. The population average for the three biggest East German cities declined by 18 per cent between 1990 and 2000 (Sahner 2000).
6. According to § 3 of the Investment Premium Act 1999 (Investitionszulagengesetz InvZulG 1999).
7. The following funding conditions applied to the privileged projects: maximum ceiling: 1200 € per m², funding rate: 22 per cent, deductible: EUR 50 per square metre.
8. As of 31 August 2015, firms, individuals, and communities in East Germany have received loans from the KfW totaling around 194 billion euros.
9. For tenancies completed before 3 October 1990 (BGBl. 1990 II 943 or Art. 232 § 2 EGBGB).
10. Verordnung über das Verbot von Preiserhöhungen vom 26.11.1936, RGBl. 1936, p 955 et seq. Erste Ausführungsverordnung, RGBl. 1936, p. 956. Construction and land prices were also affected by the price freeze. For details, see Kofner (1997).
11. This means working on a contract basis for a variety of clients, as opposed to working as an employee for a single company, for example, lawyers, consultants, architects, and medical doctors.

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9

Estonia: Prospects for Steady Improvement

Ave Hussar

Introduction

In Estonia, housing conditions in general have improved over the past two decades: compared to 1995, the average floor area of dwellings has increased by 24 per cent (to 30.5 m² according to the latest Census in 2011) and the number of dwellings per 1000 inhabitants by 18 per cent (502 dwellings per 1000 inhabitants by 2011). However, the private rental sector (PRS) has played, so far, only a limited role in this relative success. As a result of the reforms introduced during the transition, the Estonian housing market has a high rate of owner-occupancy—approximately 82 per cent of inhabited conventional dwellings are owner-occupied, while estimated share of PRS forms approximately 15 per cent of the housing stock.

This chapter discusses the major factors that favoured home-ownership in the early 1990s in Estonia. Brief reference is also made to the pre-

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reform period, that is, to the socialist housing system that existed in the Estonian Soviet Socialist Republic (SSR), in order to relate the recent housing system and the (modest) role the PRS now plays to the circumstances of the past. The chapter then explores the main features of the Estonian private rental market today, followed by a discussion of the future prospects of the PRS.

The Legacy of the Soviet Era

In order to understand how the Estonian PRS functions today, it is reasonable to start by recalling the main factors that shaped the housing system in the period of Soviet occupation, that is, before major reforms. First, during the period of 1944–1991, Estonia's population grew by nearly 60 per cent, mainly as a result of the large-scale immigration of industrial workers and military personnel from other parts of the Soviet Union. As a result, while ethnic Estonians made up approximately 88 per cent of the population before World War II, this figure dropped to 61.5 per cent by 1989 (for more details see Tammaru 2001). As the majority of immigrants settled in urban areas, by 1989, the share of urban population was already 71 per cent of the total population (see Table 9.1; Statistical Office of Estonia 2008).

Second, after WWII, the pre-war housing system, based on private ownership of land and housing, was largely replaced by state ownership

Table 9.1 Dynamics of total, urban and rural population, 1881–2015 in Estonia

	Total population	Urban population	Share of urban population (Per cent)	Rural population	Share of rural population (Per cent)
1881	881,455	114,230	13	767,225	87
1934	1,117,361	349,826	31	767,535	69
1959	1,196,791	675,515	56	521,276	44
1970	1,356,079	881,168	65	474,911	35
1989	1,565,662	1,118,829	71	446,833	29
2000	1,401,250	966,540	69	434,710	31
2015	1,313,271	897,327	68	415,944	32

Source: Statistics Estonia

and pervasive centralised control of land and housing. All aspects of housing and urban policy were subordinated to central planning. Tenure structure became dominated by state-owned rental housing, especially in urban centres (for more details, see Kährik and Tammaru 2010). Public housing tenants enjoyed almost unlimited occupancy rights to their dwellings that were comparable to property rights: open-term leases, high state subsidies, the right to inherit or transfer the property to relatives, the right to carry out maintenance work, and so forth (Kährik and Kõre 2013). Although no official system for exchanging or subletting public rental flats existed, in reality, tenants could also sublet flats or exchange them. The PRS thus existed as a 'black market' (see, e.g. Kährik and Kõre 2013). Even though the key principle of socialist housing policy was to allot public (state-owned) flats 'according to households' needs' (Kährik 2006), in reality, priority was given to newly arrived migrants, specific categories of employees, or growing families in need of larger dwellings, while the rest of the native population had limited chances to obtain decent rental housing (Hess et al. 2012). There were no subsidies for private owners; only the land was allocated, almost for free, to new builders. According to the census of 1989, only 21.6 per cent of the population lived in privately owned dwellings. Co-operatives as a third type of housing provided a semi-public form of housing ownership mainly in urban areas (Kährik 2000).

Third, the different housing programmes applied for the construction of mass apartment-building complexes in urban and rural areas resulted in the construction of whole new residential districts. Residential construction peaked between 1960 and 1990 (see Table 9.2). However, owing to the limited resources available for residential construction and the pressure to accommodate people in need of immediate housing, the size of the apartments became a major drawback. For example, between 1961 and 1970, when the proportion of dwellings in apartment buildings already accounted for over 80 per cent of all new dwellings, the new apartments had only 2.4 rooms and of 43.7 m² of floor area on average (Statistical Office of Estonia 2013a). At the same time, little attention was paid to the renovation and maintenance of existing dwellings (Statistical Office of Estonia 2013a), and as a result, the existing housing stock was mostly neglected and became dilapidated.

Table 9.2 Dwelling construction dynamics, 1950–2014 in Estonia

	Residential buildings total		One- or two-family dwellings and terraced houses	
	Dwellings, thousands	Floor area of dwellings, 1000 m ²	Dwellings, thousands	Floor area of dwellings, 1000 m ²
1950–1954	23.2	1,012	2.9	147
1955–1959	34.0	1,704	7.5	492
1960–1964	61.2	2,853	10.8	802
1965–1969	63.1	2,943	5.5	412
1970–1974	71.5	2,676	5.1	403
1975–1979	66.0	3,713	4.5	388
1980–1984	69.1	3,929	3.6	331
1985–1989	61.9	3,680	3.6	356
1990–1994	20.6	1,377	2.3	275
1995–1999	4.7	517	3.1	409
2000–2004	7.9	757	3.0	436
2005–2009	24.4	2,048	6.0	917
2010–2014	11.0	1,219	5.0	827

Source: Statistics Estonia

In sum, the Soviet era was characterised by a shortage of housing. By 1987, even though living space in Estonia (17.8 m² per person) was 1.2 times higher than the average of the USSR, 7 per cent of households were still registered as applicants for public housing (Kõre et al. 1996). Standard apartments, built *en masse* during the Soviet era, were not large enough in size or sufficient to meet the real needs of households. As a consequence, many rental dwellings are still relatively small and located in multi-storey apartment buildings in not very attractive areas (for more details see Kõre 2016).

Private Renting After 1990: Milestones in Private Renting

Transition: The Call for Radical Reforms

In the period after independence was regained in 1991, there arose a popular demand for a radical transformation of Estonia's institutional and

policy environment, and this included changes to housing policy. The previous approach of pure state control was replaced with a *laissez faire* system (see generally Kährik 2000; Kährik et al. 2003a; Lux et al. 2012; Kährik and Kõre 2013). The overall aim was to create structural and legal conditions suitable for a democratic market economy. Housing privatisation, restitution, and the liberalisation of the housing market (property transactions, rents and so on) were the three pillars of housing reform in the 1990s (see Kährik 2000; Lux et al. 2012). It was decided, on one hand, to return unlawfully expropriated property or provide compensation to a large group of eligible persons, and, on the other, to privatise state property on a very large scale (Varul 2000). These developments formed the basis for a potential private rental market, but also created a new problem as there were tenants residing in the properties returned to previous owners. Political decisions related to the ownership reform have been affecting the housing market ever since.

Ownership reform was launched by the Principles of Ownership Reform Act (PORA)¹ passed by the Parliament in June 1991. Based on this act, buildings and dwellings that had been confiscated, nationalised, or in some other way expropriated after WWII were restituted to the former owners or their heirs. If there were no 'pre-war' owners or if the former owner did not apply for the property to be returned, the property's sitting tenants had the right to purchase it. In most cases, the physical property (house, apartment, apartment building) was restituted, as opposed to payment of compensation. Nonetheless, despite the widespread social and political consensus on restitution, the share of restituted dwellings were estimated to account only for 2.6 per cent of the total dwelling stock, involving approximately 22,500 households concentrated in bigger cities (Eesti Konjunktuuriinstituut 1998; Kährik et al. 2003a).

The privatisation of the public housing stock was launched by the Privatisation of Dwellings Act² and the Privatisation Act³ adopted in 1993. There were two types of privatisation vouchers: National Capital Bonds (*Rahvakapitali obligatsioonid*, RKO) were issued to all permanent residents according to the length of time they had been working in the labour force,⁴ and Compensation Bonds were issued as compensation for illegally nationalised property. Public tenants, except those tenants of

dwellings subject to restitution, were eligible under privatisation to buy their dwelling at a reduced price⁵ using RKO as privatisation vouchers until 1 December 1994. After 1 January 1995, local municipalities were permitted to sell dwellings at the market price for cash or privatisation securities, either to natural persons or to real estate companies (Purju 1996). At the same time, dwellings in the co-operative housing sector were transferred to individual ownership. The public rental sector in Estonia shrank from 61 per cent in 1990 to four per cent in 2000, by which time housing reform had been almost entirely completed. As the vast majority of the housing stock in 1989 had been public rental or co-operative housing, privatisation had a much more pervasive effect on the tenure structure than restitution, despite the latter's significance in the overall social perception as marking a break with the Soviet past. Ethnic minorities, in particular Russian speakers, benefitted from privatisation to a larger extent than ethnic Estonians: about 68 per cent of ethnic minorities became the owners of their dwelling, as opposed to approximately 43–44 per cent of ethnic Estonians (Kõre et al. 1996).

Liberalisation of the housing market was launched by the enactment of the Law of Property Act⁶ in 1993. This legislation formed the foundation of the process of breaking away from the system of central planning to an economy based on free-market principles, including private property and freedom of contract. However, in this case as well, the general demand for radical change was held back by policy and institutional path dependence. The new Dwelling Act (DA)⁷ of 1992 did not deviate much from the old Dwelling Code of the Estonian SSR. While meant to protect tenants of restituted dwellings, the restrictive rules in the DA adversely affected the rest of the market. For example, the law made it extremely difficult to terminate a contract even with a lessee who has seriously violated his or her obligations. This situation changed only in 2002 with the introduction of the modern Law of Obligations Act (LOA).⁸ Provisions regulating residential lease contracts (Arts. 271–338) were largely based on the regulations of the German Civil Code (BGB) and the Swiss Civil Code.

The problem of tenants in restituted dwellings was one of the most sensitive issues churned up by ownership reform and market liberalisation in the 1990s. Unlike sitting tenants in public housing, the tenants of

restituted dwellings did not have the right to buy their housing. In order to balance, on the one side, the interest of the 'new' owners to be able to manage their property without excessive constraints and, on the other, the tenant's interest to hold on to their home, the legislation provided for a number of transitional measures. First, the person to whom the property was restituted was obliged to continue the rental contract with the sitting tenant for at least three years after a positive decision had been made in the restitution claim. This three-year period was later prolonged for another 5+5 years. After these cumulative periods, unless a new definite period could be agreed, the contract was deemed to be open-ended and could be terminated by either party at any time with three months' notice.

Second, local governments in major cities used their authority to set maximum rents on their administrative territories for dwellings in restituted houses. Before 1998, the framework of regulated rent was applicable for all lessors of residential spaces, irrespective of the form of ownership of the dwelling. According to the explanatory memorandum to the draft amendment of 1998, local governments were given the right to set rent margins so that rents could be gradually liberalised to market levels and so that, at the same time, owners would have an incentive to take better care of their property. Rent controls were abolished in December 2004. However, this did not mean there was then an automatic increase in rents across the board. Most importantly, pursuant to the recently adopted LOA, rents for fixed-term tenancy contracts could only be increased if a gradual rent increase was mutually agreed on by the tenant and landlord. In the case of tenancy contracts concluded for an unspecified term, the lessor of a dwelling had to notify the tenant of any increase in rent no later than 30 days before the rent increase was to come into effect and had to provide reasons for the increase. Furthermore, the lessee had the right to contest an excessive increase. These measures, together with the protection against arbitrary termination of the term lease contract, were considered sufficient to protect tenants' essential interests, while further restrictions to property rights were seen as unreasonable and unnecessary.

Considering tenants of restituted houses, additionally, schemes of state guarantees to housing loans for tenants of restituted houses and a renovation grant for owners of restituted apartment buildings were put in place,

although a mere 62 households took advantage of the former opportunity between 2000 and 2015, while 445,904 euros in grant money was issued to 86 projects in the framework of the latter opportunity between 2008 and 2014 (KredEx 2016). Local governments were assigned to assist the tenants of restituted houses using funds obtained from privatisation. For example, Estonia's biggest municipality, the City of Tallinn, managed to accommodate all tenants of restituted houses in need by 2009; while in Tartu, the second largest municipality with a population of 100,000, financial aid for tenants in restituted housing grew to 1200 households between 1997 and 2016 (Tartu Eluasemefond 2017).

Two other aspects should be taken into account in assessing the housing market throughout the reform period. First, there was a massive drop in construction in the 1990s (see Table 9.2 above), mainly due to the uncertainty and difficulties of financing, the privatisation process that continued until about 2000, land registration issues, and ownership disputes. Second, the massive departure of Russian military forces from Estonia between 1992 and 1994 left a considerable number of residential dwellings vacant. Those two processes were offset each other to some extent, but it led in the long run to the stagnation of the housing stock.

In sum, despite path-dependent elements and the slower-than-expected pace of reforms, housing policy in Estonia has changed radically over the two and a half decades since 1991. Starting out from pervasive state control in the late 1980s, within a few years, it was presumed that persons and households should be able to secure a decent standard of living for themselves, and public sector intervention should only be a measure of last resort. While mainly the Russian-speaking ethnic minority gained from the housing privatisation process that transformed tenants into the owners of the post-war housing stock, ethnic Estonians gained relatively more from the restitution of pre-war land and housing properties in the suburbs to their rightful owners. The public rental sector in Estonia decreased from 61 per cent in 1990 to 4 per cent in 2000, which led to the residualisation of social housing. Thus, restitution and privatisation generated an environment favouring home-ownership, a preference that was further supported by governmental housing policy measures and favourable loan market conditions, to be discussed below.

From 2000 to the Present Day: Gradual Growth, Persisting Informality

In a wider perspective, a comparison of statistics based on the Population and Housing Censuses (PHC) of 2000 and 2011 reveals that housing conditions generally have improved. There has been an increase in the number of dwellings by 5.2 per cent (649,746 dwellings in 2011, up from 617,399 in 2000), in the number of dwellings per 1000 inhabitants, from 453 in 2000 to 502 by 2011, and in the average area of dwellings per inhabitant, from 24 m² in 2000 to 30.5 m² by 2011. At the same time, Estonia still stands out in a negative way for the relatively poor quality of housing and smaller-than-average floor area in a wider European comparison. Most importantly, the largest gap in the average size of a dwelling is for Estonian tenants (44.3 m²), who live in dwellings that are only about 60 per cent of the average size of the dwellings of tenants in the EU (74.6 m²) according to Eurostat (2014). Private rental dwellings tend to have higher total housing costs and fewer rooms than owner-occupied dwellings, are more likely to have been built before 1946, and their technical standards tend to have fewer amenities (e.g. the lack of a shower or a bath). However, the lower technical standards may be offset by a better urban location of restituted houses (Lux et al. 2012).

Census data (PHC 2011) indicate that there is a surplus of dwellings all over the country, although housing demand and supply varies between regions and municipalities, with a particularly high number of vacancies in smaller towns and rural areas. The total share of vacant dwellings in Estonia is 14 per cent (in Tallinn 9 per cent, urban areas 11 per cent, and rural areas 21 per cent). However, the figure for the number of unoccupied dwellings does not reflect the housing supply available for new occupants, since about one in four units serve some secondary use, which is not well reflected in the statistics. Also, a portion of the dwellings declared as vacant may not be in a suitable condition for habitation, especially in rural areas. There is especially high pressure on the housing market in the two largest cities, Tallinn (capital city) and Tartu, although only the Tallinn urban region can be considered a growth centre in Estonia.

From the trend in the tenure structure presented in Table 9.3, we can conclude that the changes in tenure structure between the censuses of 2000 and 2011 were not as significant as during the reform period described above.

First of all, it should be noted that comparing figures between the PHC 2011 and PHC 2000 is complicated by the fact that in the PHC 2011 questionnaire the 'other' response category also denoted 'free use (household does not pay rent to the owner, but may pay for utility services)', while in the PHC 2000 questionnaire 'other' indicated only that the 'unauthorised occupation of the dwelling or the tenure type cannot be determined'. Also, it is likely that the parties were not willing to acknowledge the (often orally agreed) relationship as a lease contract with the aim of tax evasion and categorised the relationship as 'free use' instead. The steep rise of the category 'other' from 1.8 per cent to 8.5 per cent cannot otherwise be reasonably explained.

Disregarding this obvious irregularity, we can start by looking at the share of home-ownership. In 2011, 82 per cent of non-vacant dwellings were occupied by the owners. From the rest, share of public rental tenure of 1.7 per cent is realistic, given that it corresponds to the ownership structure of the stock. That taken into account, it is reasonable to presume that the real proportion of the PRS (in the non-vacant conventional dwellings), although not reflected in census data, is at least 15 per cent. For comparison, in 2011 (PHC 2011), 79.1 per cent

Table 9.3 Dynamics of tenure structure in Estonia (percentage of non-vacant conventional dwellings, PHC 2000, PHC 2011)

	Owner occupied	Total	Renting		Co-operatives	Other	Unknown	Total
			Public landlord	Private landlord				
2000	77.8	14.4	3.7	10.7	3.8	1.8	2.2	100
2011	82.0	9.0	1.7	7.3	–	8.5	0.5	100

Source: Statistics Estonia (2003, 2013c), information requested from Statistics Estonia

of all households lived in dwellings that they owned, while according to Estonian Household Finance and Consumption Survey (HFCS) carried out in 2013, 77 per cent of households owned their main residence (Meriküll and Rõõm 2016). Those figures leave room to presume that up to 20 per cent of all households depend on private rental housing. As to the geographic dimension, the highest concentration of private rental housing is traditionally in Tartu, a university town and the country's second-largest city (see Table 9.4), where there is typically a high proportion of university students. In this segment of the market, the rent return tends to be seasonal.

The majority (89.2 per cent) of the dwellings offered for rent in the private sector are owned by Estonian or foreign residents (80.7 per cent and 8.5 per cent, respectively), while only 10.7 per cent belong to companies, non-profit associations, and other legal persons (except state or local government). This leads us to the two other characteristics of the Estonian rental market. The first is the fact that semi-professional or 'accidental' landlords still dominate the rental market; the second, based on information provided by the Estonian Tax and Custom Board, is that only a marginal share of private landlords—an estimated ten per cent in 2013—officially declares the income they earn from residential leases. On the one hand, tax evasion reflects the tax authority's inability to effectively monitor landlords and rental markets, and on the other hand, it is the result of the fact that private landlords had no opportunity to deduct any expenses from taxable income without the prerequisite of registering his/herself as a sole proprietor in the commercial register. The absence of written and transparent contracts generates distrust between landlords and tenants and a sense of insecurity, which makes the whole rental market unstable and unreliable as a source of long-term secure housing. This problem will also be addressed below.

Table 9.4 Percentage share of population by tenure status in major cities (PHC 2011)

	Owner-occupied	Tenancy	Other/unknown
Tallinn city	79.6	11.1	9.3
Tartu city	74.6	14.6	10.9
Pärnu city	78.5	11.8	9.7

Source: Statistics Estonia (2013c)

In sum, the Estonian PRS started to grow after the year 2000, primarily owing to the addition of restituted and privatised dwellings. In large measure, the private rental market is a 'black market', since the income from rent received by non-professional landlords, who still dominate the market, is often not declared as income to the tax authorities. With this brief description of the PRS in Estonia, let us now look at the major factors that play a role in how it works.

Private Renting in the Present Day: Policy, Preferences, and Perception

The first factor of significance for the PRS that needs to be considered is demography. The number of permanent residents in Estonia declined considerably after independence in 1991 and during the (post-)transition period, decreasing from 1.56 million in 1989 (Statistical Office of Estonia 2008; 2016) to 1.29 million in 2011 (Statistical Office of Estonia 2013b); or by almost 20 per cent. This decrease in population was due to two factors: one-quarter of the decline was due to negative natural change and three-quarters due to negative net emigration resulting in part from the outmigration of former Soviet in-migrants and in part by the country's accession to the EU in 2004, when movement between countries became easier. According to the revised data of Statistics Estonia, 1,315,635 persons lived in Estonia on 1 January 2017. The population of Estonia is expected to decrease by 125,000 in the next roughly 30 years due to negative natural growth and negative net migration. However, it is noteworthy that between 2000 and 2011, while the number of permanent residents has decreased by more than five per cent, the number of households has grown by 3 per cent owing to a decrease in average household size from 2.33 persons to 2.13 persons, with a significant increase in the number of one-person households and a drop in the number of families with three or more members. The number of households is therefore expected to decrease relatively less than the size of the population. In the short term, the demand will remain high because the large cohort born in 1987–1988 is about to start independent life, while the overall trend is towards smaller households. However, only the major cities Tallinn

and Tartu are forecasted to see a population growth in the next 25 years (Statistical Office of Estonia 2014).

Second, the financial crisis, accompanied by the housing market crash that reached Estonia in 2008, heavily influenced the housing market, and especially the sector of homeowners. By the end of 2010, the volume of residential construction had dropped to one-third of what it was during the peak years of construction in 2005–2007. In these peak years, rents were very low and barely covered the costs of maintenance for the landlord. The landlord expected to profit more from the increase in the market value of property rather than offering the property for rent, which would have prevented them from being able to sell the property. For example, from 2003 to 2007, the average rent for two-room flats in Tallinn rose by 34 per cent, while the selling price rose by 179 per cent. During the period of post-crisis recession (2008–2010), when property prices fell by at least 30 per cent, rent levels were relatively less depressed, and a very large number of apartments were available for rent on the market. For the landlords, it was a matter of minimising their losses. At the same time, people began to be more interested in renting as banks became more cautious and tightened the conditions for granting mortgages. Thus, due to the economic downturn, the number and share of households depending on rental housing somewhat increased (for more details see Hussar 2014). By 2016, rents had reached their pre-crisis level, and the number of new completions also began to take off, although the number was still lower than the pre-crisis level to pre-crisis levels (Statistical Office of Estonia 2016).

Third, to date housing policy has favoured home-ownership, with almost no financial or policy support for the private rental market. The housing market was consequently shaped by housing policy that mainly implemented demand-side measures targeting wealthier households, such as the possibility to deduct the interest paid on a housing loan from taxable income, state guarantees for housing loans, and the land tax exemption for homeowners. The only demand-side measure with a tenure-neutral effect on housing is the subsistence benefit. However, the subsistence level is set far too low to do anything to help improve the living conditions of low-income households if they are living in poor-quality or rented housing: in 2017, the subsistence limit is 130 euros a

month for the first member of a family or a minor, and 104 euros for the second and each succeeding adult member of a family. The benefit takes dwelling expenses into account, but only within the limits of minimum standards (18 m² per capita), while the rent costs that can be included in an application for benefits are lower than rent levels in the private market. Furthermore, private tenants rarely have an official tenancy contract to prove the rent payment (see also Kährik et al. 2003b: 17). These modest subsidisation measures do not have any significant effects on rental markets.

Because only demand-side measures were implemented under the housing policy, and that these measures were combined with a liberal lending market, property in Estonia is relatively overpriced. This, however, also has a direct effect on market rent levels and the affordability of private rentals. Table 9.5 illustrates the differences and dynamics of household expenditure depending on the type of household and the type of tenure. It is evident that the housing cost overburden rate is much higher in the private renting sector.

Furthermore, when the cost of owner-occupied housing (mortgage interest rates, partly offset by tax deductions and rate of depreciation) is compared with the cost of renting, it appears that owning a dwelling is generally economically more advantageous than renting, and the relative benefits become even greater during the crisis. Table 9.6 shows the trend in the price-to-rent ratio¹⁰ (P/R) for the two largest cities in Estonia to illustrate the case.

The PRS cannot be analysed without referring also to the public housing sector, which, in Estonia, is a targeted residual system, where only the most vulnerable social groups are beneficiaries. However, the City of

Table 9.5 Share of population with housing cost overburden by tenure status (compared to EU-27)

	Owner, with mortgage	Outright owner (no loan)	Tenant, market rent	Reduced rent or free
2006	4.5 (N/A)	6.5 (N/A)	13.9 (N/A)	9.6 (N/A)
2008	6.0 (8.8)	2.0 (6.6)	25.1 (28.1)	7.2 (11.7)
2010	9.8 (8.7)	3.5 (6.3)	26.6 (24.1)	10.3 (11.9)
2012	8.4 (7.7)	6.4 (6.6)	27.9 (25.9)	9.4 (11.5)
2014	7.2 (7.3)	5.5 (6.9)	32.3 (27.1)	14.8 (12.7)

Source: Eurostat-SILC (2014) [ilc_lvho07c]

Table 9.6 Price-to-rent in regional centres of Estonia, 2000–2013 (two-room dwellings per m²)

	2003	2004	2005	2006	2007	2008	2009 ^a	2010	2011	2012	2013
Tallinn	9.9	11.5	14.5	17.8	17.5	18.3	16.6/13.6	14.8	14.0	12.9	13.1
Tartu	9.0	11.6	13.6	19.6	14.9	15.2	15.9/12.1	13.3	12.3	12.6	12.5

Source: Statistics Estonia; Lux et al. (2012); from 2009 onwards authors' calculations

Tallinn is an exception as it provides low-rent public housing for employees of municipal institutions and for young families who cannot afford either private renting or home-ownership. These housing programmes were set up as public-private partnership (PPP) projects through which the municipality supported the construction of the buildings by providing the land and taking completed buildings on long-term (20–30 years) lease. The development plan for Tallinn envisages that by the year 2027, the percentage of municipally owned rental housing stock will constitute 7.5 per cent of all housing. Since there is (still) only a marginal amount of public housing, there are many tenants in the PRS who struggle to afford market rents (see Table 9.5). However, while it is also clear that private landlords should not have to bear the burden of social assistance and the risks of accommodating vulnerable tenants, shortage of affordable housing still remain as a concern in Estonia (see Kõre 2016).

If we look at the social profile of the current tenants in the private sector in Estonia, it can be concluded from the statistics presented in Table 9.7 that ethnic Estonians are more dependent on rental housing than other ethnic groups, especially Russians. This phenomenon can be explained by the fact that Estonians' relatively large share in restituted dwellings and new small family buildings does not offset their relatively smaller share in privatised apartments.

Second, married couples tend to prefer owner-occupancy, which can be explained by the relatively secure status of marriage property and the easier access they have to mortgage loans as co-obligators. Cohabiting couples are more in favour of renting: in 2011, 19.5 per cent of cohabiting couples without children declared that they were renting the dwelling they were occupying at that time. Obviously, renting is preferable when there is a need for mobility, that is, when a person is still a student or early

Table 9.7 Tenure type and living conditions by ethnic group

	Average area of dwellings per inhabitant, m ²	Average no. of rooms per inhabitant	Inhabitants of occupied dwellings as per tenure type (%)				Total
			Home owner	Tenant	Other	Unknown	
Ethnic groups total	30.5	1.24	82.2	8.1	9.0	0.6	100
Estonians	32.4	1.3	80.3	9.4	9.8	0.5	100
Russians	25.3	1.07	87.2	5.0	7.1	0.7	100
Other ethnic groups	29.5	1.21	84.7	6.9	7.2	1.2	100

Source: Statistics Estonia (2013c); PHC 2011; information requested from Statistics Estonia

in their career, and before they have to consider the interests of children. Additionally, because cohabiting couples also tend to be younger, they are less likely to have access to mortgage financing.

By and large, people in Estonia still widely prefer to own rather than rent their living space. According to a survey conducted by Eesti Konjunkturiinstituut in December 2013, 74 per cent of the population was of the opinion that every person should be a homeowner (Swedbank 2014a). The survey found that Estonian residents prefer the security ensured by owner occupation to the greater flexibility that renting offers. This opinion dominates in every social and age group and is strongest among the elderly and the unemployed. However, the age group of 16–29 takes a more favourable view of renting. The same survey confirmed that residents of Estonia prefer real estate as an investment to financial instruments (Swedbank 2014b). Indeed, 90 per cent of investors considered buying their own home as an investment. Since 1997, real estate prices have increased by 115 per cent, returning an annual profit of 5 per cent. The survey also revealed that turmoil and reforms, including monetary reforms over the past 70 years, have left the strong impression in people that investment in real estate, including purchasing one's own home, was the best form of investment/the investment that best maintains its value.

Table 9.8 Preference for housing after graduating, per current tenure (per cent)

Current/Planned tenure	Stay	Rent	Buy	Don't know	Other	Total
Parents' house	19	27	34	14	6	100
Personal/cohabitee's property	70	3	16	5	6	100
At relative's or other	10	17	39	25	8	100
Rent from private landlord	7	16	46	26	5	100
Student dormitory	2	42	33	19	4	100

Source: Ministry of Economic Affairs and Communications (2013)

Selected data from the most recent survey conducted by the Ministry of Economic Affairs and Communications (2013) on students' preferences regarding tenure types are presented in Table 9.8. The data indicate that 46 per cent of students currently renting from private landlords would prefer to buy a home as the next step in meeting their housing needs.

Students would consider rental tenure over buying a home on the condition that (1) monthly rental payments were lower than monthly loan repayments for the same apartment (84 per cent); (2) the rental apartment was of better quality than they tend to be (82 per cent); (3) an effective legal framework was in place to protect the interests of the tenants (77 per cent); (4) renting housing was the customary/normative choice in Estonia (50 per cent). The reasons students gave in favour of renting were ranked as follows: (1) cannot afford to buy a dwelling (93 per cent); (2) future plans still unclear, so there is no way the person can assume the responsibilities of home-ownership (90 per cent); (3) an unfavourable situation in the market, high prices (83 per cent); (4) plans to move abroad (56 per cent); (5) a lack of suitable dwellings (47 per cent). In sum, one-third of the respondents were convinced that being free from the responsibilities of ownership allows a person to be more flexible about their housing arrangements, even as a temporary solution in the selection of one's housing. Some 23 per cent of the respondents consider rental payments a total waste of money, and another one-half (55 per cent) somewhat agree with this statement.

To sum up, the Estonian PRS is still a market of non-professional landlords, and where the social perception is that renting is a somewhat incidental and temporary solution. Private renting is considered an unstable tenure, since private landlords, which dominate the market, often do not

offer long-term tenancy contracts, which is what a tenant needs in order to feel that their dwelling is really their home. The attitude towards tenants is not always positive either. It is alleged that the law protects tenants' rights more effectively than the rights of owners, which encourages misconduct by the tenants. Nevertheless, it seems that there are still too many tenants in the private rental market who in fact need more effective social support, and because these tenants often end up defaulting on rent, those tenants constitute a disincentive for potential private landlords.

Conclusion: Gradual Growth, Room for Quality Improvement

Even though home-ownership remains the major tenure in Estonia, the importance of the PRS for labour-force mobility and for certain groups of society is gradually beginning to be recognised by the public and also by politicians. Lately, three initiatives have been envisaged that might impact the private rental market to a certain extent.

First, a modest revision of the tax regime was introduced in 2015. Since the 2016 taxation period, natural persons for whom income from rent is not a business income can deduct 20 per cent of rental income gained from the leasing of a dwelling (from their taxes) to cover the expenses connected with the lease. It is still difficult to estimate the direct impact of this amendment. However, according to the Tax and Customs Board, an overall positive trend can be observed already since 2013: in 2015, the number of people who declared income from residential leasing increased by 42 per cent from 2013, and the amount of income declared was up by 68.8 per cent.

Second, the revision of the contract law was initiated to tackle the possible imbalances that exist in contract regulation. In general, Estonian law, following the model of German and Swiss law, provides what could be considered an 'average' level of protection for tenants. However, some of the provisions concerning remedies landlords can pursue against a tenant who is in arrears with the rent and concerning eviction procedure should be revised. Also, on certain questions (e.g. sharing the obligation to maintain or renovate) the market is probably ready to accept more freedom in contractual relations.

Third, within the framework of the Estonian National Energy Development Plan 2030+ the government plans to support the construction of six thousand energy-efficient rental apartments outside major cities between 2017 and 2020. The main aim of this is to support the free movement of the labour force and to ensure that acceptable living conditions for affordable rent are also available in the peripheries, where independent developers are not willing to risk investment. However, the market has responded to this kind of state intervention in the private market in two ways, with one side supporting it and the other side voicing strong objections to the project as being inefficient and unnecessary. Obviously, the success of the project requires that the support for construction is properly targeted and fits into the wider concept of regional development and housing policy. In any case, the PRS benefits from being a focus of discussion.

In sum, there have been signs of slow but continued growth and of improvement in the quality of the PRS in recent years. More and more small institutional landlords or private entrepreneurs are operating in the market, having concentrated the rental stock, and this is moving the market towards greater professionalism and stability in the long run. The transparency and the legality (in terms of tax payment) of the market have improved. While home-ownership is still an ideal for most families in Estonia, intensive discussions of measures that could help to support the rental market recently have removed the stigma attached to renting, and this itself is a precondition for the stable development of the PRS, at least in terms of its quality. In sum, while there is no prospect that the PRS in Estonia will grow significantly, there is definitely room for further qualitative improvement. Whether this is achieved as a by-product of an overall rise in living standards or due to specific measures will only be determined in the years to come.

Notes

1. Eesti Vabariigi omandireformi aluste seadus. RT 1991, 21, 257 (in Estonian).
2. Eluruumide erastamise seadus. RT I 1993, 23, 411 (in Estonian).
3. Erastamise seadus. RT I 1993, 45, 639 (in Estonian).

4. The value of the NCBs was calculated on the basis of the amount and book value of the housing to be privatised. Based on this value and the estimated total sum of employment years, the price of one year was fixed at 300 kroon. Cf. Purju (1996).
5. The price of dwellings privatised to tenants was calculated on the basis of the book value of a square metre in a standard nine-storey tenement building. The real price of a flat was calculated on the basis of coefficients set in the Government Decree on the Privatisation of Dwellings. The coefficients take into account the age, type, and location of the building and the number and condition of auxiliary rooms. The value coefficient of one square metre of a flat could range between 0.1 and 3.0 (from 30 to 900 EEK); Cf. Purju (1996).
6. Asjaõigusseadus. RT I 1993, 39, 590.
7. Elamuseadus. RT I 1992, 17, 254.
8. Võlaõigusseadus. RT I 2001, 81, 487.
9. The difference is due to the different sources of information; 2009–2013 authors' calculations based on average rent www.kv.ee (last visited 24 March 2014) and average apartment price (Statistics Estonia), http://pub.stat.ee/px-web.2001/I_Databas/Economy/26Real_estate/11Transactions_in_real_estate/11Transactions_in_real_estate.asp (last visited 24 March 2014) in regional centres.
10. A comparison of the total costs of homeownership with the total cost of renting a similar property, the price-to-rent ratio is calculated by dividing the average list price by the average yearly rental price, as follows: price-to-rent ratio = average list price/(Average Monthly Rent × 12). A price-to-rent ratio of 1 to 15 means it is much better to buy than to rent; a price-to-rent ratio of 16 to 20 means that it is typically better to rent than to buy; a price-to-rent ratio of 21 or more means that it is much better to rent than buy.

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10

Hungary: The Growing Role of a Hidden Sector

József Hegedüs and Vera Horváth

Introduction

After the transition a new legal and political regime emerged in Hungary, committed to market liberalisation, respect for private property, multi-party democracy, and the rule of law, erasing the former legal restrictions on private residential renting, although restrictions on owning a second home had already been lifted before 1989. Nevertheless, the liberal—seemingly market-friendly—regulatory environment did not, in itself, lead to a boost of the private rental sector (PRS), which proved to be less attractive than expected to both supply- and demand-side actors in the market. Although the importance of the PRS was acknowledged in the political discourse—in government communications and strategic documents—and in the media, no detailed statistical analyses on this sector have been prepared in the past 25 years. This is partly explained by the fact that tax evasion in private renting has largely become a socially

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accepted practice in the eyes of the public, and of the authorities, which is apparent from the lack of effort by the tax authorities to significantly curb such practices. This makes census and representative survey data on private residential renting significantly less reliable than they are in European countries where informal private renting is not a major issue. While the National Tax and Customs Administration has been compiling a database of housing market transactions since the late 1990s, which has become a regularly used basis for FHB Bank's house price index,¹ no similar reliable data is available on either the number of privately rented dwellings or the financial transactions involved.

According to the results of the Hungarian Central Statistical Office's representative housing survey, carried out in November 2015 (HCSO 2016), privately rented dwellings account for only 6 per cent of Hungary's total housing stock, although the share of private rentals is higher in big cities, at 10 per cent, and is almost 11 per cent in the capital Budapest. Nonetheless, nearly three decades after the regime change, the PRS has gained indisputable importance on the housing market; the real size of sector is presumably significantly larger and has been gaining momentum in response to the complex demand and supply factors described in this chapter. Based on survey data (HCSO 2016), Table 10.1 shows that while purchasing a dwelling is still the most widespread way to secure accommodation after moving house, the role of renting on the private market has increased significantly in the past decade. While barely more than one in every ten households moved into private rental housing between 1996 and 2003, that figure almost tripled in the decade between 2005 and

Table 10.1 Housing solution after moving: 1996–2003 and 2005–2015

	1996–2003	2005–2015
New construction	11.4	6.0
Acquisition of new build dwelling	3.4	5.6
Acquisition of existing dwelling	48.7	43.6
Rent on market	10.8	27.9
Rent from municipality	5.1	4.0
Moved to family member	5.5	6.2
Moved to inherited or gifted dwelling	3.6	6.1
Free use, no formal tenure, etc.	11.5	0.6

Source: HCSO (2016: 33)

2015, a period in which roughly one-third of all households changed residence. Nonetheless, despite the sector's slowly rising acceptance, tenants as well as the general population still consider it insecure and unreliable as a long-term tenure form (Erdősi 2000; Hegedüs et al. 2014a, 2016). Conventional wisdom still holds that it is 'cheaper' to buy than to rent. The risks associated with private tenancy, presented in this chapter, are widely known and even somewhat exaggerated among Hungarian households. Demand for an accessible and flexible tenure form is clearly on the rise, but Hungary's PRS in its current state still faces some very important barriers.

Three key characteristics of Hungary's PRS must be highlighted:

- (1) its volatility, in terms of rent level and supply/demand;
- (2) its very mixed social composition; and
- (3) the predominance of the informal economy.

First, despite its gradual growth, the sector is very sensitive to changes in market and political conditions and cannot be considered a secure segment of the housing market, primarily due to legal uncertainties and financial disadvantages (see under the section on 'Sector Dynamics from 1990 to 2015'). Second, a large part of the demand for the PRS is residual: it accommodates families who have no means of securing a more stable housing solution, as they are not creditworthy, nor can they rely on an intra-family transfer, which is often more important for securing accommodation than commercial mortgage loans; and they do not have access to social housing, whose share is even lower than the PRS (Lowe 2000, 2003; Erdősi et al. 2000; Hegedüs and Teller 2008). At the same time, many renters opt for tenancy as the choice that suits them, like students, young adults, mobile workers, expatriates, or families in need of a temporary housing solution (see later under section on 'Demand-Side Actors'). The demand side of the PRS is therefore very heterogeneous in terms of the income and social status of tenants, who range from the highest to the lowest income households (HCSO 2011, 2016). Third, a key characteristic of the PRS is its informality, an important cause (and consequence) of which is that the vast majority of dwellings for rent are

owned by private individuals, but also because the return on investment is modest, which is why the share of institutional investors is negligible.

A Dubious Legacy: Private Renting During Socialism

In Hungary, at the turn of the twentieth century the majority of urban housing stock belonged to the PRS. Regulations favourable to tenants—rent control and very strict tenant protection—were introduced after World War I, and were phased out partly and gradually by the 1950s, only to be replaced with the new, similarly restrictive regulations of the socialist (then referred to as ‘communist’) state. In 1952, a large part of the housing stock was nationalised (see chapter ‘The Private Rental Sector Under Socialism’ of this volume). Houses with less than six units were exempted, but landlords lost control over their property, which practically meant implicit nationalisation—this constituted the ‘forced private rental sector’. However, certain elements of the PRS, such as subletting at uncontrolled prices, had not lost their importance in the socialist period. The majority of private rentals consisted of sublet parts of a dwelling, like a room or sometimes just a bed, in privately owned as well as in state-owned housing; and the authorities did not have the capacity—or the will—to control the rent levels in these sublets.

While a strict reading of communist ideology would not have permitted any tenure form aside from publicly owned rental housing, the socialist regimes in the 1950s subordinated housing policy goals to other strategic objectives, particularly rapid industrialisation and political stability, and a number of compromises were made for these objectives to be feasible (Szelényi 1983; Lowe 2000). In the 1950s the state made an attempt to fully control housing—together with all other aspects of the economy and society, but after the revolution of 1956 this experiment was given up, and concessions were made in housing as well. Industrialisation and the restructuring of agriculture resulted in a rapid urbanisation process between the 1950s and the 1970s, and the largely unsupervised subletting of rooms and apartment parts was a practical response to the

resulting housing shortage, which remained overwhelming for decades despite massive state efforts in housing construction. The Housing Act permitted the subletting of the unutilised parts of state-owned housing, and it also regulated rent levels, but in practice authorities had no means to control rents for sublet housing. As a result, the sublease rents could be several times higher than the amount of state-controlled rent paid for an entire apartment (Némethy 1958; Tóth 1967; Hegedüs and Tosics 1982; Valuch 2013).

Sector Dynamics from 1990 to 2015

The privatisation of state-owned housing was permitted by law in 1986, but the process only really took off after the 1990s. State-owned ('council') housing made up around 24 per cent of the housing stock nationally in the late 1980s, but after most of it was transferred to municipal ownership in 1993, the share of public rental housing dropped, falling to just 4 per cent by 2001, and 3 per cent by 2011 according to census data. In the meantime, owner-occupied housing rose to around 90 per cent by 2001. According to surveys and census statistics, private renting stagnated at around 3–4 per cent of the housing stock for most of the transition period. Census data from 2011 and the Central Statistical Office's 2015 housing survey show that there was a gradual upturn of private renting starting in the 2000s, while public rental housing continued to stagnate. Owner-occupied housing dropped to 76 per cent of the housing stock in Budapest, but remained at a level of 90 per cent or higher in other cities and smaller settlements (Fig. 10.1). The exact number of private rental dwellings in the capital or on the national level is still uncertain: researchers agree that census data grossly underestimate the real size of the PRS (Erdősi et al. 2000: 272; HCSO 2011: 4; Lakatos 2014: 109; Hegedüs et al. 2016: 37; Dinse 2016: 40). In sum, the informal nature of private letting, which was loosely regulated but almost entirely uncontrolled, and its consequent volatility in terms of rent levels and tenure security, already characterised this sector even before the transition, so the current situation can at least to some extent be seen as a legacy of the socialist regime.

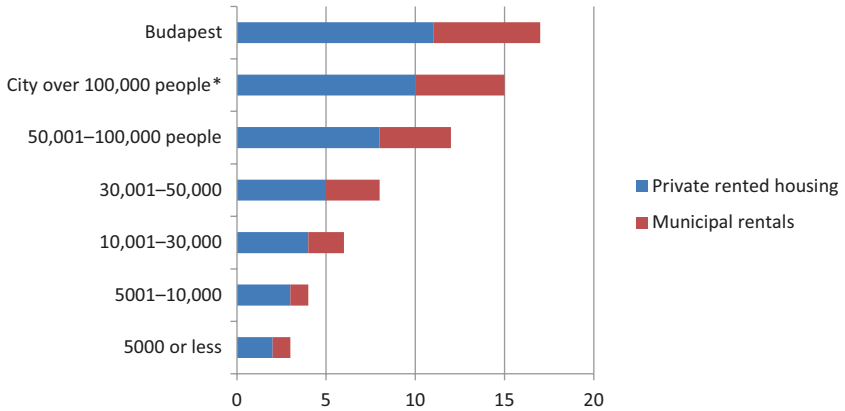


Fig. 10.1 Share of private rental housing by average population (%), 2015. *Excluding Budapest capital. Source: HCSO (2016)

According to data gathered in the national censuses (in 1990, 2001, and 2011) and various household surveys, instead of expanding, the PRS shrank in the immediate decade after 1989 and then returned to modest but steady growth after 2000. Despite the limited reliability of these survey data, noted above, the information that is available, coupled with field experience, provides a picture of how the PRS has developed since the end of socialist rule. Two major and contradictory dynamics in this development have to be explained: (1) the stagnation and seemingly limited role of the PRS after transition to market economy and (2) the subsequent slow but constant growth of the PRS, despite the fact that its financial and policy constraints remained in place for the most part.

Below we propose an approximate periodisation of the development of the PRS from 1990 to 2015. It must be noted that while hard evidence (HCSO 1998, 2003, 2007, 2016) and soft (focus group and interview based) information support the findings presented below, much of the reasoning and the conclusions are speculative. As has been pointed out on more than one occasion, the (largely) informal nature of the PRS allows actors to hide their activities from tax authorities but also from pollsters, so it might actually be more misleading to base an argument on hard statistical evidence than it would be to draw up a sketchy but largely

consistent image based on all the available information. The periodisation we propose is as follows:

1. Between 1990 and 1999, the rental sector shrank as a whole. Massive give-away privatisation decimated the public rental sector, while legal and financial constraints prevented the PRS from gaining momentum/ from expanding. Two main factors explain the dynamics of the private sector (at this time):
 - a. Structural changes in the economy and the labour market stimulate demand for flexible and easily accessible housing tenure, leading to the gradual growth of the sector;
 - b. Financial disadvantages stemming from the lack of a tenure-neutral tax and subsidy approach, and legal uncertainties due to under-regulation of renting and the non-enforceability of contracts, stymie more robust development of the sector (Hegedüs et al. 2014a).
2. Between 2000 and 2008, new subsidy measures and growing household incomes buttressed both the supply and the demand side of private renting; renting became more affordable and was also bolstered by social processes such as increased migration and an ageing society.
3. After 2008, following the Great Financial Crisis, a set of factors further strengthened private renting, although most of the constraints to its growth remained largely in place; and despite its potential role in housing provision, the PRS may have to face new challenges in the late 2010s.

The next sections describe these periods in detail, with a focus on the aforementioned financial and legal constraints and other social and economic factors that likely contributed to the sector's expansion on either the supply or the demand side.

Transitional Recession

The current Housing Act² came into effect in 1993, although it has been amended several times since. At the time of its ratification it was primarily

intended to facilitate the privatisation of formerly state-owned dwellings, the vast majority of which were transferred to municipal ownership and then privatised—85 per cent of these dwellings were sold to sitting tenants at heavily discounted prices. It must be noted that there was no in-kind restitution in Hungary that could have formed the basis for the development of the PRS. Instead, rather modest financial compensation was offered to former owners or their successors (Hegedüs et al. 2014b). Towards private leases, the law adopted a liberal approach: most of its provisions are to this day dispositive, and all issues not addressed in the law are left to the more general provisions of the civil code (Baar 1993; Hegedüs et al. 2014b). Loose regulation entails significant risks, which discourage parties on both the demand and the supply side from entering PRS as long as they can obtain a more secure form of tenure (see section ‘Main Risks and Risk-Management Methods’ later in this chapter).

The subsidy environment of housing formed gradually and is still evolving, but it has been showing a very distinct bias towards home-ownership. There are no central government subsidies or housing allowance whatsoever for private renters. Municipalities are not required to offer local (municipal) subsidies for private renters, and accordingly such subsidies are rare, very modest, and limited to the lowest income renters. Different types of subsidies are available for owner-occupiers, and for obtaining home-ownership. At the same time, no imputed rent is in place to balance the tenure options of home-ownership and renting, that is, market tenants pay their rent from their taxed income. While rental payments are exempt from VAT, income from rent is taxable as personal income reported by landlords, and no deductions on private rental payments or income are available to either party. Compared to average incomes, private renting is quite a financial burden for tenants, while its profitability is limited to landlords due to related costs; and due to the legal and tax-subsidy treatment of the PRS, tax evasion remains widespread, which is why the sector has so long and so extensively remained informal. According to interviews with real-estate professionals, the share of unreported private tenancies could be anywhere between 50 and 80 per cent of the sector (Hegedüs et al. 2014a).

Pre-crisis Period: Upturn and Expansion

Central Statistical Office data (HCSO 2003; Farkas 2003) and research undertaken by the Metropolitan Research Institute (Erdősi 2000; Erdősi et al. 2000; Lowe 2000) found that in the 1990s private rent levels on average were unaffordable for the average household. Rent levels without utility cost could reach 42 per cent of average total household income; although the sector was very heterogeneous and rent levels varied widely. Until the economic boom of the pre-crisis years between 2000 and 2008, private renters were largely limited to the well-off and the lowest income households without other housing options. However, available statistical data (HCSO 1998, 2003, 2007, 2016) suggest that income growth relative to housing costs after 2000 resulted in significant improvements in the affordability of private rental housing. By 2014, rent levels had dropped to 19 per cent of average household income, going up to 32 per cent with utility costs (Hegedüs et al. 2016). Growing average household incomes and household savings, together with the development of mortgage financing, allowed not only for the creation of a middle class which regarded real estate as an adequate form of accumulating savings, but the group of potential renters—young or mobile households for whom renting was, at least temporarily, an affordable and more appropriate option—also widened in this period (HCSO 2016; Hegedüs et al. 2016).

The number of vacant dwellings nearly doubled between the censuses in 1990 and 2011, reaching 13 per cent of the housing stock in 2015 (HCSO 2016). There was no major change in the methodology used to account for vacant units. While much rural housing lost most of its market value, and fell into disrepair or was abandoned entirely, vacancy rates also soared in urban areas. While this was partly because housing units were being used as office space or for other non-residential purposes, many of the ‘vacancies’ were probably ‘hidden’ rentals (Farkas 2003; HCSO 2016). The actual share of the PRS is estimated to account for at least 6–8 per cent of the total housing stock in 2011, as opposed to 4 per cent according to census data; and around 8–11 per cent of the total stock by 2015, assuming that 20–30 per cent of vacant dwellings enumerated on the census were ‘hidden’ rentals.

While the legal uncertainties and financial disadvantage of renting changed very little, a number of factors between 2000 and 2008 contributed to the gradual growth of the sector. First, the economy had recovered from the transitional recession by 2000, and while income inequalities rose constantly, there emerged a stratum of society that had the means with which to accumulate wealth, and another stratum that, having failed to secure owner-occupation during privatisation in the 1990s, saw it move further and further out of reach. This also produced a generational divide: while many households quickly accumulated housing wealth during the decade of mass privatisation, the next generation had no such opportunity. Second, demographic factors also contributed to the expansion of the PRS. On the supply side, the ageing of society means that fewer young families are being produced, and there are more inherited second homes, which can be rented out. On the demand side, an outmigration of individuals started with EU accession in 2004 and gained more momentum after the GFC, so families planning to migrate were discouraged from investing in their own home. The informal nature of other sectors of the economy, such as the widespread phenomenon of envelope (cash) wage payments, made it difficult for lower income households to establish their creditworthiness, while on the flip side tax evasion diminished state tax revenues that could have been used to balance out income inequalities to a greater extent.

Many new policies relating to housing finance were introduced in Hungary (Hegedüs and Somogyi 2015) that contributed to the further growth of owner-occupation, starting with the contract savings schemes that were introduced in 1997. However, none seems to have been as influential as the state-funded mortgage subsidies that were offered between 2000 and 2004, which boosted both home-ownership and investment by better-off households into second (third, etc.) homes, which had a bidirectional effect on the PRS through both its demand and its supply side. At the same time, the number of mobile renters, especially that of students, soared. While this central mortgage subsidy scheme proved extremely costly to the central budget and was eventually phased out, it did create a strong demand for accessible mortgage financing, and a market in riskier ForEx mortgages took off after 2004. Households acquiring second (third) homes as a means of accumulating savings were

therefore able to continue this pursuit, and as housing prices continued to rise, many did so despite the modest profitability of private renting.

Post-crisis Years: A Shift in Tenures

The impact of the Great Financial Crisis reached Hungary in 2008. The housing market collapsed; housing transactions decreased by 30 per cent between 2008 and 2013; annual new housing construction decreased from 35,000–40,000 dwellings in the late 2000s to 7300 in 2013; and the share of non-performing loans within the mortgage loan portfolio increased from 5 to 20 per cent between 2008 and 2014 (Hegedüs and Somogyi 2015). The collapse of the housing market technically made housing more affordable, as the real-estate prices and rent levels began to drop in late 2008. However, the crisis further increased income inequalities, with many people losing their jobs. Many demand-side entrants into the PRS were consequently low-income households for whom even renting was barely affordable. On the other hand, many young middle-income households were prompted to rent instead of taking out a loan given the credit restrictions and the waning trust in bank lending, together with a growing outflow of young workers to other EU member states. For these young households, renting in the immediate post-crisis years definitely was more affordable (than buying). The housing market began to pick up in 2015, which was followed by a steep rise in real-estate prices and an unprecedented boom in private rent levels. Mortgage lending also gradually eased somewhat, as did other effects of the crisis, which probably means that new demand-side entrants into the PRS probably returned to owner-occupation as soon as they had the chance. However, it is hard to estimate the volume of new entrants or households that have begun to leave the sector more recently.

Table 10.2 shows selected housing market indicators to illustrate the main trends in the three periods discussed here. The transitional recession lasted almost a decade, after policy-makers made a decision to encourage swift restructuring through ‘shock therapy’. State-sponsored lending and construction came to an abrupt halt; the economy shrank until 1994 and then stagnated until the late 1990s; and following the

Table 10.2 Selected housing market indicators (real values), 1989, 1999, 2008, 2013

	1989	1999	2008	2013	Source
Housing loan-to-GDP ratio (%)	16	1	23	18	HNB
Real house price (1989 = 100)	100	60	95	60	FHB
Real income (1989 = 100)	100	86	105	96	HCSO
New housing construction (1000 units)	51	19	36	7	HCSO
Share of public housing (%)	23	4	3	3	HCSO
Public sector rent level (1990 = 100)	100	56	110	129	HCSO
Market rent level (1999 = 100)	n.a.	100	110	105	EST
Number of transactions (sale) (1000)	n.a.	121	154	92	FHB

Source: *HCSO* Hungarian Central Statistical Office, *HNB* Hungarian National Bank, *FHB* FHB house price index, *EST* expert estimate; *the first year is 1990

privatisation and decentralisation of financing and construction, the housing market as a whole—construction, house prices, and rent levels, the number of transactions, and the share of public housing—plummeted. Although private financing gradually evolved, and some subsidies—like the Bausparkasse type of contract saving institutions—were set up throughout the 1990s, the market did not begin to pick up in earnest until the macroeconomic environment improved on a global level. The period of expansion between 2000 and 2008 largely coincided with a global boom in economic growth, and particularly in housing. The data presented in Table 10.2 show massive expansion of the housing loan-to-GDP ratio, along with a huge improvement in income levels and the number of new construction and housing market transactions. Market rent levels also rose, but at a slower rate than incomes, making private renting more affordable during this period. At the same time, not only did public housing continue to shrink, but its rent levels also rose at a relatively fast pace. Nonetheless, the rent in public housing is still much more affordable than market housing, whether rented or owned. It is more the contraction of the social rental stock that drove low-income renters into the private market. It should also be noted that economic growth between 1999 and 2008 was fuelled as much by internal consumption and a boost in lending as it was by an improvement in economic fundamentals, which made Hungary all the more susceptible to an economic crash and to a long recession after 2008.

Market contraction is clearly reflected in the changes between 2008 and 2013: real housing prices dropped massively, and real incomes even more so; transactions froze, and housing lending suffered greatly. Despite this contraction, market rents did not actually become more affordable, because of stagnating or dropping average incomes due to wage cuts and a huge increase in unemployment. As ownership became harder to attain, and the public rental sector further diminished, the growing number of households relying on private rental housing strengthened the demand for such housing, so rent levels did not decrease much. In 2015 and 2016 private rent levels began to soar, partly due to the post-crisis recovery, and partly attributed to the expansion of AirBnB in larger cities. This increase appeared to be part of a global phenomenon, which played out in Hungary as well. While the steepest rises in private rent levels occurred in areas with the most tourism, it also caused soaring rents in less central rental markets. Nonetheless, although private residential renting is again becoming increasingly hard for most households to afford, the market is unlikely to shrink in the near future. While the factors inhibiting the expansion of the PRS—a pro-ownership bias in housing policy, loose regulation of renting and consequent landlord-tenant conflicts, and financial disadvantages due to tax/subsidy treatment—have barely changed in recent years, the factors contributing to the expansion of the PRS have gained ground. While inequalities seem to be modest in a wider EU comparison, lower income families still have very limited means overall, and when they move homes to have better access to jobs and services, the only housing option they then have is still private renting. Outmigration towards more developed EU member states gained momentum in the 2010s, and although it is not occurring at an intensity seen in some other new member states (such as Poland, the Baltics, Romania or Bulgaria), a significant share of working-age households still consider moving abroad to be an option, and such households will be more cautious about investing in a home. A changing lifestyle, characterised by greater flexibility and a preference to live closer to work and leisure, is also prompting better-off households to rent their home without tying themselves down to a single location for decades.

Private Renting in the Present Day: Hiding in Plain Sight

Considering the predominantly informal nature of the PRS, available statistical data on the size of the sector, rent levels, affordability, and geographical coverage are scarce and of limited reliability. Accordingly, below the sector will be analysed based on information available on supply-side and demand-side actors, on the risks involved for both sides, and on the methods of risk management. As mentioned earlier, the sector accounts for 6 per cent of the national housing stock according to official statistical data, but the real share could be 8 per cent or more.

Supply-Side Actors

Actors on the supply side of the private rental market are predominantly private individual landlords, although there are also some institutions active in the market. Actors can be grouped by their reasons for entering the market ('accidental landlords' or profit-seeking investors). The most typical landlords are small-scale private individual landlords with a second home (inherited, or vacated in an intra-family transaction). Although some households bought second apartments to generate savings even before 1989 (Falusné 1986; Petching 1986), private landlordism remained limited throughout the 1980s and 1990s. In the housing investment boom of the 2000s, investment-oriented real estate acquisition became

Table 10.3 Types of landlords on the supply side of the PRS

Landlord	Reason for entering the market	
	Accidental landlord	Investor
Private individual (person or household)	Inherited a second home; family members moved in together thereby leaving a second home vacated, etc.	Typically has up to three dwellings, acquired and let as an investment
Institutional actor	Banks, developers, cooperatives with dwellings they (currently) cannot sell, so they enter the rental market	Workers' hostel owners; high-end market landlords

more common in larger towns and cities, particularly in university towns where it was considered likely that there would be a long-term demand from students (Table 10.3).

There is no clear demarcation between the behaviour of a profit-seeking, small-scale private investor and an accidental individual landlord. The most important difference between the two groups is that accidental landlords are *less* sensitive to rent levels and rental income: their primary concern is housing wealth rather than rental income, and as rental income is not the single income source of the household, they can still manage temporary losses. Accidental landlords will therefore be more likely to keep the apartment vacant if they believe that the current market rent level is not enough to offset possible risks and transaction costs. Given that the PRS is largely based on the supply offered by private individual landlords, it is particularly flexible and actors are quick to react to market and administrative changes.

Accidental institutional landlords include legal entities whose primary activity is not residential letting such as banks, factoring companies, and real-estate developers who cannot sell properties they own for a sufficient profit, as was often the case during the crisis and subsequent recession. Institutional owners were able to rent out their unmarketable dwellings, especially as the crisis also led to the appearance of new renters (such as movers or recent mortgage defaulters). For-profit institutional landlords in Hungary target all segments of the market, but they are relatively small in scale: they typically only manage a smaller number of apartment blocks with a few dozen to a few hundred dwellings, rather than a larger stock, and their market share is dwarfed by that of individual landlords. The high end of the market—young or mobile professionals and wealthy expatriates—is serviced by professional-investor landlords who usually operate fully legally. Unlike most individual investors, they duly pay tax on their rental income, although in practice they may not necessarily follow every piece of legislation that applies to rental housing, particularly the strict legislative provisions protecting insolvent tenants.

The vast majority of landlord-investors are therefore small-scale private individuals who manage one to three dwellings besides their primary home. As shown above, owning a second (third, etc.) home became a relatively popular method for accumulating savings after state-subsidised

mortgage loans made mortgage lending popular between 2000 and 2004, followed by an upsurge in the use of the (then) inexpensive foreign exchange (ForEx) loans, all while average household incomes had been increasing. Many small-scale investors use rental income to cover monthly loan payments; their goal is to obtain a major asset within 15–20 years while they only have to invest 30–50 per cent of the asset's market price. The goal of many such households is to own a major asset that can be capitalised on in old age. Although running a rental dwelling is not necessarily the most profitable investment option, it is a relatively low-risk and accessible method of accumulating savings.

Demand-Side Actors

Two main types of groups make up the demand side of the PRS. On the one hand, there are the persons and households whose financial and demographic circumstances compensate for the sector's legal and fiscal disadvantages, so even though they have a choice, the PRS is still the more attractive option. This applies, for instance, to well-paid young professionals, mobile foreign workers, students, families in temporary circumstances, such as moving homes or in the process of a divorce, and so forth. On the other hand, most private renter households, such as low-income households or mortgagors in default, are not in a position to obtain ownership and do not have access to the more secure social rental sector either. Figure 10.2, which presents the share of population residing in public and private rental housing by income decile, shows that the higher a person's income, the less likely a person is to live in public rental housing, whereas private renters show a U-curve: higher-income households can afford to rent, middle-income households will make a more concerted effort to go on to purchase their own home, while a higher share of lower income households will have to rely on private renting, since they will have trouble accumulating enough savings for a loan—even though the cost of private renting is also burdensome for them.

In the post-transition period, the most significant share of demand for private rentals came from the dynamic growth in the number of students in higher education. In the academic year 1990/1991 the number of

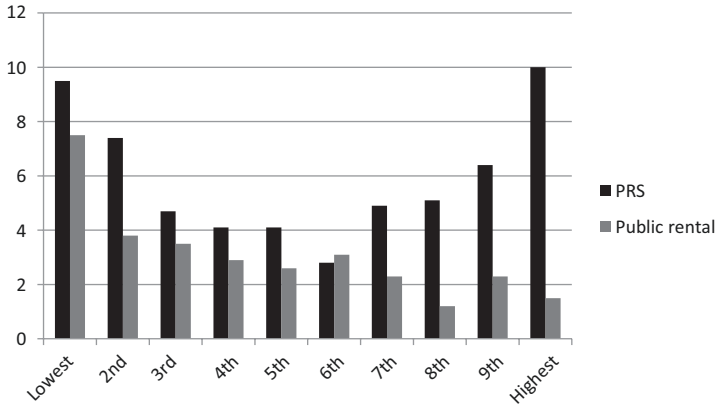


Fig. 10.2 Share of population in private and public rental dwellings by income decile (%), 2015. Source: HCSO (2016)

college and university students was 77,000; by 2002 it was more than 210,000, and, according to the *Statistical Yearbook of Education* (2015), it had reached 320,000 by the academic year 2013/2014. Roughly half of all students move to another city to study. There are approximately 67,000 dormitory beds available to students in higher education, and they are typically occupied to 90 per cent of their capacity. Therefore, the number of students who move to another city and live outside the school dormitory may be as many as 100,000, although this is modified on the one hand by students who live in the same town as the higher education institution they attend, but still choose to live in a rental dwelling; and on the other hand by parents who acquire a dwelling in the student's university town to provide them with a stable home during their studies (Hegedüs et al. 2016). Students and young adults often opt to share an apartment to manage their housing costs. Supposing that 2–2.5 young adults share a rented apartment, the number of dwellings privately rented by students could be as many as 40,000–50,000, which amounts to 10–12 per cent of the PRS in Hungary. The student subsector of the PRS is particularly flexible, which actually helps to keep rents affordable: if rent levels were to rise steeply, many students would move back in with their parents or to a less expensive dwelling, or larger numbers of students would share an apartment.

Young workers have also been more likely to rent than buy in recent years, especially as the crisis prompted lower income people to be cautious about taking on a loan unless they are certain about their ability to repay in the long run. Statistics suggest that nearly 7 per cent of young workers between the ages of 23 and 26 live in rented dwellings; another 3 per cent live as 'free users' of a dwelling. This latter arrangement may also hide dwellings rented informally, though often at a discount price, where the landlord selects the tenant from their personal network. This submarket is estimated to comprise nearly 40,000 dwellings.

Foreign workers make up another typical segment of the private rental market. The number of expatriate and immigrant workers in Hungary is relatively low and is estimated to be around 140,000 persons or 70,000 workers (Lakatos 2014). Those foreign workers who plan to remain in the country in the long term (migrants from the People's Republic of China, Ukraine, Vietnam, and so forth) purchase a dwelling within a few years after moving to Hungary (Juhász 1998). Around 30,000–40,000 rented dwellings are occupied by tenants from this segment of the market. At the top end of the market, statistics show that there were 5800 expatriate workers from EU-15 countries, which, combined with professionals from other developed countries, form a submarket in the rental sector that is estimated to occupy 5000–10,000 rented apartments.

The most important demand-side actors in Hungary are probably mobile households and divorced adults. In 2014, 12 per cent of the population (1,000,000 people) was divorced. Assuming that only 15 per cent of them have no other housing alternative, this would amount to 150,000 people on the rental market. Internal migration concerns up to 200,000 people annually, and many of these migrant households presumably spend a few years on the rental market. Indebted mortgagors after the 2008 crisis also constitute a new and significant renter group, although it would be difficult to give a reliable estimate of its size.

Finally, municipal housing in Hungary accounted for a mere 2.65 per cent of the housing stock according to 2011 census data, and while these include rental dwellings owned by municipalities, they are not necessarily rented out as social housing.³ This is insufficient to provide affordable housing to all or even most low-income households that cannot afford ownership. While it is extremely difficult to obtain solid data on this

particular group, it is presumed—and this was confirmed by interviews with social services—that many such households rent on the private market, even though the financial burden of paying market rent is disproportionately heavy for them. Moreover, the poorest households can often only rent dwellings that are barely fit for habitation.

According to field research (Hegedüs et al. 2013, 2014a, 2014b), the last few groups—low-income households, migrant workers, divorced adults, and other renter groups who are not in a good position to become homeowners—appear to form the largest segments of the private rental market in Hungary. They typically rent in the informal rental market, which makes them ‘invisible’ to official statistics. Like private renters as a whole, these groups are relatively diverse in terms of income level, demographic characteristics, and social background, and given the number of them and their precarious circumstances they should be in the focus of sociological research. The right tools for studying these groups on a larger scale have, however, yet to be developed.

The Main Risks and Risk-Management Methods

As outlined above, the main risks of the PRS stem from under-regulation and from fiscal (tax and subsidy) disincentives. In the current legal and fiscal environment in Hungary, both demand- and supply-side actors in the rental market are in a vulnerable position. Landlords face the risks of vacancy (lost opportunity costs), non-payment of rent and utilities, damage to the apartment, and the risk of being stuck with an uncooperative tenant who refuses to move out of the apartment when the contract is terminated. Tenants may have trouble finding a suitable and affordable apartment in an acceptable location (with good transport options and close to the labour market); their tenure is insecure; and they too could end up with an uncooperative landlord and have to endure ‘landlord harassment’. Legislation pertaining to private residential renting is lax, and only provides a very basic (dispositive) framework of the rental relationship. To prevent conflicts from arising, the contractual parties should draft very detailed contracts, which rarely happens; typically contracts cover only the basic conditions of a tenancy (e.g. the address; the amount

of the deposit and the rent; the duration of the contract). Furthermore, if the parties cannot resolve a conflict peacefully, there are no mediation or alternative dispute resolution methods available to manage their issues. Their conflict can only be resolved through civil litigation, which is lengthy (up to several years) and expensive (the costs are disproportionately high compared to the gains and losses likely in the PRS). As a consequence, the vast majority of the sector seems to function in a self-regulatory manner: both parties have an interest in trying to reach a consensus, and if they are unable to do so, they can resort to informal (and sometimes downright illegal) dispute management methods.

First, landlords expect a profit from letting, but the risks they face are damage to the dwelling or accumulating massive losses on the leased property, and since the vast majority of landlords are private individuals, the leased property is usually their 'second home' and as such it is a particularly valuable asset within their portfolio. In a 2013 research project on the feasibility of Social Rental Agencies in Hungary, Hegedüs et al. (2013) found that landlords raise rent levels according to their perception of how great a probability there is of a conflict arising. It was estimated that private landlords would charge a 24–30 per cent 'risk premium' on the rent to offset the risks of vacancy, the non-payment of rent and utilities (accumulating and leaving behind arrears), and damage to the apartment (Hegedüs et al. 2013: 16–19). This in turn incentivises landlords to avoid paying tax on their rental income in order to improve their profit margin and still be able to offer their rented dwelling at a competitive price. The consequent informality of the sector and the slow and expensive process involved in resolving conflict through civil litigation encourage parties to manage their issues informally.

As pointed out above, the PRS functions in a self-regulatory manner, that is, the parties are usually able to find a mutually acceptable solution to their disagreements. However, in a small number of cases one party or the other will manage their rental problem in a manner that causes serious damage to the other party, and this perpetuates the impression of the PRS as risky and insecure. Since many tenants are relatively low-income households in need of an affordable home, and the majority of landlords are small-scale owners with a second home of relatively modest quality to let, both parties have incentives to deceive the other—for instance,

landlords conceal the defects of a dwelling, or tenants conceal their limited ability to pay rent and utilities. The process of finding and selecting a dwelling or a tenant is largely unregulated, so neither of the parties has any altogether reliable method with which to check the other party's ability to respect their contractual obligations. In this loosely regulated environment, tenants may resort to extreme tactics such as 'disappearing' while in arrears on the rent and/or utility payments, leaving the landlord with the difficult task of having to track down the former tenant and, if unsuccessful, absorbing the financial loss. A more antisocial tenant might just stay in the dwelling once the contract is terminated, and abuse the legal and court system that protects sitting tenants to a considerable degree. In this case, again the landlord might face massive financial losses, with no guarantee of being able to recover them. The kinds of extreme measures landlords might resort to in such cases could include cutting of the utilities in the dwelling or removing the door to force the tenant to leave. In the landlord's view this use of force might seem justified to ensure their property remains in their undisturbed and profitable use; the tenant, however, could retaliate by filing a lawsuit against the landlord for vigilantism. These and similar extreme methods are relatively rare, but when they do occur, they are a heavy burden on both sides. While most tenancies function smoothly, extreme cases like these make the news and can leave enough of an impression to discourage parties from private renting and hinder the development of the sector.

The Future Prospects of the PRS

The effects of the 2008 crisis and the subsequent recession seem to be waning in Hungary's housing market: house prices in 2016 are approaching early 2008 levels, and the market is slowly picking up. Like many European markets, recent developments have included a steep rise in private rent levels. Starting in 2014, owners began to be able to sell their dwelling at an attractive price, which contracted the supply of rental dwellings, and the quick expansion of AirBnB, particularly in Budapest, has also shrunk the supply of rental housing. Although the rise in the price of housing for sale can be attributed mostly to cyclical conditions,

and will probably ease up in the foreseeable future, it is currently having a constricting effect on the rental market. While rent levels remained relatively affordable during the crisis and the recession, they have since risen on by 20–30 per cent on average nationally, and by as much as 50 per cent in the highest demand areas.

Based on longer term developments, the gradual continued growth of the sector can be expected if other conditions remain unchanged, although the PRS is also likely to remain largely informal. At the same time mortgage lending will probably not expand at a pre-crisis rate, which means that tenants can only leave the sector if they can afford to borrow under the now stricter conditions. As low-income households will presumably continue to make up a large share of renters, demand for rented housing is not expected to decrease significantly.

The costs of home-ownership are, therefore, expected to rise. Despite increasing income inequality levels and the very limited amount of social rental stock, the number of social rental dwellings is unlikely to expand in the coming years, despite a growing need for affordable housing solutions. For the majority of low-income households, private rental housing is the only available option. Accordingly, there is a need to introduce schemes to provide significant support to low-income households in the PRS, and it is strongly recommended that programmes be set up to utilise the vacant housing stock, as well as the PRS, for affordable housing provision. Housing policy since 1989 has been characterised by the steady withdrawal of the state from the housing sector and the gradual introduction of pro-middle class, pro-ownership housing subsidisation. While this has brought about growing investment in the housing sector and an expansion of the supply of rental housing, as an increasing number of people acquire and lease second properties to build up their own savings, it also triggered a form of perverse mobility to owner-occupation in inexpensive remote areas, where low-income households can afford a dwelling but are then 'locked in' and cut off from public services and the labour market. In order to create a more secure and more equitable housing sector, steps towards a more tenure-neutral legal and fiscal environment are essential.

Post-transition national policy has treated the PRS as a 'luxury good', implicitly supposing that if someone can afford private renting, they do

not need support. No central subsidy has been provided to renters on the basis of their tenancy situation; at best they may receive very limited social support on the grounds of their low income. At the same time, an overview of the demand side shows a very diverse image of market tenants, among which well-off persons with a high and stable income are much more an exception than the rule. This public perception therefore does not hold up. And yet, so far, consistent political will seems to be missing to initiate substantial reforms, as a consequence of which Hungary's PRS could be considered 'residualised'—it is quite small, and many actors only enter the rental sector owing to a lack of more attractive options. There is, in sum, a significant need for affordable and secure private rental housing. Based on existing trends, the PRS in Hungary is likely to remain largely informal, as policy-makers remain on their current track of pro-middle class, pro-ownership housing interventions. The PRS does have potential for continued growth, as the supply side will once again find incentives to invest in housing once the economy has recovered from the recession. But this growth will remain gradual and limited—and statistically hard to measure—unless a more appealing policy and subsidy environment is created. However, with a set of reforms which react to the social reality of PRS, the sector would stand a good chance of becoming a more secure, reliable, and affordable sector for the actors that are typically a part of it.

Notes

1. FHB bank, a private commercial bank in Hungary, publishes the quarterly House Price Index and the biannual House Price Prognosis for Hungary's housing market, available at <http://www.fhbindex.com/FHB-Index>
2. Act LXXVIII of 1993 on 'Certain rules on the lease of apartments and rooms and the alienation thereof'.
3. Hungary's public rental sector allows the main social landlords, the municipalities, to let apartments at a market price or at a cost-rental level; the latter is below the market price, but is expected to cover the acquisition cost of the dwelling within a reasonable timeframe.

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11

Poland: Gradual Growth Across Barriers

Alina Muzioł-Węclawowicz and Magdalena Habdas

Introduction

To this day, the private rental sector (PRS) seems to be burdened by the legacy of Poland's socialist past. Throughout the country a large share of renters are tenants (or their descendants) who obtained the right to rent the dwelling they live in based on an administrative decision to allocate the dwelling made within the country's system of public management of housing (Central Statistical Office 1991, 2013). Transition in the housing sector was slow compared to other countries in the region: while major reforms were adopted in 1994, a 10-year transition period was set for liberalising rents in the existing, mostly pre-war rental stock, and some measures that strongly hindered the sector's development remained in place even after 2004. The liberalisation of rents and allocation was a lengthy process in Poland, and the related legislative steps are accordingly presented in the

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chapter. Notably, the case of *Hutten-Czapska versus Poland* that went before the European Court of Human Rights in 2006 spurred rent deregulation not only in Poland but in other countries in Central and Eastern Europe (CEE) as well. Pararely, since 1988 the newly opened PRS lease contracts were based on negotiations of rent level.

There are a number of difficulties to analysing the PRS in Poland from 1945 to the present day owing to the lack of literature on the subject, the evolving terminology related to the changing principles of housing policy pertaining to tenancy, and the lack of reliable statistical data. There are significant uncertainties regarding statistics on the rental housing market, owing in part to the existence of a strong tradition of informal leasing in the country and the evolving criteria used to collect information on rental housing over time. Existing data on the PRS in Poland, provided by the experts not public statistics, only really covers major urban areas; information is often missing for small local markets. Available information therefore typically concerns large urban areas and especially the 'big six' markets: Warsaw, Wrocław, Kraków, Poznań, Łódź, and Gdańsk (together with the 'Tricity' agglomerations of Gdynia and Sopot), along with other university centres.

In the history of housing policy on private rental housing, it is possible to distinguish at least four distinct periods in terms of the government's policy towards tenant allocation and rent-setting rules:

1. Private renting under socialist rule: in the immediate post-war period and the early years of communism, between 1944 and 1955, there was strong ideological opposition to private ownership, despite the drastic housing shortage that existed as a result of damage from the war and a strict rental policy.
2. Between 1956 and 1988, stern regulations were in force concerning rent levels and the allocation of rental dwellings. Private renting did exist throughout this period, but it remained on the fringes of housing policy and the housing economy, and unchecked, untaxed, informal leases were the norm.
3. Between 1989 and 2004, a series of reforms targeted 'old' rental agreements and a gradual introduction of market rules in residential renting in new leases (granted after 1988), with a history of seeking a balance between owner interests and adequate levels of tenant protection.

4. The year 2005 marked the introduction of full market rules in the sector, private renting slowly gained impetus, and in the most recent years even some institutional investors have emerged.

Currently, the sector is gradually but steadily growing, but the share of privately owned dwellings used for rental purposes under a lease agreement remains low. Under socialist rule, private renting was tolerated, although mostly ignored; it is surprising though that the current policy environment seems to reflect nearly the same level of disinterest on the part of most decision-makers. However, recent years have seen important developments, even though reforms for a truly well-functioning sector are still in order. The potential role of private rental dwellings in social housing provision using innovative measures has also recently surfaced in public discussions.

The Socialist Legacy: Rent Regulation and Informal Private Renting

Under socialism, owner-occupied housing was a relatively strong segment of the housing market in Poland and remained so even during the more oppressive periods of communist ideology. Social housing, intended to satisfy the housing needs of the working class, enjoyed ideological priority, but, as in many socialist countries, state resources were insufficient to fully respond to demand; it was thus inevitable that the private rental market would continue to operate on some level. State policy regarding private renting was passive, but generally unfriendly (unsupportive); the private rental market was 'pushed into a corner'.

The position of the communist authorities towards this sector was uneven, but in any case unfriendly. Nevertheless, in Poland, with the exception of the territory of the capital city of Warsaw, despite many restrictions, the private ownership of pre-war rental residential buildings survived.

In Poland despite the change in political system after World War II, housing was never formally nationalised. A system of so-called public management of housing was set up so that housing could be forcibly allocated to people at a time when there was a drastic shortage of housing

as a result of the war damage. Initially the public management of housing was stringent, and it included rent-setting, management rules, and the allocation of housing to individual tenants, including dwellings with a larger floor area that were already occupied by the owners (*forced rental*). The owners of apartment buildings were required to appoint joint boards of management of rental houses. State interference in rental relations in the private sector in Poland was long-lasting and severe. Private pre-war rental housing was gradually released from state control, including state control over rent-setting, in a process that lasted until the end of 2004. In 1957 a decree was issued that excluded single-family homes and cooperative flats from the system of public management of housing (Andrzejewski 1987). Later on, this system of allocation was replaced by the 'special lease scheme'. These dwellings, although private, were regulated and controlled by the state in the sense of granting tenants the indefinite right to reside in the dwelling and in terms of rent-setting. Rents were kept artificially low, at the same as in the public stock. It was not until 1988 that private owners regained the right to freely rent their dwellings, although the right could only be applied to newly built units or to units that tenants had willingly vacated (Hegedüs and Tosics 1998).

Only property in the area of the pre-war territory of the capital city of Warsaw was subject to formal nationalisation (after initial communalisation). To allow massive redevelopment of the city after the damage caused by the war, a decree on the communalisation of the private property was edited in 1945. During communism it was practically impossible to regain the property. Many owners had difficulty collecting all the documents necessary to confirm the property title. After 1990 there were several attempts to pass a law on restitution, some referring to the general reprivatization of all properties seized illegally by the regime, and some exclusively referring to the 'Warsaw properties' as a special case.

Housing cooperatives operated since 1956 and since 1972 there were two forms of them: the cooperative proprietary title to use the dwelling and tenement-type use. The former entailed freedom of disposal of the property, including inheritance and sale, but the member of the cooperative had to cover the full costs of the dwelling's construction. In the tenement form of cooperative, members paid a kind of down-payment (usually 30 per cent of construction costs). Most cooperative members would repay

the construction costs of the dwelling and then became cooperative owners; some even obtained full ownership of the property in the course of reforms made to the law on housing cooperatives. In the 1970s and 1980s cooperatives were the sole investors in multifamily housing and were completely dependent on state policy in the field of building materials production and preferential financing of construction. As housing policy shifted drastically during the transition, the construction of multi-unit buildings by cooperatives ceased entirely.

The privatisation of state-owned multifamily housing started in Poland as early as in 1972. The public rental sector offered the property title to the sitting tenants with heavy discounts, including bonuses for those paying one-time payment of the full price. The revenues from the sale of apartments were supposed to be used to finance new public rental stock. But in fact, this did not happen. In 1976 the public construction of housing units was completely cancelled. It was reactivated in 1990 after the local self-government reforms, but the scale of new communal housing investment is low and in general does not satisfy basic social needs.

The Dynamics of the PRS After 1989

The privatisation of public housing resources has significantly increased in the transition to market economy. In 1995 municipal rental stock was 1,732,900 dwellings. By 2000, it dropped to 1,371,400, and by 2013, to 934,900 (Central Statistical Office 2016). The privatisation of communal rental stock was the main, though not the only, reason for the decrease in municipal rental housing. Initially, after 1994, the financial conditions for purchasing their dwelling were very attractive for sitting tenants. In some cases, discounts amounted to as much as 95 per cent of the property's market value. The discount was calculated based on the length of the lease, the quality of the dwelling (the poorer the quality, the higher the discount), and local preferences—for example, if the unit sold was the last for sale in a multi-unit building. Nowadays the local authorities practise a policy of selected privatisation of the rental stock, and there are a variety of local schemes and programmes, which usually offer much less favourable financial conditions (Muzioł-Węclawowicz 2015).

The terms of private renting were set under socialism, and the reforms were gradual, with previous rent-setting and tenant protection to be phased out by 2004. During the socio-economic transformation, a law on leasing residential units and on housing allowances was passed in 1994 and it established a 10-year transition period (until the end of 2004), during which in the old, generally pre-war private rental stock, old rules of rent-setting in private rental property inhabited by sitting tenants were to be applied.

Several norms were introduced to secure the interests of the tenants 'inherited' from the socialist past. First, all leases that had been formed on the basis of an administrative decision or some other type of public allocation of dwellings were transformed into open-ended leases. There were only a few circumstances in which the owners were allowed to terminate a lease, such as an undeniable need to renovate the property or the need to satisfy housing needs of the owner's family. Second, the regulated rents introduced were also applicable to lease contracts in private dwellings concluded before 1988. The local authorities set the rent level in a given municipality, but the maximum level of rent was equal to 3 per cent of the reconstruction value per year. In practice the vast majority of municipalities practised a policy of slow rent increases (Ministry of Transport, Construction and Maritime Economy 2012).¹ Private owners had to apply the same rent level as the local authority, without any support for financing the gap between rent revenues and maintenance costs, while at the same time they were charged with maintenance duties. The estimated number of such units was 600,000 dwellings in the late 1980s.² In turn, the process of setting rents freely in the old forced rentals, which started in early 2005, led to very different scales of increases—from minor adjustments for poor-quality dwellings and small markets, to more significant increases in the prestigious stock.

The debate on what legal action to take concerning 'Warsaw properties' is still under way, the main obstacle to resolving the issue being a dispute on the amount of compensation. The local government of Warsaw began restitution procedures on an individual case-by-case basis, reviewing applications from former owners, their heirs, or 'buyers of the titles'. The Office of Real Estate Management in Warsaw City Hall reported

that between 1990 and 2014 more than 3,500 restitution claims were approved, granting the right to perpetual lease of the restituted property to the former owners (Górczyńska 2015). At the beginning of the transformation it was estimated that around 6,000 buildings in Warsaw could be subject to restitution. Local media recently reported that in 2015 more than 300 properties had been returned, but the list of properties for restitution remains long as there are still 2,000 properties that may be subject to restitution claims (Gazeta Wyborcza 2016). Unresolved claims place a heavy burden on the municipal authorities of Warsaw, but social problems like the fluctuating rules of renting and property management issues seem to take precedence. The physical condition of the restituted pre-war residential buildings varies considerably (Górczyńska 2015).

Policy Environment and Social Acceptance

At the beginning of the transformation, housing reforms focused on the marketisation of housing construction and adjusting prices for public services. That a private rental market should exist and that the market would need to grow were considered obvious. However, the policy towards the rental sector was ambiguous. Protracted legal disputes in the courts between landlords and tenants and strong legal protections for tenants earned private renting a reputation as a profitable but legally risky business. The 1994 Residential Lease and Housing Allowance Act allowed rent regulation to apply not only to the public stock but also to all leases created on the basis of an administrative decision or some other type of public allocation of dwellings concluded in the past, even when the leased dwellings were owned by private persons. New leases in the private market relate in practice almost exclusively to units owned by physical persons. Only recently, since 2010, have institutional landlords entered the private rental market, as after the global economic crisis and the years of low inflation in Europe the yields achievable on Polish residential rental housing market became attractive for investors (REAS 2016).

Owner-occupied housing seems gradually to be receiving increasing support through interest rate cuts, a well-developed mortgage system,

and government subsidies for people buying their first dwelling. Two mortgage subsidy programmes called 'Family on Their Own', which ran from 2006 to 2012, and 'Housing for the Young', running from 2014 to 2018, consumed and consume more than half of the annual central budget spending on housing. At the same time, budgetary support for the public rental sector amounts to a mere 5 per cent of budgetary spending; and there is only one programme, with an annual budget about PLN 20 million (1.2 per cent of the state housing budget), that provides landlords with support to repair private rental housing.

The Polish government's attitude towards the PRS in the market economy seems to be unclear in terms of policy priorities. All the housing policy programmes of successive governments of Poland declared that balancing the development of rental and owner-occupied sectors and supporting the public and private rental developments are strategic priorities. But legislation and financial decisions in the field of direct or indirect public funding to support housing investments were allocated virtually exclusively for promoting housing ownership, or, to a smaller scale, public rental. The sole exception was the system of tax deductions that can be applied to personal income tax paid by physical persons. The 'housing construction deduction' in the tax code in 1992–1996 allowed the purchase of apartments for lease or land for rental development to be deducted by investors as expense, within certain cost limits and provided that they maintain the rental status of dwellings for at least 10 years. For the years 1997–2000 the tax incentive took the form of a tax relief. Both tax incentives nonetheless were available at a time that was economically unfavourable for housing investment: incomes were low and the mortgage lending system was underdeveloped because of high inflation. It is estimated that between 1992 and 2000, about 60,000 rental dwellings were financed with the help of the tax relief schemes. Critics pointed out that tax incentives primarily support the wealthy, which was one of the reasons the whole personal tax incentive for rental housing was finally cut. In sum, nine years of tax relief for rental housing investment during the years of transition did not contribute in any significant way to the development of the PRS.

Regarding constraints on the growth of private renting, it is possible to identify psychological, economic, legal, and formal barriers to

this growth. Decades of socialist rule, followed by a prolonged period of uneven housing policies in the market economy, Poles have adopted the tradition of solving their housing situation often in the form of individual construction of single-family homes in rural areas, small towns, and suburbia, or by buying an apartment in a multifamily building. As a household's home is typically its most valuable asset, it is socially highly regarded. Furthermore, the unreliable regulation and enforcement of private rental contracts, and the difficulties in managing conflicts in private rental dwellings, led to landlords being colloquially viewed as greedy profit-seekers who do not respect the rights of tenants, while tenants came often to be associated with irresponsibility, damaging someone else's property, and delays in rent payments.

Small-scale limitations related to tenant protection in the PRS, like the restrictions on demand market rent, were and still are accompanied by a small number of abuses, which have nonetheless been heavily aired in the media and strongly influence public opinion. These cases primarily include unethical behaviour towards tenants, drastic and unjustified rent increases, and preventing standard use of the property, for example, by cutting off heating or access to water, leaving dwellings in a state of chronic disrepair, and so forth. In practice, the typical private lease contract can easily cause discomfort for both parties. Legal restrictions currently seem to be procedural in nature. Eviction procedures are lengthy, costly, and tedious; this continues to deter many owners from leasing their homes. The economic factors are highly volatile; yet the rate of market rent is high in relation to social rents and to average earnings. In recent years, rent levels soared, often irrespective of the quality of a dwelling. Although that period seems to be over, even today private residential renting seems to be predominantly considered only a short-term, temporary housing solution.

The Evolution of Rent Regulation

The development of the rental market must be supported by legal provisions that adequately balance the rights of the landlord and those of the tenant of a residential unit. Although there are many issues that can

be examined in this context, the most fundamental one, particularly for post-communist countries of CEE, concerns rent levels. It was not until 1988 that private owners regained the right to freely rent their dwellings and not have the tenant selected and given possession of it by the public authorities; however, this right could only be exercised on units newly offered on the market or that tenants had willingly vacated. Stringent restrictions on the landlord's right to terminate a lease or set the rent continued to apply in the case of sitting tenants with running leases. Regulated rents were too low, and did not come close to meeting the expenses of the maintenance and repair of buildings, which then typically fell into disrepair (Panowicz-Lipska 2011: 73).

After the 1990 reforms, owners of buildings with rental flats had great expectations regarding the new Residential Lease and Housing Allowance Act of 1994 (LRU, Act of 2 July 1994, Journal of Statutes 1994, no. 105, item 509) hoping that regulated rents would no longer apply to privately owned rental flats. At first sight Articles 25 and 26 of the Act did limit the application of regulated rents to the housing stock of local governments and other (semi-)public bodies, like the state, state juridical persons, and other not-for-profit juridical persons. However, regulated rents continued to be applied widely, since according to Article 56 of the LRU they also applied to all leases created on the basis of an administrative decision or other type of public allocation of dwellings, even when the leased dwellings were owned by private persons (Chrościelewski and Tarno 1995: 66). In Article 56 it was further specified that regulated rents in dwellings owned by private, physical persons were to be liberalised after 31 December 2004, but in dwellings owned by private juridical persons no such time limit was introduced (Podrecka 1996: 21 et seq.). Moreover, all fixed-term leases created on the basis of an administrative decision or other type of public allocation of dwellings were transformed into open-ended leases when the LRU came into effect, which meant that it was very difficult for landlords to terminate a lease except in situations specifically stipulated in the LRU. Little room was left then to introduce freely negotiated rents when they could only be applied to newly concluded leases in the very limited, vacant private housing stock (Z. Radwański and J. Panowicz-Lipska 1996: 122–123). Consequently, private owners with tenants from the previous political

era had to charge regulated rents that were far below the level of cost rent, even though from 1995 onwards regulated rents did increase significantly when compared to the pre-1995 levels (Hegedüs and Tosics 1998: 663–666). Nonetheless, the situation remained too onerous for private owners who were burdened with various obligations under public law to maintain their buildings in a safe and habitable condition but were deprived of adequate rental income.

The Polish Constitutional Tribunal was faced with the dilemma of deciding whether Articles 56 and 57 of the LRU on tenant protection together with Articles 25 and 26 on easing rent regulation were in violation of the Constitution's provisions concerning the protection of ownership and its admissible limitations.³ In an extensive justification to its judgement in 2000 (P11/98, OTK 2000/1/3), the Tribunal noted that most municipalities set regulated rent levels at an average of 1.3 per cent of the unit's annual reconstruction value, which covered only about 60 per cent of maintenance costs. The costs not covered by rental income had to be borne by private owners exclusively. Such rents applied to approximately 600,000 dwellings in privately owned buildings, so the scale of the phenomenon was significant. The Constitutional Tribunal underlined the importance of the ten-year transitional period until the end of 2004, as an immediate adjustment of rents to market levels would have caused great social harm; however, it was ruled that the costs of protecting tenants should not have been borne solely by private owners. In the Tribunal's judgement, Article 56 of LRU violated the Constitution as well as Article 1 Protocol 1 of the European Convention of Human Rights (ECHR) on the right to property. The loss of the LRU's binding force, effectively meaning that private housing stock would not be subject to rent regulation, was postponed until July 2001 to give the legislator time to introduce solutions compatible with all related legal sources.

The solutions aimed at executing the Constitutional Tribunal's requirements were introduced in the Act of 21 June 2001 on the protection of tenants, the municipal housing stock and the amendment of the Civil Code (TPA, act of 21 June 2001 consolidated version: Journal of Statutes 2014, item 150), which superseded the LRU. However, provisions on admissible levels of rent in the private housing stock remained controversial for two main reasons: the long-lasting restrictions on the right

to freely negotiate rents in privately owned housing, and the stringent restriction on possible rent increases even after rent levels were nominally liberalised.

First, the Constitutional Tribunal's support for the 10-year transitional period was expressed in the decision that regulated rents in leases concluded before the TPA came into force in 2001 could be increased above 3 per cent of the unit's annual reconstruction value annually before the end of 2004. While freely negotiated market rents were allowed starting from 1 January 2005, they were only permitted in the case of new leases concluded after this date. Second, when the TPA came into force in 2001, a separate provision under Section 3, Article 9 regulated the rent increases, concerning sitting tenants whose rents did not exceed the 3 per cent limit of the unit's annual reconstruction value set by the TPA. Rent reviews could not be effectuated more often than once every six months, and the raise could not exceed levels calculated with reference to the inflation rate, the unit's reconstruction value, and the then current actual rent. In practice this meant that raising rents to at least cost level would take an unreasonable amount of time, because the starting points were the very low, regulated rents and inflation was steadily falling (Panowicz-Lipska 2011: 108–109).⁴ Dybowski (2001) calculated that at the rate permitted by the TPA, obtaining cost rents from tenants within the regulated rent regime could take up to 200 years. Similarly, landlords who were able to conclude new leases with market rents would not be able to sustain a fair yield due to the stringent limitations on rent increases (Nazar 2001: 960, 966).

The revised legislation therefore did not fully reflect Constitutional Tribunal judgements, and the resulting legal framework remained tenant-friendly to the extent that it still placed disproportionately onerous conditions on private landlords. It was, accordingly, questioned by the Polish Human Rights Defender (Ombudsman) in 2002 on the basis that even after the proposed liberalisation in 2004, landlords could not attain cost rent within their lifetimes. In 2005 the Constitutional Tribunal ruled that the public allocation of dwellings for decades brought about a serious pathology on the rental market, and reversing its negative effects would require a careful balancing of the rights of tenants and landlords; however, the latter have been consistently neglected by the legislator. While previous judgements gave reason to citizens to be convinced that from 2005

onwards, at the end of ten-year transition period, rents and rent reviews would be subject to freedom of contract, more recent provisions created new restrictions, which violated essential principles of the Constitution. The Tribunal also made reference to the case law of the European Court of Human Rights (ECtHR), namely *Mellacher and Others v. Austria* (Applications no. 10522/83; 11011/84; 11070/84) and *Hutten-Czapska v. Poland* (Application no. 35014/97), where it was emphasised that the control mechanisms in place violate Article 1 Protocol 1 of the ECHR, as all or much of the burden attached to achieving social housing goals is placed on landlords. Another Constitutional Tribunal judgement in 2006 (K 33/05, OTK-A 2006/5/57) repealed further provisions on rent reviews of the TPA, partly due to their obscurity and subsequent legal uncertainty.

Currently, after years of struggling against onerous restrictions, which are also inconsistent with both the Constitution and the ECHR, rent increases are subject to the following control mechanisms: (1) they cannot be introduced more often than once every six months; (2) notice must be made in writing at least three months in advance; (3) an increase of the yearly rent above 3 per cent of the dwelling's reconstruction value annually must be justified by conditions set out in the TPA. These conditions largely refer to the landlord's ability to achieve profits that allow adequate maintenance of the dwelling and obtaining a fair return on capital. However, for this latter the legislator does not provide a percentage rate, so in cases of disputes it is decided based on the given case (K. Zdun-Załęska 2014: 88). A tenant may demand that the landlord presents a calculation of the rent increase in writing (see Supreme Court resolution of 5 Feb. 2010, III CZP 130/09, OSNC 2010/7-8/109, and Łoboz 2014: 294); and tenants dissatisfied with the rent increase may bring an action to court. This regulation on rent increase mechanisms has been in force since 2007, and it seems that the legislator has finally struck a satisfactory balance between the proprietary interests of landlords, and tenants' need for predictable and justified rent increases that may be reviewed by courts. The proportionality principle has been observed, and the Constitutional Tribunal concluded in 2012 (SK 25/09, OTK-A 2012/1/1) that rent increases in accordance with the revised TPA are consistent with the PC (Doliwa 2014: 276); the requirements of the Constitutional Tribunal in its previous judgements have thus been properly accounted for in legislation (Wyrwińska 2007).

Eviction and the Incidental Lease

One of the most contentious issues when balancing the rights of tenants and landlords is the question of eviction, which is only permitted when a lease contract is terminated (through termination by notice, the expiry of a fixed-term contract, or termination of a lease by a court), or under particular circumstances allowing for eviction (such as extremely reprehensible behaviour on the part of the tenant). There are, however, two main issues that are seen as risk factors by landlords: (1) the possibility of terminating an open-ended lease, and (2) the actual ability to lawfully evict a tenant. As far as the former is concerned, the legislator does not allow the termination of an open-ended lease for reasons other than listed in the TPA, which includes mainly a breach of contract, the tenant's prolonged absence, their legal title to a comparable dwelling within the same municipality; court termination may be available when irreconcilable conflict arises. If there is a dispute as to whether these conditions have actually taken place, the landlord has to instigate court proceedings to prove the legal grounds for termination. As there are no special, simplified proceedings concerning residential lease disputes, the landlord faces incurring substantial costs in connection with lengthy court proceedings. Concluding fixed-term contracts is a possibility, and a lease contract may also be terminated for reasons that the parties agreed to and specified in the lease contract. The maximum fixed term may not exceed ten years, after which the contract is deemed to be open-ended. Termination of the lease contract implies the tenant's obligation to vacate the dwelling. If this is not done voluntarily, the landlord will need to initiate eviction proceedings.

According to the TPA, in the case of a standard lease (an open-ended market lease with no specially agreed provisions), the court may award a social dwelling to a tenant on the grounds of a difficult family or economic situation; the tenant cannot be evicted to a place other than a social dwelling provided by the municipality. Owing to the shortage of municipal housing, the tenant awaiting social housing can continue to reside in the dwelling indefinitely; and while the municipality is liable for damages and the remaining tenant must continue to pay the rent that is due under the expired contract, the landlord is, in the meantime, unable to recover the property. In addition, evictions from

regular leases are suspended in the winter period, from 1 November to 31 March each year.

Eviction procedure is significantly easier and faster if the landlord concluded a special type of a lease called the ‘incidental lease’, which is always concluded for a fixed term that may not exceed 10 years. Its appeal lies mainly in the lower taxation rate on the landlord’s income from rent, exemption from the otherwise binding rules that apply to rent reviews and to the termination of leases, and the simplified eviction proceedings (Doliwa 2015: 279). Upon concluding the contract, the lessee agrees to vacate the premises after the termination of the lease and indicates a place they can be evicted to, should they end up subject to eviction, with the written consent of the dwelling’s owner. If the lessee does not vacate the dwelling, the landlord presents the notarial deed, which serves as an execution title, the court issues a performance clause, and the bailiff commences the actual eviction within a relatively short timeframe. Originally introduced in 2010,⁵ this form of lease could only be concluded between non-professional landlords (physical persons) and private individual tenants. The incidental lease was introduced as a measure to curtail informal leases, as it is only possible to benefit from its provisions if the landlord declares the taxable incomes from rent. In order to make the incidental lease available to potential professional landlords (like real-estate developers), the TPA was amended in 2013,⁶ which, of course, means that the lease is no longer ‘incidental’ since it can also be used by real-estate and rental market professionals.

Snapshot Analysis: Private Renting in the Present Day

The Size of the Private Rental Market

The results of the last National Census in 2011 in Poland show the structure of households according to type of tenure (Table 11.1). Although census data refer to the number of households, which may be different from the number of utilised dwellings, that information is the only formal statistic on the structure of rental sector in Poland. In this context, the PRS in

Table 11.1 Households by tenure type (National Census 2011)

	Households	
	Number	%
Households living in the dwellings on the basis of:		
Ownership	7,509,019	55.3
of the building	5,122,479	37.8
of the dwelling	2,386,540	17.6
Cooperative right	2,180,825	16.1
Homeowner cooperative	1,830,414	13.5
Rental cooperative	350,411	2.6
Renting the property of:	2,258,078	16.6
a physical person who is:	575,466	4.2
the owner of the building	229,643	1.7
a co-owner of the building	345,823	2.5
a housing cooperative	67,636	0.5
a municipality	1,029,103	7.6
the State Treasury	183,916	1.4
companies	191,435	1.4
Social Building Associations	84,396	0.6
other entities	47,694	0.4
no data	78,432	0.6
Sublease	37,100	0.3
Family connection	1,282,865	9.5
Other	62,316	0.5
Not established	237,796	1.8
Total	13,567,999	100.0

Source: 'Housing conditions of households and families', National Census of Population and Dwellings (2013)

2011 amounted to 643,100 units, or 4.7 per cent of the stock, including cooperative members as landlords (Central Statistical Office 2013).

The housing stock rented on private, commercial rental market is not covered by public statistics, but various estimates are made about its size. To assess the size of the PRS, it is necessary to decide whether to include cooperative flats in the calculation, and also to estimate the number of informal leases. The vast majority of cooperative flats are used on cooperative proprietary right to the dwelling, which is a limited real right within a housing cooperative. Black market deals also should be included, but existing estimations vary greatly. Augustyniak et al. (2013: 17) stated that in 2011, about 82 per cent of housing was owner-occupied, while approximately 18 per cent of the housing stock was rented (including

approximately 14.5 per cent rented at a preferential, lower rate). Muziol-Weclawowicz (2013: 197) estimated that in 2009, 10 per cent of privately owned dwellings (about 1,000,000 units) were rented, as well as 5 per cent of cooperative housing (approximately 100,000 units). The association *Mieszkanicznik*, set up in 2012 by Polish residential landlords with the aim of making the PRS more modern and formal, estimated the number of privately rented dwellings as 660,000, of which approximately 70,000–100,000 were let informally. The two main rationales for presuming that the PRS is larger than suggested by both official statistics and existing estimates is (1) the lack of information and estimates of the market in small towns and rural areas, and (2) the very dynamic growth in the number of apartments purchased for investment purposes in major cities, especially in the capital Warsaw. According to the real-estate advisory agency REAS, for the first time since the launch of market economy reforms, institutional investment in the PRS is currently becoming a major factor, with both domestic and foreign institutional investors (REAS 2016). Another source of information on part of the PRS is the Ministry of Finance's reports on lump-sum taxation. In 2009, amendments to the legislation on tenant protection were accepted, and the occasional lease of dwellings was introduced, with the aim of increasing the number of legal rental contracts in exchange for lower taxes and certain limitations to tenants' rights. According to the ministerial report (Ministry of Finance 2015), in 2014 taxpayers filed 416,000 declarations in which they chose a lump-sum taxation on revenues at a rate of 8.5 per cent on rental income as part of their non-agricultural activities. This meant an increase in the number of claimants by nearly 41,000 compared to 2013. Despite the lack of any further details about the objects being rented, the vast majority of these sources of rental income are likely to be dwellings. As 'occasional landlords' (private individual landlords for whom renting is only a secondary income source) may choose, instead of the lump-sum tax, to pay the standard income tax (18 or 32 per cent on income, not revenues) there are more landlords using the scheme of 'occasional lease'. But the data on number of individual taxpayers obtaining revenues from lease of dwellings, are not published by the Ministry of Finance. Also, while it is difficult to estimate the exact number of informal—unregistered and untaxed—leases, housing market

actors and researchers believe that there are a substantial number of them. Considering these factors and the recent boom in property investment, it is possible to estimate that the number of privately rented dwellings can range between 800,000 and 1.2 million units. Some experts claim that in Warsaw and the other major cities, 17–20 per cent of dwellings constructed by developers were bought for investment in 2015 (REAS 2016). One of the biggest real-estate agencies reported that while lease transactions amounted to 0.5 per cent of agency activities, they currently account for up to 13 per cent of their deals.

Growth of the Polish rental market can be associated with two major factors: changes in the legal provisions governing landlord-tenant relations and economic changes. Other factors that encourage the private rental market include, in addition to solving the difficulties in the social housing sector and owner-occupied housing market, changing the attitudes of young professionals to favour rental housing and sustained immigration to the largest cities, which are attractive labour markets. In recent years the five biggest housing markets have recorded increases in population, including an influx of students.⁷ Students constitute a key group of clients who rent dwellings. Medium-term prognoses expect an increase in the number of students in Poland, including not only locals but also students from abroad. Poland is popular as a place to study among Ukrainians, Belarusians, and people from other former Soviet Republics. Poland is becoming a popular destination for economic migrants from countries outside the EU, especially Ukraine. According to estimates by the Institute of Public Affairs, legally employed non-EU foreign nationals make up approximately 0.3 per cent of the total working population in Poland,⁸ who constitute an important base of the growth of the rental market, both legal and illegal. The inflow of workers has increased from 2014, when 43,700 work permits and 387,400 temporary work permits were issued; 60.3 per cent of permits and 96.3 per cent of temporary permits were issued to Ukrainian citizens (Ministry of Family, Work and Social Policy 2016). Finally, besides students and migrant workers, a third group of market tenants, smaller in number but very influential, is made up of young professionals who prefer renting an apartment over owner-occupation in order to avoid being tied to a single location and a mortgage.

Economic Conditions

After the Global Financial Crisis, macroeconomic conditions and state housing policy steered citizens towards owner-occupancy. A well-developed mortgage market also makes purchasing a dwelling easier, although since the crisis the approach to underwriting and credit risk assessment has become more conservative. Also, many housing investments made by private individuals are still paid in cash. Nonetheless, in the post-crisis years housing investments have been benefitting from slow but stable economic growth, as well as from historically low inflation and interest rates: in 2012 the basic mortgage interest rate was 4.75 per cent; in early 2016 it was 4.58 per cent. Recent regulatory changes have also helped to stabilise the housing market, such as the recommendations of the Committee of Financial Supervision, which proposed that homebuyers make a solid minimum down-payment of 15 per cent in 2016, and 20 per cent in 2017; and legal protection of the deposits of future owners in their contracts with real-estate developers. According to the periodic report *Information on house prices and the residential and commercial property market Q1 2016* of the National Bank of Poland, the housing market remained balanced in the first quarter of 2016 (Łaszek et al. 2016). Residential real-estate sales and rent prices were stable, with prices on the secondary market lower than on the primary one. At the same time, average rent levels and average house prices rose slowly but steadily.

Relatively inexpensive mortgages combined with high rents in the private rental markets in the larger cities mean that the cost-effectiveness of purchasing a dwelling is greater than renting: monthly instalments on the most popular small units are very close to market rent levels. Still, this also favours investment in rental housing, as a section of the population is unable to afford to take on a mortgage with stricter conditions—whether temporarily or for a prolonged period—and having witnessed the consequences of the crisis, there is a growing number of young people who are more sceptical about taking on long-term debt. Natural persons who buy dwellings for their own use are, to some extent, being replaced by other natural persons—residential investors who buy dwellings to lease them.

Nonetheless, professional investment is also gradually gaining ground. The low cost of credit and the very low interest rates on deposits stimulate real-estate investments, and while the demand for retail or office property seems to be diminishing, interest in residential property is stable. Buying an apartment to rent in an urban centre can yield an annual profit of 4–5 per cent, or as much as 8.5 per cent according to some experts (REAS 2016), although residential leasing is recognised as a risky and time-consuming business.

Warsaw is the leader in the Polish housing market in terms of developer activity, the size of the mortgage market and rental market, and the demand for owner-occupied and rental housing. In the first quarter of 2016, 40.98 per cent of all new mortgages were for real estate in Warsaw and its metropolitan area (Union of Polish Banks 2016). This development was buttressed by market optimism fuelled by low overall unemployment (4.3 per cent in 2014), decreasing youth unemployment, and rising salaries. The strong demand was driven not just by Warsaw citizens and the influx of migrants, but also by a growing supply of rented apartments of diverse standards, locations, and prices, and by the very limited availability of rentals in the public housing sector. Despite a growing body of information on the PRS in Warsaw, no estimates exist on the share of privately rented housing (formal and informal) within the stock. Evidence of the market's development is nonetheless provided by the professionalisation of rental services and the recent emergence of institutional investors. The professional management of rental units has also become the activity of property managers and estate agents.

The first major corporate investment in the rental sector was Holland Park, of the company Keen Property Partners in 2006. It consisted of two buildings with 64 rental units in a central location in Warsaw. The sale of individual units in the buildings began in 2009. City Life PCC Limited, registered in Guernsey, set up a fund in 2006 called Poland Geared Growth to invest in packages of rental dwellings (PwC-REAS-CMS 2013). Besides these funds investing in buy-to-let schemes, there are several investment funds operating in Poland that have invested in residential development projects or housing development companies, two of which are of particular interest. The Mzuri Group is a private company that specialises in investment into and the management of rental housing.

The company manages over 2000 dwellings throughout the country in almost 20 cities. Mzuri Crowdfund Investing (Mzuri CFI) is in fact based on crowdfunding to invest in real estate, and it is also open to small-scale investors. One can invest as little as PLN 10,000 (approximately EUR 2300) in rental homes. One of the company's strategies is to purchase and renovate old rental units in attractive locations and to let them on market terms. So far the company has purchased over 500 units for individual investors. The company also actively promotes private renting and strives to set standards and good practices in the Polish market.

A state-led commercial initiative, the Rented Dwelling Fund (Fundusz Mieszkań na Wynajem—FMW), launched by the National Economy Bank (Bank Gospodarstwa Krajowego—BGK) has been operating since 2015. Its aim is to increase the size of the rental housing market in the largest Polish cities by practising/promoting professionalism, stability, and predictability for the owners of rental property. By early 2016 the Fund acquired 2430 dwellings in apartment buildings in Poznań, Piaseczno (near Warsaw), Gdańsk, and Kraków. Out of the contracted dwellings 425 have been rented, 1463 purchased, and transactions concerning the remaining 542 units are being finalised. In the long run, the Fund intends to rent dwellings at rates slightly below market rents and plans to operate 20,000 units by 2020 (Fundusz Mieszkań na Wynajem *n.d.*; Łaszek et al. 2016).

Future Prospects: On the Road to Professionalisation

Regarding Poland's PRS, more detailed information is only available on the biggest local markets, especially that of Warsaw. While the sector does operate in smaller markets as well, there is no information on these markets at all. Local municipalities are expected to produce a 'rent mirror' on local average market rents. Many of them do not do this, alleging that the data are impossible to collect. But some do produce rent mirrors, and they show that in small localities the market rent in an average dwelling is not much higher than in an average municipal dwelling. Under these conditions, this market segment is unattractive for investors.

In the big rental markets in Poland, the current rents being collected by individual owners and emerging institutional investors are yielding higher rates of return than investments in bonds or bank deposits and are similar to the returns in commercial real estate, although to some extent this may be offset by the lower liquidity and higher transactional costs in the rental market. Economic profitability is a major factor generating interest in this type of investment, and after stagnating for two decades after 1989 the PRS market is now showing slow but stable growth. Still, the negative image of the sector is only changing slowly. The sector remains hobbled by slow eviction procedures, lengthy litigation, and the shortage of social dwellings, all of which strongly affect private renting in Poland due to the strong tenant protection measures. Nonetheless, incidental lease as a form of renting that can now be offered even by professional landlords holds open the possibility that this image may change.

The housing market in Poland has its specificities, and the lack of experience of large rental portfolios is one of them. It is likely that the perception and development of Poland's institutional rental sector will depend on initial investors who build up the first rental portfolios. They run higher risk, and expect higher yields, and if they prove successful, they will pave the way for more risk-averse investors to enter the market. So far, the PRS is based on small-scale private individual landlords. In their case, too, purchasing dwellings to invest in and lease is growing in popularity.

The social significance of private rental investments has also for the first time come up in the public discourse. The popular image of the landlord as exploiter seems to be giving way to thinking about landlords in terms of the social role they play by providing housing to tenants who either choose to rent or have no other option (for the time being). The concept of involving privately owned housing to expand social housing provision is also gaining ground. Habitat for Humanity Poland has been carrying out research on the applicability of social rental agencies in Poland.

Ultimately, however, the PRS in Poland has begun to grow largely thanks to its increased profitability, which in turn attracted institutional investment and contributed to the sector's professionalisation. State-led initiatives, like the Rented Dwelling Fund or incidental leases, are important,

but are limited in their effect. A coherent revision of related policies would be required to support the development of the sector, which would include giving significant support to current and prospective landlords and to some tenants in commercial rentals, especially if the goal is to mobilise the private sector to supplement social housing provision. Given that the PRS also depends on the availability of social housing because of the strong tenant protection measures in place, investment in social rental housing is also necessary if the PRS is to function better.

Notes

1. According to a questionnaire study conducted by the ministry in charge of housing policy in 2011, the average level of rent as a percentage of the reconstruction value was equal to 1.22 per cent, and on average the lowest rents were observed in small municipalities, the highest—at 1.67 per cent of the reconstruction value—in the biggest municipalities with over 200,000 inhabitants (Ministry of Transport, Construction and Maritime Economy 2012).
2. Source: Materials presented by the government of Poland in the European Court of Human Rights (case Hutten-Czapska v. Poland). The number of dwellings—600,000—is frequently quoted, but it should be noted that the process of ending special rent leases due to demographic and technical reasons continually diminished this subsector of PRS.
3. Art 21 PC: The Republic of Poland protects ownership and the right to inherit (s. 1). Expropriation is allowed only for public purposes and with just compensation (p. 2).
4. Panowicz-Lipska, 'Najem', 108–109.
5. Act of 17 December 2009, Journal of Statutes 2010, no. 3, item 13, effective 28 January 2010.
6. Journal of Statutes 2013, item 1304, effective 23 November 2013.
7. Warsaw, Kraków, Wrocław, Poznań, Gdańsk (and their agglomerations); only Łódź has recorded a loss of the total population as well as of students.
8. There is no estimate of the number of illegal foreign workers, but this phenomenon is important, especially for temporary jobs in construction, agriculture, and house-cleaning.

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12

Russia: A Long Road to Institutionalisation

Alexander Puzanov

Introduction

Before 1990, the Soviet government regarded private rental housing as a necessary evil that performs the useful function of mitigating housing shortage problems and supporting labour mobility. It helped the government to pretend to be adhering to its policy of restricting growth in large cities—an issue that the planned economy could never solve (Andrucz 1984). Ideological barriers, however, prevented the policy from being properly articulated and institutionalised.

After 1990 and during the first two decades of the housing market's development, Russian governments viewed rental housing as a residual segment of housing policy. Most efforts were directed at giving away units in multi-family buildings (by privatisation of public dwellings to the ownership of tenants) and at other forms of supporting home-ownership. The private rental sector (PRS) survived the transition and increased

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in size, but it continued to provide only temporary housing solutions to tenants. Thus, housing policy models in both the Soviet and the post-Soviet period were dualist, and private tenancy was and still is a residual segment of it.

As a result Russia experiences a high demand for rental apartments, coinciding with a pronounced scarcity of legal rental housing supply (Rental Choice 2005). Only recently policy-makers have acknowledged the need for a paradigm shift by recognising the complementary role of rental housing. Both legalising and institutionalising informal or illegal renting and creating favourable conditions for market-based provisions of rental housing are being considered, but with limited results so far (Peppercorn and Taffin 2013). The case of the Russian Federation demonstrates how enduring the residualisation of private renting is under different economic regimes as well as its strong path dependency.

Private Rental Sector in the Soviet Period

Private rental housing in the Soviet housing system was represented by the illegal or semi-legal sector of subletting of state or co-op housing by sitting tenants and to a limited extent by the letting of individual housing in rural areas and small towns. The discrimination against private rental housing was a political hallmark of socialist ideology: private renting was considered a key mechanism of exploitation of the working class by capitalist landlords. However, pressing housing needs and labour mobility forced the government to tolerate limited private renting, officially regarding it as a vestigial form of housing tenure, being selective in enforcement of the existing legislation.

During the Soviet period it was assumed that the subtenant would pay only the expenses connected with the maintenance and repair of housing and the consumption of utilities. All extra payments were interpreted as ‘extraction of unreal income’¹ and were illegal. Moreover, there was a legal provision by which all income from sub-rental operations in excess of payments to cover maintenance and utility expenses could be confiscated and directed into to the state budget. The collection of higher rent than was allowed by law was a legal ground for eviction of

'landlord' from public or cooperative housing (Housing Code 1983, art. 10, 134). As a result, the parties to a subletting contract did not draw up formal written agreements. Similar provisions were applied to the letting of housing space in individual (privately owned) housing, which was also officially permitted.² Unfortunately, there are no reliable data on the share of housing that was used for private letting or subletting; based on an estimate in early 1990s, it made up 5–10 per cent of the housing stock.

The semi-legal nature of landlord-tenant relations made the parties on both sides more vulnerable, and this did not encourage the development of private renting as a form of long-term housing. Tenants and subtenants did not consider private renting to be a long-term solution and were ready to be evicted at any moment; the notion of private rental housing as transitory thereby became embedded in people's minds. The lack of detailed legislative regulation of relations in the private rental housing sector and the non-existence of professional landlords certainly influenced the development of the PRS after 1990.

The Dynamics of the PRS in 1991–2015

The transition to the market economy was marked by the mass give-away privatisation of state and municipal housing by sitting tenants; most privatisation transfers occurred during the 1990s but they are still taking place today. As a result, the share of housing that is privately owned increased from 33 per cent in 1990 to 87 per cent in 2014, and the share of housing owned by physical persons rose from 26 per cent to 83 per cent. This radical change in the ownership structure created a new environment for the PRS development. However, the transition to a market economy did not result in the emergence of professional landlords; one reason for this may be that during the privatisation of state-owned enterprises in the 1990s—who might become influential private landlords—the housing stock these enterprises owned was supposed to be transferred to municipal ownership.³

Renting housing for free market rents became a legal business. Private landlords had to adhere to only a few legal requirements. First, they were

responsible for paying income tax on rent revenues: since 2001, a flat income tax rate of 13 per cent was introduced and it replaced the complicated system of progressive tax rates differentiated by total income level that had been in place during the 1990s.⁴ Second, landlords were responsible for paying property tax on housing properties: a local tax based on the 'inventory value' of a real estate object, which was in fact many times lower than the real market value of a dwelling.⁵ However, the overwhelming majority of private landlords ignore the duty to pay income tax on rent revenues, and thus the dominant part of market is still in the shadow or 'grey' area of the economy (as is the practice of subletting housing space in state or municipal housing).

Legislative Reforms in a Sluggish Policy Environment (1991–2004)

Generally, the Soviet PRS model continued to work during this period. The change in the legal status of the transactions—from the subletting of public housing to the letting of private housing (in most cases acquired under public housing privatisation)—did not change the real nature of the relations between landlords and tenants. New legislation provided the basic regulation of landlord-tenant relations in the private sector (Civil Code 1996). The legislation contained 17 rather short articles that introduced only a few regulations that had to be adhered to rental contracts in both the private and public sector.⁶ For public housing, rental relations were also regulated by specific housing legislation (Housing Code), which surprisingly did not apply to the PRS.⁷

The Civil Code established a maximum term for rental contracts (5 years). This rigid requirement is, however, largely negated by the strongly asserted priority right of sitting tenants to renew a contract for another term; there are only a few conditions under which the landlord can refuse to prolong a rental contract. The Civil Code also contained provision for evicting a tenant: rent arrears for more than six months.⁸ However, even justified eviction was possible only by judicial process and the court could give a tenant up to two additional years to avoid it.⁹ The provisions of the Civil Code were biased towards protecting the rights of

tenants at the expense of the rights of landlords. This did not help in the development of legal forms of landlord-tenant relations.

Housing policy during that period can be described as fragmented and as addressing only the most pressing needs of certain groups (military, young families, etc.). It gave almost no support to the development of the PRS. In contrast, certain provisions in tax legislation designed to support home-ownership had a negative effect on the development of the PRS, for example, allowing resources used to purchase housing to be deducted from income taxation by homeowners. Homebuyers can deduct from personal income taxation up to RUB 2 million (EUR 27,800)¹⁰ spent on the purchase of housing, but no similar deduction is applied to expenditures of a tenant living in the PRS. In the mid-1990s, housing allowances for tenants in the private sector were introduced by the Russian government, but they were restricted to households headed by a military servant.

The PRS Outside the Framework of National Housing Policy (2005–2011)

In 2005 a package of housing legislation—27 acts including the new Housing Code—came into effect. That marked a new period in the development of national housing policy, but this legislative package did not lead to any additional regulation of the PRS. The increasing affordability of home-ownership was the main priority of the new policy. It was based on the assumption that economic growth, which improved the conditions for mortgage lending and increased real incomes of households, would make housing ownership affordable for the majority of households in the foreseeable future.

The new legislative framework gave impetus to housing market development and in particular to rise in housing construction and mortgage lending. Volume of new housing construction increased from 41 million m² of housing floor area in 2004 to 64 million m² of housing floor area in 2008. Efforts focused on supporting two new institutions that were trying to make home-ownership more affordable: the Agency for Housing Mortgage Lending and the Fund for Housing Construction Development. The amount of subsidies to homebuyers (up-front

subsidies, housing certificates) dramatically increased. These changes, however, worsened the tenure-neutrality of the Russian housing regime. The public rental sector was seen as a residual one, that is, as a housing solution for only some low-income households. The role of private rental housing was not considered at all.

With new housing policies implemented, the affordability of housing really improved: the share of households that were able to purchase a standard housing unit using their own resources and a mortgage loan jumped from 9 per cent in 2005 to more than 25 per cent in 2008.¹¹ However, it soon became clear that there would be a limit to further increases in housing affordability, and a household with median income would not be able to buy adequate housing in the market in the foreseeable future (Fig. 12.1). Moreover, the economic recessions of 2008–2009 and the one which started in 2015 reversed the positive trends in housing affordability. These changes drove increased attention in the direction of rental housing, and private rental housing in particular, as a weak element of the Russian housing regime.

The lagging development of rental housing is the result of a number of factors. First, investment projects for the construction of rental multi-apartment buildings were not financially attractive owing to the long period of return on such investments (in particular when compared with

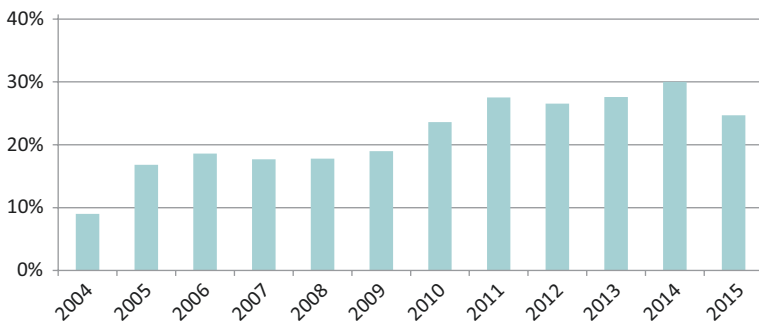


Fig. 12.1 The share of households able to purchase a standard housing unit using their own resources and mortgage loan (%). Source: Calculations of the Institute for Urban Economics based on Rosstat and Central Bank data

financial attractiveness of projects for construction of housing intended for immediate sale). The market rents were relatively low and reflected the backcloth of the predominance of small landlords who paid very low price to become owners as a result of privatisation and who never had to cover the real market costs of the purchase of their dwelling. Market rents were thus not affordable for the majority of households (see below) on one side, but did not offer attractive yields for developers on the other side.

The average monthly rent for a two-room apartment in a large Russian city (other than Moscow) is RUB 15,000–20,000 (EUR 209–268). Conditions that would be acceptable to current investors (a pay-off period of no more than 10 years and ROI no less than 9 per cent) could be reached if the rent for this kind of apartment amounted to RUB 30,000–35,000 (EUR 417–487) per month. Projects for the construction of private rental apartment buildings were therefore unattractive without state subsidies. However, potential public subsidisation was inhibited by the risk attached to operating multi-unit apartment buildings for rent, such as the risk of the apartments later being sold off and of the developer capitalising the state subsidy. Non-profit housing organisations—actors that could have been supported without this risk—did not exist.

Buying properties on the secondary market was not a solution: market house prices increased faster than the price of newly built properties (Fig. 12.2). In 2008, the average price of one square metre of a dwelling on the secondary market surpassed the price of a similar dwelling on the primary market; and this remains true to the present day. This can be explained by a number of factors, including the fact that most of the primary housing market supply is located in urban outskirts as opportunities for in-fill development in central urban areas had been exhausted.

The state also did not have adequate instruments to promote the purchase of land for rental housing construction—in a shortage environment, rental housing construction projects could not compete with standard projects based on the sale of individual units during public land auctions.¹²

However, the market infrastructure for the PRS developed to a certain extent in this period. First, most transactions occurred with the mediation

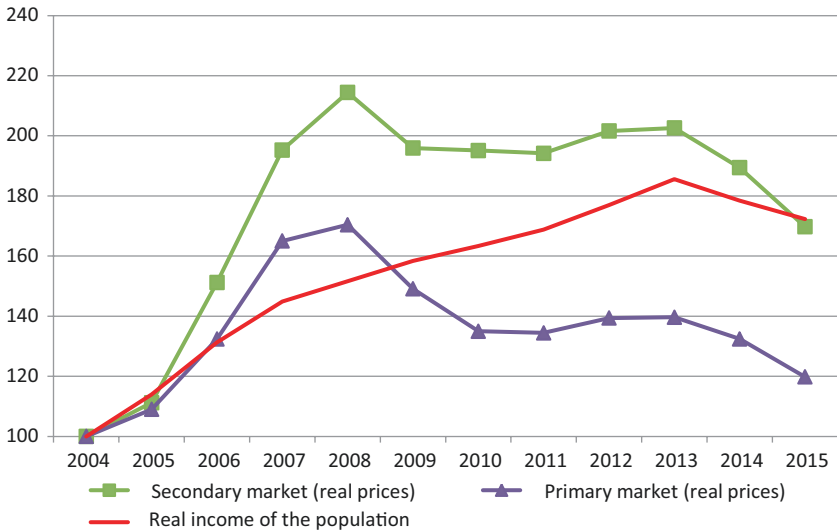


Fig. 12.2 The dynamics of real incomes and real housing prices per m² in the primary and secondary markets (% of 2004 = 100%). Source: Calculations of the Institute for Urban Economics based on Rosstat Bank data

of professional realtors who promoted effective rental agreements in written form (still kept by the parties and not officially registered). Nevertheless, a considerable share of such transactions (in Moscow an estimated 25 per cent) is still engaged in through the mediation of companies not registered with professional associations, ‘black realtors’, and ‘information agencies’ that are not responsible for the quality of services. Second, there began to be PRS stock that was owned by legal subjects.¹³ Presumably this housing segment is mostly being developed by big enterprises, such as Gazprom or Russia Railways, and used to provide housing to their employees.

The Search for the Right Models (2012 to the Present Day)

The year 2012 marked a radical change in national housing policies related to rental housing development. The goal of establishing an effective,

affordable, and professional rental market was laid out in Presidential Decree No. 600 setting the priorities for the 2012–2018 electoral cycle and in subsequent RF Government resolutions. With the goal of strengthening the coordination between state authorities, local governments, and state development institutions, the government adopted the State Programme ‘Provision of Affordable and Comfortable Housing and Utility Services to Citizens of the Russian Federation’ (State Programme 2012). The programme sets six priorities of housing policy, one of which is ‘developing an affordable rental housing market and non-profit housing stock for households with moderate incomes’. While this goal does not specify the role PRS is to play in this, it envisions the development of both public (different from existing state and municipal social housing) and private rental housing.

The new priorities of the national housing policy required an amendment to the national legislation: in 2014, the Act on Regulating Rental Housing Relations was passed (Federal Law 2014). Its main objective was to create a legal environment conducive to the development of professional private renting operating in both the commercial and social housing sectors. The principal provisions of the Act are as follows:

1. It introduced the legal concept of a rental building. All the premises in such a building should be owned by one legal/physical person, rented to tenants, and the selling of individual units is prohibited or, more precisely, allowed only after the rental building status is lifted. There are two types of rental buildings: buildings used for commercial renting and buildings used for social (non-profit) renting. Social rental buildings could be in either public or private ownership; in the latter case a private owner must meet special requirements stipulated in the Act.
2. It introduced the regulation of rental contracts in social rental buildings. These contracts are regulated differently than traditional social rental contracts in state or municipal social housing. The contract has a fixed term up to 10 years, the rent is supposed to cover all expenses of the landlord related to the housing unit’s construction and management, and tenants have more limited rights compared to traditional social tenants. According to the Act, at least half of all units in the

building should be provided under a social rental contract if the building is to be defined as a social rental building; the rest of the dwellings can be rented out commercially.

3. It established the requirement that rental contracts be registered with the authorities if they are for a term of more than one year and established a penalty for violation of this requirement.
4. It introduced a special preferential regime for allocating state or municipal land for the construction of rental buildings. Public authorities will firstly determine the target use of the land (i.e. for the construction of commercial or social rental building) and auction the right to sign the agreement with investor on a particular type of building. The land itself is then transferred without tendering procedures to the winner of the auction. This prevents developers of housing for sale from trying to purchase the auctioned plots.

The new legislation introduced provisions for establishing a professional rental sector. Public authorities can now determine the target use of a plot of land as intended for rental building construction and enter into an agreement with public or private developers; the latter opens space for public-private partnership projects. Private developers get also access to long-term finance allowing them to set rents at a level competitive with the rents of non-professional landlords. Notably, the state-owned Agency for Housing Mortgage Lending has launched its new 'Rental Housing' mortgage product for developers or owners of rental buildings. The product grants access to long-term (up to 30 years) finance to professional landlords who own at least five flats in a rental building and sets certain standards that the borrower needs to meet. Borrowers tend to be agencies established by local public authorities (or state enterprises or joint stock companies (JSC)) but also include professional private developers, such as Asia Concrete Ltd or Russian Milk Company Ltd.

However, the transformation of the existing PRS and its non-professional landlords segment has remained outside the national agenda. Attempts have been made by several regions to increase the transparency of the current PRS with its non-professional landlords but with limited

success. For example, there was an attempt in Moscow to locate potential landlords and work with them on an individual basis in 2012/2013. Inspections conducted by homeowners' associations and local police found nearly 180,000 potential private tenancies, about 40 per cent of the estimated number of all private tenancies in the city. However, further bureaucratic procedures failed: only a minority of cases were proved and documented and, as a result, only 1 per cent of the tenancies identified were brought to the attention of the tax authorities. Consequently, the estimated share of individual landlords who have been exposed to the tax authorities is as yet no more than 4 per cent of all landlords-physical persons in Moscow.

Landlords can register under one of the alternative tax regimes. They can either pay the flat 13 per cent personal income tax, which is viewed as very complicated and time-consuming, or choose a simplified tax for individual entrepreneurs and self-employed. The latter can be applied in two ways: (1) a gross flat rate of 6 per cent without any deductions or (2) a net rate of 15 per cent applied after making deductions. The simplified regime requires the landlord to register as an individual entrepreneur and submit quarterly income statements. However, no regime allows deductions for capital depreciation or has provisions for loss carry-forward.

Additionally, the City of Moscow introduced a license (charter) that can be purchased by individual landlords. Purchasing the license replaces the obligation to pay income tax on income from rental operations, as surveys reveal that a number of landlords avoid paying income tax because of the complicated income declaration process. The price of a license is 6 per cent of imputed income from rental activities, compared to the 13 per cent flat income tax rate. However, the level of imputed annual income set by the local authorities in Moscow—RUB 1 million (EUR 13,908) annually—means the license option can only appeal to landlords at the business and elite segments of Moscow's PRS. According to data of the territorial Federal Tax Service in the City of Moscow, the number of declarations of payment of the tax on the rental income submitted up to 1 July 2013 was 14,234 and the sum of paid tax was RUB 494.5 million (EUR 6.88 million).

A 'Snapshot' Analysis of the Current Status of the PRS

The Volume and Structure of the PRS Nationally and in the City of Moscow

The rental sector of the Russian Federation now includes the following segments:

1. Social housing operating under a social rental contract. This segment is part of the state and municipal housing stock (inherited from the Soviet period). Tenants of these dwellings have not acquired ownership of them through privatisation but still have the legal right to do so. Some dwellings are sublet by sitting tenants to other households, so it holds also features of PRS. In 2013, this segment accounted for 11 per cent of the total housing stock (state housing—3.4 per cent, municipal housing—7.7 per cent). This segment is decreasing in size over time due to continuing privatisation.
2. Specialised social housing. Specialised social housing is similar to social housing but operates under an accommodation rental contract (this housing includes dormitories or tied accommodation); it too is part of the public housing stock. In contrast to contracts in social rental housing, contracts in this housing are for a fixed term. The sector makes up 1.5 per cent of the total housing stock.
3. Public renting. At least 0.2 per cent of the total housing stock is provided by state and local governments on non-commercial terms. The level of rent under such contracts is about two times higher than the rent under social rental contracts, but it is still 3–4 times lower than market rates.
4. Individual PRS (housing owned by citizens and used for renting). This segment is part of the shadow economy, as it lies almost entirely outside income taxation. It is thus difficult to estimate the size of the sector. According to 2002 census data, it accounted for at least 3.3 per cent of all housing stock. Data from a survey of the population's living conditions conducted by Rosstat in 2011 revealed that 18 per cent of

Russian households own another dwelling in addition to the one they occupy; and more than half of these dwellings are suitable for use as residences. According to an expert assessment, this segment in reality accounts for 8–10 per cent of the total housing stock (Peppercorn and Taffin 2013: 120).¹⁴

5. The professional PRS operated by legal subjects (commercial entities). This housing is owned by large businesses and organisations and is intended especially to house their employees. The rental contracts are similar to commercial rental contracts or dormitory rental contracts in state or municipal housing. This segment accounts for 3.2 per cent of the total housing stock.
6. Quasi-PRS includes non-residential housing that is used for long-term habitation (lofts, apart-hotels, etc.), which resemble private rental operations. These premises are formally not residential, so they do not need to be registered. According to the estimates of experts, the total stock of room and loft 'suites' that make up this segment accounts for about 0.02 per cent of the total housing stock.

Rental housing thus forms 26 per cent of the total housing stock (10 per cent of dwellings are rented out by individual 'non-professional' landlords, 12.8 per cent by the state and the municipalities, and 3.2 per cent by private legal entities). The PRS accounts probably for 13 per cent of the total housing stock or 50 per cent of the total rental housing stock.

The structure of the private rental housing sector can be analysed using the example of Moscow, on which the most analytical information is available. According to the Rosstat data, the aggregate floor space of housing in the city of Moscow is 235 million m² (as of the end of 2014). There are a total of 5 million occupied housing units, including 3.2 million units that are privately owned. Based on figures provided by experts,¹⁵ the total volume of PRS in Moscow can be estimated at around 400,000 housing units. One-room (44 per cent) and two-room (40 per cent) flats dominate in the PRS; three-room (14 per cent) and multi-room (2.3 per cent) flats are less common. The structure of the supply of PRS housing has shifted towards smaller units than the average size in the total housing stock (Fig. 12.3).¹⁶

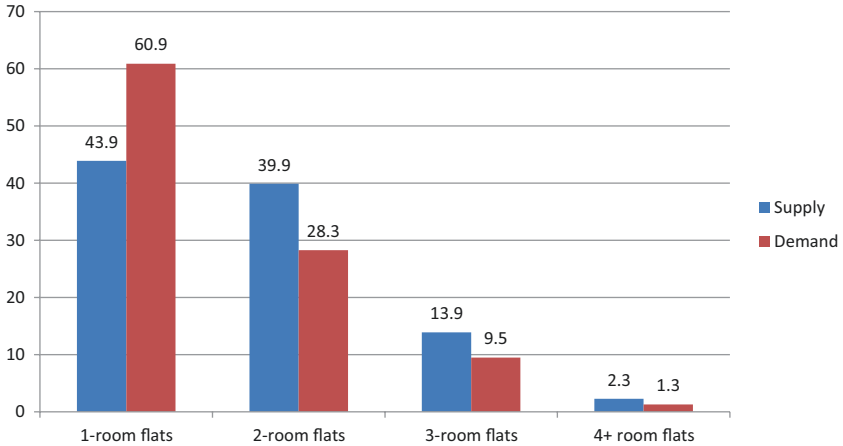


Fig. 12.3 The structure of supply and demand for private rental housing in Moscow (in per cent from total demand and total supply, December 2015). Source: Analytic Report of MIEL Real Estate Company—<http://arenda.miel.ru/press-center/analytics/7118/>

According to the classification used by Sternik’s Consulting, the private rental housing market is divided either into two classes (mass lodging and prestigious lodgings) or into four sub-classes (economy, comfort, business, and elite). Rents in one-room economy-class flats can be up to RUB 35,000 (EUR 487), in comfort-class flats they are RUB 35,000–90,000 (EUR 487–1250), in business-class flats RUB 90,000–180,000 (EUR 1250–2500), and in elite-class flats they are more than RUB 180,000 (more than EUR 2500). The database of MIEL Rest Estate Company showed that the largest share of flats (95 per cent of the housing units) is in the economy and comfort classes, and only a small portion (3.6 per cent) is in the business class, while an insignificant portion is in the elite class. However, in terms of revenues from rental income, the business class produces 10 per cent of total rental income and elite class 7.4 per cent of total rental income.

Demand and Supply of PRS

Landlords are (1) people with low income (mainly pensioners, lone mothers, marginalised persons, etc.) who let rooms in flats in which

they also continue to reside (in the bottom end of the economy class); (2) people who are living or traveling long term elsewhere (comfort and business class); (3) people who for various reasons are the owners of a second flat (e.g. left vacant after the parents' death, or after moving into the residence of a spouse or partner; these dwellings can be in any segment from economy to business class); and (3) buy-to-let investors, who purchase one, two, or more flats to rent them out (comfort and business class). These investments are often seen as inflation and pension hedges and are expected to yield medium-term capital gains.

Tenants can be grouped into the following categories: (1) temporary migrants and middle-income students demanding standard economy-class housing; (2) migrants who save up to buy a flat and who also demand economy class; (3) business people and officials who are on business trips most of the time and need a place for temporary residence (they search for business class); (4) staff of foreign firms and high-paid staff of domestic companies who rent elite-class accommodation paid for by their employer; (5) creative and sports organisations who invite guest performers on long-term contracts (they demand comfort and business class); and (6) households that do not live in their own housing for various reasons (young families, a person recently divorced, single children of well-off parents, middle-aged and elderly households living in the rented accommodations of worse quality while at the same time letting more spacious and expensive accommodation of their own, etc.) and demand premises in economy and comfort class.

The Russian PRS has often been described as a landlord's market (Peppercorn and Taffin 2013),¹⁷ but this is no longer the case due to the economic recession. For instance, in late 2015 the supply of rental flats in Moscow was more 1.7 times the demand. The average rent level grew until the end of 2014 and then the trend reversed (Fig. 12.4). The average term of a rental contract (90–95 per cent of all rental contracts) is one or two years. Seasonal (short-term) rentals comprise 5–10 per cent of rental contracts.

At the current level of housing prices, the actual annual yield from renting an economy-class two-room flat varies from 4.3 per cent in Moscow to 6.9 per cent in Chelyabinsk (Table 12.1),¹⁸ which is, however,

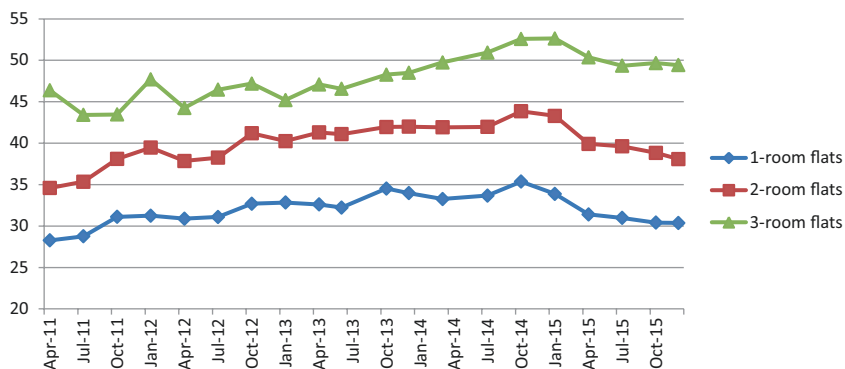


Fig. 12.4 The trend in average rent levels of economy-class flats in Moscow (thousand RUB). Source: Analytic Report of MIEL Real Estate Company—<http://renda.miel.ru/press-center/analytics/7118/>

Table 12.1 Rental yields and price-to-rent ratio for cities with a population above one million of inhabitants (January 2015)

City	50 m ² floor area flat				
	Average annual rent, RUB	Average price, RUB	Price-to-rent, years	Rental yields (PIT included), % ^a	Rental yields (PIT excluded), % ^a
Volgograd	180,852	2,581,027	14	6.91	6.00
Voronezh	156,084	2,844,841	18	5.39	4.67
Yekaterinburg	248,820	3,821,166	15	6.41	5.57
Kazan	202,992	3,774,758	19	5.28	4.58
Krasnoyarsk	203,952	3,129,551	15	6.42	5.57
Nizhny Novgorod	218,496	3,401,765	16	6.32	5.49
Novosibirsk	229,776	3,382,368	15	6.69	5.81
Moscow	516,300	11,743,499	23	4.30	3.72
Omsk	155,844	2,484,875	16	6.17	5.36
Perm	209,652	2,803,653	13	7.38	6.41
Rostov-on-Don	217,776	3,394,420	16	6.32	5.48
Samara	210,576	3,459,554	16	5.99	5.20
St Petersburg	324,264	6,294,831	19	5.05	4.38
Ufa	218,208	3,563,405	16	6.02	5.23
Chelyabinsk	175,356	2,509,419	14	6.89	5.98

^aThe property tax was estimated as 0.1 per cent of the cadastre value, which was assumed to equal the property's market price

Source: Domofond—www.domofond.ru

below the bank deposit rate (for a one-year deposit equal to 10.3 per cent).¹⁹ After paying the personal income tax on income from rental operations, the annual yield would decrease to 3.7 per cent (Moscow) and 6 per cent (Volgograd). The biggest buy-to-let market in Moscow has the lowest yield level. Under such circumstances corporate investors are not attracted to buy newly built buildings from developers, who are only able to sell units to individual investors, who then rent them informally and skip paying taxes.

Here only the affordability of the PRS in Moscow is measured as average data for the whole country are not available. The simulations indicate (Table 12.2) that the rent-to-income ratio calculated for a standard housing unit with floor space of 54 m² slightly decreased during the transition but still remains high.

Landlord-Tenant Relations

As noted above, most rental contracts are nowadays concluded in writing, but the document is made public only if a dispute arises between the parties. Formal rental contracts often include clauses on penalties for rental arrears, but it is not clear how penalties are enforced in practice. The quality of formal contacts varies: most of them cover all important aspects of landlord-tenant relations, but some contracts do not contain provisions that adequately protect the rights and interests of the contract parties. Typical examples of inadequate legislative control that can cause problems in landlord-tenant relations include:

Table 12.2 Affordability of the PRS in Moscow

	1989	2009	2015
Average monthly rent of the flat (54 m ² , middle zone of Moscow, in RUB)	200 ^a	36,300 ^b	46,457 ^c
Average total monthly income of the family of three persons (in rubles)	550 ^d	125,670 ^c	163,512 ^c
Rent affordability index	0.36	0.29	0.28

Source: ^aBelkina 1993, ^b<http://www.realestate.ru/event.aspx?id=282>, ^cRosstat,

^dNarodnoye Khoziaystvo RSFSR v 1990, p. 13

1. Letting already rented housing. There are reported cases of citizens renting a flat in a low price category and then offering it for rent to another tenant. A person rents a flat at a submarket price and then sublets it to someone else, from whom he or she demands prepayment or collateral in an amount that covers all expenses for the first month and a profit on top. But when the tenant moves in, he or she encounters other tenants who have also paid rent in advance to the supposed 'owner' of the flat.
2. The failure of the landlord to return the deposit to the tenant at the end of the tenancy despite the absence of any damage.
3. The landlord raises the rent just after the tenant has incurred substantial costs in connection with moving into the apartment.
4. Landlords over-control the use of the flat; some landlords believe they have the right to visit the flat at any time.
5. The landlord imposes limits on the tenant's use of wire telephone communication and internet. Some landlords block international and long-distance telephone communication.

In general, imperfections in the legislation and in the private rental market itself contribute to the spread of negative practices that increase the expenses and risks of both private landlords and tenants, including the risk of opportunistic behaviour by both parties to the agreement, and they also create additional expenses connected with dispute resolutions of issues that could have been regulated by legislation or the contract.

The Future Prospects of the PRS

Economically, the future prospects of the development of the PRS largely depend on the attractiveness of the new legislative environment to private developers of rental buildings and on the interest of big employers in a mobile workforce. From a public policy perspective much would depend on whether additional measures of state support, in particular tax preferences, will be introduced and to what extent public authorities will be interested in PPP projects on rental sector development.

The chapter demonstrates that the PRS in Russia is rather weak and does not serve as a sustainable housing solution for potential tenants. At the same time the demand for an effective rental sector is high and increasing especially in big cities and areas of intensive economic development (new industrial clusters). Rental sector development is seen as a key factor in increasing labour mobility in the country, which is currently quite limited, with primarily only temporary or seasonal job migration. Furthermore, some policy-makers acknowledge that private rental housing may well be a cheaper alternative to the heavily subsidised new construction of social housing.

An overview of the literature on housing and urban planning policies in developed countries (Hoekstra 2003) reveals that there are three different types (archetypes) of housing policy: a liberal model (USA, Great Britain), a social-democratic model (Sweden, Netherlands), and a corporatist model (Germany, Austria). The basic archetype models reflect cultural differences between individual societies and also different concepts of the role that the state, family, various corporations, and public associations should play in housing provision. The role that the PRS will eventually play in Russia will depend on which model the country ends up following. Currently, Russian housing policy is characterised by the co-existence of elements of all three models, which is not a public choice but is rather the random coincidence of different policies (Kosareva et al. 2015).

The enduring economic recession in Russia means that the ambitious targets of rental building development set by the State Programme will probably not be met in the near future;²⁰ there are still just a modest number of rental building projects. The share of newly built commercial and social rental buildings formed only 0.7 per cent of all newly built multi-apartment buildings in 2014, far below the expected program targets.²¹ This means that in the visible future the PRS will be still dominated by non-professional individual landlords. The priorities for developing this segment of housing could focus on stimulating conscientious behaviour on the part of both landlords and tenants and on making formal legal contracts more appealing to both sides by introducing better legislation regulating tenant-landlord relations and strengthening the enforcement of the law.

Such regulatory changes should include setting up a tenure-neutral tax regime, simplifying taxation, and encouraging use of the license model.²² Experience has shown that administrative measures alone will not make a significant difference and could even lead to more rental activities moving into the shadow economy. Moreover, in the short term, decreasing tax rates on rental income coupled with other proposed measures might actually have the effect of increasing, not decreasing, tax revenue collection. The fact that a considerable number of landlords are pensioners, including some who live alone and for whom renting dwelling units is a considerable source of income, makes the issue of taxation enforcement sensitive. Introducing specific tax deductions for different types of landlords could also help (e.g. those who are letting only one housing unit or certain vulnerable categories of landlords). Such deductions should only be open to landlords after registering the rental contract with the state authorities and on proof of payment of income tax. Consideration should be given to introducing a tenure-neutral tax regime and possibly allowing not just people who buy housing but also tenants to take advantage of tax deductions. Similarly, the number of categories of households eligible to receive rent allowances in the PRS should be reconsidered. From a societal point of view, it is important that public recognition be made of the important social function that individual landlords perform.

Legal rental contracts should be made more attractive by improving regulatory provisions in federal legislation that govern landlord-tenant relations and by promoting effective rental contract models. An important issue that needs to be addressed in regulation is the how and under what conditions rental contracts can be terminated early by either party to the contract. As demonstrated above, the way this is currently regulated under the Civil Code is unfavourable to landlords and does not encourage them to draw up formal contracts in writing. Another important area that needs to be further addressed is dispute resolution procedures. These procedures should be designed to be fast and effective at resolving disputes and reducing the burden these procedures place on the judicial system. It would be possible to include in rental contract provisions the option that in the case of a dispute the parties turn to mediation or arbitration,²³ where the arguments of the contract parties can be examined.

Notes

1. Income not earned through employment, that is, 'unearned income'.
2. A decree from 1963 set the maximum monthly rent at 16 kopecks per square metre of usable housing space.
3. These dwellings could also be privatised either before or after the transfer to municipal ownership.
4. Recent legislative amendments to rental contract registration and alternative taxation models are described below.
5. Local governments could set tax rates in the range 0.1–2.0 per cent of the inventory value depending on the magnitude of the inventory value. Since 2015 amendments were made to the tax code setting the cadastral value instead of inventory value of a dwelling, which is supposed to be close to the market value of the housing property. The basic tax rate is set at 0.1 per cent; the legislation also establishes an untaxable minimum housing space and benefits certain categories of households. However, this legislative amendment has not yet affected the PRS. During the economic recession the assessed cadastral values in many cases appeared to be higher than the current market ones, which fuelled numerous complaints from landlords.
6. The written form of rental agreement (art. 674), the transfer of a landlord's obligations after the transfer of ownership (art. 675), the right to sublet the housing premises (art. 680) and restrictions on the reconstruction of a housing unit by a tenant (art. 678).
7. Until 2014, when amendments were made to the Housing Code.
8. Damage to real estate property blamed on a tenant could be also a ground for eviction.
9. Up to 1 year in order to fix the damage or pay back the debt, and if the tenant fails to meet to do either of these things up to 1 year to hold on the decision on eviction.
10. Hereinafter based on the Central Bank of Russia exchange rate as of 19 August 2016: 1 EUR = 71.9 RUB.
11. This indicator, 'The proportion of households who can afford to buy a dwelling, conforming to floor space per capita standards, with their own and borrowed funds', reflects the share of households whose income is sufficient for them to be able to make monthly mortgage payments, based on an assumed down payment of 30 per cent of the property's value.

12. This is also a problem for housing supply at the moderate price segment of the purchase market.
13. Some former departmental housing that was divested during the privatisation of state enterprises did not have a clear status under the law, and its status was disputed during the 1990s and early 2000s. By end of that time most legal issues were solved.
14. The assessment was supported by the author's interviews with real-estate market professionals.
15. I. Peppercorn and C. Taffin note that 'anecdotal evidence suggests that in Moscow some 17 per cent of dwellings are tenant-occupied'. The estimate here is more conservative: less than 15 per cent.
16. According to 2010 census, one-room flats comprise 31 per cent of the total Moscow housing stock, two-room flats 39 per cent, and three-room flats 23 per cent.
17. I. Peppercorn and C. Taffin estimated the demand for rental dwellings in Russia as three times higher than the supply.
18. Annual yields on one-room flats would be a bit higher, reaching 8 per cent in Novosibirsk.
19. The average for Russian banks; data from—http://www.cbr.ru/statistics/b_sector/deposits_15.xlsx
20. Tax preferences are not likely to be introduced in the current economic situation.
21. The specific targets were set by the State Programme: the share of newly built rental housing should be 2.0 per cent by 2014, 3.8 per cent by 2015, and 9.4 per cent by 2020 of all new housing construction in multi-family apartment blocks.
22. The terms of the license system of taxation should be adjusted to make it attractive to the majority of individual landlords.
23. The practice of actors in the real-estate market establishing such arbitration tribunals already exists.

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13

Slovenia: Untapped Potential

Richard Sendi

Historical Foundations: What Remains of the Socialist Legacy

The available historical publications do not reveal much about the nature and manner of operation of the private rented sector (PRS) throughout the period of communist rule that preceded the introduction of a market economy in 1991; the extensive review of the literature and policy documents shows that subject has been hardly discussed. Marinšek et al. (1983) does, however, make reference to private rental activity before the end of the Second World War. Discussing various forms of housing provision at the time, it is stated that self-built housing, with a relatively solid private rented housing sector, was the characteristic mode of satisfying housing needs until the end of the war. This period was characterised by a free market housing policy approach, during which state-organised mass public housing remained minimal. This situation considerably changed after

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the Second World War. The communist regime embarked on an extensive expropriation exercise, during which a large number of privately owned properties were confiscated and nationalised. The nationalised property included single-family houses as well as the multifamily residential buildings which had previously typically constituted the private rented stock. Upon confiscation these properties became public rental housing, most of which was allocated in reward to war efforts or party loyalty. Nonetheless, due to the limitations of state provision, private ownership remained necessary, although private property was strictly regulated in order to prevent capitalist exploitation. Private renting of housing was not explicitly forbidden, but was also not a significant tenure form (Petrović 2014).

Post-war state housing policies were directed primarily at satisfying the housing needs of the citizens through the provision of state-financed mass public housing. The basic ideology regarding housing care of the political regime at the time may be best demonstrated by the resolution passed by National Assembly of the Socialist Republic of Slovenia:

The long-term goal of the policy for the improvement of living conditions is to provide the entire urban and rural population, not only with better housing, but also with better communal infrastructure. (The Informer of the National Assembly of the Socialist Republic of Slovenia 1982)

From the perspective of the state, the dedication to provide adequate housing for all citizens meant that the PRS was an irrelevant tenure, for which there was no need to adopt any state policies or provide any form of government support. However, despite the relatively intensive and extensive mass housing construction efforts of the 1960s and 1970s, the state was not able to fulfil the objective to provide housing for all its citizens. There still remained a certain proportion of the population who, for one reason or another, were not able to solve their housing problem neither within the public nor the home-ownership housing sectors. The obvious alternative tenure for this category of consumers was, of course, the PRS.

Between 1965 and 1970, state banks assumed an active role in providing loans for single-family housing construction. This indicated recognition, on the part of the state, of the need to encourage individual initiative

in housing provision. The possibility to acquire housing loans from banks led to more intensive single-family house building, as a result of which home-ownership reached over two-thirds of the total housing stock at the time of the introduction of major housing reforms in 1991. Private ownership was, therefore, not only accepted, but eventually even supported under socialism. Private renting, on the other hand, remained ignored by policy throughout this period. As the need for private residential renting could be seen as a sign of the state's failure to provide adequate housing to all its citizens, the lack of official recognition may be explained by the socialist regime's reluctance to publicly admit such failure though providing support to PRS (Sendi 1999). Nonetheless, as this compromise was inescapable, private rented accommodation was tolerated. Although the state implemented no policies to encourage the operation and development of the PRS, it was widely acknowledged that part of the privately owned stock was used, in various ways, as private rented accommodation. Without support and official state recognition, and without an appropriate legislative and institutional framework required for adequate functioning, the PRS inevitably operated mostly unregistered, as a 'black market' activity.

Despite the expectations of housing policy professionals, this state of affairs persisted even after the adoption of a market economy. Although PRS could have become officially recognised and suitably supported by state housing policies, as it was no more opposed to state ideology, the tenure has continued to be denied explicit recognition and the necessary state support, be it legislative or financial. According to Census 2011 data, Slovenia's housing stock comprised 844,650 dwellings, of which 22 per cent was vacant. Of the inhabited housing stock, 90 per cent is privately owned, 6 per cent is not-for-profit rental, and less than 2 per cent of inhabited dwellings are privately rented (Statistical Office of the Republic of Slovenia 2013). It must be noted, nonetheless, that almost 13 per cent of inhabited dwellings were reported as 'rent free', and 20 per cent as vacant (although only about 60 per cent of vacant dwellings have adequate infrastructure to be habitable year-round); and an important proportion of these is likely to be hidden private rentals.

According to some scholars, this strongly home-ownership-dominated tenure structure is deeply rooted in the historical foundations that were laid

down by the post-war communist regime. This school of thought suggests that the continued non-recognition of the PRS and of its potential positive role can be explained by the legacy of the unfavourable political ideology of the socialist past. Path dependence thus is suggested to play an important role: despite the changes in the political system, some ideological heritage of the socialist era subtly continues to exist, negatively impacting the attitudes of politicians and policy-makers towards private renting as a housing solution. According to a study, home-ownership was still a strongly preferred tenure in the mid-2000s (2006: 130), and even though the financial crisis of the late 2000s may have cast some doubt as to the stability of ownership, renting on the private market continued to be perceived as a temporary solution into the 2010s (Petrović 2014: 51–52; Drogenik 2015: 10). The continued non-recognition and the very limited role of the PRS is a phenomenon that remains a serious challenge for researchers.

Private Renting Today: The Evolution of the Housing System After 1990

The adoption of a market economy after Slovenia gained independence in 1991 also required the introduction of a new political and administrative system. This political and economic transition was necessarily accompanied by drastic changes in various policy areas, including housing. Major reforms regarding housing provision, support, and allocation were introduced by the Housing Act that was adopted in 1991.

The 1991 Housing Act defined two fundamental housing tenures: the owner-occupied and rented tenure. According to this Act, owner-occupied housing was defined as a dwelling constantly used by the owner and/or their closest family members for their permanent housing needs. The rented housing tenure was further divided into:

1. social rented housing—dwellings leased to low-income households by social landlords (the municipalities act as the main landlords);
2. not-for-profit rented housing—dwellings leased at affordable rent levels (the municipalities act as the main landlords);

3. employer housing—dwellings offered for rent by companies to employees; and
4. for-profit housing—leased by private owners.

The ‘for-profit’ rental tenure is what will be referred to here as private rented housing; and the related sector as the PRS. Other than the anticipated various impacts on the housing situation in general, the housing reform policies that were implemented had also been expected to significantly impact on the development of the PRS in the country. With respect to these anticipated developments, three major policy interventions can be identified, namely (1) the privatisation of the previously state-owned public rental stock, (2) the restitution of previously nationalised property, and (3) rent reform and the adoption of a new national housing programme.

Housing Privatisation

Privatisation of the public housing stock took the form of the massive sell-off of public housing units at steeply reduced prices to sitting tenants, executed by the new social landlords—municipalities—on the basis of the 1991 Housing Act, which had transferred the entire public housing stock into the ownership of the local authorities. Taking into account all the discounts and deductions that were offered during the privatisation, the average selling price was estimated to be approximately 10 per cent of the average market value in Slovenia at the time. At the expiry of the two-year period that was determined for accomplishing the housing privatisation process, 79 per cent of the total public stock had been sold off. At the end of the privatisation process, about 77,000 dwellings remained as public housing stock leading to a ratio of 89 to 11 of the total housing stock, in favour of the privately owned stock. Before privatisation, the ratio of private-to-public stock had been 67 to 33, respectively. This means that 22 per cent of the present homeowners acquired ownership through the privatisation process.

Housing privatisation had several impacts on the housing situation. The immediate effect was the above-mentioned sharp increase in the level of home-ownership, as well as the decimation of the social rented housing stock. There has since been a drastic shortage of the supply of social housing

and affordable housing generally. Another, not-so-obvious, side effect of massive privatisation was the accumulation of capital by some wealthy individuals who were able to purchase more than one rental unit at the time of privatisation (Sendi 1995). While the right to purchase public housing was limited to sitting tenants or their immediate family members, multiple purchases of public housing dwellings by a single individual were not explicitly prohibited. And since no prior verification was made to establish genuine family ties, some sitting tenants who were unable to buy their respective dwellings sold their tenancy rights (the right-to-buy) to those who had the means and were willing to purchase dwellings as an investment in the PRS. The transfer to a third party of their right-to-buy was, of course, appropriately rewarded in the form of a cash payment. Most of the tenants that sold their right-to-buy then signed contracts of renewal of tenant status with those to whom they sold their tenancy rights, who thence became their new landlords. Other tenants, after selling their tenancy rights moved to smaller housing units for which they could pay lower rents and lower operation costs. Although there are no official records on the extent of the transactions of this nature that were executed during the privatisation process, it is generally acknowledged that some of the dwellings acquired in this manner became part of the private rented stock. As Mandič and Filipović Hrast (2002) explain, the rental housing sector underwent major transformations such that the previously dominant large institutional landlords (state-owned companies) were suddenly replaced by small-scale landlords. It is, however, regrettable that these developments did not result in the creation of a proper and efficiently operating PRS. And while no systematic research has been conducted to date to establish the detailed history of the entire housing privatisation process, it is widely known that some of this stock is let out in the private sector informally, that is, without official registration of the rental activity. Terms commonly used to describe most of the current private renting activity include *informal*, *underground*, and *black market*.

Restitution of Previously Nationalised Property

Of the 77,000 dwellings that remained as public housing stock after privatisation, it is estimated that approximately 13,000 dwellings were previously nationalised residential properties. One of the measures

introduced after the adoption of the market economy was also the restitution of property nationalised after the Second World War. Restitution was conducted on the basis of the 1991 Denationalisation Act, which stipulated that all property forcibly expropriated by previous communist regime must be returned to its rightful owners or their heirs, with the immediate establishment of individual ownership rights over the restituted property (Sendi 1995).

It is estimated that about 9000 claims for restitution have been filed to date. According to the data provided by the ministry responsible for housing, over two-thirds of these properties, about 6000 dwellings have so far been returned to their rightful owners or their heirs. Like privatisation, the restitution of nationalised dwellings resulted in the further reduction of the public rented stock, contributing to the expansion of the private rented stock. Upon the implementation of the Denationalisation Act, the occupants of nationalised dwellings ceased to be social tenants of state-owned housing and found themselves as tenants of new private landlords who had regained ownership of the previously nationalised property. The situation that emerged following the implementation of the Denationalisation Act continues to be a source of conflict between the new landlords and their 'inherited' tenants. In order to enhance their capacity to fight for their rights, each side of the conflict created an official representative organisation, namely, the Association of Landlords of Expropriated Property and the Association of Tenants of Slovenia, respectively.

On their part, the tenants feel they have suffered an injustice because they were not able to buy their respective dwellings during the privatisation process, as the right-to-buy option was, in this case, possible only if the restituted owner agreed to sell the property. They have been advocating legislation that would enable them to purchase dwellings under the same conditions as those that enabled sitting tenants to become home owners at the 'give-away' prices mentioned above. In an attempt to solve this problem, the Housing Act of 2003 introduced new provisions intended to help tenants of restituted property to purchase the dwelling which they inhabit, should they wish to do so. In the event of a tenant choosing to purchase another dwelling, they would be entitled to receive from the government a compensation amounting to 36 per cent of the

cost of the dwelling being purchased, 25 per cent of the cost in bonds issued by the Slovenian Compensation Fund (a state financial organisation created for settling obligations to beneficiaries according to the Denationalization Act), and 13 per cent of the cost in government securities. According to this provision, the offer of this state aid (amounting to a total of 74 per cent of the cost of the alternative dwelling) was available within a period of five years after the adoption of the act, although no information is available to date as to the number of tenants who pursued this provision. Nonetheless, the tenants' struggle continues. After failing to secure the desired outcome from their numerous efforts at home, they finally took their case to the European Court of Human Rights in Strasbourg. However, the court ruled in favour of the state, in 2014, stating that no violation of human rights occurred. As for now, they continue to have the legal right to stay as tenants paying state-controlled not-for-profit rents (discussed below).

The restituted landlords, on the other hand, also claim that the Denationalisation Act violates their right to ownership, which otherwise is guaranteed by the country's constitution. They protest against legislation which returned their previously nationalised property but restricts them from exercising full ownership rights. The major reason for their dissatisfaction is that the legislation allows the 'inherited' tenants the right to stay in their property indefinitely, paying state-controlled not-for-profit rents, but does not provide for any means of compensation for the landlords to cover for lost income as a result of not being able to freely let out their property on the private rented market. They have also constantly complained that while the tenant pays only not-for-profit rent, which hardly covers costs for routine maintenance, the landlords carry the responsibility for performing all major repairs and the necessary renovation works. Moreover, they have to pay tax on rental income.

Rent Policy

Under communist rule, the state administered systematic rent controls, topped up with generous subsidies from the national budget. This form of general subsidisation was abolished upon the implementation of

housing reforms. Henceforth, the state would offer housing subsidies only to the low-income and other vulnerable groups of the population. However, the state regulation of rents did not cease entirely, even after the adoption of a market economy system: rent control continued in the social and not-for-profit rented housing sector. Such controls also applied in the case of the sitting tenants who were not able to purchase their respective housing unit during privatisation. This actually means that whoever eventually bought out a dwelling still occupied by a sitting tenant could not charge rents above those set by state regulation, although the property had effectively shifted into private ownership upon purchase. Furthermore, the administrative control of rents was also extended to the sitting tenants in restituted dwellings. This measure was intended a compensation of sorts for the sitting tenants of restituted properties who were not offered the opportunity to purchase their rental unit.

All the categories of tenants mentioned above pay a 'not-for-profit' rent, which can barely cover the operation and maintenance costs. In addition to the administrative rent control, the Housing Act also includes a provision prohibiting charging 'exorbitant' rents, which puts a limit to the maximum rent payable even in part of the PRS. 'Exorbitant rent' is defined as rent that exceeds by more than 50 per cent the average free market rent paid for comparable housing in the same municipality, taking into account location and housing quality. According to this provision, the tenant has the right to demand that the municipal authority competent for housing matters verify whether the rent charged is in conformity with legal provisions. It must be admitted, though, that due to a great shortage of rental housing, private sector tenants are usually prepared to pay the required rents (even if 'exorbitant').

These rent regulations have equally affected private landlords and social landlords. The administrative control of rent levels has clearly negatively impacted on the development of the PRS. These rent controls are strictly enforced by legislation. While local authority housing departments are struggling with the indirect subsidisation of their rental stock in order to ensure necessary maintenance, rent level restrictions have a double negative impact in the PRS. First, there have been numerous complaints by tenants of restituted properties who have accused their landlords of not performing the required maintenance activities due to the fact that the

rents they are paid cannot cover maintenance costs. Second, such rent controls also have a deterring effect on some of the potential private sector landlords, particularly small-scale ones, who prefer to keep their surplus housing vacant, rather than risk potential conflicts with tenants. This has resulted in the failure to stimulate a diverse and competitive private rental market. As long as the not-for-profit rents remain at their current low levels that cannot cover maintenance and management costs, the emergence of a properly functioning and efficient PRS is unlikely.

The National Housing Programme

Together with the introduction of housing reforms, the 1991 Housing Act also stipulated the adoption of the National Housing Programme (NHP) as the government's principal housing policy document. The task to prepare the national housing policy fell under the competences of the Ministry of the Environment and Physical Planning, which is responsible for housing. It took nine years before the first NHP was adopted by the National Assembly in 2000. The Programme was premised on the 'enabling principle', which was described as a modern approach, adopted to replace the out-dated doctrine of housing provision by the state. It was further stated in the document that this approach 'ensures the debureaucratisation of the housing sector and the replacement of administrative housing allocation, by measures necessary for the organisation of a housing market, and offering support to private initiative' (Ministry of the Environment and Physical Planning 2000: 5771). The post-transition housing policy, therefore, sought to enable citizens to secure, through individual effort, housing that is suitable to their needs and to the needs of their family. The government's role, henceforth, was to provide assistance through various forms of subsidies only to those groups of the population who are not capable, financially or otherwise, of solving their housing needs by themselves (Sendi 2003, 2009).

The NHP laid down the requirements and measures for the implementation of housing policy for the period 2000–2009. This also included specific measures concerning the development of the PRS. The activation and recognition of the role of the PRS was urgent, especially in view of

the new policies that had abolished state housing provision and created a sharp decline in the production of new housing. The authors of the document anticipated that the constant high demand for rental housing, especially in big cities and regional centres, would be met within the PRS. It was recognised that the PRS would successfully operate only if market conditions are provided that guarantee potential landlords a suitable yield on their investment. Among the most important goals set by the new housing policy concerning the PRS were following:

1. The establishment of partnerships between the public and private sector.
2. The provision of a legal and organisational framework for the co-ordinated operation of all the actors in the housing field.
3. To ensure equilibrium of housing supply and demand in order to maintain a sufficient number of dwellings for purchase and rental purposes in cases of inadequate supply or high demand.
4. To encourage and promote the operation of the housing market and its positive effects on social and economic development.
5. The government and local authorities shall encourage especially the construction, renewal, and purchase of rental non-profit and social housing. Incentives shall also be provided to mobilise personal savings for the purpose of investment into the private rental sector, in addition to encouraging investment into home-ownership.
6. To exert influence, through the application of appropriate measures, on the money markets for the purpose of providing loans for housing construction. Such intervention on the real estate market will encourage competitiveness and bring about improvements in the market, which will lead to an increase in supply and a reduction in demand. By offering tax incentives, particularly with respect to real estate taxation, the government will be able to gradually achieve a more rational use of the existing stock.

Notwithstanding its ambitious goals, a detailed analysis of the impact of the implementation of the NHP showed that practically none of them were successfully implemented (Sendi et al. 2007). As shown in the following section, the government has not yet been able to put in place an

appropriate legal and institutional framework necessary to enable the efficient operation of the PRS. Meanwhile, the non-recognition of the sector and the state's failure to provide the required policy support have left the PRS to operate in a manner characterised by several negative attributes, the most important of which are:

1. The actual size of the rental stock is uncertain, whereas accurate information would be vital for establishing actual housing needs and planning for them.
2. It is not possible to verify or control the quality of the dwellings on offer on the private rented market.
3. Since the activity is, in the vast majority of cases, performed unregistered, the data officially recorded during censuses as either 'vacant dwellings' or simply in the category 'other' is not entirely accurate. It is generally known that part of this stock is let out on the private rented market, although it would be extremely complicated to make a realistic estimation as to the percentage of this hidden part of the stock.
4. The risks and conflicts inherent in the current situation discourage potential investors and landlords. There is a likelihood that part of the dwelling stock is indeed kept vacant due to inappropriate or inadequately regulated legal issues (e.g., high taxation on rental income, complicated and excessively lengthy eviction procedures, etc.).

The PRS is therefore unable to more efficiently play its role as an important tenure in the housing supply system.

Snapshot Analysis of Recent Status of PRS

While data on the size of the PRS may have been gathered, especially during previous censuses, they were not made available to the general public until 2013 when, for the first time since its creation in 1944, the Statistical Office of the Republic of Slovenia (SORS) published data also on the size of the private rented stock (Table 13.1).

Table 13.1 Tenure structure within occupied dwelling stock

Tenure type	No. of dwellings	%
Owner-occupied	523,070	78.06
Rent-free	84,905	12.67
Rented, of which	62,152	9.27
Not-for-profit	43,438	6.48
Market	12,378	1.85
Employer	4405	0.66
Institutional (elderly, students, etc.)	1931	0.29
Total occupied stock ^a	670,127	100.00

Source: Statistical Office of the Republic of Slovenia (SORS) (2013)

^aTotal occupied stock includes owner-occupied, rent-free, and rented

While this pioneer publication of data on the size of the PRS is greatly appreciated, a closer examination of the figures presented in Table 13.1 raises doubt regarding the accuracy of the data, especially with respect to the size of what is officially presented as the ‘market’ share (1.85 per cent) of the total occupied stock. The true size of the PRS is (probably considerably) larger than this. At the same time, it must also be admitted that a realistic estimate on the real size of the sector is practically impossible to make at this point, as the current poor regulation of PRS does not permit comprehensive and accurate data collection on the operation of the sector.

Henceforth three main arguments will be presented which challenge the validity of the data published on the size of the PRS. First, the so-called rent-free tenure, defined by SORS as dwellings occupied by persons who are not owners and do not pay rent (such as relatives, friends, and the like), is also common to other countries. However, what is striking, in this case, is that its size is much larger than that of all the other rental tenures put together. This casts serious doubts on the accuracy of the data, especially since no measures were taken to verify that all these ‘rent-free’ dwellings are in reality occupied by people who do not pay rent. Second, the census has found that nearly 21 per cent of the total housing stock was ‘vacant’. While a certain proportion of the dwelling stock might have truly not been permanently occupied, particularly second homes without adequate infrastructure (about 40 per cent of vacant dwellings), this once again is a piece of data that warrants great caution. In both cases, there is

a high likelihood that an important share of these ‘vacant’ and ‘rent-free’ dwellings is in reality let out on the private rented market. Third, the data published in Table 13.1 on the ‘market’ (private rented) tenure represents only the private rented properties that are officially registered with the local authorities. It is vital to note that the registration of private rental activity is not a legal obligation in Slovenia. On the other hand, there are factors, such as taxation and tenant protection legislation, which discourage landlords from registering. It is thus generally acknowledged that a larger part of the PRS operates without registration or, as indicated above, as a black market (Sendi 1999, 2003; Petrović 2014; Drogenik 2015).

As discussed above, the PRS had been completely ignored in Slovenia by the state throughout the post-war period. The only regulatory measures that have been implemented in this regard concern the taxation of rental income and the protection of tenant rights. In the case of the latter, current legislation guarantees the tenant comparatively more rights than it does for the landlord. A most critical issue regarding the legal environment is the very lengthy judicial procedures in case of conflict situations, which can take up to five years before conclusion. As such, both measures have been frequently criticised for their negative impact on the functioning of the PRS. Although the housing reforms envisaged private initiative to assume a bigger role, not only in the home-ownership sector but also in the PRS, we find that the PRS remains a neglected tenure with indications that policy-makers have not yet realised its importance and potential as a supplementary housing tenure.

The current status of the PRS may be best described with the help of the results of a survey conducted between 2001 and 2014 (Sendi and Černič Mali 2015) on the operation of the sector in Ljubljana, the capital city of Slovenia, with the highest demand by far for rental housing in the entire country. Below, we briefly present the findings of the survey regarding the nature and manner of operation of the sector. The first observation is that the private rental market is dominated by relatively small dwellings. The most frequently advertised properties were in the 20–39 m² and 40–59 m² dwelling size categories. The average size of the dwellings investigated was 52 m² (Table 13.2).

Regarding the type of landlordism, the survey showed that the private rental market appears to be dominated by small-scale landlords for whom

Table 13.2 Dwelling size categories

Dwelling size (m ²)	%
19 or smaller	14.9
20–39	29.1
40–59	23.6
60–79	13.5
80–99	10.1
100 or larger	8.8
Total	100.0

Source: Sendi and Černič Mali (2015)

letting does not present their main occupation or source of income. Of the rental properties investigated, 52 per cent was found to be located in multifamily housing blocks, about one-third in single-family detached houses, and the rest in single-family row houses. The few large-scale landlords are typically restituted property owners who let out entire buildings, which may also include business premises in addition to dwellings.

Due to a shortage of official university residences, small-scale landlords offering bedrooms, bedsits, and one-room apartments play a significant role in the provision of accommodation for students in Ljubljana. And although the majority of the landlords investigated in the survey did not express any particular preference for a special category of tenant, landlords who let out the smallest rental units prefer to have students as their tenants, partly because the smallest rental units are normally bedsits and one-room apartments which are suitable only for single people, and partly because they normally rent for shorter periods, therefore it is much easier to terminate the tenancy arrangement (not necessarily a legitimate rental contract) with a student than with a family tenancy, especially if the family includes young children.

Given the circumstances under which private rental activity is currently performed, the survey revealed a surprisingly high share—42 per cent—of landlords receiving the rent payments thought their bank account, as compared to those collecting the rents in cash (45 per cent). The remaining 13 per cent stated that they would leave it up to the tenants to choose the payment method. In view of the fact that a large proportion of the private rental activity is performed informally (with the aim to avoid paying tax on rental income), one would have expected a much higher proportion of landlords collecting rents by cash.

Table 13.3 Rent amount by square metre

Rent amount (EUR/m ²)	%
3–5.99	6.9
6–8.99	32.3
9–11.99	42.3
12–14.99	11.5
15–22.00	6.9
Total	100.0

Source: Sendi and Černič Mali (2015)

Given the broad range of dwelling sizes covered by the survey, the rent levels of the investigated properties were found to vary from EUR 110 (the lowest monthly rent) to EUR 1800 (the highest). Expressed otherwise, the lowest rent per square metre was EUR 4.17, the highest EUR 22. The most common rent amount category was 9–11.99 EUR per square metre, which was found to account for 42.3 per cent of the total survey sample, followed by the category 6–8.99 EUR per square metre, accounting for 32.3 per cent (Table 13.3). With the average monthly household income of EUR 1497 in 2011 (Statistical Office of the Republic of Slovenia), this meant that housing rent alone (excluding utility costs) accounted, on the average, for 30 per cent of the household income.

Another important finding in this connection was that the larger the property, the lower the rent per square metre and vice versa. It was thus found that tenants in the smallest rental units (19 square metre or smaller) paid, on average, 13 EUR per square metre, while those renting properties larger than 80 square metre were found to pay an average 8 EUR per square metre. There is thus a possibility that the lower income groups incur higher housing costs in the PRS, since they constitute the consumer category more likely to rent out the smaller dwellings.

Another important finding of the survey concerns the frequent allegation (in the public media and other social fora) that private rented accommodation is mostly provided without any form of security of tenure. It was found that a large majority—88.7 per cent—of the landlords that were covered by the survey did conclude rental contracts with their tenants. However, due to the restrictions embedded in the covert research methodology which was applied to conduct the survey, it was not possible to establish the precise nature of the rental contracts, for instance, whether

they were verified by a public notary, which would give them some judicial relevance in the event of a legal dispute, or are simply drafted and signed by both parties in a quasi-formal manner. Similarly, the exact purpose of the rental contract remains uncertain: it is not clear whether landlords present the contracts to the relevant local authority, which would mean registering the rental activity and, of course, paying the prescribed tax on rental income. Without accurate knowledge about these issues, there may be room for speculation that the rental contract is concluded simply as a ploy, intended to give the tenant an impression that the activity is properly regulated, and also to deter the tenant from defaulting on rent payments.

The registration of temporary residence of tenants at the address of the rental property was also found to be a common practice among the investigated landlords, whereby 81 per cent of them stated that such registration is permitted if the tenant requests for it. This, once again, is surprising, since the registration of temporary residence at a rental location would effectively mean providing information to the local authority about the rental activity. However, it is also the case that those who apply for temporary registration are not required to state to the local authority any reason for the temporary change of address. All that is required is that the landlord certifies that the person applying for temporary registration will indeed be residing at their address. The survey also revealed that some landlords demanded that a rent amount lower than the one actually paid by the tenant would be written in the rental contract if a tenant wished to register temporary residence at the rental address, presumably to lower the tax on rental income for landlords who do register their activity. And while such cases may imply a landlord that is probably performing the activity semi-formally, these kinds of behaviours clearly demonstrate some of the shortcomings of the PRS as a consequence of its inadequate regulation.

Future Prospects: Unrealised Potential Due to Delayed Reforms

Although the PRS has been ignored throughout the entire post-Second World War period till the present day, the sector does exist and operate, albeit mostly informally. The central state's continued disinterest in this

housing tenure form even after the collapse of communism remains unclear. Sendi (1999) initially argued path dependence, that is, the legacy of the previous communist system, which disfavoured and did not encourage, although quietly tolerated, the individual performance of profit-making commercial activities such as including private renting. However, this explanation should have ceased to be meaningful after the period of transition and reforms. Henceforth, one would have expected the PRS to expand and receive policy support to assume a role as an important housing tenure, but such support measures remain of limited reach and efficiency (Petrović 2014: 68–69, 73; Drofenik 2015: 22–24). In the absence of a more credible alternative explanation, one can hardly help but to believe that the current state of the sector is still impacted by the mentality imposed under communist rule, which hardly goes further than tolerating private renting, without realising its policy potential.

This situation notwithstanding, the PRS has persisted and plays an increasingly important role in the provision of housing for those who are not yet home owners, or are not capable of acquiring home-ownership. The results of the survey presented above (Sendi and Černič Mali 2015) indeed appear to indicate that the sector operates successfully to a certain extent, despite not being officially supported by the state. Despite the lack of accurate data, there are important reasons—particularly the outstanding percentage of ‘vacant’ and ‘rent-free dwellings’—to suspect that the sector is much larger than the official records claim, and that it is quietly growing both in size and importance.

The state recognition of the PRS and offer of policy support is urgent. The first measure should certainly be to adopt the relevant legislation governing all the most important aspects of the operation of the PRS such as rent policy, tenant/landlord relations, tenure security, incentivising taxation, and so forth. In continuation, government intervention in the development of the PRS should be directed at both ends of the private rented market, that is, the demand and supply sides. On the demand side, intervention should take the form of an offer of subsidies (housing allowances) for low-to-moderate income tenants, to assist them in paying market rents in private rented housing. Suggestions have been put forward that the new national housing policy, currently under preparation should, among others, also introduce the *social rental agency* (SRA) instrument of housing provision as a mechanism that would encourage

currently informally operating private landlords to operate lawfully, given the benefits that the SRA offer. The implementation of this instrument would also be expected to incite other landlords who are currently not eager to put their properties on the market under the prevailing circumstances characterised by an inadequately regulated PRS.

The liberalisation of rent regulations, which would fully take into account the principles of cost recovery and profit, for the purpose of encouraging investment in housing, should also be one of the major objectives of government intervention. The successful implementation of rent liberalisation measures would, of course, depend on the simultaneous adoption of a rent subsidy system intended to protect all income groups who would be disproportionately burdened by the rent increases.

Government intervention on the supply side of the private rented market should include the introduction of a system of financial incentives and assistance as well as the introduction of other fiscal and non-fiscal measures, intended to encourage investment in rented housing and to activate and bring into more appropriate use the existing idle stock. More concretely, the government should introduce income tax policies, which, while taxing rental income and real capital gains, allow nominal interest and other costs as a tax deduction. Furthermore, the tax system should adopt more efficient ways of taxing building land, buildings, housing, and business premises, while also offering appropriate tax concessions to savers for housing purposes and to those who invest funds in the purchase, construction, and renewal of housing for rental purposes.

Generally, however, it is vital to recognise that due to an increasingly shrinking social housing sector (especially due to welfare state retrenchment policies), a growing number of low-income households will rely on privately rented dwellings to solve their housing needs. The policies that have led to the level of private ownership to grow to 90 per cent of the total housing stock, with a hardly traceable hidden private rental sector, need to be thoroughly revised. There is a need to urgently shift the emphasis from home-ownership supporting policies towards a more tenure-neutral system, which also allows the expansion of the rental sector. In this revised policy, the PRS must assume and play a more complementary role in the provision of long-term housing alternatives for those who cannot or do not wish to become home owners and, due to a variety of reasons, cannot enter the dwindling social housing sector.

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Part III

**Conclusion: Private Renting—A
Viable Alternative?**

14

Private Renting in Social Provision: Social Rental Agencies in Western Europe

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Introduction

The private rental sector (PRS) plays an important role in the housing market by providing access to housing for those who are not willing or not able to enter home-ownership or the social housing sector. This chapter discusses the development of Social Rental Agencies (SRAs) and similar initiatives in Belgium (Flanders) and France. SRAs mobilise the PRS as a source of affordable housing for people at risk of or experiencing homelessness or housing exclusion. Given the fact that SRAs grew out of services for homeless and/or vulnerable people, SRAs can be a ‘model’

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for East-European countries, since these are confronted with an increase of homelessness following a sharp decline in social (rental) housing (Hegedüs et al. 2014). This gives rise to the question of whether new-style private rental arrangements can fill the gap left by social renting, with the awareness that free market-led home-ownership is not a realistic option for vulnerable people (De Decker 2014b).

SRAs act as a third party that mediates between tenants and landlords. This chapter demonstrates that SRAs and similar initiatives can make a valuable contribution to the overall social and housing policy mix used to address housing exclusion. It is hoped that the experiences presented can support reflection on the policy options available for sustainably meeting housing needs in post-socialist countries. The SRA model could prove particularly relevant to contexts where the social housing offer from the state and/or non-profit housing associations is limited, where supply-side investment is constrained, where institutional capacity is limited, and/or where the existing social housing is subject to competing demands.

The chapter begins by briefly introducing the PRS in Western Europe and the renewed interest in its social function in recent years. SRAs are then presented as an example of social innovation. A detailed case study of how SRAs have developed and flourished in Flanders (Belgium) is then presented. Lastly, comparisons are drawn between the Flemish SRA model and similar innovations in France.

The PRS in Western Europe

SRAs by definition make use of the PRS. It is important therefore to note at the outset of this chapter that there are large differences between countries in how the PRS is defined. Scanlon and Koclan (2011) have shown how the private rental market is frequently defined in opposition to social rental, which is conceptualised very differently in diverse national contexts. For the purpose of this chapter, we refer to the PRS as for-profit rental housing which is owned by private individuals or institutions as opposed to public or non-profit housing associations.

In 2014, approximately 19 per cent of the EU-28 population lived in a dwelling rented out at market price (EU's Statistics on Income and Living Conditions; EUSILC). In the EU-15, it was 22.5 per cent. Following World War II, the PRS experienced a significant decline in most Western countries (Lux and Sunega 2010). Home-ownership and social housing thus became increasingly dominant forms of tenure. Private renting has continued to decline since the 1980s in absolute and particularly in relative terms in most of Western Europe (Monk et al. 2012). There are some notable exceptions to these trends, such as Germany, where the sector currently represents around 30 per cent of the housing stock, and England, where the sector has grown significantly, almost doubling to about 17 per cent over the past 20 years (Scanlon et al. 2015). In the aftermath of the 2008 financial and economic crisis, budget constraints on housing policies and concern about the stability of housing markets have increased the interest of policy-makers and experts in the importance of the PRS (De Boer and Bitetti 2014). A 'renaissance' of the PRS has recently been identified in various countries, and there is a growing recognition of the importance of a well-functioning PRS as part of a balanced housing market. As De Boer and Bitetti (2014) note, 'policies meant to improve the PRS are becoming an important instrument to assure housing availability and affordability'. Both the Organisation for Economic Co-operation and Development (OECD) and the European Commission have made policy recommendations encouraging governments to create conditions that support the development of the PRS.

The PRS as a Source of 'Social' Housing

Social housing is conventionally defined as 'residential accommodation provided at sub-market prices by state or not-for-profit landlords and allocated according to administrative criteria rather than price' (Fitzpatrick and Pawson 2014 cited in De Boer and Bitetti 2014). However, definitions vary enormously between countries. For example, in Germany, the distinction between private and social rental rests on whether a dwelling receives temporary state subsidies, irrespective of the legal status of the owner.

Overall, the distinction between social housing and private rental is not clear-cut and can become ‘blurred’ (Hulse et al. 2010). Indeed, we shall see that SRAs explicitly seek to blur the boundary by using the PRS for the provision of affordable rental to those in housing need, a function typically associated with social housing. Furthermore, SRAs achieve this aim through mechanisms more often connected with the social housing sector, such as regulation of entry, below market rents, and the provision of social support to tenants.

Historically, the PRS has more often been conceptualised by housing experts as a *source* of housing exclusion than as a *solution* to it. From the perspective of housing rights, the downsides of the PRS were often so obvious and persistent that scholars advocated the abolishment of the sector. For instance, Priemus (1978: 331) argued that ‘[t]here is at this moment but one single strategy possible: in the short run; the integral removal of the private rental sector’ (authors’ translation). Hubeau et al. (1985), echoing Priemus, repeated the call some years later for Belgium, while in the UK fragments of the labour movement pleaded for the disappearance of the PRS as well (Allen and McDowell 1989).

However, interest in the PRS as part of the mix of housing services that can provide for households at risk of homelessness or housing exclusion has increased in recent years (O’Sullivan and De Decker 2007; Crook and Kemp 2014). Backed by legislation like constitutional housing rights and concerned with the living conditions of poor people, numerous agents actively search for solutions to housing need. For people who cannot afford home-ownership or who face difficulties in accessing social housing quickly and efficiently, the PRS can offer such a solution.

Nonetheless, this renewed interest in the PRS as a source of adequate housing for poor and vulnerable people is controversial. The pitfalls of the PRS as a means to implement the right to housing for all remain. At the bottom end of the private rental market, insecurity, poor quality at high prices, negative selection, and discrimination (see Loopmans et al. 2014; Verstraete and De Decker 2014) remain common in many contexts. Furthermore, a focus on the PRS as a way to meet housing need is often taking place in a context of retrenchment of social housing policy. For instance, a shift towards the PRS has occurred in recent changes to the homelessness legislation in England. The Localism Act 2011 means that local authorities can

now discharge their statutory duty to house certain homeless households in the PRS rather than in the social housing sector. As the PRS in England is associated with poorer quality, worse value, and dramatically lower tenure security than social housing, this change has been credited with contributing to increasing homelessness and housing exclusion (Fitzpatrick et al. 2016).

The objective of using the PRS to meet the housing needs of poor and excluded groups on the one hand, and the need to overcome its shortcomings in terms of adequacy on the other, has led to attempts to 'socialise' the sector. One formula or model for this 'socialisation' is the 'Social Rental Agency'.

Social Rental Agencies: An Innovative Solution to Housing Need

Below we will discuss in detail what SRAs are and dig into their roots. SRAs are probably most associated with Belgium and France, where they have become a distinct and well-recognised model over the past 30 years. However, similar interventions have developed elsewhere in Europe (FEANTSA 2012). SRAs have been promoted by European Federation of National Organisations working with the Homeless (FEANTSA) and are the subject of increasing international interest (e.g. FEANTSA 2012).

Increasingly recognised as a good practice, SRAs attempt to create a 'best fit' between the needs of private landlords and the needs of households facing exclusion from the housing market. SRAs can be seen as an innovative solution to housing need. There is no agreed definition of social innovation, and the term is used to describe a range of overlapping concepts. Broadly speaking, social innovations are new ideas that work in meeting social goals (Mulgan 2007). As well as having social outcomes, social innovation is often defined as involving social processes: 'Social innovations are innovations that are social both in their ends and in their means ... new ideas (products, services and models) that simultaneously meet social needs (more effectively than alternatives) and create new social relationships or collaborations. In other words they are innovations that are both good for society and enhance society's capacity to act' (Social Innovation eXchange 2010).

There are three main reasons to consider the SRA model as an example of social innovation. First, it seeks to respond to the unmet need for adequate, affordable, and accessible housing amongst parts of the population. This need is not (fully) addressed by the market or by the existing social or housing services in any country. Second, SRAs developed in a bottom-up manner. This is a typical feature of social innovation. SRAs and similar interventions have often been developed with would-be tenants and the organisations supporting them in response to urgent situations of housing need. Later, policy-makers in various contexts have adopted the model. Third, SRAs created new structures, new relationships, and ways of working. Specifically, SRAs brought a part of the PRS into the policy arena as actors in responding to homelessness and housing exclusion. They generated local policy networks in order to overcome sectorial boundaries and to achieve a better integration of housing and support.

SRAs can also be considered part of broader and ongoing transitions in policies and practices to address homelessness and housing exclusion. The term ‘housing-led’ has been used to designate approaches which focus on rapid access to housing, with additional support as required, as the main solution to homelessness (Jury of the European Consensus Conference on Homelessness 2010). This contrasts with the traditionally predominant focus on phased reintegration through a series of temporary accommodation services (Pleace and Bretherton 2012). The latter, sometimes known as the ‘staircase’ model, has been especially prevalent for addressing homelessness amongst people with more complex support needs. The ongoing and differentiated growth of ‘housing-led’ approaches has resulted in the development of an increasing range of services specialised in housing-related support in many Western European countries. SRAs are part of this group of services. SRAs can have different forms. Either they work through the renting of dwellings that they sublet or they only function as mediators.

Case Study: SRAs in Flanders, Belgium

What Are SRAs?

In the Belgian context, SRAs have tended to be rooted in homeless services. They are active in all three Belgium regions (Flanders, Brussels

Capital Region, and Wallonia) as mediating agents between private landlords and people in housing need. They lease dwellings on the private rental market in order to sublet them at an affordable rent to tenants with low incomes. They focus on households who are vulnerable on the housing market and who face specific barriers accessing housing. The basic concept of an SRA is as 'splendid as simple': SRAs intervene between landlords and tenants in order to ensure that the needs of both are met (Silkens 2006).

Practically, an SRA works by contacting private landlords and offering to lease their property. If the landlord agrees, the SRA guarantees payment of rent and maintenance of the physical quality of the housing. SRAs negotiate the rent and are able to get lower than market rates not only because the landlord's revenue is guaranteed over a long time period (normally nine years) but also because rents are paid in periods of vacancy and because of the quality warrant. SRAs further incentivise landlords by using subsidies for renovation. Housing management is transferred from the landlord to the SRA (De Decker et al. 2009). SRAs select tenants and carry out administrative and management tasks. These include making a property inventory, registration of the rental contract, processing deposits, collecting rent, fire insurance, and the organisation of repairs and maintenance. Tenant support is also at the heart of the SRA mission. SRAs are the point of contact for tenants and, when necessary, they play a service brokerage role by linking tenants and support services on the basis of individual needs (e.g. addiction services, support with administrative issues, etc.). Providing this (network of) support is important to ensure tenancy sustainment.

Figures 14.1–14.3 provide an overview of the functioning of SRAs. Figure 14.1 illustrates the basic idea within the current private rental framework¹: landlords rent out their property to an SRA, and the SRA sublets it to a subtenant and does so for a (compulsory) period of nine years. Figures 14.2 and 14.3 sketch the mutual relationships between a landlord and an SRA, and between an SRA and its subtenants. Features of this relationship, which are regulated, concern the payment of the rent, the maintenance of the dwelling, the use of the dwelling, and all kinds of support that are expected and/or given. All of these features are pretty obvious, given the fact that private landlords only stay in the scheme if the rents are paid regularly, and the house is well maintained (De Decker 2009).

An SRA becomes an official housing institution after it has been recognised by the government. Under certain conditions, recognised SRAs can get subsidies. Basically, there are three kinds of SRAs. First, SRAs rooted in NGOs are eligible for specific subsidies for staff and operations. Second, some SRAs are managed by local social services (OCMW/CPAS).³ Since these are public services, they are not subsidised. The only benefit they get concerns advice and training, and they have access to some (renovation) subsidies by being recognised as a housing institution. Third, some SRAs are organised by an association of local social services. They have the same support as the NGO type.

SRAs rooted in NGOs and associations of local social services have access to three kinds of subsidies. First, there is a start-up subsidy. This is granted to an SRA with a growth plan showing that it will rent out at least 50 dwellings in the coming year, and that it has a growth trajectory for the next four years. This subsidy is a lump sum. There is also a basic subsidy and an additional subsidy. The basic subsidy is tied to the length of existence of the SRA (at least one year), a minimum number of staff, the composition of the board, and plans for growth. The additional subsidy is granted when the number of dwellings exceeds 50 or 100 dwellings.

The basic subsidy is a maximum of 115,000 euros per year for an SRA that rents out 50–99 dwellings. In 2015, the additional subsidy was 1,600 euros per dwelling above 50. The basic subsidy for an SRA with a minimum of 100 dwellings was 212,200 euros, with an additional subsidy of 1,600 euros per dwelling from dwelling 101 to 250. Above 250 dwellings, the additional subsidy was 1,650 euros. Table 14.1 shows the evolution of the budget for SRAs and rent subsidies.⁴ A steady increase can be observed.

Table 14.1 Flanders, subsidies to SRAs, and rent subsidies, 2010–2015

	Subsidies for SRA in EUR	Rent subsidies in EUR
2010	7,112,879.51	7,470,032.80
2011	7,993,884.07	8,604,589.35
2012	8,799,801.56	9,095,302.35
2013	11,687,477.87	11,207,347.00
2014	13,075,932.81	11,433,329.46
2015	14,468,179.40	12,602,350.36
Total	63,135,155.22	60,412,551.32

Source: Flemish Housing Department

Affordability of Rents

SRA's differ from traditional social housing organisations in that they do not own houses.⁵ Instead, they have to behave like tenants on the private rental market. They are able to negotiate lower than market rents by offering a guarantee of rental payment over a long lease (including periods when the property is not sublet) and by being able to contribute to the maintenance or refurbishment of the dwelling.

The negotiated rent is the rent the subtenant has to pay. This implies that an average SRA rent is higher than an average social rent but lower than an average private rent.⁶ The affordability gap between market rent and an affordable rent can, in the case of Flanders, be narrowed using a rent allowance. This is an important element of the success of the SRA model, which can only achieve its objectives by ensuring that rents are accessible to low-income households.

Target Group

The allocation of SRA accommodation has tended to target tenants with low incomes and high levels of housing need. SRA's have developed a points system to determine allocations (Table 14.2). This includes six

Table 14.2 SRA Flanders, weight of the allocation criteria

Criteria	Differentiation	Points ^a
Disposable income	Depends on income and family status	Between 5 and 20
Housing need	Currently homeless or at risk of becoming homeless; living in a dwelling that is not suitable for habitation; living in overcrowded conditions; unaffordability of the dwelling; living in a residential service for youngsters	Between 0 and 20
Children		Max. 6
Internal move within SRA		Max. 3

Source: Pannecoucke and De Decker (2016)

^aEvery candidate on the waiting list gets points towards his/her housing need depending on the housing situation + personal criteria (children; income). These are added up, and the candidate with the highest score moves to the first place on the list. For example, a homeless person gets 20 points.

categories of priority for which points are awarded. Four compulsory priorities are housing need, net disposable income, the presence of dependent children, and a request from a sitting tenant to move to another dwelling of the SRA. Optional priorities include the number of years on the waiting list and the relation to the municipality.

The higher the applicant's points score, the higher their priority within the allocation system. Housing need and net disposable income are weighted so that they account for more points than the other priorities. Here lies an important difference of SRAs compared to social rental housing in Flanders. While ranking on the waiting list is the most important criterion for allocation in the latter sector, housing need is decisive in the former. As a consequence, SRAs serve especially vulnerable people.⁷ In 2014, 6.4 per cent of new SRA tenants in Flanders were homeless, 28.7 per cent had just been released from an institution, 28.2 per cent came from emergency accommodation, and 25.5 per cent were living with friends/family. In the city of Ghent, in 2012, 90 per cent of the tenants of SRAs were formerly homeless people.⁸ The capacity of the SRA sector to target the most vulnerable households has been an important part of its innovative nature and its added value within the broader housing policy landscape. It is therefore important that appropriate allocation systems remain an integral part of the SRA model.

Context for the Development of SRAs in Flanders

Notredame (1994), a co-founder of an SRA in Bruges, sees three key developments that contributed to the evolution of innovative housing initiatives in the 1970s and 1980s: (1) a housing crisis, (2) the growth of housing activism, and (3) developments in social work. In addition, developments within the homeless service sector have to be taken into account (see also De Decker 2002).

Housing Crisis

Flanders, like the rest of Belgium, has a longstanding tradition of homeownership. Already in the 1960s, more than half of the households

owned their house. In 2013, approximately 70 per cent of households lived in owner-occupied housing, 20 per cent were tenants paying a market rent for their housing, and 10 per cent were tenants paying reduced rent or no rent (Winters et al. 2015). While home-ownership is heavily subsidised (De Decker 2014a), there is an insufficient supply of social rental housing relative to housing need. More than 100,000 families are on the waiting list for a social dwelling, and there is an estimated shortage of 240,000 social rental dwellings (De Decker et al. 2015; Heylen 2016).

Given these conditions, the PRS is what Charles (2006) and Romainville (2010) label 'de facto social housing', being the only housing option available to people who face homelessness, poor housing, and housing exclusion in Flanders. This part of the housing sector has tended to be weakly regulated and associated with insecure or temporary housing. This insecurity, compounded by repeated changes in legislation and the unequal power relations between landlords and tenants, creates important limits to the extent that the PRS can satisfactorily offer stable housing to homeless people or people facing housing exclusion. Barriers include unaffordable rents, poor rent-to-quality ratios, and discrimination. Innovative housing initiatives, such as SRAs, developed in response to these problems.

Until the early 1980s, Belgium's welfare system concealed major weaknesses in the country's housing model. These included a low level of new construction, and, as a result, a stable number of poor-quality dwellings that remained in use. However, in the early 1980s, the economic and state crisis pushed the Belgian housing model over the edge. There were multiple reasons for the ensuing housing crisis, including a dramatic decrease in the construction of new housing (private as well as social), and socio-demographic developments (namely the rise of small households and migration). These factors led to an increasing number of households being housed in old, poor-quality housing. At the same time, as new housing construction fell, the government liberalised the private rental market nearly completely. After a period of temporary private rental acts, on 29 December 1983 (Ministerial Order, 30 December 1983), a new more lasting legislative act was introduced, which brought in the 'free negotiation of contracts'. Under this act, the initial rent and the contract duration were left to the 'voluntary decision' of the contracting parties (the landlords and the tenants). This constituted a deregulation of the market (De Decker and Inslegers 1996; De Decker 2001).

The decrease in new construction blocked access to the housing market. A growing number of households had to find housing within the existing stock, in either the private rental or the owner-occupied sector. From the top of the market, a displacement process started that channelled the vulnerable downwards. A larger share of higher-income households was now purchasing a house instead of building a new one. This led to greater competition on the market, pushed up house prices, and led to a continued drift away from purchasing into renting and the displacement of people from high- to low-quality housing. Ultimately, poor people were competing with one another for poor housing, and the rents for such dwellings increased. This led to growing flexibility at the bottom end of the private rental market. New rental 'products' were introduced. For example, in the cities, older houses quickly began to be divided into small flats and rentable rooms. Some landlords even let mattresses and garages. This overall context created the conditions for small-scale social innovations that were able to meet the housing needs of poor people. This, in turn, led to the development of the first SRAs.

Housing Activism

Housing activism played an important role in the conceptualisation and generation of innovative housing initiatives during the 1980s. Housing activism has a long tradition, and tenants' associations have generally been especially active in developing new housing products. Housing activism was fed by the economic crisis of the 1970s and the early 1980s. Legal advice centres and tenants' associations were key agents for this type of innovation. They worked to provide better advice and participation for tenants in the context of the housing crisis. They contributed to creating the 'ecosystem' that would then foster the development of SRAs.

Changes in Social Work

Due to the housing crisis, housing problems increasingly became a core area of attention for social service providers. This reflected the evolving needs of their service users. In this context, social service providers took

on more and more housing and housing-related functions. By the middle of 1993, the social services sector in Flanders as a whole was managing an estimated 14,000 housing units. This shift towards housing in welfare work was another factor contributing to the development of SRAs.

One element leading to new housing initiatives including SRAs was a perception that politicians would never solve housing problems. This led social actors to become more and more active in the housing area. In Flanders and Brussels, a stocktaking of new housing initiatives took place during the early 1990s. Notredame (1994) identified a huge and diverse number of initiatives. Out of 308 Flemish public welfare centres (OCMWs/CPASs), 274 were involved in housing initiatives. Activities included providing legal assistance, advice, and support and building up the housing stock and SRAs. Local social housing companies were less involved, but some of them were engaged in projects for specific target groups (the disabled or the elderly) and tenant participation activities.

The shift towards housing within welfare in Belgium was partly related to the broader deinstitutionalisation movement. Deinstitutionalisation refers to a shift from institutional to community-based services for people with support needs. It is most often associated with the disability sector, but it, in fact, also had a broad impact on social services. Taking account of human rights and dignity, quality of life and health, and autonomy and social inclusion, it is increasingly accepted that community-based services are better able to respond to the needs of social service users than segregated care in large institutions (European Commission 2009). In this context, integrated care packages that facilitate community-based living have become an increasingly important mode of service delivery. Deinstitutionalisation is also driven by concern for cost efficiency and effectiveness. In broad terms, deinstitutionalisation has contributed to the formation of increasingly strong links between housing and social assistance.

Services for the Homeless

In addition to the housing crisis, growing housing activism and broader changes in social services, a number of developments within the homeless sector shaped the emergence of SRAs. Since the 1960s, there has

been growing diversity within the homeless service sector. There was a gradual move towards helping homeless people to live in small units in shared mainstream houses within communities. As this type of service developed, new target groups emerged: people who had been unable to access institutions or who were staying in risky home environments because they had no other choice (e.g. runaways, victims of domestic violence). This led to new homeless services: crisis intervention, halfway homes, centres for addicts, supported housing, and shared housing models. This dynamic led to the development of a variety of homeless services offering alternatives to hostel and shelter provision. Over time, successful transition into independent housing became an important objective for residential homeless services. As a result, there was a greater focus on supporting independence. By the 1980s, service users were encouraged to become fully independent as soon as possible. The result was that many people stayed in transitional services for a long time, supposedly getting 'ready' for independent living. Others left services, but ended up homeless again, because they were unable to be completely independent. This type of failure led to the conclusion that total independence was not the right solution for many homeless people. A new concept with better support services was therefore required. This resulted in a growing interest in the type of 'housing-led' approaches described earlier in this chapter. This shift in thinking also supported the development of SRAs. Another relevant development was the professionalisation of the homeless sector. This gave the sector a clearer profile and helped to create conditions that supported the development of SRAs.

SRAs in Flanders Today

Although SRAs still operate in only a small part of the total housing stock, the sector is now a solid component of housing policy in Flanders. Recognised SRAs were managing 8,025 dwellings at the end of 2015. This was 10 per cent more than the previous year (Figure 14.4). The number of dwellings managed by SRAs has increased substantially from just the 1,000 they were operating in 1998 (Vrind 2015; Figure 14.4). The plan is to have 9,868 dwellings rented through SRAs by 2020. At the

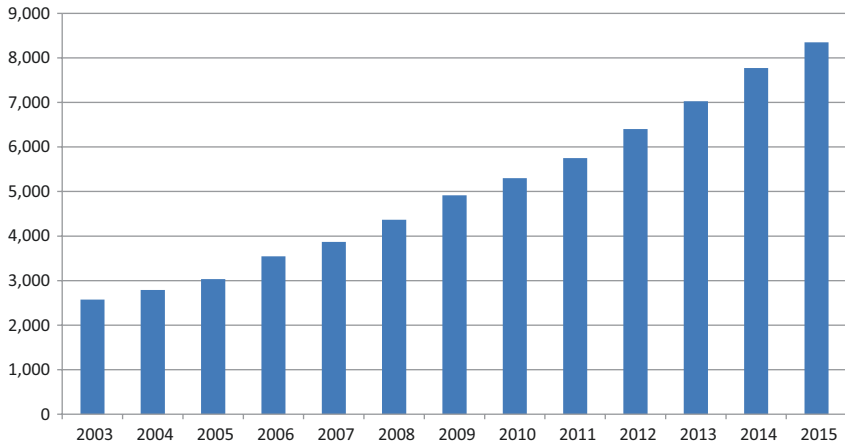


Fig. 14.4 Flanders—growth in the number of SRA dwellings

Source: Huurpunt

end of 2015, 48 recognised SRAs were active in 282 of the 308 municipalities, which means that 92 per cent of the region is covered. More than 95 per cent of the dwellings are rented on the private rental market, the other 5 per cent from social housing companies, local social services, and municipalities. In 2014, SRAs received 14,996 new applications—an increase of 1,995 compared to 2013. Altogether, the 50 SRAs had 34,684 candidates on their waiting lists. This means there are 4.4 households on the waiting list per dwelling. Pressure in terms of demand remains high.

After an initially precarious period, SRAs became firmly established and are now seen as an indispensable housing agency in Flanders. There are different indicators for the popularity and status of SRAs today. First, the Flemish Housing Council, a strategic advisory organ set up by the Flemish government and composed of diverse stakeholder organisations and experts, has advised the Flemish government to expand the number of SRA dwellings in order to fulfil the housing rights of vulnerable people on the housing market.⁹ Second, in preparation for the regional elections in 2009, a working group composed of the real estate sector, tenants' associations, welfare organisations, the Flemish housing administrations, and housing experts was convened by the Flemish Housing Administration. In a joint paper, they advised the administration to strengthen the position of the SRAs (Woonbeleid 2009). Third, in the run up to consecutive

elections, the SRA model has become a key reference amongst political parties¹⁰ and lobbyists¹¹, all of them arguing for the continued expansion of the model. The current Flemish housing minister is convinced as well. When asked for her top three realisations at the end of her term, Homans (a democratic nationalist), ranks ‘a very large number of extra SRA-dwellings’ as the second priority (in Rauch 2015). Fourth, an older, but so far the only, study (De Decker 2009) evaluating the model from the perspective of landlords who work with SRAs presented a very positive picture of the work of SRAs. Nine out of ten (8 per cent) landlords indicated they were willing to work with SRAs again in the future. The most important reasons given were: less work and fewer worries (25.9 per cent), good experience (21 per cent), and income security (19.5 per cent). When the motives for working with SRAs are aggregated, security (in general; of income; no vacancy), good experiences, and fewer worries are the most important. One in six respondents even intended to let out more dwellings to SRAs. It must be stressed that 94 per cent of the landlords who ‘inherited’ a lease with an SRA — for example, after purchasing a dwelling — were (very) satisfied. This is an important finding because their favourable views stemmed not from an a priori interest in SRAs, but from experience. Last, even the OECD has recently recommended Belgium to increase subsidies for SRAs in order to maintain an efficient and equitable housing market (Zwart 2015).

Case Study: France

In France, SRAs are known as ‘Agences Immobilière à Vocation Sociale’ (AIVS) and work under a specific trademark. Their aim is to increase the number of dwellings available for vulnerable people and improve the quality of accommodation at the bottom end of the private rental market. Unlike Belgian SRAs, they do not sublet to tenants. Instead, they work on the basis of a three-year minimum guarantee to the landlord. On this basis, they assume responsibility for the rental management of the property. Tenants are offered a standard lease signed directly with the landlord. Although the rental mechanism is different, the French AIVS offer a very similar package to the SRAs in Flanders. As in Belgium, they

are a well-recognised instrument and are supported by special funding and regulatory mechanisms. Key elements of AIVSs are (1) guaranteed payment of rent backed by a specific insurance on arrears, (2) guaranteed payment of rent even when dwellings are vacant, (3) legal and fiscal advice, (4) financial support for refurbishment if necessary, (5) assurance of housing quality, (6) an affordable rent for the tenant, and (7) tenant support (normally organised in collaboration with a partner organisation).

AIVSs are usually provided by NGOs in partnership with local authorities. Operating as part of local housing policy, they receive financing for staff costs and the provision of support to tenants. Like in Belgium, a stressed housing market with a shortage of social housing available to certain vulnerable groups created the conditions for AIVSs to develop. Although the social housing sector is much more significant in France than in Belgium, there was still a perceived need for additional housing options for excluded households. This resulted in innovation by grassroots organisations during the 1980s and 1990s, including the development of AIVSs. A national umbrella organisation was created in 1988. This Federation — *Fédération des Associations et des Acteurs pour la Promotion et l'Insertion par le Logement (FAPIL)* — brings together innovative grassroots NGOs working on housing. In 1998, a specific funding instrument for organisations mobilising and managing rental housing for vulnerable people known as the *Aide à la Médiation Locative (AML)* was introduced. This facilitated the development of AIVSs. In 2014, FAPIL counted 45 organisations operating under the AIVS trademark. These 45 FAPIL members were managing 15,160 occupied housing units. AIVSs in France currently face a range of challenges, including reduced budgets and a changing institutional context.

Like SRAs in Flanders, AIVSs in France serve vulnerable groups. This is reflected in the profile of households that find housing with the help of an AIVS. Most of the new tenants (85 per cent) have precarious employment. About half of all tenants (54 per cent) receive social allowances. As regards family composition, half of the tenants (50 per cent) are single and one out of three households (30 per cent) are single parents with children.

AIVSs operate alongside other forms of private rental mediation. For example, 'Solibail' is a relatively new initiative in France. It is a specific state-backed three-year rental contract designed to encourage private landlords to house people living in temporary accommodation for the homeless. The contract guarantees the payment of rent and bills as well as the provision of rental management and support with renovation. Landlords also benefit from tax reductions by engaging in this type of rental contract. NGOs get funding from regional authorities to obtain housing in the private property market on the basis of this type of contract for the use of modest-income households currently living in temporary shelter. Unlike the AIVSs but like the SRAs in Belgium, NGOs working with 'Solibail' are the primary tenant and sublet the property to the household. Some stakeholders are critical of 'Solibail' on the basis that this kind of second-hand contract may be less secure than a standard rental contract. The idea is that after three years, the contract should 'slide' into becoming a standard rental contract. Because this is the point at which the risk for the landlord increases, this transition can present difficulties.

Discussion

This chapter shows that the SRA model is a social innovation that can play a role in tackling homelessness and housing exclusion. It described how the model developed as an innovative housing-led approach in Flanders over the 1980s and 1990s. The model was able to respond more effectively than existing services to the inadequately met housing needs of people facing homelessness and exclusion. Due to its success in helping homeless people to exit homelessness and maintain a long-term reasonably secure tenancy, it has now become an established part of housing policy in Belgium. SRAs and similar models have been developed in a range of European contexts. The chapter also described how the model developed in France as a way of responding to very similar challenges, despite the very different context in that country, including a much larger social housing sector. This development reflects the growing interest in the role of the PRS in tackling homelessness.

The SRA model is compelling because it seems to succeed in mobilising at least a part of the PRS to provide affordable, secure, and accessible tenancies in housing of adequate quality for people who are homeless or at risk of housing exclusion. SRAs can respond to unmet social needs by specifically targeting those people with the most urgent housing needs, as demonstrated by the allocation systems developed in Flanders. In this way, they are able to activate existing private rental housing to address a significant policy gap.

Furthermore, it seems that SRAs have the potential to facilitate the integration of housing and support services. Whilst the primary function of SRAs is to procure and manage housing, they also play a service brokerage role to ensure that tenants receive support. This is an important element of the model, given the growing recognition that homelessness policies should offer permanent housing solutions as early as possible to people who are homeless. This chapter has presented SRAs as a social innovation. It has demonstrated the unique role played by NGOs in creating and delivering the model. Proximity to service users and the capacity to work flexibly seem to be the key ingredients in the success of SRAs.

Nonetheless, there are a number of limitations to the SRA model. One potential limitation is the affordability of SRA housing for its target group, as SRA rents are still higher than social housing rents. SRAs can only function where incomes, including welfare payments linked to housing costs, are high enough to cover the negotiated rent. Of course, this is related to the functioning of the private rental market, the overall housing market, and relevant welfare policy. There are additional policy tools that could help make lower rents sustainable in the eyes of landlords — tools such as fiscal incentives. Another potential limitation is the profile of landlords who are likely to be attracted by the SRA scheme. Although there are indicators that private real estate developers are exploring working with SRAs, research in Flanders has shown that so far landlords working with SRAs tend to be small operators, and the majority of them rent out only one dwelling (De Decker et al. 2009). Interestingly, even when landlords do rent out more than one dwelling, they tend to employ a ‘double rental strategy’ to get the most out of their portfolio. Furthermore, landlords working with SRAs also tend to be on

average older, and often, they have bought the property either for themselves or for their children to live in at a later stage. This profile suggests that SRAs will only ever attract a limited share of landlords. Whilst the evidence base for these limitations is underdeveloped, it is important to take them into account and to recognise that SRAs can be a part of the solution to homelessness.

This chapter dealt with the rise of SRAs in Flanders, Belgium, and, to a smaller extent, with similar models in France. We know that similar schemes exist in other countries. Nevertheless, given the differences in housing regimes/models across the European continent, and given the high path dependency of these models/regimes, a legitimate question is how transferability the undoubtedly successful Flanders model is. In order to fully assess the possibilities, a larger comparative study is necessary. Nevertheless, critical success factors can be detected. First, if well regulated, the SRA model solves a recurring basic conflict in the PRS between the demands of the landlord (the payment of rent; the maintenance of the home) and the tenant (affordable rent; tenure security). In doing so, the SRA model can be an instrument to keep landlords in the PRS or to attract new landlords. For post-socialist transition countries, this may be a fruitful way of expanding the stock of affordable housing. Second, how the SRAs operate should be well regulated. The advantage of the Flemish model is that the regulation is pretty straightforward, and the obligations of all partners (landlords, tenants, SRAs) are clearly defined. Third, an SRA model can only function when there is stable general legislation on private renting that addresses the way (market) rents are set, the length of contracts, and responsibilities with respect to maintenance.¹² Fourth, SRAs should be integrated with or be linked to welfare work. Landlords appreciate it when it is possible to take action to resolve social or psychological problems if they arise. Fifth, SRAs need subsidies. Whilst they do not require the same capital subsidies as social housing, they depend on subsidies to both tenants and delivery agencies. Sixth, NGOs have played a unique role in the development and delivery of SRAs. As a consequence, the strength and the growth of the sector depend on the political choice that private renting has a role to play in the housing system.

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Notes

1. Until 31 December 2014, private renting was the responsibility of the federal Belgium government. Since 1 January 2015, the regions are responsible. In Flanders, no fundamental changes have as yet been announced.
2. Besluit van de Vlaamse Regering houdende bepaling van de erkennings- en subsidievoorwaarden van sociale verhuurkantoren [Order of the Flemish Government on the stipulation of recognition and subsidising conditions for SRAs], 20/07/2012.
3. The Public Centre for Social Welfare (OCMW in Dutch, CPAS in French) is a public institution installed in every municipality. It provides different kinds of social services (financial help, medical help, housing and legal advice).
4. A person is entitled to a Flemish Rent Subsidy (1) when they leave a bad dwelling for a good dwelling, (2) when they move to a dwelling operated by a social rental agency, or (3) when they get out of being homeless to move into a good dwelling. Income cannot be higher than 17,230 euros + 1540 euros per dependent person. The rent cannot be higher than 580 euros + 72.50 euros per dependent person + 58 euros in a number of selected municipalities.
5. Although this is not excluded (e.g. ownership through donation).
6. Unfortunately, no comparative data are available. In an earlier study by De Decker (2009), landlords indicated that they don't mind leasing for below market rents.
7. Unfortunately, it is not possible to present a comparison between the profiles of new SRA tenants and the new classic social tenants (Pannecoucke and De Decker 2016).
8. Peer review of the 'Homelessness Policies in Ghent' Discussion Paper (Davelaar 2012).
9. Memorandum 2009–2014; Advies 'Naar een beleid ter ondersteuning van de private huurwoningmarkt' [Towards a policy that supports the private rental market], 9 December 2010.

10. Parties in favour of expanding the SRA model include, at least, the Christian Democrats (CD&V), the Socialists (sp.a), the Greens (Groen!), and the Democratic Flemish Nationalists (N-VA).
11. The following organisations, advisory boards, and networks have made statements that contain pleas for the expansion of the SRA model: Christian Workers Movement (ACW), Flemish Housing Council (Vlaamse Woonraad), umbrella organisation of Flemish municipalities (VVSG), Knowledge Centre of the Cities (Kenniscentrum Grote Steden), and the organisation of the poor (Flemish Network of Organisations working with the poor; Steunpunt tot bestrijding van armoede, bestaansonzekerheid en sociale uitsluiting).
12. For a very long time, private renting in Belgium was highly contested and no political agreement could be reached on what role it should play in the housing system. Nevertheless, during the 1990s, after the housing crisis conditions described further above in this chapter had passed, more stable legislation was introduced (De Decker 2001) and has remained in effect to the present day.

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15

Private Renting in Social Provision: Initiatives in Transition Countries

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Introduction: The Need to Bridge a Structural Gap

The idea for this book was inspired by a challenge that seems to be pervasive across Central and Eastern European (CEE) transition countries: social rental opportunities throughout the region are very limited, and this drives low- and lower-middle-income households into debt-based homeownership or private renting, which they cannot afford. There is a huge lack of intermediary or ‘affordable’ tenures in transition countries. While social housing is very inexpensive, there is not enough social rental stock for the number of people who are legally eligible for this tenure form. Poor and vulnerable persons who cannot obtain social housing because of the shortage are likely to end up in the lower segments of owner-occupation or private renting, often in overcrowded or even substandard housing units, or in locations with limited or no access to the labour

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market or services (such as public administration, health-care facilities, grocery stores). The prevalence of substandard housing is a major issue in CEE, as is the problem of households forced to live in severe material and housing deprivation. The liberalisation of the construction and housing sectors, which had been centrally administered under socialist rule, and the giveaway privatisation of the large, previously state-owned public housing stocks have been discussed at length in the literature on the housing sectors of transition countries, as have the social consequences of small—and often still shrinking—social housing sectors. Nonetheless, significant growth of this sector is unrealistic. Social landlords are typically local municipalities, for whom the social rental stock generates massive losses. While centrally funded initiatives aimed at expanding the social rental stocks did occur in many countries on multiple occasions, the responsibility for social housing provision was decentralised to regional or local authorities without also providing them with adequate central funding to manage and maintain these stocks. While social rents are kept at a very affordable level, municipalities cannot adjust extremely low rent levels without a massive political backlash; they have therefore strong counterincentives against maintaining, let alone developing, the sector. Without substantially revising the sector's financial and legal environment, isolated attempts at boosting the sector will remain ineffective, the main social landlords (municipalities) will continue to face institutional disincentives for investing in social housing, and accordingly these attempts will remain unsuccessful, with very limited results.

The importance of more flexible housing solutions, buttressed by a well-functioning rental sector, has been gaining ground in the policy discourse of CEE countries. Based on expert recommendations, political actors and even the mass media began to publicise the need for a better-functioning rental sector with more stratified sub-sectors, and the notion of involving private resources in affordable housing provision. Nonetheless, the rental sector as a whole remained on the sidelines of policy-making. A home-ownership bias in terms of tax provisions and subsidisation characterises most European housing regimes, but the impact of this bias must be underscored in the case of transition countries, where rental sectors have become very limited and inefficient following the dilution of public rental housing, and the apparent prolonged stagnation of commercial

Table 15.1 Distribution of population by tenure status in selected European countries—share of tenants renting at market price, 2015

Market rate tenancy, per cent of population	
Germany	39.9
Denmark	37.3
Netherlands	31.7
Austria	29.6
EU-27	19.8
France	19.8
United Kingdom	18.2
Czech Republic	16.4
Italy	15.4
Spain	12.7
Slovakia	9.2
Hungary	4.8
Poland	4.5
Estonia	3.7
Bulgaria	3.1
Croatia	2.0
Romania	1.2

Source: Eurostat-SILC Distribution of population by tenure status, type of household and income group

residential renting. While there are some drawbacks to the data from Eurostat's Statistics on Income and Living Conditions (SILC), they are still useful for illustrating the overall trends. Table 15.1 shows EU-SILC official statistics on the share of national populations living in housing rented at a market rate in selected European countries.

After decades of insecure property rights and strict limitations on ownership, a massive social demand for ownership was an understandable phenomenon. This was reflected not only in the wide social approval of the multiple waves of giveaway privatisation but also in the central governments' unilateral support for home-ownership, expressed in policies that were also aimed at establishing a proprietary middle class. At the same time, private landlord or commercial renter interests were almost entirely disregarded. This created a vicious cycle, where the legal and subsidy environment has left market tenancy both insecure and unaffordable, and that in turn reinforces the pro-ownership discourse, and the image of renting as an unreliable and unattractive tenure form and private landlordism as a risky business. Under the socialist regimes, private

renting did typically continue to exist but only in an informal or semi-formal manner; it was tolerated but not approved by communist states. This policy approach seems to have carried on with little change since the transition in many countries: although the sector receives rhetorical political approval, it does not enjoy a level of legal or financial support comparable to securing home-ownership.

Establishing a housing regime based on the predominance of ownership did appear to be feasible in the light of the Europe-wide privatisation waves of the 1980s and 1990s, and the global economic and construction boom of the 2000s in the pre-crisis period, but once the Global Financial Crisis (GFC) began to erode CEE housing and mortgage markets in 2008, the downsides of debt-based low-income ownership became obvious. Defaulted mortgagors found themselves in a frozen housing market, where moving to a lower and more affordable level of housing consumption proved difficult if not impossible. Employees who lost their jobs in the post-crisis recession would quickly find themselves in mortgage and utility arrears, which could not be offset by the region's limited welfare provision, and many debtors, especially those who had taken on foreign currency denominated (ForEx) loans at a lower interest rate, against limited housing equity and savings, had debts that surpassed the then current market value of their homes. Although this was the most obvious example of the risks inherent in low-income home-ownership, the shortage of social dwellings, the lack of intermediary or other affordable tenure forms, and the unaffordability and volatility of the private rented sector (PRS) are generally continuing to perpetuate and increase social and income inequalities and will do so for generations in many regions of CEE. Some factors have in recent years helped to improve the acceptance of renting, ranging from stricter mortgage lending conditions and a lower level of trust in borrowing, to the higher spatial mobility of young people's households. Growing profitability has also begun to attract institutional investment in the PRS, at least in some locations. Nonetheless, even in the post-crisis period, few governments carried out an in-depth revision of the housing and rental market's policy environment. There seems to be neither the political will nor the economic capacity in CEE countries for substantial change.

A Region of (Poor) Homeowners

The structural issues that shape the region's housing landscapes have been discussed in detail in the literature. Tenure structures were shaped particularly by the massive, giveaway privatisation of formerly public task housing, which made social housing stocks shrink to the extent that they typically became marginal. Social housing provision was decentralised: the duty for public housing provision was transferred to the local or regional level, with no corresponding local or regional revenues to compensate for its costs. Rent income alone was expected to cover maintenance and renovation costs, but as the most financially secure public tenants were also the most likely to purchase their dwellings, arrears were rampant in the remaining stock. The sector thus became chronically underfunded, resulting in the conflicting interests of social landlords, who were in this situation incentivised to further reduce the sectors (Balchin 1996; Hegedüs and Teller 2013: 95; Lux and Sunega 2013: 310–311). As private renting remained stagnant in most CEE countries in the transition period, the majority of people had no other option but to secure home-ownership—including low- and lower-middle-income households, even when this meant taking on heavy debt (Buckley and Tsenkova 2003; Roberts 2003; Clapham and Kintrea 1996; Hegedüs 2013a). Mortgage markets took a decade or more to become relevant and sufficiently sophisticated, so self-build and cash payments continued to be significant, while owner-occupation for households at the lower end of the income scale meant poor-quality housing. Substandard housing is, to this date, a much more significant issue in CEE than in more developed countries.

Researchers also pointed out the neglect of housing policy (Lowe 2003; Hegedüs 2013b: 7–8). Privatisation and ownership enjoyed huge political popularity in the transition period, after decades of anti-ownership ideology; state resources were scarce, and what available funds governments had to use for housing purposes were, from a political point of view, best spent on supporting ownership, as the most reliable voters were the middle class. Building up the national middle classes were also high on the political agendas, which also meant that the few socially targeted programmes were often either opened up to support middle- or

higher-income persons and households, or were eventually abandoned. Finally, EU accession—or a close partnership at the very least—became a primary goal for many transition countries. Aside from economic and political restructuring, most CEE countries had to adopt the EU *acquis* as well, which absorbed many of their resources in terms of both financing and policy-making. Housing was not among the many fields to be covered in this process, which contributed to states' disinterest in formulating coherent housing strategies. In the end, most countries in the region developed a strong home-ownership bias, despite the already vast predominance of owner-occupation by the early 2000s, with weak or no rental support measures (Drofenik 2015; Hegedüs and Horváth 2015; Hussar 2015; Panek 2015).

As chapter “Property Restitution After 1990” of this volume points out, housing restitution, where it was executed in kind, formed a basis for the development of a larger private rental sector. Still, this is the most visible in places where the formation of the PRS was also accompanied by meaningful support measures, as in the case of the former East Germany and the Czech Republic, and to some extent in Poland. In most of the region, however, it did not prove to be an efficiently utilised basis for housing policy, and it became instead a long-standing source of tensions and conflicts between old—often protected—tenants and ‘new’ owners (Bejan et al. 2014; Drofenik 2015; Hussar 2015). The role of restituted housing is underlined by the sharp drop in housing investment in general in CEE countries. The population of CEE and of South-East Europe has been declining at various rates in recent decades: hundreds of thousands of Russian speakers left the Baltic states for Russia, with many Estonians also migrating to Finland; Latvians, Lithuanians, and Poles left for the UK and Ireland, and Romanians for Italy and France. Bulgaria has lost nearly 20 per cent of its population since 1989 due to low birth rates and outmigration. Although the rate of population decrease was more moderate elsewhere, and Slovenia, Slovakia, and the Czech Republic were characterised by slow growth, population decreases or near stagnation still characterise the region as a whole; although outmigration functioned ‘as a safety valve in a time of poor employment opportunities’, it also led to a shortage of skilled workers and the working-age population (OECD 2013: 11). All this has also resulted in a lower demand for new

Table 15.2 The share of vacant housing and overcrowding in Central and Eastern European countries, 2011

Country	Vacant housing (per cent)	Overcrowding (per cent)
Bulgaria	31.4	47.4
Czech Republic	13.7	21.1
Estonia	14.4	14.4
Hungary	10.9	45.5
Latvia	20.7	43.7
Lithuania	14.4	19.5
Poland	2.5	47.2
Romania	16.4	51.4
Slovenia	20.7	17.1
Slovakia	10.1	39.5

Source: Vacant housing: Eurostat 2011 Census hub; overcrowding: Eurostat-SILC, Overcrowding rate (percentage of the population living in an overcrowded household) by age, sex, and poverty status, total population

construction: even in the global pre-crisis boom years of the 2000s, housing construction output never approached the number of state-subsidised new dwellings under the decades of socialist rule. This is also illustrated by the steadily growing number of vacant dwellings, which is an issue everywhere in the CEE region except Poland (Table 15.2).

At the same time, as the economy was restructured, the structure of settlements also changed: many old industrial centres began to shrink, with growth concentrated in fewer and larger urban hubs. Vacancy is also an emerging issue in CEE countries, and the pattern of vacant housing does not fully correspond with housing needs: while the share of vacant housing has been growing in urban centres as well, vacancy rates are highest in remote areas, where both services and job opportunities are scarce. Due to this and growing income inequalities, high levels of vacancy often coexist with overcrowding. Substandard housing and severe housing deprivation are also major issues, as a much larger volume of central government funds have been directed into new construction and obtaining ownership than into renovations, despite the ubiquity of housing in disrepair. According to Housing Europe's 2012 Review, severe housing deprivation rate was above 15 per cent in Bulgaria, Latvia, Lithuania, Poland, Romania, and Slovenia, and above 10 per cent in Estonia and Hungary, as opposed to a lower than 3 per cent rate in all of Western

and Northern Europe, and 7–8 per cent in Italy and Greece in 2009 (Housing Europe 2011: 23).

The Unavoidable Private Sector

In summary, social housing sectors in most CEE countries are too small to accommodate all households for whom fully market-based housing solutions are unaffordable to present a disproportionately large burden. Many of these households inevitably enter private renting or heavily debt-based home-ownership, although foreclosures and mortgage credit restrictions narrowed down the latter option after the GFC. Due to the poor availability of data at the lower end of private renting, information on this segment is often derived from secondary sources; a very informative example of which is the reports on Housing First projects. Housing First Europe, an EU-funded project in ten European countries, uses social housing to get homeless persons directly into secure housing. However, in the case of Portugal and Hungary, the low availability of social housing prompted project implementers to turn to the lowest end of the private rental market (Busch-Geertsema 2014; Fehér and Balogi 2013: 66). In Budapest, however, it proved impossible to ensure tenure security after the initial support period because welfare provision is too low to allow beneficiaries to stay in private rental housing. Attempts to house the extreme poor encountered similar problems elsewhere in CEE countries (Filipovič Hrast 2008, 2014).

It is unlikely that there will be any significant increase in the number of social rentals or other forms of affordable housing in CEE countries in the short to medium term. Although the crisis and, in many CEE countries, subsequent recession shed some light on the social costs of poorly targeted state intervention in housing and the risks of low-income owner-occupation, housing policy is still outside of the focus of policy-making, despite having begun to attract more attention in the public discourse. The counterincentives for social landlords to maintaining a loss-generating public housing sector are still in place, and the discouraging legal and subsidy environment is slow to transform. Although some decision-makers in the region are actively engaged in expanding social

housing, even the most ambitious of such attempts are slow and limited in scope, seeking to reach just 5–7 per cent of the national or local housing stock. One example is Slovakia, where social housing construction has been gaining significant momentum since the adoption of the State Housing Policy Concept for 2015–2020 (Ministry of Labour, Social Affairs and the Family of the Slovak Republic 2015), but where even as recently as 2015, the share of public rental housing was below 2 per cent of the total stock according to Eurostat data. Another example is the City of Tallinn, where an ambitious plan was launched to raise the share of municipally owned housing to 7.5 per cent of the city's stock by 2027 (Hussar 2014: 31), which, nonetheless, would still be below the EU-27 average.

It thus seems that the use of private resources in the housing sector is inevitable in providing adequate and affordable accommodation to the wider strata of low- and lower-middle-income households in transition countries. Yet the private sector seemingly fails to fulfil this policy potential due to slow or missing legal and subsidy reforms, and an overall lack of policy focus on this field (Erdósi et al. 2000; Dübel et al. 2006). As noted in an overview of the use of the PRS for vulnerable households in CEE countries, 'the dominance of home-ownership, and poor regulation of private rental markets and small social rental markets not only make access to housing highly problematic for the most vulnerable groups in society[...], but they also relate to a wider segment of the population that is suffering from housing exclusion' (Filipovič Hrast 2014: 257). With the apparent exception of the Czech Republic (see chapter "Czech Republic: Growth and Professionalisation" in this volume) and East Germany (see chapter "East Germany: Integration to a Well-Established Environment"), there is only marginal financial and policy support for private residential renting, and the sector is largely informal in most CEE countries (Dübel et al. 2006; Drogenik 2015; Hegedüs and Horváth 2015; Hussar 2015), which puts both landlords and tenants in a vulnerable situation. While rising middle-class incomes in the post-transition period often led to greater investment by private individuals in the housing sector, typically as a way to accumulate savings by purchasing and leasing real estate, private landlords must contend with the risks of tenant misconduct, rent and utility arrears, and potential damage to the

dwelling, and the expected risks attached to private residential leasing are usually reflected in the rent level (in terms of higher rents). As part of the socialist legacy, tenants in most CEE countries enjoyed strong tenure security during the years of transition, and in some countries this continues to be true. In practice, this means that there are safeguards in place to protect tenants from eviction for a long period of time, even if tenants are in clear breach of their contractual obligations (i.e., if they stop paying rent), which does not foster a secure rental environment—it just turns eviction into a long and complicated process. This, in turn, makes the PRS even more risky for landlords. At the same time, private renters enjoy no financial support to help them get into a more stable situation before they end up in breach of contract (i.e., defaulting on rent), even though affordable market renting is essential for the tenure security of those who typically use this sector most—young people, mobile workers, and low-income households.

In the end, central governments have had little incentive so far to reconsider the importance of housing policy, as decision-makers receive positive feedback from the most active and vocal voter groups. On the local level, municipalities and other local players—particularly civil society organisations—contend directly with the challenges of housing and tenure security, as they are the ones who assume the responsibility for providing affordable and adequate housing to the poor and other vulnerable groups. National level policy remains largely oriented towards supporting ownership; the most recent national housing policy interventions in some CEE countries, aside from the continued support to ownership, have been focussed on ‘rescuing’ mortgage defaulters in the wake of the GFC, particularly in countries where a significant number of mortgages were denominated in foreign currency. It is therefore the local actors who have to resolve housing policy challenges, without adequate funding, and with relatively little manoeuvring room in terms of policy options. Consequently, innovative solutions designed to mobilise the private sector to expand affordable housing provision have typically been initiated by local players, both public social landlords and civil society organisations. The next sections present some of these schemes, as well as a brief analysis of the barriers to upscaling them to the national level.

Traditional and Innovative Solutions: Public Sector Initiatives

The Traditional Approach: Subsidies in the Private Rental Sector

Subsidies and tax benefits for landlords and low-income persons living in private rented dwellings do exist in some, but not all, CEE countries. In the Czech Republic, a meaningful centrally funded housing allowance is available for private renters, and private landlords are allowed a tax deduction (see chapter “Czech Republic: Growth and Professionalisation”), but the rent allowance is unable to help some vulnerable groups to secure accommodation in private rented housing due to pervasive institutional discrimination (for instance, the Roma or homeless persons). Slovenia also has an outstanding rent allowance system compared to other countries in the region: a series of measures designed to widen the eligibility criteria for existing subsidies for low-income renters were launched in 2008, so that tenants formally eligible for social housing but unable to obtain such housing owing to the shortage may receive a rent allowance equal to the difference between the market rent and the locally approved social rent level. This rent level typically ranges between four and seven euros per square metre¹ and that is enough to cover rents in a substantial part of the market (Petrović 2014a). Nonetheless, the eligibility criteria for this subsidy are very strict, and consequently only a small percentage of low-income renters qualify; there were moreover cuts to this subsidy after new austerity measures were introduced in 2015 (Filipović Hrast 2015).

In Croatia, on the other hand, households with no income at all were eligible for a social allowance of between 52 and 79 euros in 2013. They could also receive a housing allowance if they lived in privately rented housing, but this was essentially meaningless, as the amount offered was not enough even to cover the rent in a substandard market rental dwelling (Šoštarić 2013: 293). A housing allowance between 56 and 90 euros is available to low-income households in Slovakia, but is limited to homeowners (Štefanko 2014: 71). In Poland, low-income private renters may be eligible for a housing allowance, and beneficiaries receive on average

45 euros, but the total percentage of all households in all tenure forms receiving a housing allowance was about 3.7 per cent in 2010, and private renters make up only a small fraction of that total (Panek 2014: 51). The centrally funded housing allowance was recently phased out in Hungary, and since 2015 only local municipalities offer a housing allowance, which amounts to 10–20 euros per household on average and is not enough to enable low-income households to access private rental housing of adequate quality. A central rent subsidy was introduced in Hungary in 2005, with a very strictly set income limit and an upper subsidy limit of approximately 23 euros per month, which could be supplemented by another 23 euros by the local municipality if the municipality chose to do so. The very low-income limit for eligibility and the modest subsidy amount meant that it remained practically irrelevant for poor people in the PRS, but part of the reason the programme failed was because landlords were required to report their rental income to the tax authority. In 2006, approximately 70 families applied for the subsidy. Aside from this unsuccessful attempt at providing a central rent subsidy, some municipalities offer a rent allowance to persons who would be eligible for social housing but are excluded from it because of the limited municipal dwelling stock. But very few municipalities have such initiatives, and the ones that do only reach a small range of households, between 20 and 100 (Hegedüs et al. 2014: 67–68). There is no centrally funded subsidy in Bulgaria, Romania, or the former Soviet republics and the Baltic states (Zahariev et al. 2014; Bejan et al. 2014; Hussar 2015).

Supply-side subsidies are also scarce and limited. An overview of housing-related taxation and subsidy systems in the CEE region (Hegedüs and Horváth 2015: 31–32; Hussar 2015: 30–34; Jakopič and Žnidarec 2014: 80–88; Panek 2015: 16–20; Petrović 2014b: 56) typically shows an image of relatively generous state subsidies for construction and obtaining home-ownership, with some—very limited—support for low-income owners and social renters. EU funding is usually channelled into energy-efficient renovations, which again are mostly only relevant to owners, and much more attractive to owner-occupiers than to owner-landlords. Private renting is usually considered both by the general public and by policy-makers to be a temporary solution, and ownership is regarded as the only truly secure option. This, of course, is a vicious cycle: failing

to see the social relevance of private renting impedes the introduction of subsidies, which in turn makes the PRS an insecure, unreliable, and unaffordable option.

In the Russian Federation, a special preferential regime of allocating state or municipally owned land plots for the construction of rental buildings was introduced based on a special agreement on the development of rental buildings. Under this scheme, a public authority can define the intended use of the plot, which can be either commercial or social rental, and transfer the plot following an auction to the developer. In 2012, the state-owned development institute JSC (Agency for Mortgage Housing Lending) launched a mortgage product intended for rental housing development, available for developers or owners of rental buildings (or parts of rental buildings). The product provides access to long-term (up to 30 years) financing to professional landlords who own at least five rental units, and it sets certain standards for the emerging market, including the standard rental agreement (Puzanov 2015). While the importance of rental housing is increasingly often declared in the CEE countries' political rhetoric, similar policy steps with the clear intention to boost rental development are still rare; even this initiative is slow to produce results.

In Search of an Intermediary Tenure: Rental Cooperative Models

Both rental cooperatives and not-for-profit builders or rental housing associations are rare in CEE countries. The most important exception is the Polish TBS housing. Social Building Associations (in Polish, *Towarzystwo budownictwa społecznego*) were established as a state programme in 1996, with the aim to build and manage rental apartments, based on the French HLM (*Habitation à Loyer Modéré*) model. Social Building Associations are present in many cities, although not in all major ones. In some cases, they closely cooperate with the municipality and also build municipal rental apartments; in others, they run their own investment programmes based on preferential loans and the contribution of future tenants. TBS flats are intended for financially stable tenants with a defined maximum per capita income and who are generally expected to occupy the apartment

only until they raise the means to purchase their own housing—which, in the end, still reflects a general preference for owner-occupation. It is also meant to reduce the need for social housing: the main policy goal behind the programme was to induce upward mobility so that low-standard public housing could be freed up for social use. However, with the shift in the interest of municipalities towards EU funding throughout the 2000s, the support for TBS waned, and the National Housing Fund, which had financed the programme, was dissolved in 2009. Finally, even the transitional role of rentals was eased with a 2011 amendment of the regulation on TBS, which allowed tenants to buy their unit. This was a popular move among TBS tenants as well as policy-makers, despite having the exact same drawbacks as the mass privatisation of former public housing, like the high unmet demand for affordable rental units, or the better chances wealthier tenants have of obtaining ownership in higher-quality units (Muzioł-Węclawowicz 2013a: 204–206).

Regionally Innovative: Utilising the Private Sector for Social Purposes

The utilisation of private resources and the PRS for social purposes is an existing practice in some Western European locations (see chapter “Private Renting in Social Provision: Social Rental Agencies in Western Europe” of this volume), but remains virtually nonexistent in the national policy of CEE countries. At the same time, public bodies on a municipal level or semi-public and private organisations using public funding do utilise the PRS for this end. In many such cases, clearly separating public and private initiatives is not necessarily feasible, nor is making a distinction between rent allowance schemes and the utilisation of PRS for social purposes. The local rent allowance schemes mentioned above, for instance, also fall into this category. Housing First initiatives for the benefit of homeless persons often have no other option but to use the PRS, as social housing is very limited, and in many cases the legislation does not even make persons without a local address eligible for public task rental housing (Busch-Gertseema 2014; Fehér and Balogi 2013; Lindovská 2014).

While the notion of social rental agencies (SRAs) has been gaining vast popularity among housing researchers and professionals in CEE countries (Hegedüs 2013c; Hojsik 2013; Hussar 2013; Muzioł-Węclawowicz 2013b; FEANSTA 2015), the creation of such agencies is still rare and the attached public funding is scarce, as neither the legal environment nor the tax and subsidy conditions are adequate for establishing such agencies. As illustrated in the chapter “The Policy Environment of Private Renting After 1990” of this volume and also discussed above, the policy environment—housing legislation and the tax and subsidy treatment of rented housing—makes the PRS an insecure and unaffordable tenure form in most CEE countries, and policy-makers have little incentive to focus on housing policy reforms or even consider the social and economic need for a consistent and comprehensive national housing policy. In this context, while a rent allowance scheme in itself could prove helpful to numerous households with limited means, the housing agency form is useful not only because it could help secure relatively more affordable rental units for households in need but also because through social work for tenants and mediation between tenants and landlords, they address and effectively mitigate some of the risks inherent in private renting.

One example of an organisation that in practice operates much like an SRA is the Savaria Rehab-Team, a social services provider operating in Szombathely municipality in Hungary; they began utilising private rental apartments to house homeless persons in the long term. Although they never formally established a rental agency, they developed successful methods in negotiating with owners, contracting, managing conflicts with neighbours, and so forth. Inspired by the success of the Savaria Rehab-Team, the municipality, which also provides a rent allowance to low-income private renters, tried to adopt the SRA scheme on a larger scale in order to increase the amount of rental stock available to low-income persons. However, the initiative eventually failed, possibly due to the legal and subsidy environment’s incompatibility with the scheme. Nonetheless, collaborative attempts between municipalities and civil society organisations (including church-based associations) continue similar innovative efforts. Romodrom, a Czech organisation working with marginalised Roma people, has been helping their clients find accommodation in standard rental dwellings, and it is also actively trying to

engage Czech municipalities to upscale their activities. Romodrom has to address systemic institutional discrimination and provide extensive social work to vulnerable clients, which clearly are challenging tasks. It is notable, though, that without the relatively generous rent allowance schemes that operate in the Czech Republic, these tasks would be nearly impossible. Habitat for Humanity Poland recently set up an agreement with the City of Warsaw to cooperate on the provision of housing in a scheme that has SRA elements adopted from Western European examples. The Hungarian Charity Service of the Order of Malta has been setting up an agreement with the City of Veszprém in Hungary, where the Charity takes over the management of the municipal housing stock, negotiates the involvement of other public task rentals, and, using its own local housing units, is able to gain some leeway for more flexible and efficient management of the housing stock for people in need. The novelty of this scheme is that it goes beyond the integrated management of various sub-sectors of affordable housing to integrate housing management and social work, which adds greater efficiency to their work; this is something that is often recommended by social policy experts, but seldom ever happens.

However, such initiatives can only be upscaled if the local or national policy embraces them. Romodrom can successfully move people from substandard housing to adequate rental units thanks to the rent allowance available to tenants renting commercial dwellings, which covers nearly the entire housing cost. Even in this context, intensive social work is needed to help vulnerable people trapped in substandard commercial rentals. These so-called hostels profit from the generous private rent allowance scheme available in the Czech Republic and offer small, very poor-quality rental units to the poorest. The first problem is that saving up for the deposit on rent required in standard rental housing is difficult for these vulnerable households/persons, and second, most landlords are risk-averse and are rarely willing to conclude a contract with the homeless, immigrants, ethnic minorities, and other persons considered 'risky' (Lindovská 2014: 109; Lux 2014: 102). Whether similar civil society and public body corporations can truly be successful in Poland or Hungary depends not only on the commitment of local actors. Given that neither of the two countries has a rent allowance scheme comparable to that of the Czech Republic, commercial renting on a larger scale could easily

become unaffordable to both civic and municipal actors, and the legislation they have in place on private residential renting does not address the risks inherent in private renting.

Innovative Solutions: Civil Society Initiatives

As the previous section already showed, the efforts of local-level actors to provide affordable housing for the poor often require the cooperation of public bodies with civil society organisations. While the authority to start rent allowance schemes and public policy initiatives to create affordable cooperative housing lies entirely with states and public social landlords, mobilising the private sector for affordable housing provision to vulnerable groups in CEE countries has so far largely been implemented with the mediation of non-governmental organisations (NGOs). Furthermore, it is not only local NGOs that enter this field when public policy fails to provide adequate solutions. In countries where welfare provision in the field of housing is particularly weak, local NGOs have often cooperated with large international donors or civil society organisations to launch innovative programmes. Some projects initiated by NGOs are also based on cooperation with public bodies; it is usually the shortage of social housing that eventually turns them towards the private housing sector, as in the case of the Housing First projects mentioned above. The following paragraphs will present just a few cases of initiatives that were either launched by NGOs or involved the establishment of non-profit housing organisations by civil society organisations. The full list of such programmes would be very long, as housing problems are felt most keenly on the local level, and civil society initiatives often attempt to fill in the numerous gaps in public services in CEE countries; nonetheless, the few selected cases shed sufficient light on the challenges of providing affordable housing in the region amongst the chronic shortage of public housing, and of mobilising private resources for housing provision in a PRS environment lacking in both public support and adequate tenure security.

The Matra programme in Slovakia was a Dutch grant programme that established a non-profit housing organisation in 2005 in the City of Martin, which was fully owned by the municipality (Červeňová 2005;

Hegedüs 2013c: 9). At its peak, it was managing almost 700 municipal dwellings. The organisation was intended to undertake some for-profit activities as well and to eventually become financially independent. However, the project was discontinued after three years. The initial grant ran out, central funding for the programme was not available, and financial viability could not be achieved during this period. The municipality had to cut its funding in order to ensure its own financial security.

In Slovenia, Kralji Ulice ('Street Kings'), an NGO that supports the homeless, launched a housing support programme in 2008. They rented dwellings on the private market, and the organisation paid the rent while the tenants covered living costs. Over a pre-determined period, tenants are required to achieve a set of goals that are worked out together with their social workers, including housing independence. An individual programme would last about one year and a half. During its first two years, the programme functioned as a pilot project with support from the Norwegian Funds for innovative initiatives. Since 2010, it has become one of the NGOs' regular programmes and is co-financed by the Slovene Ministry of Labour, Family, Social Affairs and Equal Opportunities; the Municipality of Ljubljana; and Foundation for Financing Humanitarian and Disability Organisations (FIHO).

A church-based NGO called Hungarian Baptist Aid (HBA) established a non-profit workers' hostel in 2012, with the initial investment covered by the Open Society Foundation (OSF). The building is owned by a private entity and rented by HBA; the units are then let out to homeless persons at a price that covers the entirety of the rent the HBA pays. Funds from the OSF were used for the full renovation of the multi-unit building. The hostel, initially named 'Trampoline House', accommodates 158 persons and has zero tolerance for rent arrears. It was filled to full capacity almost immediately and has been running on full capacity ever since. The available places are more expensive than social housing, and every dweller has to share living space with one or two roommates. However, homeless persons seldom have any legal avenue by which to enter social housing, as the social landlords—municipalities—typically require a local address from applicants. When they do have the opportunity, demand for social rental housing is huge compared to the number of available units. This steep competition coupled with legal restrictions means that in most

cases, homeless persons can only access standard housing when they enter private renting. The name ‘Trampoline House’ expressed HBA’s expectation that homeless persons accommodated there will eventually bounce back into a stable life and move into market housing. However, market-based rental housing is less secure than the HBA’s hostel and much more expensive; even for homeless persons with a temporary stable dwelling, saving up for deposit is a huge challenge. As a result, renters do not leave the hostel until they are forced to do so. The place was eventually renamed ‘Halfway House’ to place stronger emphasis on the intended transitional nature of residing in the hostel, and more effort was put into moving people towards standard housing—which means, for lack of a better option, the PRS; however, HBA workers themselves acknowledge the difficulties their clients face in the private market.

Conclusion: The Limits of Innovation

During their transition process, the former socialist countries of CEE not only adopted multiparty democracy and a competitive market economy, they also restructured their housing sectors and did so to an extent that their social dwelling stock is, in fact, often dwarfed by the amount of such stock in some older market economies. Accordingly, most housing stock in CEE countries is only accessible on market terms. While commercial housing, either rented or owner-occupied, is in absolute terms significantly less expensive in CEE than in Western or Northern European countries, it remains hard to afford for many citizens, given typical income levels, and the gradual increase in income inequalities in these countries has exacerbated this issue. Nonetheless, the political will to improve access to adequate and affordable housing for all has been very limited, as policy-makers in many CEE countries in the past decades have seemed more intent on supporting an emerging middle class than on ensuring an efficient welfare state. Although there are isolated examples of good practices in affordable housing provision in many places, it would be impossible to upscale most of these practices to the national level, so they remain local and of limited scope.

Attempts were made all over the region to foster the development of public housing, but most of the counterincentives to becoming a social landlord remained intact, thereby condemning such attempts to failure. It is therefore highly unlikely that the social rental sector will grow in any short- to medium-term horizon. Utilising the private sector for affordable housing provision would, however, require less investment from the central and local budgets and could help make national private rental sectors, on the whole, more stable and reliable. However, the pervasively informal nature of the sector would first have to be effectively dealt with and financial support introduced on both the supply and demand sides. At the same time, a few good practices aimed at reforming the commercial housing environment can be mentioned. In the former East Germany, where transition basically meant reunification with West Germany and the adoption of its political and legal system, a subsidised and efficient commercial housing system was created, with a significantly larger and more affordable private rental market than in any other transition country. While East Germany was clearly in a very different position than other CEE countries, some of the solutions adopted there would have been available to other countries in the region—yet very few were considered.

The Czech Republic boasts the most efficient PRS among the remaining transition countries, with generous support for private tenants and attractive tax incentives for landlords, which helped to effectively reduce the incentive for tax evasion and informal letting. While innovative solutions to affordable housing provision were developed in many countries and in many locations, none of them were able to cope with a legal and financial environment that is unfriendly to private renting, so many attempts at using commercial housing as affordable accommodation failed. The market's volatility and the potential inability of low-income tenants to maintain their tenure have been huge factors in this. The boom in rents, which seem to be a global phenomenon in the post-crisis years, has been strongly affecting CEE countries since 2015, which makes attempts at using private resources for affordable housing provision particularly challenging. The generous subsidisation of private renting in the Czech Republic effectively offsets this market volatility and makes private tenancy a safe and durable option even for the poor and even in the present day. Nonetheless, it produces its own perverse incentives too, as

abusive commercial landlords rent out extremely poor-quality dwellings (sometimes just single rooms) at high rents in ‘hostels’ to vulnerable marginalised tenants with no other options. Thanks to the rent allowance, they are able to cover the rent, but because of systemic discrimination these marginalised tenants—often extreme poor Roma or migrants—are unable to get out of the ‘hostels’ and access standard rental housing.

As the example of the hostels in the Czech Republic or the case of Baptist Aid’s worker hostel in Hungary show, there is a massive demand for affordable rental accommodation. Social workers are often frustrated by how difficult it is for tenants in a similar ‘temporary’ dwelling to move on to standard housing. However, most private rental sectors in CEE, as they are currently set up, are unable to accommodate poor or vulnerable tenants. A relatively large set of tools is theoretically available to legislators in CEE countries to adopt from existing practices in CEE and elsewhere in Europe, even without offering private rent support to tenants or landlords, comparable to the Czech subsidisation of tax incentives. A flexible, third-generation rent regulation in itself could make the PRS market as a whole so much more reliable that it would not deter potential landlords—despite policy-makers’ fears to the contrary. The legal security of the private rental tenure could also be improved. The lengthy eviction procedure is often the only measure offered to make rental tenancy more secure, but it does nothing to help tenants afford—and therefore hold on to—their tenancy, while it does serve to discourage potential landlords. Legal measures that could improve the security of tenants might include the introduction of swift and easily accessible alternative dispute resolution, and the justification for such measures is the importance of a home for the social and economic participation of citizens and the need for people to be able to move home when conditions in the job market change. Providing landlords with legal assurances that they will be able to access their property in the case of conflict could also encourage more middle-class households to invest in a second or third property and utilise it on the rental market. Finally, while innovative measures and approaches are crucial to policy development, the sector also needs financial support, otherwise no amount of good practices will make standard, market housing sustainably accessible to low- or lower-middle-income households. The current strict pro-home-ownership policy and subsidy environment

of most CEE countries should be reformed in depth, especially in the light of the risks of debt-based low-income home-ownership that have become apparent since the crisis. Municipalities as social landlords may be able to run some small-scale local programmes, which ensure a home to a few dozen households. Civil society organisations with temporary support from international donors may set up great projects to help house the needy, but unless such initiatives are embraced by the central governments, all their good will and innovation is doomed to remain small scale and short lived.

Notes

1. Subsidy amounts, where the exact amounts can be used, will be quoted in euros, including for countries outside the Eurozone, for comparability.

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16

Central and East European Housing Regimes in the Light of Private Renting

József Hegedüs, Vera Horváth, and Martin Lux

The Private Rental Sector in Post-socialist Societies: An Overview

The legal, institutional, and financial environment of private renting seems at first glance quite similar across Central and East European (CEE) transition countries, particularly when compared to Western and Northern European renting regimes. This is partly due to their close starting points, as they emerged out of the 1989–1990 regime changes in the region, and is also due to the many similar challenges they faced during the transition process. Nonetheless, some important differences must also be taken into account. As regards what they have in common,

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with just a few exceptions, there is a pervasive amount of informal renting and therefore ‘hidden’ tenancies in the private rental sector (PRS), and whether official statistics alone or expert estimates of the real size of the sector are considered, it is still on average smaller in size than it is in Western European countries. Many post-socialist states in the CEE region have become ‘super-homeowner’ societies, where government housing policy is prevailingly still strongly pro-home-ownership, despite owner-occupation rates already as high as 80–96 per cent of the inhabited housing stock, and despite several negative features of the disproportionately high home-ownership rate that stem from the rigid tenure structure such as greater sensitivity to external market shocks and reduced options for residential mobility. Social housing sectors in the region have become residualised, and in most CEE countries the rental sector as a whole is inefficient, with commercial renting unable to make up for the shortage of public rental stock.

However, this image of the ‘super-homeowner society’ is not all-pervasive in transition countries. The rental sector received substantial policy attention in some countries, like in the former East Germany almost immediately after reunification, and in the Czech Republic and Poland after a prolonged period of restructuring and reforms. The pro-ownership policy bias remained strong in most CEE countries, while policy-makers’ limited interest in also addressing the challenges and inefficiencies of the rental sectors led to a high level of informality and tax avoidance in the PRS of many CEE countries. Nonetheless, PRS did reach a significant share of the housing stock despite systematic lack of policy and financial support. The chapter ‘The Policy Environment of Private Renting After 1990’ in this volume discusses the reasons behind the high prevalence of the shadow economy in the PRS in transition countries; the following paragraphs and Table 16.1 provide a quick overview of the estimated real share of privately rented housing as opposed to official statistical data based on recent research projects and the input of country case study authors of the present volume.

In Estonia, Hungary, and the Russian Federation, statistical information suggests commercial residential renting is of marginal significance, but experts estimate the real share of the hidden PRS to approach or even surpass 10 per cent. Overall, there are clear signs of a shift towards

Table 16.1 Social rental housing stock, compared to 'reduced price or rent free' rentals and market rate rentals (2012)—percentage of the housing stock

	Social rental housing as percentage of housing stock	Share of tenant households—reduced price or free	Share of tenant households—market rate
Bulgaria	3.1	11.3	1.3
Czech Republic	17.0	6.4	13.2
Estonia	1.0	14.7	3.0
Hungary	3.7	7.1	3.1
Latvia	0.4	10.7	7.8
Lithuania	3.0	6.7	1.4
Poland	10.0	13.6	4.0
Romania	2.3	2.9	0.8
Slovenia	6.0	18.3	5.5
Slovakia	2.6	1.8	7.8

Source: Social housing stock: Housing Europe (2011: 23); Share of tenant households: Eurostat SILC: Distribution of population by tenure status, type of household and income group

an increasing volume of private renting, especially after 2008, when the Global Financial Crisis (GFC) reached the region, and the social costs of debt-based low-income home-ownership became salient. According to Lux and Puzanov (2013) and expert estimates by authors of the country case studies in the present volume, private renting formed an important part of the housing stock around 2010 in former East Germany (29 per cent of the housing stock), the Czech Republic (14 per cent), Russia (13 per cent), Estonia (11 per cent), Hungary (8–10 per cent), and Poland (9 per cent); in Croatia it reached 6 per cent of the stock.

Small-scale private individual landlords, who represent the vast majority of landlords in CEE, are often keen to avoid paying taxes on their rental income, so they conceal their activity from the authorities, and therefore the existence of their rental units often lies outside the purview of statistics in most countries, which leaves a large share of the sector inaccessible for large-scale data collection. With the notable exceptions of the former East Germany and the Czech Republic, this happens in all the other countries analysed in this book. Therefore, the difficulty of estimating the real size of the PRS must be underlined. According to a World Bank research report (World Bank 2006), the actual share of the PRS may have been as high as

18 per cent in Poland in 2002, and 12 per cent in Lithuania, where official statistical data (Eurostat, based on national Census data) for the share of private rentals was less than 1 per cent in 2006. Not only is the size of the PRS uncertain; its economic and social characteristics and the stratification of its demand- and supply-side actors are also hard to assess. Sendi (2003) showed that the PRS in Ljubljana is a niche market, typically targeted at students and diplomats. A study in Hungary (Erdösi 2000) showed the importance of trust in rental contracts for landlords to be able to manage risks. Comprehensive studies on the PRS in developing and post-socialist countries (UN-HABITAT 2003; Dübel et al. 2006; Peppercorn & Taffin 2013) conclude that the PRS has significant potential from a public policy point of view, but in practice it falls short of fulfilling this potential due to the lack of much needed reform in housing—for example, in the areas of taxation, management, and rent regulation.

A notable characteristic of the PRS in the CEE region (with the exception of former East Germany, the Czech Republic, and to some extent Poland and Russia) is the lack of institutional investors. Policy analysts often recommend the introduction of measures aimed at strengthening institutional investment in residential renting, based on the assumption that this will bring stability and professionalism into the sector. As Scanlon and Kochan (2011) point out, while institutional landlords (both private and municipal corporations) do play a significant role in some national private rental markets, such as in Austria and Sweden, where the vast majority of dwellings are leased by corporations and companies, in most West European countries, the majority of rented dwellings are also owned and managed by individual (small) landlords. The share of dwellings leased by institutional landlords is thus only 37 per cent in Finland and the Netherlands, around 25 per cent in the United Kingdom and Switzerland, and 17 per cent in Germany; their role is marginal in France or Ireland (Scanlon and Kochan 2011: 23; Kemp & Kofner 2010). Therefore, the dominance—or even the existence—of institutional landlords is not in itself necessary for a well-functioning PRS.

On the other hand, there are some characteristic features of the PRS in transition countries that make institutional landlords seem desirable. Informal private renting and the related ‘tradition’ of tax evasion, appearing to be stemming from the shared socialist legacy, is still a predominant

factor in most CEE countries. Informal letting under socialism was, of course, prompted by the lack of policy support and the often unfriendly stance of the state towards private renting for decades prior to 1989, but it seems to have been perpetuated since the early 1990s in part by the limited attention paid to housing policy throughout the region even after 1990 (Priemus and Mandič 2000). This also means limited political attention paid to the potential role of a consistent national housing strategy, tenure-neutral policies, and little state support for rental housing development. Institutional investors could therefore bring not only professionalism but also much-needed capital to the sector and a change of perspective among policy-makers and politicians. The events of the GFC—which reached CEE countries in 2008 or as late as 2009—clearly pointed to the drawbacks of rigid, owner-occupation-dominated housing regimes, and to the high risks of mortgage lending to low-income homeowners. Moreover, in many countries, the crisis was followed by the housing market collapse and a prolonged recession. There were expectations at the time that the stock of unmarketable dwellings that real-estate developers or, due to foreclosures, financing institutions were stuck with would form the basis of commercial residential renting. However, state policies towards private renting typically remained unfavourable, which means that professionals are just as unable to attain an attractive yield on leasing dwellings. And while a private person might consider obtaining one or more additional dwellings as a form of savings, even though they do not yield much profit, a large-scale investor is, logically, more sensitive to the capital return and yield. Accordingly, as soon as markets began to pick up, corporations with a significant housing stock sold off their dwellings immediately.

Private landlords in most CEE countries, thus, continue to consist predominantly of private individuals who own a second (rarely a third, fourth, etc.) dwelling, and most of them let it as a supplementary activity rather than a professional one. The recurring exceptions are the former East Germany, with a housing environment that was quickly integrated into the reunified Germany's tenure-neutral context; the Czech Republic, where institutional investments appeared and large property restitution created middle-scale landlords; and to a smaller extent Poland, with a slightly friendlier regulatory environment; and some of the major urban

hubs in CEE countries, where a recent upsurge in profitability eventually began attracting institutional investment. Another shared characteristic of transition countries is the slow but persistent increase in income inequality, which has been driving both the supply side and the demand side of the PRS and partly accounts for the sector's growth, despite the lack of a more encouraging policy context. Higher-income households may see real estate as a safe investment compared to money market opportunities. These decisions are strongly dependent on the market outlook and other investment possibilities. At the top end of the income distribution scale, households can choose from a wider portfolio of investment and saving options. Due to the unpredictability of the pension systems, investing in real estate is a reasonable choice for even some middle-income persons. Interestingly, the increase of housing prices in the region often took place in times when alternative investment possibilities were considered to be less advantageous—for instance, in 1998–2000 and 2012–2014, when the impact of the regional money market crises was felt, while these did not have a big impact on housing markets.

At the bottom end of the income distribution, households cannot afford home-ownership. A growing number of low-income households are being forced into private renting, and even more so since the crisis and the subsequent credit restrictions of the late 2000s. Typical tenants on the demand side of the PRS are households who cannot find (or cannot afford) the right housing solution in the owner-occupied sector. As Jan Brzeski (2007) argued, the 'non-beneficiaries' of privatisation tend to comprise the vast majority of the demand side of the PRS, such as young and mobile people (students, young professionals); migrants moving from rural to urban areas unable to afford an urban dwelling from the sale of their old rural home; vulnerable groups in need of emergency housing; the permanent urban poor; the divorced; and single parents. However, as long as potential tenant households have other housing options, like living with other family members or moving to the lower segments of owner-occupation, their tenure choice will depend on the availability and the affordability of these options. Because the least expensive forms of housing (which is essentially moving to the bottom segment of the housing market) are often regarded as very unappealing from the perspective of social status, even relatively low-income households are often will-

ing to spend a massive share of their disposable income, and give up on other, similarly essential but less visible goods, in order to secure a more widely accepted form of housing. The housing cost overburden is typically the highest for private renters all over Europe, and having to spend 40–60 per cent of disposable household income on rent and utility payment alone is a widespread challenge for private renters all over Europe. However, unlike their Western European peers, low-income renters in CEE countries have a significantly higher likelihood of having to live in substandard housing or severe material deprivation. Consequently, when low-income households lose their property or social tenancy because of financial difficulties, they often end up in the bottom end of the PRS in poor-quality housing, where the level of rent and utility costs further overburden their already strained budget. At the same time, given that renting has a low social status as a form of long-term housing, many households with a modest income are willing to take on a heavy debt to secure home-ownership, which does not spare them from the risks of cost overburden. In this case, they may spend half or more of their income on mortgage repayment and utilities. While expanding the social housing stock is often envisioned as a possible solution to secure adequate and affordable housing for more low-income persons, a tenure-neutral, income-targeted system of housing benefits could in fact provide significant relief to the budgets of many lower-income households without requiring a big investment from the state. But to date, many countries still lack a proper system for providing housing benefits, or the system they have is too poorly targeted to resolve the problem of housing affordability for tenants in private rentals (Lux and Puzanov 2013).

The demand side of the market is clearly diverse, ranging from a narrow high-end to wider medium- and low-end sub-market, and with some clearly defined sub-groups:

- (1) Foreign professionals, who occupy the high end of the rental market: this is a relatively small sub-group (like all high-end markets), but it forms a steadily growing share of the market;
- (2) Young professionals, who delay buying a home before planning a family; some of them are simply aiming to act in a financially responsible manner, especially since the GFC, and want to avoid the

- risk of taking on a long-term mortgage loan before the mortgage markets seem to have fully recovered, and before they have managed to save enough for a substantial down payment on housing;
- (3) Middle-class or lower-middle-class persons or families who have recently migrated within the country;
 - (4) Students are arguably the largest and most stable sub-group of private renters. While some will only rent in the September–June period, many stay in one rental apartment for years (either the owner keeps the flat vacant for the student renters he or she already knows, and considers reliable, or the student renters also stay for the summer, which is especially common in larger urban centres; some even stay in the rented dwelling after graduation and in the early stage of their career).
 - (5) Lower-income households who cannot afford home-ownership; this group includes people who defaulted on their mortgages as a consequence of the GFC and are currently not creditworthy. They are usually also excluded from social housing, because they were property owners in recent years; they consequently have no other option but to enter private renting.
 - (6) Many of the poorest households or persons who have no access to social rental housing simply because of the grave shortage of such housing are forced by the lack of any other options to enter the lowest segment of the private rental housing market.

To sum up, the PRS in post-socialist transition countries (1) is generally considered to be a residualised sector of the housing stock that exists alongside the marginal sector of social housing and the predominant sector of owner-occupied housing; (2) is, however, with the exception of former East Germany and the Czech Republic, much larger than what statistics suggest; and (3) encompasses not only housing for students, young professionals, and other financially solid and/or transitory users but also a large number of low-income households with no other housing options (i.e., the hidden part of the PRS). These households are left all the more vulnerable by the unbalanced regulation of private renting, the weak enforceability of valid contracts when they do exist, slow and expensive civil litigation, and the lack of mediation and alternative dis-

pute resolution mechanisms. On the other hand, tenant protection in the field of the PRS is often quite strictly regulated. As a result, while many private renters do not receive any public financial support to help them pay their rent, they are often strongly protected when they are unable to pay their rent during the term of the contract. This protection does not add stability to their situation so much as it discourages many potential private landlords from entering the market.

The main barrier to the PRS becoming a strong tenure in the long term is the vicious circle of an unbalanced housing (tenure) system. Throughout the transition period, the public subsidies for owner-occupied housing were several times greater than the public subsidies for rental housing. The state housing policy bias across the region to favour home-ownership was reinforced by the widespread giveaway privatisation of public housing. Home-ownership gradually became a popular and powerful social norm, while renting, by contrast, became stigmatised as a residual and temporary form of housing. The demand for private renting became more volatile, and the rent deregulation that sooner or later happened in most transition countries increased the turnover of tenants in the PRS.

The judicial proceedings that accompany justified eviction are still very lengthy, and therefore private landlords continue to agree to leases for only a fixed term, in most cases for one year, despite the increasing competition on the market. However, the short term of a typical contract shapes the demand in the PRS and adds to its temporary status: it deters households and especially families from renting if they are seeking a stable, long-term home, even if they are financially stable. Instead, the households who could afford long-term, solid quality rented housing will turn to ownership, and most households that remain in rented housing for a longer time will be those that cannot afford to buy housing because they have low income or social problems. The fact that the rate of tenant turnover is increasing and that socially vulnerable households are beginning to become concentrated in the PRS may encourage landlords to build a higher risk premium into the requested rent. This may make average rents significantly higher than the average user costs of home-ownership, which could further decrease the attractiveness of the PRS and the risks that serve to curb the sector's growth. An unbalanced tenure policy thus

increases the social differentiation of the population according to housing tenure. In other words, if private renting serves only those who frequently move and/or have low income, it can hardly be a competitive alternative to home-ownership tenure in the long run.

On the side of landlords, the risks are numerous: as tenancy is clearly unaffordable for many tenants, a number of tenant protection measures have been put or left in place that do not help renters to be able to afford their housing, but give them the right to go on living in a housing unit that they cannot afford. This poses a serious risk for landlords, who cannot access their property, while the tenant may even accumulate utility arrears as well, which the landlord may or may not be able to recover from the tenant. In the end, the private market is risky for both tenants and landlords in most of the CEE region; these risks are often managed by parties through informal conflict management techniques. As each side depends on the other, most private renting conflict management will be amicable, and the sector as a whole displays a fair amount of self-regulatory behaviour. Ultimately, however, the unbalanced regulation and the lack of market correction mechanisms in this field (in the housing sector) mean that the behaviour of households on both the demand side and the supply side of the PRS may increase the real or perceived risks inherent in PRS, and accordingly may contribute to the volatility—and through ‘risk premiums’, the overall rent level—of the sector. This creates a vicious circle, as the perception that the PRS is a risky and unaffordable form of tenure may in fact make it a riskier and more volatile sector, which will constrain the sector’s growth, and, as a result, the supply of private renting will continue to fall short of the demand and need for flexible rental housing.

Central and East European Housing Regimes: Convergence or Divergence?

After 25 years of regime changes in CEE, there is no consensus among housing policy researchers on the direction in which post-socialist housing systems are developing. It is still unclear whether they are following the same trends and will converge in a similar housing model that lies in a

liberal, residual, or family-based direction, or whether trends in the CEE are headed towards the development of fundamentally diverging models (Stephens et al. 2015; Hegedüs 2009; Tsenkova 2009; Hegedüs and Struyk 2005). If we compare tenure structures in CEE EU member states, the similarities seem strong. Each country went through an extensive privatisation process, and, although the methods and pace of privatisation were different, nearly all of them ended up with a residualised social rental sector. Housing finance systems began to develop in every post-socialist country after 2000, and mortgage markets expanded fast, even though they remained modest in an overall European comparison. And although in each country the institutional structure was very different, in terms of funding schemes, housing loan products, underwriting mechanisms, the role of intermediaries, and the rate of the sector's expansion, the direction (or movement/development/progress) seemed similar (Hegedüs and Struyk 2005; Hegedüs et al. 2014). Years after the GFC, observers are again uncertain as to whether crisis responses supported divergence or convergence trends. Bohle (2014) and Csizmady and Hegedüs (2016) describe the differences in the mortgage rescue programmes of Hungary and Estonia, two countries that accumulated large foreign exchange (ForEx) loan portfolios. However, we do not yet know how these differences will affect the development of CEE housing regimes.

The development of the rental housing sectors in CEE countries was very similar to what was seen in Western European countries, and started with the mass construction of rental housing at the turn of the nineteenth and twentieth centuries, followed by rent freezes after World War I, and attempts to re-attract investors in private renting during the interwar period (see chapter "The Private Rental Sector in Western Europe" of this volume). However, the renting in socialist CEE countries followed a separate path from the rest of Europe after World War II: in most socialist countries in CEE, the private rental stock was either almost entirely nationalised and transferred to local council management or at least operated under strict state control (like in Poland or East Germany). Some forms of private renting appeared in CEE countries under socialism, typically in the form of officially approved forced renting, and the informal or semi-formal sub-letting of state-owned rentals (see chapter "The Private Rental Sector Under Socialism" of this volume). The latter was

usually tolerated by the state as a compromise; both existed due to the serious housing shortages that could never be effectively overcome by the state administrations. Centrally administered socialist states could not function efficiently enough to provide housing to meet existing needs, so the authoritarian regimes often decided to be permissive about some forms of privately managed housing to ease possible social tensions (see chapter “The Private Rental Sector Under Socialism”). Nevertheless, the PRS essentially had to be re-created and re-regulated in the transition process after 1990 through housing policy reforms. The form and scope of property restitution played a significant role in the development of PRS after 1990 (see chapter “Property Restitution After 1990”). The central question raised in the final chapter of this book, then, is what role the PRS played in the development of the housing systems in post-socialist countries.

Tenure Structures and Housing Markets in Transition and Beyond

The regime changes in the region were immediately followed by a transitional recession in most CEE countries that lasted on average for 3–5 years (Mitra 2001: 3–5). This was accompanied by a period of legal and economic restructuring, which took a decade or in some places even longer. Despite huge differences in the pace of economic recovery and restructuring and the institutional responses, the overall transition process and the main changes in the housing sectors were very similar: all aspects of housing production and provision (the state owned the construction and building materials sectors, as well as the banking sector) and the vast majority of formerly public task housing were privatised. Social housing management was decentralised, as was the authority legally responsible for the provision of social housing, which was reassigned (in most cases) to the municipal or (less often) the regional level. While housing policy, housing support, and housing construction were key issues in socialist countries, they almost entirely ceased to be a policy priority in all transition countries after 1989, to the extent, in fact, that while housing was a major expenditure in socialist state budgets, states and local authorities

today typically play a much more limited role in housing in the CEE region than in most older EU member states (Priemus and Mandič 2000). The first major housing policy measures were mass privatisation of public rental housing and property restitution, leading to the dissolution of the socialist housing model (what is called the 'East-European Housing Model'; see Hegedüs and Tosics 1996).

However, different transition countries took different approaches to restructuring housing tenures. While some countries intended to make a clear break from the socialist past, the transition process was much more gradual in others. The Baltic countries exemplify the former case: once independent from the USSR, they fundamentally revised their housing legislation and housing sector, executing a strongly marketised and coordinated transformation of the housing sector, with little attention to its social or welfare aspects. Some other countries had begun reforming the legal environment even before 1990, and their transition process was slower and more gradual, but most of them also privatised and marketised their housing sector to a similarly large extent and in almost every case saw their public housing sectors shrink to below 10 per cent. Slovenia represents the opposite end of this scale, as there the housing transition was also strongly coordinated centrally, but the social aspect of housing policy always retained its prominence.

In the decentralisation process, most of the public task rental housing stock was transferred under the authority of the local municipalities, as was the responsibility for the provision of social housing (Mitra 2001). Because the sector was heavily subsidised by the state under socialism and enjoyed strong tenant protections and artificially low rents, and because the municipalities were not allocated sufficient funding with which to manage the social housing they were now responsible for, the sector immediately began to be a financial drain on the municipalities, which immediately began to privatise as much of their social housing stock as possible. By the late 1990s, the amount of social rental housing in most CEE countries had shrunk to a fraction of what it had previously been (Hegedüs 2013). Lux (2003) differentiated three models of housing privatisation: 'fast privatisers' (e.g. Estonia, Hungary, Slovakia, Slovenia), 'slow privatisers' (e.g. the Czech Republic, Latvia, Poland), and the

outlier Bulgaria, a country that had a low share of public housing even at the beginning of transition.

In a number of CEE countries, an important share of formerly public task housing was transferred to private ownership through property restitution. Restitution in kind was a major policy goal in some CEE countries, while the former owners or their legal successors only received varying levels of financial compensation in others. While there was a dramatic decrease in the provision of public housing in all transition countries, the form and scale of property restitution varied significantly within the region. The Czech Republic, Poland, and East Germany, for example, used in kind restitution on a large scale, while, in Hungary, former landlords received only symbolic financial compensation, and in Russia often no compensation at all. The scale and method of housing restitution seem to have had an important effect on the size of the PRS today and on how professionalised the sector is, which is indicated by how much legal private renting there is and whether and to what extent professional or even institution landlords are active in this sector. The former East Germany and the Czech Republic each have a relatively large and professionalised PRS, largely operating as part of the formal economy today. Most restituted housing units in these two countries remain part of the formal economy, in contrast to the housing let by many small-scale individual landlords who often avoid registration or paying tax on rental income (Lux & Mikeszová 2012). While the extensive and often prolonged protection of tenants in restituted housing also turned out to be a source of conflict within the sector, the potential of restituted housing in PRS is noteworthy.

As discussed in the chapter “The Policy Environment of Private Renting After 1990” of this volume, the slow progress of the PRS in most transition countries was due to the fact that both tenants and landlords face financial disadvantages and the drawbacks of poor regulation in the PRS. Financial disincentives discourage actors on both the supply and demand side from entering in a private rental relation. Subsidies (such as housing benefits) available to private sector tenants are marginal (with the exception of the former East Germany and the Czech Republic). Assessing the tax and benefit environment of the PRS in CEE countries reveals that while subsidies and tax concessions are available to all current and prospective homeowners, no subsidy is specifically targeted to current

or would-be landlords to stimulate private letting (Hegedüs and Horváth 2015: 31–32; Hussar 2015: 30–34; Jakopič and Žnidarec 2014: 80–88; Panek 2015: 16–20; Petrović 2014a: 67–75, 2014b: 56). Consequently, entering the PRS is not so much an outcome of free choice as a residual solution to fall back on, where neither the demand- nor the supply-side actors have other realistic alternatives (Lowe 2000, 2003; Erdősi 2000; Hegedüs and Teller 2008).

The legislative framework for the PRS in transition countries tends to be liberal to the extent that it offers hardly any help in practical cases. Mandatory minimum requirements set by law on housing and residential lease typically include not much more than the identification of the object (the dwelling), the contracting parties, and the rent level; in many cases, not even a check on the habitability of the leased object is requested (Zahariev et al. 2014: 135; Jakopič and Žnidarec 2014: 125–126; Hegedüs et al. 2014: 104–105; Podrazil et al. 2014: 68; Kolomijceva 2014: 100; Panek 2014: 129; Bejan et al. 2014: 93). There are some minimum requirements stipulated by law in Lithuania, Slovakia, and Slovenia (Mikelėnaitė 2014: 100–102; Štefanko 2014: 123–125; Petrović 2014a: 104–105), but even these few provisions are vague, and leave plenty of room for different interpretations and for disputes on what they mean to arise during the term of the lease. Individual tenancy contracts are therefore the principal source of the parties' rights and obligations, and the starting point for resolving any disputes. However, tenant and landlord associations in these countries are very weak and have a small membership; many people who depend on rental housing do not have access to legal counsel when preparing the contract, and, even when legislation regulating an issue is in place, the terms of contracts often remain unenforceable. Legal avenues for resolving disputes (civil litigation) are expensive, complicated, and time-consuming, and while there is legislation in place in some CEE countries for alternative dispute resolution related to residential tenancies, they too have a very limited use and impact in practice.¹ As a result, parties will often turn to other solutions: they introduce intermediary actors (like real-estate agents or debt-collection companies) or resort to informal (and in some cases, downright illegal) solutions. Because of the small size of the sector, these conflicts are not considered political

priority, with perhaps the exception of cases related to restituted dwellings, given their symbolic political role.

In summary, due to the structural factors shaping its development, 25 years into the transition and policy development, the PRS in CEE countries has not yet crystallised into clear and stable structures; it can be described as an amorphous sub-sector within the CEE housing regimes, evolving to this day. This makes analysing housing regimes in the region more complicated, but it is consistent with the fluid and still evolving economic and social context, and the as yet unfinished nature of the transition process.

Housing Options for Low-Income Households

After the mass privatisation of the housing stock, large-scale public housing investments have become nearly non-existent throughout the region. Municipalities in all CEE countries have become the most important social landlords, but they receive no compensation for this task in the intergovernmental transfer system, which is a strong counterincentive to maintaining and managing their social housing stock, let alone expanding it.

As a consequence, in CEE, much of the housing stock that became dilapidated during the decades of socialism is, even in the mid-2010s, still in a poor condition, or only some of it has been renovated. These factors, coupled with continuously increasing income inequalities, mean that low-income households in post-transition EU member states can afford three housing options:

- (1) Municipal housing;
- (2) Entering the low end of PRS;
- (3) Obtaining ownership on the low end of the housing market.

As discussed above, social rental housing has become a marginalised sector in all transition countries in the CEE region. Although Eurostat (SILC) data shows a relatively large number of 'reduced rate or free rentals' in some transition countries, some of these are the result of unfinished restitution processes (for instance, in Latvia or Romania); a large

share of rentals at below market price are in the form of sub-letting only one room, or housing units let only within the trusted network of friends or family (like in Bulgaria); and there is the practice of registering private tenants as family members to avoid taxes (particularly in Croatia and Slovenia). The discrepancy between the number of dwellings reported in Eurostat SILC as 'free or below market rent' and the actual amount of social housing stock is often huge, and, in many cases, larger than the statistical size of the private rental market for the same country. This suggests that there is either a massive stock of very generous private landlords in CEE countries, or, the much more likely scenario, a massive amount of semi-formal rental stock, where owners report leasing a property, but do not report letting it at a market rate. As a consequence, while reliable statistical evidence is extremely hard to obtain, the number of households in need of affordable housing is much greater than the number of social housing units available in the region.

Therefore, all low-income households that are unable to obtain social housing because of the shortage have to find housing in the bottom end of the housing market, where housing tends to be of poor quality, and some substandard dwellings even have limited access to services and utilities. But the size and quality of inexpensive housing is not their only disadvantage: the further away housing is from the active labour market, the more affordable it is, which tempts many households to move to more remote areas, where they are not, however, able to find a regular source of income, and where eventually they end up trapped.

Renting a dwelling on the private market is a risky business in the new EU member states, where legal regulation is often considered unbalanced—over-regulated in some respects and under-regulated in others—and where it is hard to enforce the terms of signed contracts (Hegedüs et al. 2014). Although in most countries and most cases, a rental contract must be in written form in order to be legally valid, the majority of the market in the region operates in the informal economy (Drofenik 2015: 9; Hegedüs and Horváth 2015: 8; Hussar 2015: 34–35; Panek 2015: 9, 20). As most landlords will avoid tax duties on their rental income, contractual relations typically remain hidden. Regulations are liberal to the extent that private tenancy relations do not offer an acceptable level of tenure security, thus renting on the private market is usually only

considered socially acceptable as short-term housing (for students, young persons before establishing a family, households in temporary hardship).

The risks of home-ownership at the bottom end of the housing market seem less obvious at first, and a practical understanding of the social conditions and housing markets in the CEE is required to see their consequences. Policy support for ownership is often promoted because of the seemingly greater tenure security it provides, whereas if the risks were correctly considered, it really only reflects the disproportionate lack of security in rental housing. First, ownership is only more secure if the owner-occupants can afford it in the long run; if not, they end up trapped in debt. Second, the macro-level risk of a rigid housing market that is caused by the disproportionately high rate of owner-occupied housing is well known in the international literature (Hegedüs et al. 2011). Paired with the structural changes in transition countries, households could find themselves trapped in shrinking regions, where formerly state-supported industries went bankrupt and unemployment has been skyrocketing. The market value of housing in these regions is low and will attract the most vulnerable households that cannot afford secure housing in more prosperous areas. However, persons moving to these 'weak market' regions will be unable to find jobs and gain sustainable livelihood.

At the same time, buying a home still financially makes more sense (at least to those who can actually afford it): tenants have access to very little financial support, while home-ownership receives generous state support. Although a home-ownership bias in policy is present in most European countries, despite policy professionals' efforts to emphasise the importance of a tenure-neutral approach, the gap between subsidising renting and owning is even more striking in new member states due to their extraordinarily high owner-occupation rates, the heavy burden debt-based home-ownership places on families with modest incomes in these relatively poorer states, and the near complete lack of support available to tenants in CEE countries (again, with the notable exception of the Czech Republic).

Due to the sharp decline in the share of public housing and unsustainable new social housing strategies, the slowly but overall steadily growing PRS may play a more significant role in housing the poor and vulnerable households in post-socialist countries. In the chapter "Property

Restitution After 1990”, we indeed saw that lower-income households have higher odds to live in market renting in some countries, such as the Czech Republic, Slovakia, Estonia, or Slovenia, than the population in general. However, in most of the countries in our sample, the majority of poor and vulnerable households tend to be homeowners or public tenants rather than tenants in private rentals. It seems that only the Czech Republic represents a special case, as there the share of poor people living in private tenancy is already high and is increasing in time. The issue of poor households in substandard privately rented housing needs to be addressed by policy in many countries in the region, but, in the case of other countries, the problem may be less visible or systematic. This can be interpreted as a consequence of the size, professionalisation, and legality of private renting in the Czech Republic, and the country’s generous housing benefit system that creates sufficiently strong financial incentives for private landlords to accommodate the poor. Finally, chapter “Private Renting in Social Provision: Initiatives in Transition Countries” looked at the possibility of utilising the private housing sector to house poor and vulnerable households. In the context of residualised social housing stocks and standard owner-occupied housing that is out of reach for the lowest-income populations, policy initiatives such as Social Rental Agencies may be crucial to effectively providing affordable housing for larger segments of the population.

Conclusion: Can the PRS Help House the Poor?

A slump in new housing construction and housing privatisation has been a general trend across Europe in recent decades, and this has affected transition countries even more due to the lack of investment in housing before 1989, the massive privatisation of social housing in the 1990s, and the collapse of the construction sectors after the GFC. The PRS has an essential role to play in the provision of affordable housing, an issue that is being addressed across Europe, but is moreover inevitable in new EU member states, where low-income households significantly outnumber existing social rental housing units.

The private rental market in the majority of new EU member states is volatile and unpredictable, and still lacks the kind of steady conditions and transparency required for the sector to grow. There are a number of essential structural factors that explain the amorphous nature of the PRS in post-socialist transition states:

- (1) the still evolving economic, welfare, and policy context in which the PRS functions;
- (2) the effect that the uncertain financial and legal conditions have on the choices that individual actors (households) make on both the supply side and the demand side of the PRS;
- (3) the system of incentives and the behaviour of organisational actors in the housing sector, including real estate agents, developers, municipalities, banks, and construction companies.

Still, despite the differences in their macro-level legal, social, and economic contexts, we can see a convergence of housing regimes in CEE countries with very similar trends and housing outcomes. Although the literature distinguishes between slightly different ‘varieties of capitalism’ and welfare systems, and the two largest influences of the transition period—privatisation and restitution—played out in different ways in the region, the resulting housing regimes have very similar legal backdrops, tenure structures, and challenges. The main differences that we find among housing sectors and the PRS in CEE countries can be explained by restitution, as restituted housing units remained part of the formal economy (particularly in the Czech Republic, Poland and Slovenia), unlike in most new member states where the sector as a whole is dominated by accidental landlords and operates in the shadow economy.

Although attempts were made in most CEE countries to expand the PRS, they always faced serious constraints. First, while all these attempts reacted to pressing issues—and did so in line with the ‘trial and error’ approach generally adopted to housing reforms in the region—a long-term political commitment would have been necessary to undertake the kind of strategic market-building that took place in old EU member states, where the rental sectors are large and function well. (The most ‘classic’ examples of these are the PRS in Germany and the housing

associations in the Netherlands—both of which required decades of subsidisation and institution-building.) Instead, policy-makers in CEE countries have often been preoccupied with short-term interests, without realising the social costs of leaving low-income households in inadequate housing. Second, lax regulation, sometimes contradictory legislation, and inefficient dispute resolution systems for resolving disputes in the PRS take a huge toll on society. Major changes are needed in tenancy legislation so that the sector can be involved in affordable housing provision. Third, the prevailing housing policy paradigm needs to change. To this day, most support from the state is in fact directed at middle-income households and at promoting home-ownership based on the ideology of private property. This is an understandable reaction in societies where the right to private property and incentivisation were repressed for decades. Making the CEE housing sectors more efficient, however, requires a change in the policy mindset: the focus of support should be redirected away from the middle class and the subsidising of private ownership and into targeted (social and affordable) rental programmes.

What might the role of the PRS be in post-socialist countries in the future? In the aftermath of mass privatisation, the size of the public housing sector has been reduced to just a small fraction of the total housing stock, and the number of social housing units is well below the number of households in dire need of affordable housing. Despite some efforts (and a certain level of political will, albeit often limited to rhetoric) to increase social housing, it is unlikely that there will be any significant increase in the stock of publicly owned social housing because of the fiscal constraints governments and municipalities are dealing with. Consequently, involving the private sector in affordable housing provision has become inevitable to help households in need. In these circumstances, it seems essential that the functioning of the PRS be improved. Owing to the demographic changes transition countries are experiencing, with key phenomena such as ageing, increasing out-migration, and population decrease, especially in the (semi-)peripheral 'shrinking' regions, some of privately owned housing stock could be utilised for societal purposes. Attempts to introduce public-private partnership (PPP) models in which the PRS is used as affordable housing proved unsuccessful because the subsidy requirements of such experimental programmes were beyond

the capacity—and the level of political commitment—of the governments involved. Poland's TBS is the most promising example, but the support for this model has been cut in recent years, and this model has only been modestly successful. Nonetheless, two concrete lessons can still be distilled from the PPP experience: (1) applying the cost recovery requirement in affordable housing provision would still result in below market rents, but it would also stop (or at least alleviate) the deterioration of public housing, and (2) placing the responsibility for housing provision on the local (municipal) level requires local-level income redistribution, but this cannot be done efficiently, so social housing provision must be at least partially recentralised at a higher level of national decision-making.

From what we have learned about the housing markets, and particularly the private rental markets in transition countries in the mid-2010s, it is clear that after the change in regimes in the region in 1989–1990, the PRS began to grow slowly and gradually. This process continued unevenly, and gained momentum in the 2000s, when stable economic growth and an upturn in incomes and housing construction dominated the pre-crisis years in the CEE region, which was consistent with wider global trends. However, in most former socialist countries, private renting remained largely an informal sector. Despite a discouraging policy and subsidy environment in most of the region, the fact that the sector continued to grow indicates that there is a strong social demand for flexible housing options, a demand that was underpinned by the socio-economic restructuring processes of the transition. While a number of important and promising measures were adopted in some CEE countries, in most cases, public policy has so far failed to address this demand in substance. For most countries in the region, decision-makers have yet to consider the wider social and economic implications of having a responsive and consistent housing policy and following such recommendations as promoting a tenure-neutral approach, improving the affordability and stability of rental housing, and creating a balanced legal context for actors in every form of housing tenure.

Note

1. For instance, every municipal court in Estonia is able to establish separate Lease Committees, but only the City of Tallinn actually exercises this right, and when it has done so, the committee has proved of limited practical use (Hussar 2014: 94). In Poland, mediation and other amicable reconciliation mechanisms are technically available, but they have little practical impact (Panek 2014: 193).

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