

Germany's Supreme Court overturns Berlin rent cap

Peter Schwarz
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By overturning Berlin's rent cap, the Supreme Court has given the green light to the unrestrained enrichment of real estate speculators. Germany's highest court announced on Thursday that Berlin's law limiting rents in the housing sector was "incompatible with the constitution and therefore null and void." The decision was unanimous.

This means Berlin residents face a new wave of rent hikes. Rents frozen on February 23, 2020, can now again be increased by 15 percent every three years, as provided for in the 2015 federal law falsely called the "*Mietpreisbremse*" (rent brake). Hundreds of thousands of people whose rents were lowered due to the rent cap must also reckon with hefty back payments. The ruling allows real estate companies to claim the full amount of lost rent.

The ruling triggered jubilation on the stock exchanges. The share prices of the large real estate companies soared. Deutsche Wohnen rose by 6.8 percent, Vonovia by 2.9 percent and Adler Group by 7.6 percent.

The Berlin Senate (state executive), an alliance of the Social Democrats (SPD), the Left Party and the Greens, had passed the rent cap in January 2020 to divert attention from the consequences of its own policies. Between 2002 and 2011, the SPD-Left Party Senate had sold off 150,000 of 400,000 state-owned flats to real estate sharks at a ridiculous price.

Since then, the value of apartments has more than doubled and rents have exploded. Within 10 years, asking rents rose by 106 percent. As a result, many average earners, pensioners and students could no longer afford the rent and find affordable housing. In 2018 and 2019, there were mass protests against the constantly rising rents, which attracted tens of thousands. The so-called red-red-green Senate reacted

to this with the rent cap.

As the WSWs pointed out at the time, the rent cap was "not even the proverbial drop in the ocean." It eliminated "neither the acute housing shortage nor the horrendous profits of the real estate corporations."

The new law planned to freeze rents for about 1.5 million apartments at the June 2019 level from February 23, 2020. If the rent had been increased in the meantime, it had to be reduced to the old level. From November 23, rents that were more than 20 percent above a set ceiling also had to be reduced. From 2022, rents were then to rise again by a maximum of 1.3 percent per year.

The law contained numerous loopholes. For example, it did not apply to new flats that were ready for occupancy after January 1, 2014. Property owners also circumvented it by passing on additional ancillary and renovation costs to tenants or by pressuring them to accept higher rents by exploiting the housing shortage.

Nevertheless, the real estate sharks, the Christian Democrats (CDU) and the Free Democratic Party (FDP) cried foul and went to court against the rent brake. The Supreme Court has now ruled in their favour.

In doing so, the Supreme Court judges cynically referred to the rent brake passed in 2015 by the grand coalition of CDU and SPD in the federal government, which did not halt the rapid rise in rents but enshrined it in law. "The Länder (federal states) are only authorised to legislate as long as and to the extent that the Federal Republic has not made final use of its legislative competence," the court ruled. However, since the federal government had already comprehensively regulated tenancy law, the state of Berlin was not entitled to go its own way. Otherwise, the "unity of the legal order" would be endangered.

At the same time, the judges made clear they considered any encroachment on the “right” of real estate sharks to enrich themselves at the expense of tenants to be unconstitutional. The Berlin law narrowed the leeway provided by the federal government for landlords and tenants, they explained, because it introduced a parallel rent law “with market-independent determinations” at the state level. The rent cap would create new prohibitions limiting the freedom of contract for rents beyond what was permitted and would shift the balance of interests already struck by the federal government in favour of tenants.

The ruling on the rent cap has a signal effect for the whole of Germany. The housing issue is one of the most urgent and explosive social problems. Low interest rates, which allow corporations almost free financing, and rising prices and rents have turned the real estate market into a gold mine where tenants are ruthlessly fleeced.

In Munich, the rent per square metre in a new flat is now just under €19, which is €1,900 monthly rent for a four-room flat of 100 square metres, not including utilities. In Frankfurt, it is €15.5, in Stuttgart €14.7 and in Berlin €13.3. In the pandemic year 2020 alone, rents for new buildings rose by 3.9 percent across Germany. Normal earners can no longer afford such rents, even if they are lucky enough to find a vacant flat, not to mention low-income earners, pensioners and students.

State-subsidised social housing is almost non-existent. The number of such properties has halved since the early 2000s. Every year, 43,000 of these homes fall out of the social housing sector, while only 25,000 new ones are added. A business model of large real estate companies like Deutsche Wohnen and Vonovia is to buy up such flats in large quantities, “modernise” them in a makeshift way and then sell them on or rent them out at a much higher price.

They have now received the blessing of the Supreme Court. In future, the ruling will serve the establishment parties as justification for saying that nothing can be done against the power of the real estate corporations, which they all serve. The cynicism with which they are deceiving the public is shown by the fact that Barbara Hendricks (SPD), a minister from the same party as the mayor in Berlin, Michael Müller, was responsible for the federal law that the court is now invoking against the Berlin Senate.

The ruling against the rent cap comes at a time when the gap between rich and poor is widening. While millions in Germany have lost their jobs and part of their income because of the coronavirus pandemic, with over 3 million infected and almost 80,000 dead, a small group at the top of society has enriched itself obscenely. The number of billionaires in Germany has risen from 107 to 136 in the past year, and their wealth has increased from €447 billion to €625 billion.

For this financial oligarchy and the wealthy layers around them, the basic right to affordable housing, a secure job, safe education and good health care are nothing but obstacles to their enrichment. Even a human life is no longer worth anything to them, as the ruthless herd immunity policies of the federal and state governments show, despite the warnings of scientists.

Only the mobilisation of the working class for a socialist programme can counter this development. Without expropriating the big corporations and fortunes and putting them at the service of social tasks, not a single social problem can be solved. This also applies to the housing question. Housing is a fundamental right and not a commodity. The big real estate companies must be expropriated without compensation.

Only the Sozialistische Gleichheitspartei (Socialist Equality Party, SGP) is fighting for such a socialist programme in the upcoming federal election.



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