UNIVERSITY OF CAMBRIDGE

The Private Rented Sector in the New Century

– A *Comparative Approach*

Med dansk sammenfatning



The Private Rented Sector in the New Century

– *A Comparative Approach*

Med dansk sammenfatning

September 2012

FUNDED BY
BOLIGØKONOMISK VIDENCENTER

Contents

Preface IX

Sammenfatning 1

Executive Summary 11

Part I

UNDERSTANDING THE IMPACT OF REGULATION: ISSUES AND APPROACH 17

1. Introduction 17
- 1.1 The research question 17
- 1.2 Background 18
- 1.3 Defining the private rented sector 20
- 1.4 The scale of the private rented sector 21
- 1.5 The project 22

2. Regulation in the private rented sector: Principles and practice 25
- 2.1 Why regulation? 25
- 2.2 Types of regulation 26
- 2.3 Rent regulation 27
- 2.4 Security of tenure 30
- 2.5 Regulation of housing quality 32
- 2.6 Understanding the nature of regulation: summary 33

3. The impact of regulation 34
- 3.1 How regulation affects the behaviour of landlords and tenants 34
- 3.2 Tenant protection 35
- 3.3 Landlord incentives 35
- 3.4 Tenant mobility 36
- 3.5 Construction of private rental housing 36
- 3.6 Housing quality 37
- 3.7 The impact of regulation on landlords and tenants: summary 37
- 3.8 The relationship between regulation and scale 38

4. Measuring the nature and strength of regulation 40
- 4.1 Approaches to measuring regulation 40
- 4.2 Our approach 42

Part II

ANALYSIS AND FINDINGS 47

5. Comparative analysis of regulation across eleven countries 47
- 5.1 Objective of the empirical analysis 47
- 5.2 Overview 48
- 5.3 Identifying patterns of regulation 50
- 5.4 The position in the 1980s 50
- 5.5 The current position 52
- 5.6 Comparing regulation in the 1980s and the late 2000s 53
- 5.7 Regulatory regimes compared: summary 62

6. Regulation and the scale of private renting 64
- 6.1 The size of the private rented sector 64
- 6.2 Regulation and the scale of private renting 65
- 6.3 Regulation and changes in the size of the private rented sector: summary 68

7. Private renting in the context of other tenures 70
- 7.1 Putting private renting in context 70
- 7.2 The spectrum of government support 72
- 7.3 Comparing private rental sector with owner-occupation 74
- 7.4 Comparing private renting with social renting 76
- 7.5 Other important determinants of the scale of private renting: summary 78

8. Conclusions 79
- 8.1 The starting point for the research 79
- 8.2 Regulatory objectives 80
- 8.3 Regulation in practice 80
- 8.4 The research approach 81
- 8.5 The findings 83
- 8.6 Answering the questions 85

Bibliography 86

Annex 1: Definitions of private rented sector used in national data 88
Annex 2: Private rented sector in Europe 90
Annex 3: Stylised Impacts of Regulatory Controls on landlords and tenants 91
Regulation Type 1: Control of rent levels 91
Regulation Type 2: Control of rent increases 92
Regulation Type 3: Provisions to protect tenants' security of tenure 93
Regulation Type 4: Measures that affect landlords' ability to evict problem tenants 93
Regulation Type 5: Quality and safety standards 94

Part III

COUNTRY CHAPTERS 97

DENMARK 98
Regulation prior to the 1980s 98
Deregulation of rents on post-1991 construction and the complexity of current rent systems 99
Tax and regulatory treatment of private renting compared to other housing tenures 104
The current scale of the private rented sector (and subsectors) 104
Rent levels and landlords 106
Many experts recommend deregulation 107
References 108

ENGLAND 110
Regulation prior to the 1980s 110
Post-1980: almost complete liberalisation 111
The introduction of dedicated mortgages for small landlords 113
The structure of the English housing market and the house-price boom and crash 115
Private rents 116
Characteristics of tenants and landlords and rental yields 117
Conclusions 119
References 119

FINLAND 121
Regulation prior to the 1980s 121
Post-1980 deregulation 122
Standard lease terms 122
Finnish housing policy and other housing tenures 122
Rents, rent regulation and security of tenure 123
Investment in private renting 124
How regulation is perceived 125
References 125

FRANCE 126
Regulation prior to the 1980s 126
Post-1980: controls on rent tightened then relaxed 127
The current situation: free initial rent but increases regulated 127
Tax incentives for private rented housing 129
Post-war decline in private rented sector, followed by revival after 1980 130
How regulation is perceived 132
References 132

GERMANY 134
Regulation prior to the 1980s 134
Changes to the system 1980s to the present day 136
The current situation 140
Other factors affecting the size of the sector 141
Characteristics of the private rented sector today 141
Investment in the private rented sector 142
Current rent regulation and security of tenure 142
Future of the German private rented sector 143
References 144

NETHERLANDS 146
Regulation prior to the 1980s 146
Changes to the system 1980 to the present day 147
The current situation 152
Other factors affecting the size of the sector 152
How regulation is perceived 153
References 154

NORWAY 156
Regulation prior to the 1980s 156
Changes to the system 1980s to the present day 157
The current situation 157
Other factors affecting the size of the sector 158
The current scale of the sector and sub-sectors 158
Other reasons for the decline of the sector 159
How regulation is perceived 159
References 159

REPUBLIC OF IRELAND 161
Regulation prior to the 1980s 161
Changes to the system 1980s to the present day 162
Other factors affecting the size of the sector 163
The current scale of the sector and perceptions of regulation 164
References 165

SPAIN 166
Regulation prior to the 1980s 166
Subsidised home ownership 167
Changes to the system 1980 to the present day 168
Current housing policy of the state and
the autonomous communities 170
Current characteristics of the private rented sector 171
Taxation of investment in the private rented sector 171
Rents, rent regulation and security of tenure 172
Other factors affecting the size of the sector 174
The current scale of the sector 175

Other reasons for the decline of the sector 176
How regulation is perceived 177
References 178

SWEDEN 180
The structure of the Swedish housing stock 180
Types of rental contract 181
Tenure split and size of the private rented sector 182
Subsidies to residential construction 183
Development of rent regulation 183
Housing policy and trends in the Swedish housing market 185
The current situation 189
How regulation is perceived 190
References 191

SWITZERLAND 192
Regulation: a continuum from 1972 192
Regulation of the private rented sector 193
Regulation of housing quality 195
Private renting supported by difficulty of access to owner occupation 195
The residential housing stock generally: newer homes are larger 196
The housing market and house prices 198
The private rented sector stock 198
Demand-side subsidies for rented housing 199
Summary 199
References 200

Preface

This research report aims to clarify the role that regulation has played in determining the scale of private rental provision across Europe. This is a topic on which politicians, academics and other commentators take very different views, often on the basis of rather limited information. The objective of this project is therefore to help fill the evidence gap by clarifying the changing scale of private rented provision in eleven case study countries in Europe; showing how regulation in the private rented sector has changed over the last decades; and assessing the other factors that have been important in defining the role of the sector.

The project was sponsored by the Knowledge Centre for Housing Economics in Copenhagen. The Centre was set up in 2009 by Realdania, which also finances it. The Centre's stated aim is to inform the housing economics debate in Denmark, and to act independently of political, business or commercial special interests. This is the first project that has looked outside Denmark as a starting point for helping to understand the Danish issues.

The research was carried out by the Cambridge Centre for Housing and Planning Research (CCHPR), University of Cambridge, England. The Centre was set up in 1990 and undertakes multi-disciplinary research in the fields of housing and land use planning at both national and international level. CCHPR worked in partnership with LSE London, a research centre within the London School of Economics (LSE) which specialises in comparative analyses within the contexts of housing, urban economics and governance.

The analysis was undertaken between December 2010 and May 2012. The project was led by Christine Whitehead, Professor in Housing in the Department of Economics at LSE. Christine was also Director of CCHPR from its inception until December 2010. There is a brief CV of Christine Whitehead on the book's cover. The research team was made up of Sarah Monk, Deputy Director of the Centre, Kathleen Scanlon who is Research Fellow at LSE London, and Sanna Markkanen and Connie Tang, both of whom were Research Associates at CCHPR.

The research team would like to express their gratitude to the country experts who painstakingly (and often at short notice) filled in questionnaires, answered our questions, helped translate or clarify words and concepts, provided additional data, and read and commented on draft chapters and summaries. In alphabetical order, the team is much indebted to Per Åhrén, Baralides Alberdi, Jean Bosvieux, Peter Englund, Peter Gurtner, Bengt Hanssen, Marietta Haffner, Hans Lind, Rolf Müller, Michelle Norris, Viggo Nordvik, Timo Tähtinen and Bernard Vorms for their patience and insight, as well as their willingness to share their knowledge with us. We would also like to thank everybody who attended our project workshop in Cambridge in December 2011. While the content of this report is much improved as result of the contributions of these expert advisors, the research and report are the work of the team of authors who take full responsibility for the errors and misinterpretations that undoubtedly remain.

Finally the research team would like to thank Curt Liliegreen and his team for their patience and support – both financial and intellectual. We hope that the result plays the role for which it was intended – to provide an evidence base for debate.

Christine Whitehead



Sammenfatning

ANALYSENS BAGGRUND

Denne analyse er udført af Cambridge Center for Housing and Planning Research, CCHPR, på Cambridge University samt af London School of Economics (LSE) for Boligøkonomisk Videncenter i Realdania.

Boligøkonomisk Videncenter er et projekt oprettet og finansieret af Realdania. Centret skal forsøge at kvalificere den boligøkonomiske debat i Danmark, og agere uafhængigt af politiske, erhvervsmæssige og kommercielle særinteresser.

Analysen er udført fra december 2010 til maj 2012. Projektets leder har været professor Christine Whitehead fra LSE. På bogens omslag findes et kortfattet CV for Christine Whitehead.

Boligøkonomisk Videncenter har ønsket en analyse af udviklingen i reguleringen af private udlejningsboliger i Vesteuropa i perioden fra 1980 til 2010. Der er ikke tale om en analyse, der skal benchmarke Danmark i forhold til de øvrige lande i analysen. Snarere er der tale om et bredt studie af den europæiske udvikling, hvor Danmark er medtaget, men ikke indtager nogen særstatus.

I den danske offentlighed er der en tendens til primært at diskutere huslejeregulering, når der tales om reguleringen af den private udlejningssektor. Denne tendens ses også i andre europæiske lande. Også i den fagøkonomiske debat spiller huslejen en væsentlig – for ikke at sige – dominerende rolle. Boligøkonomisk Videncenter har følt, at debatten kunne vinde ved, at der blev anlagt en mere rummelig opfattelse af, hvad regulering vil sige, og hvis der fremkom et overblik over udviklingen i de forskellige typer af reguleringer i Vesteuropa, herunder også hvilke konsekvenser, de har haft for boligmarkedet.

Igennem årene er det jævnligt blevet drøftet i Danmark, hvordan man kunne øge byggeriet af private udlejningsboliger. Dette er igen blevet aktuelt efter finanskrisen, fordi private udlejningsboliger ses som et fordelagtigt alternativ til ejerboliger for unge, der ønsker at bo i egen bolig. I den forbindelse er det nærliggende at spørge, om andre former for regulering kunne fremme byggeriet af private udlejningsboliger. Samtidig kunne det være relevant at se på de private udlejningsboligers kvalitet. Vil en deregulering medføre en forbedring af boligkvaliteten? Netop dette ønske ligger bag Boligreguleringslovens § 5, stk. 2, der blev indført i 1996. Men hvilke erfaringer har andre europæiske lande med sådanne dereguleringer? Disse spørgsmål er der søgt svar på i denne analyse.

Allerede fra starten var det indlysende, at det ville være meningsløst at operere med en snæver definition af regulering, når man skulle analysere de private udlejningsboliger. Udviklingen på markedet for privat boligudlejning afhænger af en række andre forhold end regulering, f.eks. beskatningen af disse boligers afkast. Samtidig er udviklingen på et af boligmarkedets delmarkeder afhængig af, hvordan de andre delmarke-

der udvikler sig, og hvordan de subsidieres/beskattes. Af disse grunde var det klart, at der var behov for et bredt boligøkonomisk studie, og ikke kun et snævert juridisk fokus på lovændringer og regler for private udlejningsboliger. Dette er baggrunden for, at Boligøkonomisk Videncenter henvendte sig til CCHPR i slutningen af 2010.

Rapporten står for CCHPR's og LSE's egen regning. Landekapitlerne har været forelagt eksperter fra de respektive lande. De er nævnt og takkes i det engelske forord.

De 11 lande, der gennemgås i anden del af rapporten (Part III), er dels de nordiske lande Danmark, Sverige, Norge og Finland. Hertil kommer de store økonomier Tyskland, Frankrig, England og Spanien. Yderligere indgår Holland, Schweiz og Irland i analysen. Landene er udvalgt, fordi de tilsammen udgør en betydelig del af den samlede boligmasse i Europa (70 procent) og af de private udlejningsboliger i Europa (80 procent), men også fordi de repræsenterer hele spektret af regulering fra noget nær markedsregulering i England til en meget stringent regulering i Holland. Samtidig omfatter udvalget lande med en meget betydelig sektor for privat udlejning som Schweiz og Tyskland såvel som lande med en meget beskeden privat udlejningssektor som Spanien.

Kompleksiteten i det emne, rapporten behandler, gør det vanskeligt at gengive analysen i en kort sammenfatning, som er idéen med dette danske sammendrag. Det er muligt at gengive konklusionerne, men for at man til fulde kan forstå analysen, er det nødvendigt at læse den engelske tekst i første del af rapporten (Part I og II). Den kan læses uafhængigt af landestudierne (Part III). Det anbefales dog, at man også læser landestudierne for at få det fulde udbytte af analysen.

TRE GENERATIONER AF HUSLEJEREGULERING

Boligmarkedet er kendetegnet ved, at efterspørgslen kan ændre sig relativt hurtigt, f.eks. som følge af vandringer fra land til by. Derimod er det samlede udbud af boliger konstant på kort sigt. I nogle situationer, f.eks. under en krig, kan der opstå mangel på arbejdskraft og materialer. De forhold gør det vanskeligt at bygge nye boliger. Under et frit marked vil en pludselig stigning i efterspørgslen i forhold til udbuddet presse huslejen op til skade for lejerne. Hertil kommer, at markedet for privat boligudlejning er kendetegnet ved, at den ene side – udlejeren – har en bedre viden end lejeren. En anden eksternalitet er, at det er forbundet med omkostninger for lejeren at flytte. Disse forhold gør tilsammen, at svage lejere betaler prisen for drastiske forandringer i samfundet, f. eks. som følge af krig. For at undgå denne skævhed indførte man i de fleste europæiske lande en eller anden form for huslejekontrol under 1. Verdenskrig. I Danmark skete dette i 1916. De første regler begrænsede udlejers mulighed for at gennemføre lejeforhøjelser og for at opsige lejemål. I den forbindelse etablerede man huslejenævn, der fik til opgave at godkende lejeforhøjelser.

Regulering af udlejningsmarkedet går hundreder af år tilbage i Europa. Danmark har i store træk fulgtes med Europa, når det gælder regulering. Huslejereguleringen fandt sted de fleste steder i Europa i tiden op til, under og efter 2. Verdenskrig. I Danmark fik man dog en periode med afregulering i mellemkrigsårene. Det skete under indtryk af en opgang i boligbyggeriet, der mindskede presset på de private udlejningsboliger, og af ideologiske årsager under Venstre-regeringerne i perioderne 1920-24 og i 1926-29.

Huslejereguleringen rundt om i Europa kom i praksis til at bestå i en fastfrysning af den nominelle husleje på et givent tidspunkt. Boligøkonomer kender dette som »første generations huslejekontrol«. Klassificeringen af forskellige udviklingsstadier for huslejekontrol i bestemte »generationer« af kontrol skyldes økonomen Richard James Arnott (se Arnott 1995). Hans inddeling tager udgangspunkt i, at der fastsættes starthusleje og huslejestigninger. I Danmark indførte man et huslejestop i 1939 ved udbruddet af 2. verdenskrig. Huslejestoppet blev forlænget talrige gange, og kom til at gælde frem til 1951. Derfor faldt den reale husleje væsentligt i løbet af denne periode.

Huslejekontrollen indebar med tiden, at den reale husleje faldt til et niveau, hvor ejerne ikke længere havde incitament til at vedligeholde ejendommene. Det fjernede rationalet i at opføre nye ejendomme, og tilskyndede ejerne til at overføre ejendommene til andre delsektorer, hvis det var muligt.

I Danmark havde man med boligforliget i 1966 erstattet lejelovgivningen fra 1939 med en vurderingsbestemt husleje. Tilpasningen til denne nye, højere husleje skulle ske i etaper over otte år. Imidlertid steg inflationen i samfundet i disse år, og derfor medførte boligforliget ikke den tiltænkte reale stigning i huslejerne.

I en erkendelse af problemerne med huslejereguleringen gik man i de europæiske lande i løbet af 1970'erne og starten af 1980'erne over til en såkaldt »anden generations huslejekontrol«. I praksis er der ikke tale om ét system, men mange forskellige udformninger af kontrol. De kunne indebære, at udlejer fik mulighed for at lade huslejen følge inflationen. I de fleste lande betød det, at ejerne fik mulighed for at få dækket omkostningerne ved væsentlige forbedringsarbejder. Overgangen til et nyt system blev muligt, da man i mange lande havde indført individuel boligstøtte. I Danmark markerer Boligreguleringsloven fra 1975 overgangen til et »anden generationssystem«. Herefter har huslejen udvist en real stigning (Se Lejelovskommissionens betænkning nr. 1331, Boligministeriet 1997, pp 138-142).

Dereguleringen af den private udlejningssektor fortsatte flere steder i Europa med introduktionen af »anden generations huslejekontrol«. Den indebar, at der var en regulering af det enkelte lejeforhold, men den gik ikke på tværs mellem lejemålene. I systemets rene form fastsættes huslejen i en ny lejekontrakt som en markedsleje, men derefter er stigningerne i huslejen regulerede. Danmark har sin helt egen version af »anden generationssystem«, fordi det for ejendomme, der er taget i brug efter 31. december 1991, er muligt at aftale en markedsleje, hvorefter lejestigningerne er regulerede. Der er således ikke tale om en regulering, der er hængt op på tidspunktet for indgåelse af nye lejekontrakter, men derimod på bygningens ibrugtagelsesdato. Cirka 12 procent af de private udlejningsboliger i Danmark er omfattet af dette regelsæt. Den øvrige del af udlejningsboligerne må fortsat siges at være omfattet af et »anden generationssystem«.

I praksis er det vanskeligt at skelne mellem de forskellige udformninger af »anden« og »tredje generations« systemer. I 2012 er den dominerende regulering i Europa en form for »tredje generations huslejekontrol«, men ofte med en vis kontrol over niveauet af huslejens størrelse ved lejemålets start. Som tidligere nævnt er der dog store variationer mellem landene i analysen.

I rapportens kapitel 2 gennemgås de forskellige typer af regulering.

ASPEKTER AF REGULERING

Første, anden og tredje generationssystemer for huslejekontrol er et godt analytisk værktøj til at forstå udviklingen i huslejereguleringen efter 2. Verdenskrig. I en komparativ analyse af forskelle mellem de europæiske landes huslejeregulering, er der imidlertid behov for at se på mere end regulering af huslejen. Det kan f.eks. også dreje sig om en regulering af forbrugerbeskyttelsen: Lejerens sikkerhed mod at blive opsagt. Da man for 100 år siden begyndte at indføre huslejeregulering, reagerede nogle udlejere ved at opsige deres lejere, så de kunne få nye ind mod eventuelt at få lidt penge ved siden af. Derfor har regulering af husleje og lejeforholdets opsigelighed fulgtes ad igennem tiderne, som det skete med den første danske lejeregulering i 1916. I denne rapport er begrebet regulering brudt ned på seks hovedaspekter, der hver især er en vigtig del af reguleringen.

De seks aspekter er:

- Fastsættelsen af lejen ved indgåelsen af kontrakten
- Lejestigninger
- Lejemålets varighed
- Adgangen for udlejer til at få sin ejendom tilbage under lejemålets løbetid
- Adgangen til at sælge ejendommen
- Handlemuligheder, hvis lejekontrakten brydes af lejer

Hvert hovedaspekt er rangordnet i kategorierne »stærk«, »medium« eller »lav«.

Ved at bruge disse seks hovedkategorier med tilsammen 18 rangordninger til at analysere de 11 landes regulering, får man et analytisk værktøj, der gør det muligt at sammenligne landenes regulering. Dette værktøj tegner et billede af, hvilke lande, der har en stærk regulering, og hvilke, der har en mindre stærk eller begrænset regulering. Det er gjort dels for 1980'erne, dels for 2000'erne. Herved får man både et billede af den generelle bevægelse i reguleringen, og et billede af på hvilke områder ændringerne er sket.

Inddelingen i et givent sæt af kategorier er nødvendig for at skabe det overblik, der tillader en generalisering. Men dette overblik opnår man ikke uden omkostninger, fordi reglerne i de enkelte lande ofte er komplicerede. Desuden kan der være mere end ét regelsæt i kraft. Derfor er det ikke altid lige nemt at anbringe et lands regelsæt i én kategori. F.eks. er det danske begreb »det lejedes værdi« et normativt fastsat begreb, der kan variere fra by til by, og hvor variationen ikke nødvendigvis følger markedsmæssige forskelle. Boligreguleringslovens husleje fastsættes for de større ejendomme for at dække omkostninger og sikre et vist kapitalafkast, mens det for mindre ejendomme i praksis sker ved at sammenligne med huslejen i tilsvarende lejemål i større ejendomme. Det danske system har elementer både af en reference-husleje *(mirror rent)* og af administrativ fastsættelse. Til gengæld forsøger det tyske *mietspiegel* med stor detailrigdom at beregne en individuel reference-husleje for hver enkelt lejlighed. Begge systemer anbringes her i kategorien *mirror/comparables*. Det er således nødvendigt at afveje hensynet til forenkling med hensynet til nøjagtighed.

Det er fravalgt at sammenregne reguleringen på de seks hovedkategorier til ét enkelt måltal for hvert land. Andre forskere har udført sådanne beregninger. Det rejser imidlertid problemet, hvordan de anvendte hovedkategorier skal vægtes i forhold til hinanden. En sådan vægtning kan let blive arbitrær, eller komme til at udtrykke partsinteresser. Selvom det skulle lykkes at foretage en ideel sammenvægtning, vil denne kun være ideel på ét givent tidspunkt. Både udlejeres og lejeres opfattelse af, hvad der er vigtigt, kan ændre sig i takt med boligmarkedets generelle udvikling og de seneste ændringer i reguleringen.

Frem for at kvantificere regulering til enkelte tal, er det valgt at vise graden af regulering på de seks forskellige aspekter ved hjælp af såkaldte »radardiagrammer« (også kendt som edderkoppediagram). Vi håber hermed at gøre forskelle mellem landene og over tid overskuelige for læseren, uden at vi skjuler kompleksiteten i reguleringen. Disse diagrammer kan ses som figur 4-6 i kapitel 5.

I rapportens kapitel 4 og 5 gennemgås de forskellige aspekter af regulering, og det førnævnte analyseværktøj opstilles.

GRADEN AF REGULERING OG ANTALLET AF PRIVATE UDLEJNINGSBOLIGER

I starten af 1980'erne havde fem af landene i vores casestudier en stærk regulering (Danmark, England, Finland, Holland og Spanien). Fem andre lande havde medium/signifikant regulering (Frankrig, Tyskland, Norge, Sverige og Schweiz) og kun ét land, Irland, havde en lav grad af regulering (fra 1982, hvor man ophørte med huslejekontrol).

Reguleringen blev svækket I det meste af Europa i løbet af de følgende tre årtier. Dereguleringen fandt især sted fra 1980'erne (i nogle tilfælde tidligere) og frem til midten af 1990'erne. Frankrig repræsenterer en undtagelse, idet landet markant styrkede reguleringen, inden den igen blev svækket. Siden midten af 1990'erne er de fleste systemer forblevet relativt stabile med nogle begrænsede tilfælde af øget regulering, fortrinsvis hvad angår beskyttelse af lejeren mod opsigelse.

Deregulering har været koncentreret til lande, hvor reguleringen tidligere var stærkest I 1980'erne. De mest mærkbare ændringer knytter sig til fastsættelsen af lejen ved lejemålets indgåelse. Som en følge heraf er der eksempler på lande, især England og Finland, der har bevæget sig fra stærkt regulerede systemer til nærmest uregulerede. I dag har tre lande – England, Finland og Norge – en lav grad af regulering, mens syv lande har en medium grad af regulering. I den sidste gruppe er der tre lande (Tyskland, Sverige og Schweiz), der har systemer, som er forblevet relativt stabile i perioden 1980-2010. Frankrig og Irland har oplevet en stigende regulering, mens Spanien og Danmark har indført mindre regulerede systemer. Danmark er atypisk, fordi den friere huslejefastsættelse kun gælder for udlejningsboliger, der er taget i brug efter 1991. Kun Holland opretholder en stærk regulering, og selv dér er huslejen i de mere kostbare ejendomme nu dereguleret.

Det er vigtigt at forstå, at det, man normalt forbinder med huslejekontrol – nemlig nominelle lofter over huslejeniveauet – er svært at finde i dag. De lande, der kombinerer en stærk huslejeregulering med større private boligudlejningssektorer, har normalt huslejesystemer, der tillader tilpasning af huslejen til noget nær et markedsniveau, også selvom huslejen formelt set er »kontrolleret«.

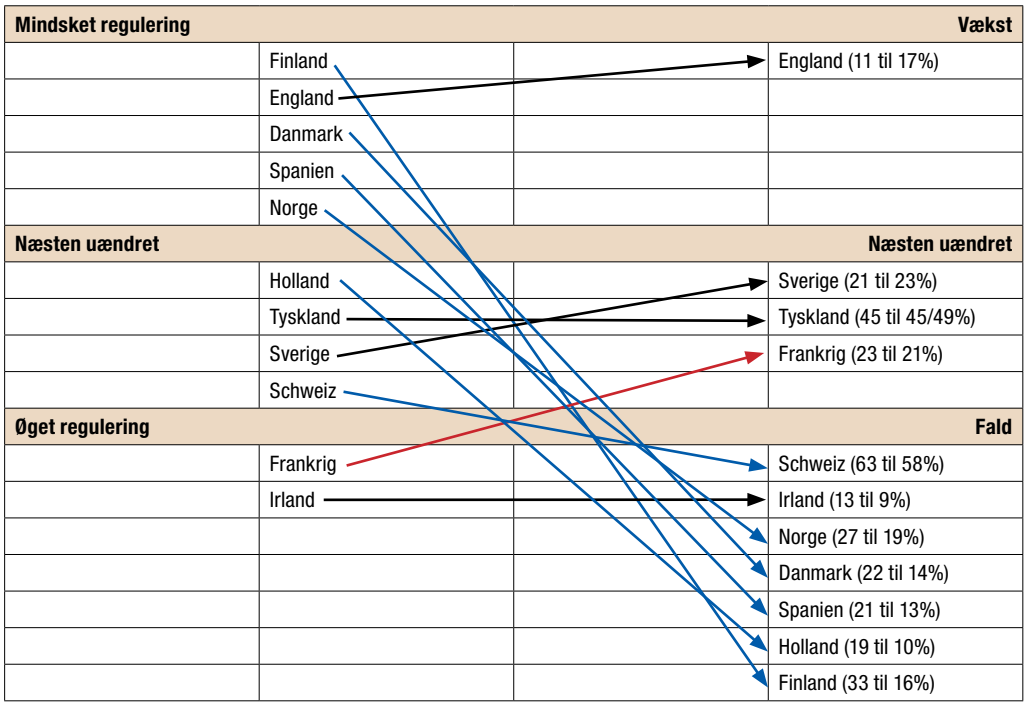
Ser man på størrelsen af den private udlejningssektor i lande med stærk, middel stærk og svag regulering, fremgår det, at der ikke er nogen klar sammenhæng mellem graden af regulering i dag og størrelsen af de private udlejningssektorer (Se figur 2 i kapitel 3). Den klart største private udlejningssektor findes i Schweiz, hvor 58 procent af alle boliger er private udlejningsboliger. Men Schweiz har en middelstærk regulering. Den næststørste sektor findes i Tyskland, hvor 49 procent af boligerne er privat udlejning, og hvor reguleringen er middelstærk.

De mindste private udlejningssektorer findes i Irland (9 procent), Holland (10 procent) og Spanien (13 procent). Her er reguleringen i dag henholdsvis middelstærk, stærk og middelstærk.

Som sagt er dette ikke overraskende. Den manglende sammenhæng er udtryk for, at man sammenholder en boligbeholdning, der i sin natur er ret uforanderlig over tid, med et begreb som regulering, der kan ændre sig markant i løbet af nogle få tiår. Derfor er det relevant at spørge, om man vil se en sammenhæng, hvis man sammenholder ændringerne i den private udlejningssektors størrelse med ændringerne i reguleringen?

Svaret er, at dette ikke ændrer billedet. Gennemgående er der sket en deregulering i Vesteuropa, samtidig med at den private udlejningssektors relative størrelse er gået ned. Den eneste undtagelse fra denne regel – men det er også en signifikant undtagelse – er England. Her er de private udlejningsboligers andel steget fra 11 procent til 17 procent i perioden, samtidig med at der er gennemført en omfattende deregulering. Se figuren på næste side.

ÆNDRING I REGULERING (FRA STARTEN AF 1980'ERNE TIL SLUTNINGEN AF 2000'ERNE)	ÆNDRING I DEN PRIVATE UDLEJNINGS-SEKTORS STØRRELSE (FRA STARTEN AF 1980'ERNE TIL SLUTNINGEN AF 2000'ERNE)



Af figuren fremgår det, at Danmark har fået en mindre grad af regulering. Det skyldes, at figuren ser på de senest indførte regler i landene. Her skiller Danmark sig ud ved, at der er mulighed for en »aftalt leje« i boliger, der er taget i brug efter 1991. For udlejningsboliger ibrugtaget tidligere er reguleringsgraden ikke reduceret i perioden.

Hvorfor har mindre regulering ikke medført, at den private udlejningssektor har udvist en voksende andel af boligmassen? Svaret er simpelt. Tilskyndelsen til at investere i private udlejningsboliger afhænger af rentabiliteten ved investeringen, og her er regulering blot én ud af flere faktorer. Hvis man vil forklare investorernes adfærd i forhold til de private udlejningsboliger, er man nødt til at se på det samlede billede af faktorer, som investorer må tage højde for i form af huslejeregulering, skattesatser, afskrivningsregler, subsidiering af finansieringen og udviklingen på boligmarkedets andre delmarkeder samt afkastet ved alternative anbringelser af kapital. En deregulering af huslejefastsættelsen er måske nødvendig, men langtfra en tilstrækkelig forudsætning for at øge nybyggeriet af private udlejningsboliger.

I Danmark har ejerboligen været skattemæssigt begunstiget. Samtidig er der et stort antal støttede boliger, hvor finansieringen er subsidieret af staten, og som set i et europæisk perspektiv har en høj kvalitet og begrænsede sociale problemer. Disse andre delmarkeder har indflydelse på, om det er rentabelt for private investorer at opføre nye udlejningsboliger, selvom der kan aftales en markedsleje på disse nye boliger.

Hertil kommer, at en tilpasning af den private udlejningssektors størrelse kan tage mange år. Det, at man ikke kan påvise en sammenhæng i den betragtede periode, er udtryk for, at det tager længere tid for markedet at nå den langsigtede ligevægt.

Endelig er der spørgsmålet om, i hvilken grad et på papiret restriktivt system rent faktisk håndhæves. Af gode grunde har vi ikke data herom. I Danmark er man f.eks. afhængig af, at lejeren gør opmærksom på, hvis den opkrævede leje ligger over den, reguleringen tilsiger. De offentlige myndigheder går ikke selv aktivt ud og efterprøver, om reglerne er overholdt.

HVOR REGULERINGEN HAR ÆNDRET SIG

Den deregulering, der har fundet sted i Vesteuropa, har omfattet både fastsættelsen af startlejen, muligheden for lejestigninger, lejemålets længde og mulighederne for at afslutte lejemålet før tid, såvel som mulighederne for at sælge ejendommen og få lejeren ud, hvis kontrakten er brudt.

For starthuslejens vedkommende er der sket en deregulering i England, Finland og Norge. I Danmark omfatter deregulering ejendomme opført efter 1991. Disse boliger skønnes at udgøre ca. 12 procent af alle privat udlejede boliger. Her er mulighed for aftalt leje mellem udlejer og lejer. Danmark afviger her fra de andre europæiske lande, fordi Danmark bruger kriteriet »boligens ibrugtagningstidspunkt«, hvor andre lande ser på tidspunktet for indgåelse af lejekontrakten. Et andet land, der som Danmark har en meget høj grad af regulering, er Holland. Her er der mulighed for fri huslejefastsættelse i de dyreste lejligheder. I praksis omfatter reglen ca. 7 procent af alle private udlejningsboliger. Trods disse tilløb til deregulering vurderes det samlet, at reguleringsgraden er opretholdt i de to lande i den betragtede periode, fordi reguleringen ikke er ændret mærkbart for de fleste udlejningsboligers vedkommende.

Når det drejer sig om lejestigninger, er der sket en deregulering i England og Finland. Siden 1. juli 1996 har Danmark kun i mindre omfang haft en deregulering knyttet til de såkaldte § 5, stk. 2-lejligheder (opkaldt efter Boligreguleringslovens § 5, stk. 2), hvor der gennemføres gennemgribende moderniseringer. Her er der mulighed for at fastsætte en husleje, der ikke afviger væsentligt fra det lejedes værdi, frem for at huslejen skal følge de mere restriktive regler for omkostningsbestemt husleje. Antallet af disse lejligheder skønnes at udgøre 6 procent af alle private udlejningsboliger i 2010 (Socialministerens besvarelse til Boligudvalget af spørgsmål 73, 25. februar 2011). Med gennemgribende modernisering er defineret byggearbejder på mindst 208.000 kr. i 2006-prisniveau. Den gennemsnitlige huslejestigning har været på 70 procent. (Se »Anvendelse af § 5 stk. 2 i Boligreguleringsloven – resultater af en spørgeskemaundersøgelse«, Velfærdsministeriet 2009)

Den inddeling, der foretages i denne rapport, må nødvendigvis være grov, og der vil altid være nuancer, der går tabt, eller som kan gøres til genstand for debat. Med rapportens tilgang forekommer det imidlertid klart, at der ikke kan identificeres en fælles europæisk model for deregulering inden for de private udlejningsboliger. Der er ikke en færdig opskrift på, hvordan man kan indrette sin regulering bedre, som Danmark kan overtage. I stedet må man søge efter brugbare løsninger, som andre lande anvender inden for bestemte aspekter af regulering, eller man må tage læring fra de eksempler, hvor ændringer i regelsættet ikke har fungeret så godt.

PÅVIRKNINGEN FRA ANDRE FAKTORER

Som nævnt ovenfor er regulering kun en del af de forhold, der påvirker udviklingen i den private udlejningssektor.

Blandt de øvrige forhold skal især fremhæves den skattemæssige behandling af den private udlejningssektor samt balancen mellem skatter og subsidier for på den ene side de private udlejningsboliger, på den anden side ejerboliger og almene boliger. Disse forhold gennemgås i kapitel 7.

Analysen i denne rapport viser, at i de lande, hvor der er en relativ stor privat udlejningssektor, er der også en fordelagtig skattemæssig behandling af sektoren. Det gælder ikke mindst i Tyskland. Den fordelagtige behandling består i, at der er mulighed for, at udlejer kan foretage skattemæssige afskrivninger. Der er også såkaldt negativ gearing, det vil sige, at tab for udlejer kan fratrækkes i anden indkomst. Samtidig er der i alle landene, bortset fra Schweiz, subsidier til udbudssiden i form af fordelagtige lån.

Det andet forhold vedrører balancen mellem den private udlejningssektor og de øvrige sektorer på boligmarkedet. Det gælder generelt, at ejerboligmarkedet favoriseres skattemæssigt i de europæiske lande i forhold til det private udlejningsmarked. Hvis private udlejningsboliger skulle behandles ens med ejerboliger, ville det indebære, at den nettoindkomst, som disse boliger skaber, skulle beskattes. For ejerboligens vedkommende vil det sige, at man skulle beskatte »overskud af egen bolig«. Samtidig skulle man beskatte kapitalgevinster for begge boligtyper. Imidlertid er ejerboligen i de fleste lande fritaget for sådanne skatter.

En undtagelse fra den skattemæssige favorisering af ejerboligen er England, Tyskland og Frankrig, hvor der ikke er fradragsret i indkomsten for udgifter til boliglån, eller hvor denne fradragsret er blevet indskrænket for nye lån. Det er i denne analyse ikke forsøgt at kvantificere den relative betydning af de forskellige forhold som huslejeregulering, den skattemæssige behandling af den private udlejningssektor og betydningen af skatter og subsidier til andre sektorer. Det er tydeligt, at et land som Tyskland, der har en relativt langt større privat udlejningssektor end Danmark, ikke kun har det på grund af en anden huslejeregulering, men også som følge af en mere gunstig skattemæssig behandling af udlejerne, såvel som en noget mindre gunstig behandling af ejerboligsektoren. Disse forhold stimulerer både udbud og efterspørgsel efter private udlejningsboliger i Tyskland, og er med til at forklare denne sektors relativt betydelige omfang.

SVARENE PÅ DE FORSKNINGSMÆSSIGE SPØRGSMÅL

Analysen har set på fire specifikke problemstillinger: (1) Hvordan er det gået med størrelsen af den private boligudlejningssektor i de europæiske lande siden 1980'erne? (2) Hvilke typer af husleje- og forbrugerbeskyttelsesregulering fandtes der i 1980'erne, og hvordan har disse ændret sig? (3) Hvad er sammenhængen mellem regulering og størrelsen af sektoren? Samt (4) Er der andre faktorer end regulering, som kan bidrage til at forklare, hvorfor den relative størrelse af den private boligudlejningssektor varierer mellem landene.

Svarene er klare, selvom billedet af reguleringen er meget sammensat:

(1) Den private udlejningsektors relative størrelse er reduceret i de fleste af de lande, der har været udvalgt til analysen. Kun i England er der en markant stigning i sektorens relative størrelse. I nogle få lande har sektorens størrelse været nogenlunde stabil, mens den i andre lande er gået ned målt på dens relative størrelse, men ikke i det absolutte antal boliger.

(2) I løbet af 1980'erne forsvandt »første generations huslejekontrol« – med grænser for den nominelle husleje – og normen blev en streng kontrol med huslejestigninger enten for eksisterende lejemål eller for både nye og eksisterende lejemål. Dette gik normalt hånd i hånd med beskyttelse af lejeren mod opsigelse over længere tid. I den betragtede periode er reguleringen blevet både mere fleksibel og sofistikeret – i bedste fald tager den hensyn til markedspåvirkninger og tilvejebringer stabilitet.

(3) Der er ikke nogen enkel sammenhæng mellem graden af regulering og størrelsen på den private boligudlejningssektor. Sektoren er hurtigt blevet reduceret i størrelse i nogle lande, hvor reguleringen har været stabil eller forøget, mens der i andre lande har været en begrænset ændring i størrelsen. Det er sjældent, at deregulering direkte kan sammenkædes med vækst i sektoren. England er her den klare undtagelse.

(4) Andre faktorer, herunder skatteforhold og subsidiering af privat udlejning i forhold til andre boligformer og investeringer, samt den relative størrelse af den støttede boligmasse er lige så vigtige eller vigtigere end regulering, hvad angår den private udlejningssektors størrelse. Hvert land har imidlertid sin egen blanding af regulering og andre politikker.

Alt i alt kan vi observere en mangfoldighed af reguleringssystemer, der varierer både i deres grundlæggende approach såvel som i detailudformningen. Størrelsen af den private udlejningssektor er ikke kun et resultat af disse reguleringssystemer, men også af andre boligformers relative attraktivitet og tilgængelighed, og tilstedeværelsen af andre investeringsmuligheder.

NÆSTE TRIN

Denne rapport har undersøgt, hvordan regulering har forandret sig igennem de sidste 30 år og har vist, at der ikke er nogen klare sammenhænge, der gælder på tværs af landene. Det vigtigste resultat er, at privat boligudlejning ikke kan analyseres isoleret fra andre boligformer.

Rapporten viser, at boligformerne skifter, og samtidig betyder den nye økonomiske og statsfinansielle situation, at regeringerne tager deres prioriteringer op til revision. Politikerne rejser spørgsmålet, hvilken rolle privat boligudlejning kan spille i forhold til støttede boliger og ejerboliger med henblik på at sikre forsyningen af den tilstrækkelige mængde af boliger med overkommelige huslejer til alle.

For at kunne behandle denne problemstilling kræves der en nøjere analyse af de incitamenter og begrænsninger, som udlejere, lejere og boligejere står overfor i den nye markedsvirkelighed. Fokus for en sådan analyse bør være de lande, der som følge af klarheden i deres valg af reguleringsregime og forskelligheden mellem dem kan give Danmark den tydeligste læring. Disse lande er Tyskland, Holland og England.



Executive Summary

THE STARTING POINT

The starting point for our research is the highly contested discussion about the role of regulation in determining the function of private renting across Europe. There are strongly held opinions about how and why private renting works or does not work in different housing markets and especially about the extent to which this is determined by regulation in general and rent control in particular. At one extreme, the argument, especially among economists, is that regulation constrains investment and excludes potential tenants; at the other regulation is seen as offsetting market failures and providing a more secure environment for investors and tenants.

The objective of the research was therefore to examine the experience of the last thirty years to see whether there were clear patterns of regulation over time and across countries and how these patterns of regulation relate to the size of the private rented sector in each country.

THE APPROACH

The research involved the following stages:

- a literature and data review;
- advice from country experts;
- a roundtable to discuss both detailed issues about individual countries and more general comparative and cross-country questions;
- the development of a typology of regulation which was used to categorise the system in each country in the 1980s and 2000s;
- an analysis of the relationship between the strength of regulation and the scale of private rented sectors across countries; and
- a consideration of other factors that affect the position of private renting relative to other tenures, including subsidy, taxation, investment and broader issues of economic policy and institutional regimes.

The main report sets out context, methods and comparative findings. The annexes cover definitions; the evidence on the scale of private renting across Europe; supporting analysis of the impacts of regulation; and country-specific details of regulation and the role played by private renting in each housing system.

The eleven countries studied were Denmark, England, Finland, France, Germany, Ireland, the Netherlands, Norway, Spain, Sweden and Switzerland. These countries include almost 70 percent of the total stock of housing in Europe and around 80 percent of the private rented stock.

AN IMPORTANT CAVEAT

Before discussing the findings it is important to re-iterate that (i) the data are often poor and difficult to interpret – even something as basic as the size of the sector can be hard to determine, as each country uses its own definition; (ii) while general patterns may be clear, in each country there is an enormous range of regulatory detail which impacts on behaviour in different ways and cannot be easily summarised; and (iii) it is therefore important to read the main report in conjunction with the country chapters.

A TYPOLOGY OF REGULATION

The complexity of regulatory systems makes it inappropriate to employ a single summary measure of the degree of regulation. Instead the research concentrated on three main elements of regulation, looking both at their direct impacts and how they interact with one another.

The three elements are:

(i) how initial rents and rent changes are determined (which is the core element addressed in the literature on regulatory constraint);

(ii) the extent of security of tenure available to tenants and the impact this has on landlords' property rights. Security relates not just to length of lease, but also encompasses how easily tenants can extend their tenure, how easily landlords can gain vacant possession, and the right of the landlord to sell the property, whether tenanted or vacant; and

(iii) the mechanisms by which these regulations are enforced and their effectiveness.

A simplified typology was developed based on these elements, under which the regulatory structure of each country at two time periods (1980s and 2000s) was categorised. We employed three categories that reflected our assessment of the overall degree of regulation: low, medium and strong.

FINDINGS ON REGULATION

In the early 1980s five of our case-study countries (Denmark, England, Finland, the Netherlands and Spain) had strong regulation; another five had medium/significant regulation (France, Germany, Norway, Sweden and Switzerland) and only one country, the Republic of Ireland, had low levels of regulation (starting from 1982 when rent controls were abolished).

Over the following three decades regulation eased across much of Europe. Deregulation took place mainly from the 1980s (and in some cases earlier) to the mid-1990s. France was the exception in that it strengthened regulation significantly before partially relaxing it again. Since the mid-1990s most systems have remained quite stable with some limited evidence of increasing regulation, notably with respect to security of tenure.

Deregulation has been concentrated in countries where the degree of regulation was highest in the 1980s and the most significant changes relate to initial rent-setting procedures. As a result there are examples of countries, in particular England and Finland, moving from highly regulated regimes to almost unregulated ones.

Looking to the current position, three countries – England, Finland and Norway – now have low levels of regulation while seven have medium regulation. Within the latter group three countries (Germany, Sweden and Switzerland) have regimes that have remained relatively stable over the period 1980-2010. France and the Republic of Ireland have seen increases in regulation, while Spain and Denmark have introduced less regulated systems. Denmark is atypical because the new, more relaxed regime applies only to dwellings built since 1991. Only the Netherlands still has a strong regulatory regime, and even there rents on more expensive properties are now deregulated.

It is important to make it clear that what is commonly thought of as rent control – nominal caps on rent levels – is hardly found today. Those countries that do combine strong rent regulation with sizable private rented sectors usually have systems that permit rents to adjust to near-market levels even though they are formally 'controlled'.

THE SCALE OF PRIVATE RENTING

In the early 1980s the size of the private rented sector ranged from 63 percent in Switzerland to 11 percent in England. By the 2000s the average size had declined but the extent of variation was similar – from 58 percent in Switzerland to 9 percent in the Republic of Ireland. The size of the sector remained fairly constant in Sweden, Germany and France, but most countries have seen declines in relative terms from perhaps 5 percent in Switzerland to around 17 percent in Finland. Only in England has there been a significant increase in the proportion of private rented dwellings since the 1980s.

Large scale private rented sectors are concentrated in countries with long histories of state support and fiscal benefits to encourage investment in private renting. These have helped to maintain its attractiveness in relation to other investment options including owner-occupation. Germany and Switzerland are the main examples among the case study countries.

Countries with smaller private rented sectors usually have either strong social sectors or a policy emphasis on owner-occupation – or both. In these countries private renting has usually been treated as an investment good for tax purposes and often received few or no capital subsidies while owner-occupation has benefitted from fiscal incentives and social renting has been supported by large scale subsidy.

REGULATION AND SCALE

Comparing the level of regulation in each country with the size of the sector at both the beginning and end of the research period shows very few clear relationships between regulation and scale. Similarly, changes in regulation are not consistently related to changes in scale – although in this context it is worth noting that change can be much more rapid in countries (such as England) where dwellings are not tenure-specific.

Germany and Switzerland, where the largest private rented sectors are found, have both had quite stable systems of regulation and maintain large sectors. But regulatory stability is not enough to protect the sector, as shown by the case of the Netherlands where the sector has shrunk despite consistency of regulation. Among the other countries we see almost every possible pattern: deregulation can be associated with decline or increase, and increased regulation can also be associated with either.

GENERAL PERCEPTIONS OF REGULATION

There is no obvious consensus across countries about how an effective private rented sector should be regulated. This is in part because of the very different economic, fiscal and legal arrangements in place across Europe but it is also a function of political attitudes to regulation more generally.

ANSWERING THE RESEARCH QUESTIONS

Four detailed issues were addressed: (i) What has happened to the size of the private rented sector in countries across Europe since the 1980s? (ii) What types of rent and security regulation were in place in the 1980s and how have they changed? (iii) How are regulation and the size of the sector related? And (iv) are there other factors which help to explain why the scale of private renting varies between countries?

The answers are clear-cut even though the picture is so complex:

(i) The relative scale of private renting has declined in most of the case-study countries. Only in England has there been a really significant increase in proportional terms. In a small number of countries the size of the sector has remained fairly stable; in others it has declined in proportional but not in absolute terms.

(ii) By the 1980s 'first-generation' rent control, or limits on nominal rents, had mainly disappeared, and the 'norm' was strong control on rent increases, either for existing tenancies or for both new and existing contracts. This generally went hand-in-hand with long-term security of tenure for tenants. Over the period regulation has become both more flexible and more sophisticated – at its best taking account of market pressures while at the same time providing stability.

(iii) There is no simple relationship between regulation and size. In some countries where regulation has been stable or increased, the sector has declined rapidly, while in others there has been little change in scale. Deregulation has rarely been directly associated with growth in the sector – England is the one obvious exception.

(iv) Other factors, including the taxation and subsidy position of private renting relative to other housing tenures and investments, and the scale of social housing provision, are as or more important than regulation in affecting the scale of private renting, but each country has its own mix of regulation and other policies.

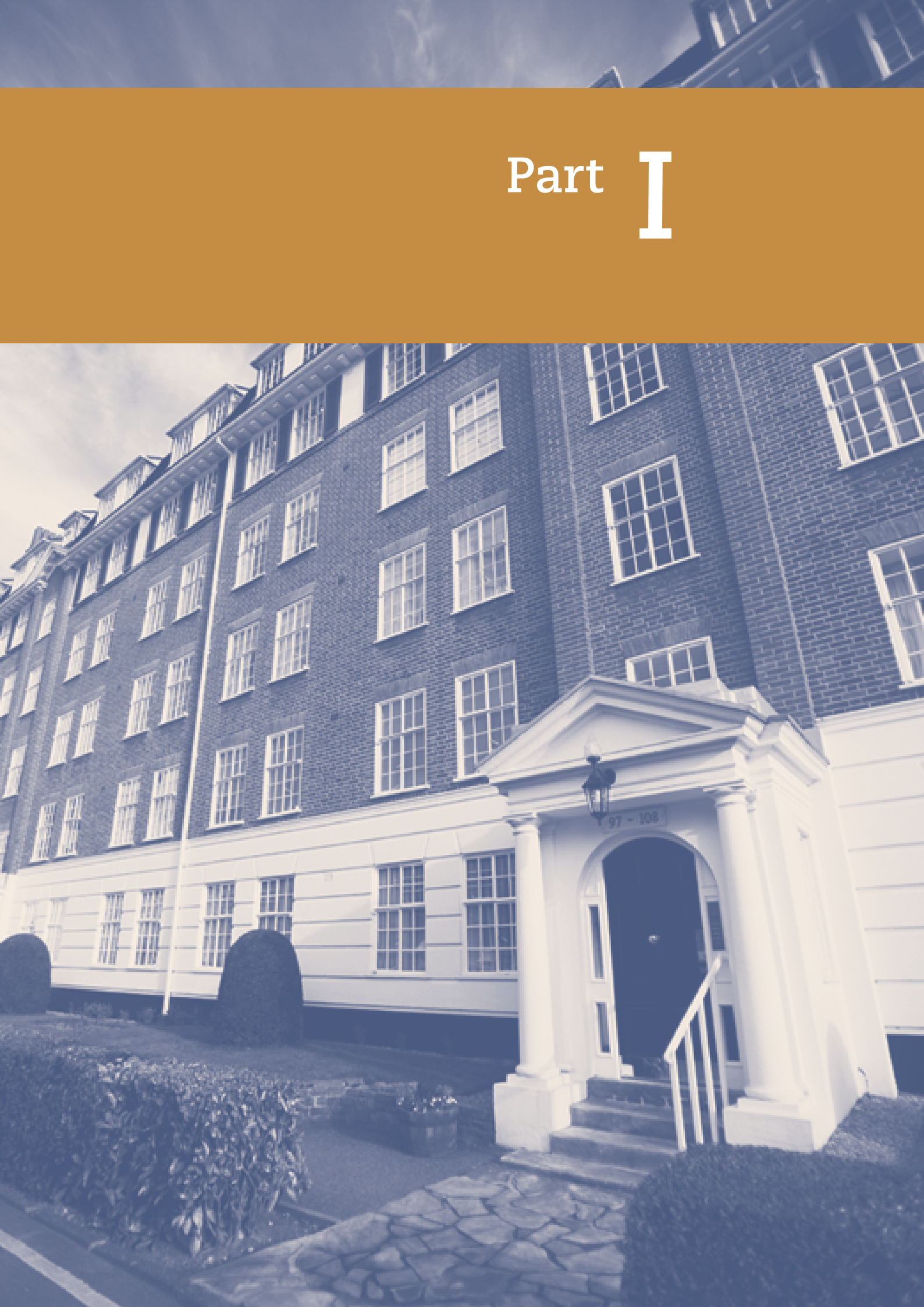
Overall, we observe a multiplicity of regulatory regimes different in both their basic approach and in detail. The size of the private rented sector is not just an outcome of these regulatory regimes but also of the relative attractiveness and accessibility of other tenures and the availability of other investment opportunities.

NEXT STEPS

This report has examined how regulation has changed over the last thirty years or so and has shown that there are no clear-cut relationships that hold across countries. Most importantly private renting cannot be analysed independently of other tenures.

The report shows that tenure patterns are changing; at the same time the new economic and financial environment means that governments are rethinking their priorities. They are asking what role private renting can play as compared to social renting and owner-occupation in ensuring adequate affordable homes for all. To address this issue requires a closer examination of the incentives and constraints faced by landlords, tenants and owner-occupiers in the new environment and thus the factors affecting the balance between tenures especially after the financial crisis. The focus should be on countries that present clear lessons for Denmark – notably Germany, the Netherlands and the UK.

Part I



Understanding the Impact of Regulation: Issues and Approach

1. *Introduction*

The introductory chapter clarifies the research question and approach: to exemplify the role of regulation in determining the function and size of the private rented sector across Europe. Eleven countries were chosen as case studies covering some 80 percent of the private rented sector in Europe to demonstrate the variation in regulatory patterns and the scale of the sector.

Definitions of private rented housing are compared and evidence is presented on how the size of the sector varies between countries and has changed over time. Almost everywhere in Europe definitions tend to be either a matter of ownership or the 'residual', meaning that private renting is deemed to encompass stock that is neither owner-occupied nor social rented. In most European countries private renting has been declining since the 1980s in both absolute and particularly relative terms.

1.1 THE RESEARCH QUESTION

The starting point for our research was the highly contested role that regulation plays in determining the function of private renting in housing markets across Europe. The literature is full of very strongly held opinions about how and why private renting works or does not work in different housing markets, and especially about the extent to which this is determined by regulation in general and rent control in particular. Many commentators, especially market-oriented economists, citing evidence of the post-war decline in private renting and of poor conditions in what remains, argue that regulation has been almost wholly bad not only for landlords but for tenants. They see deregulation as the only means of reviving private renting. Others, usually more governance oriented, point to countries where large, well-operating private rented sectors provide for the full range of housing requirements and suggest that they work better as a result of strong and stable regulation.

The objective of the research was to examine the experience of the last thirty years across a range of European countries to see whether there were clear patterns relating regulation to the role and size of the private rented sector. To do this we asked a number of questions:

- What has happened to the size of the private rented sector in countries across Europe since the 1980s?
- What types of rent and security regulation were in place in the 1980s and how did they change over the period to 2010?

- Is there any obvious relationship between the extent of regulation and changes in that regulation and the size of the sector and its growth or decline over the period?

- Are there other factors which help to explain why the scale of private renting varies between countries?

The objective was not to pass judgement on the role of regulation nor indeed the role of private renting, but rather, more simply, to clarify the experience across a range of countries with different housing systems and so to provide an evidence base for more detailed analysis of what might be desirable in different contexts. To do this we looked first at the general picture of change across Europe and the definitions of private renting and indeed regulation. We then examined the principles that lie behind different regulatory regimes; the ways that these play out in practice; and how the nature and strength of regulation might best be described.

Using these typologies as a basis, we then examined the evidence from eleven case-study countries to describe how regulation and the size of the sector had changed in each country over the thirty-year period. This allowed us to describe levels and changes in regulation; compare these to levels and changes in the size of the sector in each country; and thus to clarify whether there were clear patterns relating regulation to size.

The final stage looked at other factors that are seen to affect the relative size of private renting in each country as compared to other tenures. Taken together, this detailed evidence allowed us to draw some conclusions about the role of regulation in its different contexts.

1.2 BACKGROUND

The role of the private rented sector (PRS) in a well-operating housing system has attracted increasing interest in recent years, especially in countries with relatively small private rented sectors. Attention has turned to the potential of the PRS to help provide more flexible access to the housing market; a better range of more affordable housing for those who must pay the market price; and to the possibility of increasing the role of private landlords in providing decent housing for those without the means to pay for it themselves.

Since at least the early 1900s, private renting in nearly all European countries has been subject to a wide range of regulatory measures. These addressed various issues, including housing shortages, notably as a result of war and rural/urban migration; more general problems of contractual asymmetries; and adequate dwelling and occupancy standards. The pattern of regulatory development over the decades has differed greatly between European countries. In some, the underlying pressures have been towards a market-based system for determining rents and security once shortages have been alleviated. Some of these countries are ones that have also deregulated finance markets and placed a strong emphasis on owner-occupation. Some have developed large social sectors which provide for many of those who would otherwise rent privately. At the other end of the spectrum, a number of countries have moved towards more sophisticated forms of regulation which make it possible to adjust to market pressures while maintaining security and predictability for landlords and tenants alike. These countries tend to be ones with smaller social sectors and a continuing role for private renting in providing for a wider range of households.

As a result of these different trajectories we now observe very considerable variation across European countries with respect to both the scale of private rental provision

and how this has changed over time. In some countries private renting has declined fairly steadily; in others significant turning points can be identified; in still others it has remained relatively stable as a proportion of the total stock.

In most cases, it is not possible to identify a single reason for the decline in the scale of private renting. This diversity of outcome can be linked to variation in economic conditions, regulatory measures and differing policy objectives that inform fiscal policies and subsidy systems. In certain countries the reduction in private renting is strongly associated with increased home ownership; in others the change can be linked more to increases in the provision of subsidised rented housing or the emergence of other tenure forms. In countries where private renting remains the majority tenure (although usually exhibiting some slow decline at least in proportional terms), its strength is usually associated with tax benefits and a relatively strong regulatory framework.

Since the 1970s and 1980s, when privatisation and deregulation came to the fore in broader economic policies, the importance of a well-operating private rented sector, of whatever scale, has been increasingly recognised. In particular private renting is seen as the most suitable tenure for younger and more mobile households and therefore as a core contributor to a well-operating labour market. It is also seen as enabling more flexible use of the existing housing stock; as increasing competition and therefore reducing costs and improving affordability; as a means of bringing in equity finance to housing provision; and as a way of reducing the need for government support as well as individual debt finance.

The benefits of private renting for a range of households are generally recognised. However there is no cross-country consensus about the details of how the sector should function. Differences in opinion centre on:

(i) our understanding of why the private rental market is not operating as well as it could and therefore what needs to change to generate a well-operating market,

(ii) the continued emphasis in some countries on owner occupation as the tenure of choice for the majority of households, and

(iii) more fundamental differences in understanding and expectations about who is best served by private renting within a well-functioning overall housing market and therefore implicitly what scale of private renting would be desirable in different environments.

Many commentators see regulation as a core reason why a well-operating private rented market is not being achieved. Others argue that it is not deregulation but better regulation that is required. More generally, many commentators note that other factors, such as the tax and subsidy regime or the size of the social sector, can be as or more important in determining tenure outcomes. One way of addressing these differences in understanding is to compare the history and experience of private renting in a range of countries that represent the spectrum of regulation from near-market determination to strongly regulated rents and security. In this way it should be possible to identify the role of regulation in determining outcomes – and to draw some conclusions about how to achieve more effective private rented sectors in different environments.

The objective of this research is to provide a broad overview of how private renting has developed in Western Europe – since the early days of general economic deregula-

tion – and to examine the relative importance of regulation in the changes that have taken place. It is not our objective to develop formal models but rather to examine the full range of factors affecting the private rented sector's position in the housing system in the different countries and to draw out implications for its future role in different contexts. Our expectation is that this analysis will identify a range of sophisticated models (or regulatory regimes) operating in different economic, social and policy environments. These models generate outcomes relevant to the diverse histories and institutional frameworks across Europe and will not lead us to conclude, in a simple cause-and-effect way, that regulation is either good or bad. Our objective is not therefore to make prescriptive policy suggestions but rather to point to the important factors that policy makers might wish to take into account when addressing the future role of private renting in their own specific contexts.

To address these issues this research examined how regulation has operated and impacted on housing markets in eleven European countries which span the range of regulatory environments and histories of regulation. The countries studied were Denmark, England, Finland, France, Germany, Ireland, the Netherlands, Norway, Spain, Sweden and Switzerland.

1.3 DEFINING THE PRIVATE RENTED SECTOR

The starting point for any analysis of the impact of regulation on private renting must be a clear definition of what is contained within the private rented sector and therefore its scale and composition. This may sound straightforward – but in practice definitions differ both in principle and practice.

When discussing the value of a well-operating private rented market, analysts have in mind a sector which can be easily accessed through the payment of market prices. The term 'private' tends also to be equated with private ownership and profit orientation – and may also reflect a lack of subsidy. So the basis for definition is multi-faceted – and the most appropriate definitions will depend on the question being addressed.

In practice the classification systems in national official statistics are informed by national traditions and the structure of national housing markets – so in one country the definition of the PRS may be based solely on ownership; in another on market allocation; while in a third it may be the absence of subsidy that defines it. International statistics tend simply to accept these national definitions. As a result, simple data comparisons are difficult to interpret, even for apparently basic questions such as size. In the majority of countries the definition of the PRS is based on ownership.

In some countries the PRS is simply all rented property that is not publicly owned, so it is a residual rather than a well-defined category. In others the definition relates to whether the lettings are, at least in principle, made for profit or at a rent agreed between the landlord and tenant. Other factors affecting classification in national definitions include dwelling or tenancy type, availability of subsidy, mechanisms for allocating tenancies, and use of the dwelling. Table 1 provides one typology with respect to the most important differences in definition in the case study countries.

Definitions also vary within country statistics – notably with respect to whether dwellings or households are the base; whether non-self-contained or furnished accommodation is included in the dwelling count; and whether property let at zero rent or which is only for employees and therefore not available on the open market is included. These differences can result in very significant variations in the defined scale of the sector both between countries and over time within a country.

TABLE 1: NATIONAL DEFINITIONS OF THE PRS

PRS DEFINED BY TYPE OF LANDLORD OR OWNERSHIP	
Denmark	Not owned by municipality or housing association; not owner-occupied. 'Real' private rented sector in Denmark is considered as comprising blocks of three or more units in single ownership
England	All rented dwellings not owned by local authorities or housing associations
Germany	Rented from non-public landlords (small private; private housing corporations; non-profit-oriented landlords such as housing co-operatives and residential housing corporations owned by churches), non-profit institutions serving private households or small/amateur private landlords
Ireland	Rental housing not owned by local authorities, voluntary-sector agencies or housing co-operatives
Netherlands	Rental housing owned by organisations, private persons or families
Norway	Not owned or controlled by municipalities
Sweden	Privately owned, for-profit rental housing
Switzerland	Owned by profit-making landlords and state-regulated institutional investors (pension funds)

PRIVATE RENTED SECTOR DEFINED BY TENANCY TYPE	
Spain	Tenancy meets certain legal conditions
France	Dwellings whose rents are not subject to legislation governing HLMs

PRIVATE RENTED SECTOR DEFINED BY SUBSIDY AND OWNERSHIP	
Finland	Unsubsidised dwellings rented out for residential purposes by for-profit landlords

Source: Scanlon & Kochan 2011 (modified)

One of the most important issues in defining private renting relates to its role in accommodating lower-income households who may require subsidy to support their consumption. In some countries there is no formally defined public or even social housing sector based on ownership, but a significant proportion of the private rented sector attracts subsidy and is allocated at below-market rents. More generally, across much of Europe there has been increasing public/private co-operation and therefore a blurring of the boundaries between private and social housing. Thus in some countries social landlords may provide market housing while in others all social housing is actually provided by private landlords.

Because of these shifting boundaries, some commentators have moved away from traditional definitions based on ownership, subsidy or indeed profit motives towards a definition which emphasises how the dwellings are allocated. The PRS is defined as rented housing allocated by the market, while social housing is defined as housing allocated by administrative means, usually at rents below market levels (Haffner et al. 2010). Thus social housing is targeted on particular groups of household while private renting is open to all who can pay, no matter who owns it or how it was originally financed. Because of this shifting canvas it is important to understand that there is no single definition of the private rented sector; that the appropriate definition may differ depending on what it is to be used for – so even in this report figures may vary because of different availability of data; and it is not just the definition of private renting that matters but also how it links with social provision, subsidy and the definition of social and public housing. Annex 1 sets out some of these details for the case-study countries.

1.4 THE SCALE OF THE PRIVATE RENTED SECTOR

While there will always be some uncertainty arising from different definitions of private renting in the statistics, it is possible to clarify both trends in private rented provision within countries and, with additional care in interpretation, its relative importance across countries.

We start with the data provided by international organisations. Annex 2 clarifies the total stock of housing in Europe (as normally defined); its distribution between countries and the proportion of the total stock in each country that is privately rented. It shows that only in Switzerland does private renting account for more than half of the stock, followed by Germany where it amounts to 49 percent. At the other extreme, all those countries with less than 10 percent private renting are ex-communist states. In most countries the proportion of dwellings in private rental ranges from one-quarter to one-eighth of the total stock.

The eleven case-study countries included in the research account for almost 70 percent of the total stock of housing in Europe and around 80 percent of the private rented sector stock. Table 2 uses a range of sources to show how the importance of private renting has changed over the last three decades. During that time the proportion of dwellings identified by the respective governments and other sources as privately rented has fallen in all but three countries – Germany (where the figure for the early 1980s relates only to West Germany, so there may be no actual increase), England (where there has been significant growth since the turn of the century) and Sweden (where the estimates vary considerably because the official classification is based on dwelling type rather than tenure and does not generally differentiate between different types of rental housing).

The fact that the private rented sector in a particular country may have declined in relative terms does not necessarily mean that the sector has declined in absolute terms. In the majority of case study countries the total housing stock increased over the last three decades by between 20 and 25 percent. In Ireland the growth in the housing stock over the period has been over 70 percent. In numerical terms therefore, the scale of the sector has actually increased in countries where the proportionate decline has been quite limited. This suggests that in more than half of the countries included in our sample there have been increases in the numbers of units and households in the sector.

Proportionate declines were particularly concentrated in the 1980s; over the last few years the tenure shares have tended to be more stable, except in Switzerland where the rise in owner-occupation has been concentrated in the new century. Since the financial crisis a number of additional countries are beginning to experience increased demand for private renting, although this may well not yet be reflected in government figures.

Table 3 below shows the relative scale of the PRS in the case study countries in relation to other tenures, based on the latest available data. It shows that the importance of private renting is clearly inversely related to owner-occupation rates but that larger social rented sectors are also important in determining the scale of private involvement – notably in the Netherlands. Tables 2 og 3 together point to many different factors affecting the importance of private renting both over time and between countries. A major role of this project is to clarify the extent to which regulation is a significant part of the explanation.

1.5 THE PROJECT

As already noted, the purpose of this project has been to explore the ways in which the scale, position and attributes of the private rented sector are related to changes in regulatory frameworks, housing-market structures and fiscal and other government policies.

The design of the research strategy and methodology has been influenced by comparative historical analysis, which is an approach that places special emphasis on institutions and their path-dependent development (Mahoney & Rueschemeyer 2003).

TABLE 2: TRENDS IN PRIVATE RENTING IN THE CASE STUDY COUNTRIES (%)

	EARLY 1980s	EARLY 1990s	EARLY 2000s	CURRENT (ESTIMATE)*	CURRENT TREND	DATA SOURCE
Denmark	22 (1980)	18 (1990)	17 (2004)	14 (2011)	Declining	Lunde 2010; Danmarks Statistik – statistikbanken.dk Table BOL 101
England	11 (1981)	9 (1991)	10 (2000)	17 (2010)	Growing	DCLG Live Tables: Table 1041: Dwelling Stock by Tenure, England
Finland	33 (1970)	13 (1990)	16 (2000)	16 (2009)	Stable	Lyytikainen 2006; for 1990, Oxley 1995; for 2009, Statistics Finland 2010
France	23 (1984)	21 (1992)	21 (2002)	21 (2006)	Stable	INSEE Housing Survey 2007, cited in Haffner et al. 2009
Germany	45 (1982)	48 (1993)	48 (2002)	49 (2006)	Stable	Van der Heijden et al. 2002 and Kirchner 2006, cited in Haffner et al. 2009
Ireland	13	10	9 (2004)	10* (2009)	Volatile	For 2004, OECD Economic Surveys, other years Scanlon & Kochan 2011
Netherlands	19	13	13	10	Declining	Scanlon & Kochan 2011
Norway	27	18	17	17*	Stable	Scanlon & Kochan 2011
Spain	21 (1981)	16 (1990)	10-11 (2001)	around 7-8*	Declining	Oxley et al. 1995; Hoekstra et al. 2010
Sweden	21 (1980)	20 (1990)	22 (2002)	23 (2009)	Stable	Turner 1996 for 1945-1990; Norris & Shields 2004 for 2002; Andrews et al. 2011 for 2009
Switzerland	63	63	58	58 (2000)	Declining	Swiss Federal Statistics Department

*The most recent data displayed for certain countries in this table are based on the estimates of country experts or locally available survey results that are believed to reflect reality more accurately than official statistics. These figures do therefore not necessarily match the most recent figures from international or European data sets using official statistics displayed in Table 3 (below).

The key focus in this research is on the private rented sector, including the sets of practices and rules that regulate this specific tenure and its relationship with other housing options. In order to place the PRS into a wider context, attention is paid to policy events and processes that have somehow changed or shaped the nature of the PRS or its relative position. This reflects an assumption that housing tenures, including the PRS, are socially (politically and culturally) produced entities whose properties are highly – though not entirely – dependent on context (for more detail on this approach, see Ruonavaara 1993).

The research was carried out in two phases. The first phase focused on describing the variety of regulatory frameworks and fiscal policies that may influence the size and relative position of the PRS in various European countries. In this stage, attention was given mainly to subsidies and tax incentives affecting the private rented sector directly. This phase of the research included eleven countries (Denmark, Finland, France, England, Germany, Ireland, Netherlands, Norway, Spain, Sweden and Switzerland), which were chosen to provide a range of examples of different types of housing market and policy context as well as different forms of regulation.

The evidence gathered during the first phase suggested that there is no direct and easily predictable relationship between regulatory regimes and the size of the PRS. The size of the sector depends crucially not just on regulation and changes in that regu-

lation, but also on the availability, accessibility and attractiveness of other housing options; on tax and subsidy systems and other policy instruments; and on fundamental issues of profitability and consumer choice. However it also suggested that there might be strong correlations between the varying strands of policy which impact on the relative attractiveness of different tenures.

The second phase of the project then expanded on these findings in order to identify the factors that have, in different contexts, generated changes in the private rented sector or influenced its role or relative position. Because of the more in-depth nature of the analysis necessary in phase two, the initial selection of countries was narrowed down to seven: Denmark, France, England, Germany, the Netherlands, Sweden and Spain. However additional material was also collected for the Republic of Ireland, Finland and Switzerland because of particularly important elements in the development of their private rented sectors.

The key data sources used for this project included scientific journals, policy documents, think pieces and online resources provided by statistical authorities, banks and international organisations. In addition to using secondary sources, we approached experts in the field of private renting in each of the case-study countries to help us contextualise the PRS and relevant policy discussions, and to give us a clearer understanding of the changes in regulatory frameworks and enforcement mechanisms in their respective countries. Details of country experts, to whom we offer our gratitude, are given in Part III.

TABLE 3: TENURE DISTRIBUTION IN CASE-STUDY COUNTRIES (MOST RECENT YEARS)

COUNTRY	PRIVATE RENTED	SOCIAL RENTED	OWNER-OCCUPIED	OTHER
	% of the housing stock			
Denmark (2011)	14	19	49	18***
England (2010)	17	17	65	
Finland (2009)	16	14**	66	4
France (2006)	21	18	57	4
Germany (2006)	49	11	40	
Ireland (2004)	9	12	79	
The Netherlands (2009)	10	32	58	5
Norway	19	4	63	14***
Spain (2008)	13*		85	2
Sweden (2009)	23	21	40	16***
Switzerland	58	3	35	4

* Including social rented (approximately 2%)

** Including intermediate (approximately 2%)

*** Co-operative housing only in Sweden and Norway, Denmark incl. co-operative (approx. 7%)

Sources: Finland: Statistics Finland 2010

Spain, France, Ireland: Dol & Haffner 2010 (Housing Statistics in the European Union 2010)

England: DCLG Live Table 104, Dwelling Stock by tenure, England

Norway: Andrews et al, 2010

Denmark: CCHPR calculations from Danmarks Statistiks data

Germany: Haffner et al. 2010, p. 360

Netherlands: Statistics Netherlands, SYSWOV, adapted by OTB

2. Regulation in the private rented sector: Principles and practice

This chapter looks at the positive and negative reasons for introducing regulation in the private rented sector in both principle and in practice. It examines different types of regulation, describes how these address issues of housing shortage, equity and the relative power between landlords and tenants, and asks whether regulations improve the functioning of the private rental market. The different roles of rent controls, security of tenure legislation and regulation relating to housing quality are distinguished. The economics literature particularly on how and why rent controls have been modified over time is discussed, giving some insight into why economists and others hold such strong, and sometimes diametrically opposed, views about the costs and benefits of regulation.

2.1 WHY REGULATION?

Private renting in the analytic literature is generally defined as a market system, often modified by regulation, in which willing buyers and sellers come together to provide and consume housing. The rents for this housing are determined by demand and supply, and the rent levels affect the decisions of both landlords and tenants. Thus on the demand side, what consumers want depends on their incomes; the price that they have to pay as compared to other goods – including housing in other tenures; their preferences for housing; the attributes of private renting; and the number of consumers in the marketplace. Each household makes a joint decision about the amount of housing it wants, its location and its tenure depending on relative prices. On the supply side, the landlord's decision to provide private rented housing is based on the rate of return that they can make on the property as compared to other possible investments – including for instance selling the property and investing in more housing for themselves or in a pension fund – and taking account of relative risks. If the market is working well, demand will be satisfied at a rent which just gives landlords the incentive to remain in the sector. So the rent paid will be equal to minimum unit cost including normal profit.

In practice there are many reasons why the private rented market does not work so simply or so well – not least because housing supply does not adjust rapidly; housing attributes are so varied that not all the options are readily available; adjustment costs can be very high; and there is asymmetric information and relative power inherent in the landlord-tenant relationship (Arnott 1995). Contracts between landlord and tenant are therefore difficult even to specify; they tend to be complex and may break down, leading to costs for both parties (Whitehead & Kleinman 1986, Whitehead & Yates 2010). More generally, the market for housing overall, and for privately rented housing in particular, is subject to a wide range of market failures which make government intervention to improve efficiency almost inevitable (Haffner & Boelhouwer 2006, Oxley 2004).

As importantly, housing is a necessity of life and tends to absorb a high proportion of household income, especially for those on low incomes. If rents in the private rented sector rise out of line with these incomes there is pressure on government to intervene for distributional reasons to assure that people can afford adequate housing (Whitehead 2003, Oxley 2004). Equally, if rents rise suddenly – for example because of a natural disaster or war – there is massive pressure to control the market to ensure that landlords cannot simply raise rents and so make excess profits at the expense of tenants. Government intervention can take many forms. It can for instance provide social

housing at below-market rents, give income subsidies to poorer households, and tax those who benefit from higher prices. But historically, regulation has been the first response, especially when there are sudden changes in the marketplace and in housing conditions. One reason for this is that regulation technically needs only a stroke of the pen – governments do not need to fund it or to create a database against which to tax or subsidise. Moreover it appears directly to address the problem that is most obvious at the time of policy intervention.

Early housing-market intervention took the form of regulation to specify minimum standards. In most countries, going back centuries, regulation was used to address externalities, particularly to control the spread of disease and fire. These regulations put up the cost of providing housing and generated major problems of monitoring and enforcement and indeed supply. As a result other interventions proved necessary to ensure that adequate housing was made available, especially for those at the bottom end of the market. Innovations such as the window tax, an early means of collecting tax from richer households, led to the need for regulation to support enforcement. Thus regulation becomes intertwined with other polices to generate a complex web of interventions which affect supply, demand, price, tenure choice and many other aspects of the operation of the private market. In principle the objective is to ensure a desirable allocation of resources to housing and to households. But in practice interventions generate both positive and negative incentives and the net effect is often not what was originally intended. Equally economic and social conditions change, so that what was appropriate in one environment may no longer acceptable in another.

The most important rationale for regulating the private rented sector specifically (in terms of rents, tenure security and eviction) was usually the failure of supply to adjust as rapidly as demand. When for one reason or another demand increases, rents often rise well above the longer-term costs of provision. In these circumstances landlords make excess profits and there is pressure to even the playing field so that tenants are not being disadvantaged. More fundamentally, there are major issues of asymmetry and power inherent in a contract where neither side has full information and these problems become more extreme in times of scarcity or when the distribution of income is uneven.

Thus examining the impact of regulation is not a simple matter. Not only are regulations introduced for a range of reasons not always consistent with one another, but how they work depends on their exact form and the specific institutional, economic and policy context (Pareja-Eastaway & Sánchez-Martínez 2010). Thus any examination inherently requires an understanding of how markets respond in different environments and the relationship between regulation and other interventions, both positive and negative. The objective in this project is, to the extent possible, to examine how regulation has operated in different countries with different policy, financial, economic and social environments; to clarify the relative importance of regulation in achieving desired outcomes; and to assess the extent to which it has been beneficial. The core issues here are (i) whether regulation has helped address market failures and (ii) whether it has improved or worsened the distribution of housing and the cost of adequate housing, especially for lower-income households. Because of the complexity of interventions in every country any analysis can only be indicative, but taken together some lessons emerge.

2.2 TYPES OF REGULATION

Regulation can take many forms, ranging from controls on rent levels and increases in these levels, quality standards and registration procedures to specification of the detailed content of rental contracts and the responsibilities of both landlord and tenant. The earliest forms of regulation with respect to quality and occupancy did not relate specifically to private renting but, since this was the tenure for the vast majority

of urban households until at least the twentieth century, their application was normally in this context. More general issues of contractual responsibilities were dealt with under a growing body of landlord and tenant legislation, which in almost all contexts became more prescriptive and complex over time.

When analysts discuss regulation they are mainly concerned with controls on rents. These were introduced during the First World War in most countries in Europe, as large numbers of people had to move around and supply became more constrained. They were quickly followed by regulations ensuring security of tenure, as otherwise sitting tenants were often simply evicted.

Thereafter, countries had different trajectories although most still had some form of control in place at the beginning of the Second World War. Post-1945, much of the emphasis was on alleviating physical shortages of housing, often with large-scale government involvement. Regulation of the private rented sector remained, often in modified form, at least until shortages eased. By the 1980s there was a great variety of regulatory frameworks across Europe, some very stable, others in flux. This research therefore uses 1980 as a starting point to clarify how regulation has changed over the last 30 years and its importance to the private rented sector in different European countries.

This chapter identifies principles and categorises the different regulatory approaches to rents and rent increases, security of tenure and housing quality, and examines both positive and negative effects of these regulations in the private rental housing market.

2.3 RENT REGULATION

Most academic and policy analyses of regulations concentrate primarily on regulation of rents (e.g., Malpezzi & Ball 1993, Arnott 1995 and 2003, Anas 1997, Basu & Emerson 2000, Lind 2001 and 2003, Hubert 2003, McFarlane 2003, Turner & Malpezzi 2003, Krol & Svorny 2005, Haffner et al. 2007 and 2008, O'Sullivan & de Decker 2007).

Rent regulations are specific rules governing the rent that a landlord is allowed to charge for the disposition of a property. There are two main forms, which may be used together or separately. The first approach is to control rents by imposing a legal maximum (rent ceiling), which is below the market's equilibrium level, on the rent in a particular housing market. The second is to control rent increases. Arnott (1995, 2003) classifies these approaches into 'three generations of rent control'. First generation is therefore defined as the control of rent levels; the second and third are different types of controls on rent increases.

'First generation' rent control – control of rent levels
Arnott's 'first-generation' rent control, or 'hard' rent control, restricts the level of rents across the whole, or a separable and defined element, of the private rented sector. It is characterised by a freeze on nominal rents, i.e., rents are fixed at their level on a particular date. This form of rent freeze has been characterised as keeping rents for both new and sitting tenants below the market level 'forever' (Lind 2001).

As already noted above, this form of rent control was introduced in the early 1900s in Europe, the United States and some other parts of the world to check uninhibited rent increases and tenant evictions during wartime housing emergencies. After each world war, there were further sudden increases in the demand for rental housing from soldiers returning home. Problems were compounded by rural-urban migration in many countries. To prevent rents from rising to unaffordable levels, restrictions were maintained in various forms, and particularly after 1945, additional rent-control legislation was introduced in many countries (Hubert 2003).

'Rent freezes' lead to a significant fall in real rents if rents cannot be adjusted upward to offset inflation and increasing housing costs (Arnott 1995, 2003). They also generate incentives for landlords to leave the sector, especially if there are related but uncontrolled sectors such as owner-occupation on the one hand and lodgings on the other to which the properties can be transferred. Further they reduce the incentive to invest in repair and improvement. On the other hand, they incentivise tenants not to move when their housing needs change, and give both landlords and potential tenants an incentive to avoid and evade the law. As a result this form of regulation increasingly became unsustainable. From the 1960s onwards, particularly after the energy crisis of 1973 and the ensuing rapid inflation, many European countries replaced the restrictive first-generation controls with more flexible second-generation or 'soft' rent control.

A key reason why it was possible to move to second- and third-generation rent controls was the introduction of rent allowances/housing benefit in many European countries from the 1970s onwards. According to Turner and Elsinga (2005):

> 'The introduction of housing allowances also enabled the state to relax the rather stringent post-war rent controls in the private rented sector without jeopardizing housing provision and affordability for low-income households facing rent increases. They were seen as cost-efficient too in that they that permitted rents to rise, thus helping to keep the market efficient' (p. 104).

'Second generation' rent control
– control of rent increases within and between tenancies

The objective of second-generation rent control was to allow some mitigation of cost increases and so in particular to reduce the incentives for landlords to under-maintain their properties. There were limits on the size of increases. This approach was used widely across the world as an inflation-control mechanism. There were many variants of second-generation controls in terms of their restrictiveness. Some countries allowed landlords to cover some or all increases in costs, including taxes, operating costs and finance charges. Others indexed rents more or less to inflation. Even in the most restrictive systems, landlords were usually allowed to amortise the costs of substantial improvements to the dwelling (Turner & Malpezzi 2003). While this form of rent control limited the extent to which real rents fell over time, there still remained very significant incentives for landlords to disinvest. As more emphasis was put on maintaining viable private rented sectors, some countries moved towards deregulation while others looked to third-generation rent control.

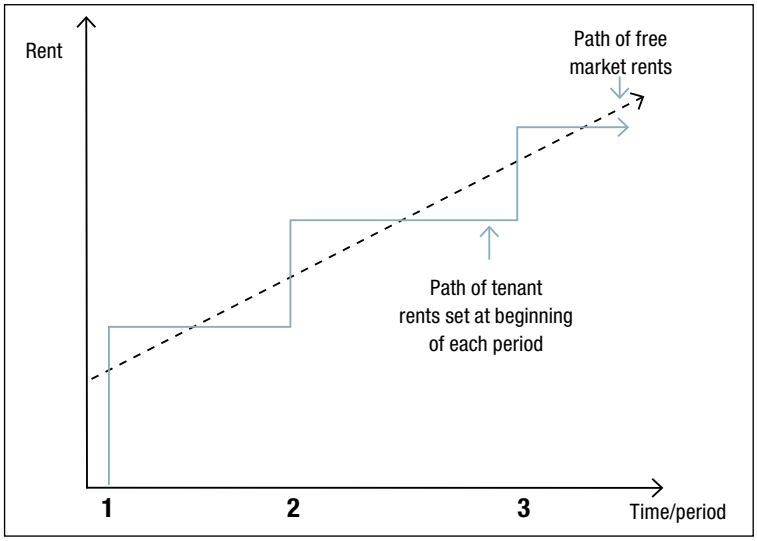
'Third generation' rent control
– control of rent increases within tenancies

Under third-generation rent control, rents are regulated within an individual tenancy but either not at all between tenancies or under a more generous regime. Its pure form is market rent determination on a new lease but controls over increases within the tenancy; Arnott (2003) calls this 'tenancy rent control'. In principle this allows adjustment to market returns while protecting the tenant from unexpectedly large increases and giving the landlord some security that cost increases are offset. It can be seen as a way of smoothing rent changes while maintaining a long-run rate of return which is competitive with other investments.

Figure 1 illustrates one possible form of third-generation rent control which is consistent with full adjustment of supply to underlying market conditions. Here the path of market rents reflects the long-run costs of provision. But because rents within the tenancy are determined administratively, initial rents will be set above long-run market levels and will fall in real terms over the period of administrative determination. If predictions are correct about underlying market pressures and the administrative rules are transparent, this form of regulation can ensure the long-run equilibrium level of supply and the required rate of return over time – even for open-ended tenancies.

FIGURE 1: THE GROWTH OF RENTS UNDER THIRD-GENERATION RENT CONTROLS

Tenancy starts in period 1 and rents are reset each 'period' of, say, 3 years duration, at a time when markets rents are rising strongly.



Source: Ball 2010, Figure 4

The impact of higher initial rents varies according to how long a tenant actually remains in a tenancy. Tenants who stay longer than the average will end up paying 'too little' in rent and those who stay for a shorter-than-average period will pay 'too much'. A benefit for landlords, in particular smaller landlords, is that controlled rents and rent increases reduce turnover and thus their transaction costs because of a reduced maintenance requirement and fewer vacancies. This 'turnover minimising' can bring not only consistent returns to landlords (Turner & Malpezzi 2003) but also greater rent stability to tenants.

In practice there is no clear separation between the second and third generations, and none of the various rules for setting the rent within the term of the contract have proven to be consistent with long-run market requirements. The rules for setting the initial rent vary between countries: some do allow a market determination, including allowing initial rents above the short-run market level. Others relate the rent to comparable properties, and in many countries tenants can challenge the rent if they believe it is unfair. Permissible increases in rents within tenancies are also determined in a range of ways, e.g., by reference to indices, cost increases, or 'mirror' rents. In general where both second- and third-generation rent controls obtain, more generous rent increases are allowed between tenancies than within tenancies, but there is no reason to expect these determinations to relate directly to the underlying economic pressures (Ellingsen & Englund 2003). More fundamentally the necessary information on future costs may simply not be available.

Rent regulation in practice

Each of the two types of regulation – on initial rents and on increases – can have different degrees of stringency. Regulation of initial rents, for example, can take the form of rent caps (Norway) or points systems (Netherlands), or can tie initial private rents to social-sector rents (Sweden). In some countries, initial rents are not subject to regulation but can be freely agreed (Finland). In others, initial rents can in principle be set freely, but charging a rent significantly above average rents in the area can constitute a criminal offence (Germany). In some countries (France) rents for new tenancies are regulated only for properties already in the regulated sector. There have also been changes in the scope of regulation. In the Netherlands, rent controls for high-value property have been removed whereas the rest of the sector continues to be highly regulated (Ball 2011).

Rent increases can also be regulated in different ways. In some cases, rents cannot be increased during a tenancy, only between tenancies. This so-called rent freeze was widely used in the immediate post-war period in many European countries (Van deer Higden & Boelhouwer 1996) and may still be in place for older contracts or shorter fixed-term contracts. More commonly, and especially for indefinite contracts, increases are allowed, but controlled.

The control mechanisms to regulate rents can take many forms. In Sweden, rent increases are negotiated every year and increases in private rents are linked to rent increases in the social rented sector. In Germany and Norway, rents can be revised to reflect the local rent level at given time points. In the Netherlands, rent increases are decided by a parliamentary committee every year, while in Switzerland, rent increases are permitted at any time if the landlord's costs increase. In Spain, annual rent increases are linked to the general cost of living index.

Some countries use a combination of different ways of regulating rent increases. In Germany, for example, initial rents can be set freely, but must not exceed the rents for comparable dwellings in the same area by more than 20 percent. During the tenancy, rents can be increased if they are demonstrably below the local rent levels for comparable dwelling units, but only every two years and not by more than 20 percent within a three-year period.

Currently, the dominant form of rent regulation in Europe is some version of third-generation rent control, although often with an element of control over initial rents (O'Sullivan & de Decker 2007) – but there remain enormous variations. At one extreme, in the Netherlands initial rents are controlled by a points system and rent increases are determined by parliament annually. Along the spectrum, Germany regulates the extent of rent increases over time (Haffner et al. 2007). At the other end of the scale, England now has no formal rent regulation, but parts of the private rental market are still characterised by some indirect form of control. This is because the levels of rents eligible for housing assistance for low-income households are restricted. It was found that almost half of private landlords set their rents close to these eligible rents (Haffner et al. 2008). In other words, the rules governing housing allowances work as indirect rent regulations at the lower end of the private rental housing market.

2.4 SECURITY OF TENURE

Rent regulations are usually combined with rules on security of tenure. When rent controls were first introduced, the immediate result was that landlords evicted sitting tenants and replaced them with others who were prepared to pay higher rents or side payments. So security clauses were added which gave the tenant, and sometimes even the next generation(s), the right to remain in the property as long as they met all other contractual conditions.

Security of tenure is a set of provisions in the landlord-tenant contract which provide the tenant with protection against a number of types of occupancy risks. Most importantly, it provides security against the risk of 'economic eviction', when the landlord gets rid of the tenant in order to let the property to someone prepared to pay more. Taken together with rent regulation, security of tenure reduces the uncertainties concerning the future path of rents. This can help both landlord and tenant as vacancy and turnover costs are also reduced. Another area which may be clarified by security-of-tenure regulation is what happens if the landlord wants to sell, to transfer the property into the owner-occupied sector or to undertake major renovations (Arnott 2003). Regulations on tenure security and their range tend to be stricter in countries with more stringent rent controls (Andrews et al. 2011).

To ensure security of tenure, it is common to find that rental contracts contain regulations such as notice periods and clauses under which the contract may be terminated by either one of the parties. There are variations across countries in the standard duration of a rental contract, rules for the early termination of the rental contract by the tenant, and the landlord's right to regain control of their property once it has been let. Security of tenure is high during the period of the contract, as the right to terminate the contract prematurely is subject to certain conditions. In some countries tenants have more rights than landlords to dissolve the contract before its expiry date, especially if the minimum contract period exceeds one year. The standard duration of a rental contract is therefore of great significance in determining the time during which tenants enjoy security. This ranges from the six-month standard shorthold tenancy in England, to six years (for institutional landlords) in France, to (at the limit) countries such as Germany, Sweden and the Netherlands, where rental contracts are open-ended or indefinitely renewable at the tenants' request (Haffner et al. 2007).

Regulations on security of tenure are distinct from those that relate to eviction – i.e., the conditions under which a tenant can be removed from the property because they have violated the terms of their contract in one way or another (often because of rent arrears). Some countries where tenure security is high have relatively cheap and transparent mechanisms for ensuring repossession. The effectiveness of eviction processes generally depends more on the overall legal system than on housing policy. In many countries eviction processes are seen to be more efficient than enforcement action against landlords who violate the rules. This reflects the more general issue of relative power between landlord and tenant at all stages of the contracting process.

Security of tenure in practice

As with rent regulation, there is a wide range of ways in which the regulation of tenancies, contracts, and the rights of both parties entering the contract vary between countries. This variation is seen between countries and sometimes also between different types of contract within a country. As a result, quantifying the degree of tenure security in any one country for the purposes of cross-national comparison is particularly difficult.

Security of tenure is influenced by several factors. The key elements include:

- duration of a standard contract
- compulsory renewal clauses
- notice periods and contract termination
- rights to early termination
- effect of the sale of the property on the rental contract

Rental contracts are generally legally binding documents, granting the tenant the right to occupy a specific property owned by the landlord for a certain period of time, provided that they fulfil the responsibilities ascribed to them in the contract. The contract includes information about notice periods and clauses under which the contract may be terminated by either one of the parties. The extent to which the content and the details included in a contract are regulated varies between countries.

A rental contract may take one of two forms: fixed-term or indefinite. Many countries allow both types of contracts, although it is common for one type to dominate. The minimum duration of fixed-term contracts varies between countries and sometimes even between different contract types within a country. The duration of a standard or a minimum contract period can also vary depending on the category of landlord. If a fixed-term tenancy is continued after its initial expiry date, it may change its form. This shift may or may not be accompanied by a greater degree of contractual freedom.

Where standard contracts are indefinite in nature, regulation may be in place to determine whether, and under what circumstances, fixed-term contracts are allowed. Both

types of contracts have benefits as well as costs, and the tenure security enjoyed under either type of contract is linked to a variety of factors. Long-term fixed-term contracts can provide a higher degree of security than indefinite contracts, if the landlord's right to terminate them is well regulated. This benefit, however, may be reduced if the right of the tenant to end the tenancy before its expiry date is also restricted.

Under indefinite contracts, security of tenure is determined by notice periods and the landlord's right to terminate the contract. The less these are regulated, the more insecure the tenant is. In a context characterised by long notice periods or restricted rights to end a contract, security of tenure can be fairly high. In the absence of these measures, however, tenure security is extremely low. Contemporary regulatory regimes in Europe provide examples of both of these extremes. In general, indefinite contracts provide tenants with a greater freedom to leave, while also reducing their security of tenure as the landlord is only obliged to abide by the notice period as agreed in the contract.

Regardless of the overall level of security of tenure, tenancies may generally be terminated in certain circumstances. In most countries, the landlord is able to regain possession of their property if they need it for their own use or for the use of a family member or a close relative, and sometimes for major renovation. Even then, the termination is subject to notice periods, and financial compensation may be payable. In countries such as Sweden and Germany where security of tenure is high, tenants have more rights than landlords to dissolve a contract before its expiry date, especially if the contract period exceeds one year.

Fixed-term contracts may be subject to compulsory renewal clauses (as was the case in Spain until the mid-1990s), just as indefinite leases may be subject to regulation that restricts the landlord's right to evict a tenant without an acceptable reason. Where such clauses do not apply, notice must be given by a landlord or a tenant. The minimum notice periods vary greatly between countries, and according to circumstances. Different minimum notice periods may apply to rent increases, premature contract termination and contract non-renewal. In some instances, the minimum notice period depends on the duration of the tenancy. In many countries, landlords must give longer notice than tenants.

Security of tenure is also influenced by regulations controlling the landlord's right to sell a rental property. If no regulation exists, the landlord may sell the property at any time, provided they give sufficient notice to the tenants. Depending on the regulatory regime, a landlord's desire to sell a property may or may not be regarded as acceptable grounds for tenancy termination. If a desire to sell does not constitute an acceptable reason for tenancy termination, the tenants cannot be required to move even when the property changes owner. Where such regulation is not in place and a tenant can be evicted if the owner decides to sell, the tenant may be entitled to first refusal, meaning that a landlord wishing to sell a property is obliged to offer the sitting tenant a chance to buy it before putting it in the market.

2.5 REGULATION OF HOUSING QUALITY

Regulation governing housing quality is the oldest form of government intervention. The regulations are generally aimed at ensuring safety and adequate building and occupancy standards. These standards tend to increase with economic growth and improvements in the general standards of living. For instance at the moment there is increasing emphasis on energy efficiency and sustainability, which carries with it increased capital costs. Regulations relating to quality are not normally related specifically to tenure. However there are types of regulation which mostly affect privately rented property – notably those to do with houses in multiple occupation and shared accommodation.

One of the main reasons for introducing housing quality regulation has been to ensure that privately rented properties meet a minimum level of decency and safety, to limit problems of disrepair and to provide incentives for landlords to maintain their occupied properties adequately. Most developed economies have established basic housing standards which include key aspects of housing quality, performance requirements, and acceptability criteria with respect to each performance requirement. Many countries have long histories of strong state involvement in encouraging landlords to maintain their housing stock. Refurbishment subsidies and tax breaks are often provided to landlords for housing renovation, for instance in France after the urban riots of 2005 (Ball 2011). In other words, government subsidies and tax benefits (conditional on meeting certain standards) provide incentives for landlords to raise quality in a way that cannot readily be enforced simply through regulation.

Housing quality regulation in practice
Regulation is used to influence the standards or quality of rented housing. Such regulation includes the imposition of quality standards on rented housing (e.g. the licensing of houses in multiple occupation in England), regulatory frameworks that use amenities and the condition of the dwelling unit to determine acceptable rent levels (Sweden, the Netherlands), and regulation that allows rent increases, or greater rent increases, after energy-efficiency improvements or general refurbishment (Germany, France). Especially where annual changes to rent levels are regulated and security of tenure is high, regulation that allows landlords who upgrade their properties to increase rents by more than would otherwise be permitted can be an effective way to incentivise investment in the quality of the PRS.

2.6 UNDERSTANDING THE NATURE OF REGULATION: SUMMARY

The vast majority of the theoretical discussion of regulation concentrates on rent regulation – initially just on rent levels within a comparative static framework and then on rent increases and the capacity to adjust to market pressures. It is this discussion that has generated the typology of first-, second- and third-generation rent control, which makes clear the constraint that matters is the extent to which rents are held below market levels. Thus first-generation rent controls benefit tenants at the expense of landlords, while second- and third-generation controls may well benefit both landlords and tenants.

This concentration on rents is very much an economist's viewpoint based on an assumption that other aspects of regulation, notably security of tenure, work in tandem with rent control. In practice this can be an over-simplistic view, because longer-term tenancies with stable conditions may benefit both sides. Even so, security of tenure which constrains the property's use and transfer, and the efficiency of contract enforcement undoubtedly have major impacts on the incentives for both landlords and tenants.

The other main type of regulation, governing standards and quality, generally applies to all tenures except where tenure and the physical nature of the property and its use are related – e.g. in the UK there are stronger regulations for Houses in Multiple Occupation which are normally, although not always, privately rented.

The impact of regulation on the size and nature of private renting depends on the extent to which regulation imposes differential costs and benefits on landlords and tenants – or on private renting as compared to other tenures.

The discussion above makes clear that there are very different reasons for introducing regulation and equally many different potential outcomes. This is one very obvious reason why commentators hold such varying views on its benefits and costs. To unpack these elements more carefully, the next chapter examines the impact of regulation in different contexts.

3. *The impact of regulation*

In this chapter we look in more detail at how regulation in its different forms affects the behaviour of landlords and tenants – and ultimately the size of the private rented sector. We clarify the ways in which different forms of regulation incentivise landlords through their effects on rates of return and risks; affect their preparedness to build or transfer stock to the sector; and modify tenure choice and tenants' incentives to move. Based on this analysis, we look at hypotheses about the potential links between the degree of regulation and the scale of the sector and take a first overview of the apparent relationship across case-study countries. Finally we note the role of other factors in determining the desirability and therefore relative size for private renting in different environments.

3.1 HOW REGULATION AFFECTS THE BEHAVIOUR OF LANDLORDS AND TENANTS

The tables in Annex 3 show schematically the potential effects that various sorts of regulation can be expected to have on landlords, tenants and other market actors. There are two important points to keep in mind. First, for ease of analysis, the tables represent stylized situations of 'pure' rent control or security of tenure; in fact such pure regulations rarely obtain in practice, and there are nuances and legal and regulatory interactions that cannot be captured in a table. Second, the analysis assumes that landlords are rational profit maximisers, while tenants are utility maximisers. Given these assumptions the question asked is how regulations affect landlord returns and the certainty of these returns. In fact, studies have shown that many landlords are not in fact profit-maximisers. Regulations will still affect their behaviour, but they may not respond in the same way or to the same extent as profit-maximising economic actors would. Similarly the predictions about tenant behaviour will often be dampened for reasons including inertia, lack of information and the fact that they have other objectives in addition to maximising housing utility.

An important implication of this analysis is that the effect of new regulations on landlords and tenants already in the market (who experience unexpected changes in circumstances) is not the same as their effect on those who might be looking to come into the PRS. This group can be subdivided into those who do enter post-regulation and those who decide not to come into the market.

The most efficient regulations effectively address one or more market failures and therefore make the system work better for both landlords and tenants. Alternatively, however, regulation may help one group at the expense of others or even harm both parties. Such regulations may have been implemented for other reasons than to address market failures – notably to help particular groups in difficult circumstances – or may simply have been ill conceived or poorly implemented. And as has already been stressed, regulation is only one element impacting on landlord and tenant behaviour – there is a vast range of other policies that also modify incentives.

The core argument against regulation is that, whatever policy makers' initial objectives, it has reduced the incentives for landlords to provide accommodation and often led to established landlords leaving the sector when they would prefer to remain. This problem is inherent in first-generation regulation and is very likely to occur even with 'perfect' third-generation regulation, which in principle can benefit both landlords and tenants.

With respect to security of tenure and the rights to end a contract prematurely, the most usual objective has been to reduce the risks faced by tenants – often at the expense of landlords. It should not be forgotten, though, that there are good market-failure reasons for improving contractual conditions and providing greater certainty for both sides. The same point applies to regulation on quality – it has the potential to improve matters for both landlord and tenant, but is often implemented in ways that increase costs without necessarily either fully benefiting the tenant or compensating the providers enough to make higher quality worth their while.

3.2 TENANT PROTECTION

The biggest benefit of regulation that keeps rents at below-market levels is seen to be that it protects the existing tenant against unexpected increases in rents during a tenancy. Sitting tenants are protected from adverse effects both in the controlled and uncontrolled markets, as rent regulation can create excess demand in the controlled market which spills over to the uncontrolled markets and pushes prices up there.

However, regulations that lead to actual rents being lower than market rents will produce unequal distributional effects between different groups of tenants. For example, Hubert (2003) argues that long-standing tenants benefit at the expense of both new tenants (because they pay less than those having entered their contract more recently) and of prospective tenants, especially in situations where rents in free rental markets are generally rising. In later forms of rent controls this effect may be mitigated if sitting tenants pay higher initial rents whenever the rental contracts are renewed.

Combined regulations covering both rents and tenure security have mixed distributional effects on different groups of tenants. More mobile households with a low probability of staying a long time have easier access to the private rented sector because landlords tend to select them to limit the potential adverse costs of extra security. Less mobile households with a high probability of staying long-term may find it much more difficult to enter the market. Once they do occupy the dwellings, less mobile households can enjoy greater security of tenure and stable rents within tenancies. However, Ball (2010) argues that this pattern of exclusion creates unfortunate outcomes for the most vulnerable households, limiting their opportunity to live in rental property for long periods of time.

3.3 LANDLORD INCENTIVES

While most regulations are directed towards protecting tenants, some are beneficial to landlords. In particular Ball (2010) and others argue that landlords gain from longer-term tenancies and greater security in the rental stream because it helps them keep 'good' existing tenants who pay rents on time and treat their accommodation with care. Every time a tenant quits, landlords face the risk of a prolonged vacancy. Landlords have to invest in redecoration and minor maintenance in order to attract new tenants, who may fail to pay the rent on time or generate maintenance and administration problems. Longer-term tenancies will therefore reduce transaction costs and guarantee a long-term income stream.

On the other hand, Rugg and Rhodes (2008) identify a range of economic benefits that short-term tenancies can bring to landlords. First, a high turnover of tenants means that landlords can minimise expenditure on repair, since tenants do not stay long enough for the need for repair to become apparent. Secondly, landlords can evict problematic tenants (who do not pay their rent or who damage the property) more easily and make a reasonable economic return. Thirdly, short-term tenancies offer more flexibility and financial liquidity, and in particular make it easier for landlords to generate capital gains by selling the property when market conditions are suitable.

3.4 TENANT MOBILITY

It has often been argued that rent regulations have a lock-in effect. They create an incentive for tenants to stay in the same property, which reduces not only household mobility but also labour mobility, particularly if regulated rents are below market rents. Tenants will find the costs of moving to be greater in a regulated than in an unregulated market because the occupant of a rent-controlled unit must give up the present value of the difference between the market rent and the controlled rent. OECD (2011) analysis shows that residential mobility in countries with relatively strict rent regulations is significantly lower than elsewhere. Krol and Svorny (2005) also present empirical findings that residents living in rent-controlled properties are likely to have longer commute times and bear additional costs in the form of fuel costs, automobile wear and tear, and the impacts of (a lack of) highway maintenance. This can be particularly detrimental to economically vulnerable groups' participation in labour markets. The lock-in effect of rent controls may also mean that households delay the purchase of their first home, particularly if rent control is accompanied by a longer-term tenancy (Arnott 2003).

3.5 CONSTRUCTION OF PRIVATE RENTAL HOUSING

The impact on new construction of regulation directed at the private rented sector depends particularly on whether the new dwellings are tenure specific. The decision about whether or not to invest depends crucially on the potential rate of return, and if dwellings are destined exclusively for the private rental sector then the regulatory regime will have a strong influence on investment decisions. This is the case for instance in Denmark and Canada. The possibility of changing the tenure of a dwelling may be limited by formal legal constraints, but also by the complexity of rules and costs involved in transferring apartment blocks or individual apartments into owner-occupation (e.g., through condominium, leasehold or strata legislation). If such a transfer is relatively easy, as is the case in a number of European countries including the UK and France, the investment decision depends on more general incentives across all tenures.

It has been frequently argued that strong rent regulation will usually produce lower rates of return on investment in the private rented sector as compared to other assets. This discourages investment and causes the sector to shrink, especially if dwellings can transfer to other tenures on vacant possession (Basu & Emerson 2000, European Central Bank 2003, Ball 2004, Pareja-Eastaway & Sánchez-Martínez 2010).

Historical evidence suggested that first-generation rent control contributed strongly to the decline of the sector, especially in the period after World War II (Ellingsen & Englund 2003). However, even over this period many other factors came into play – notably differences in taxation between tenures (Nevitt 1966). In this context Harloe (1985) noted that 'the impact of rent controls was far from simple and self-evident. In some countries, the most rapid decline in the sector occurred after 1960, at a time when rigid controls were giving way to decontrol or to more flexible controls which attempted to relate rent levels to quality and costs' (p. 298).

The effect on construction of second- and third-generation rent controls is less clear. Lind's (2003) empirical analysis found that rent regulation was only a minor factor in keeping housing construction at very low levels during Sweden's economic boom of the late 1990s. McFarlane (2003) also found that second- and third-generation rent controls do not appear to have damaging effects on the construction of private rental housing. Taking a dynamic perspective, Lind (2003) emphasises that uncertainty about future regulations is the crucial factor affecting new construction where it is specific to private renting.

3.6 HOUSING QUALITY

There is much debate about the long-term consequences of regulations on housing quality in the private rented sector. Ball (2004) in particular notes that the imposition of high minimum standards in housing will limit housing options for some private tenants who want to accept lower quality housing for a lower price. He further argues that low price–low quality dwellings may serve as stepping stones for some people, enabling them to afford a better home later on or to move into a different locality. Finally, sharing the same view as Lind (2003), he emphasises that housing quality standards can be a moving target. He points out that regulators tend to push up standards whenever a problem is perceived, and says this can damage confidence and reduce overall investment in the private rented sector.

3.7 THE IMPACT OF REGULATION ON LANDLORDS AND TENANTS: SUMMARY

Table 4 summarises some of the desirable and undesirable effects that the literature suggests may follow from the core elements of regulation in the private rented sector. It clarifies that simplistic interpretations will rarely be appropriate because outcomes will often depend on the detail of each country's regulation; demonstrates how the different elements link together; and describes the effectiveness of enforcement procedures. It also points to other aspects of regulation that impact on behaviour – notably the extent to which regulated rents fall below market levels and therefore reduce the landlord' rates of return (which affects preparedness to enter or stay in the sector) and the certainty about how effectively the regulation will be enforced.

TABLE 4: POTENTIAL EFFECTS OF REGULATION ON LANDLORDS AND TENANTS

	DESIRED EFFECTS		UNDESIRED EFFECTS	
	On the landlord	**On the tenant**	**On the landlord**	**On the tenant**
RENT REGULATION				
Initial rent setting	Certainty – so helping clarify rate of return	Existing tenants pay rents that are lower than new tenants if regulated rents are lower than market rents	Reduces rental yield and capital value of the property, may lead landlords to under-invest in maintenance	Sitting tenants may pay higher initial rents when rental contracts are renewed
Rent increase	If cost increases included may ensure a given rate of return	Tenants are protected against unexpected increases in rents during a tenancy	May provide an incentive to evict existing tenants	Lock-in effect: tenants stay in the same property, which reduces household and labour mobility, particularly when regulated rents are below market rents
SECURITY OF TENURE				
Long-term tenancy	Allows landlords to keep 'good' existing tenants, reduces transaction costs and guarantees a long-term income stream	Offers certainty that long-term residence is possible	Reduces the freedom of landlords to sell the property and deters investment	Less mobile households may be discriminated against by landlords to avoid the potential adverse costs of extra security
Short-term tenancy	Minimises expenditure on repair, landlord can evict problematic tenants, offers more flexibility and financial liquidity, and in particular makes easier for landlord to sell the property when market conditions are suitable	Good for more mobile households, who may be preferred by landlords to increase their ability to raise rents or exit the sector	Increases transactions costs, although this is less applicable if the tenant has the right to extend the contract	Tenants who prefer a long-term tenancy do not have certainty about whether and how long they can stay in the dwelling

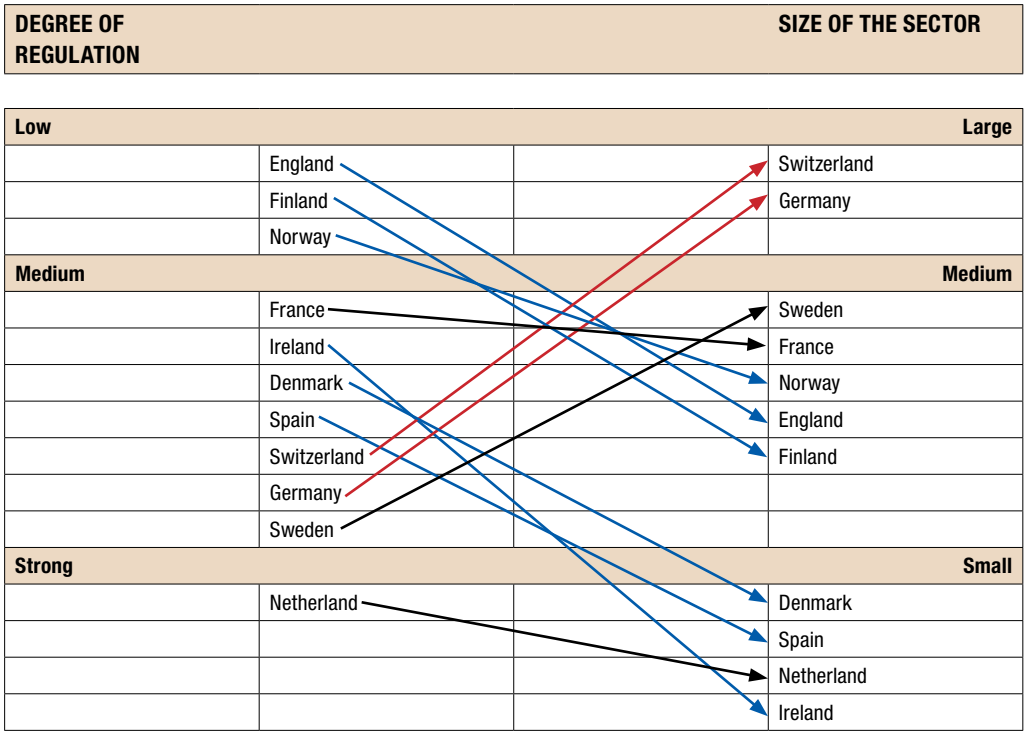
3.8 THE RELATIONSHIP BETWEEN REGULATION AND SCALE

The analysis so far suggests that some types of regulation can improve the rental product and reduce the costs of market failure. A well-designed regulation programme should, other things being equal, increase the size of the sector. On the other hand regulation that helps one side while adversely affecting the other will normally reduce the scale of private renting if the actors are able to adjust to underlying conditions. The outcomes of regulatory regimes depend on the general context within which they operate as well as their ability to find the right balance between too much regulation that deters investment and too little protection for tenants. As Turner and Malpezzi (2003) summarise, 'Regulation per se is neither good nor bad. What matters are the costs and benefits of specific regulations under specific market conditions' (p. 15).

A starting point for examining the mixed impact of regulation on the size of the PRS is to relate our general understanding of the extent of regulation with the scale of the sector. At this stage the picture can only be indicative as we are making a preliminary assessment of the overall strength of regulation based on the initial literature review. The next stages involve clarifying how the degree of regulation might be measured more formally, then turning to detailed empirical examination of the details of regulation in each country.

Even before our detailed analysis, we can see that there is no clear-cut relationship between the degree of regulation and the size of the sector (Figure 2). Most importantly, while regulation is frequently cited as the key factor discouraging investment in the PRS (and is therefore blamed for the sector's small size in many countries), it appears that countries with low levels of regulation also tend to have smaller private rented sectors. Large private rented sectors can be found in countries such as Switzerland, France and Germany, which are relatively strongly regulated. But there are clearly exceptions to any rule – for example, the Netherlands appears to follow the traditional economic hypothesis that strong regulation is associated with a small sector.

FIGURE 2: REGULATION AND THE SIZE OF THE PRS IN SELECTED EUROPEAN COUNTRIES: AN INITIAL OVERVIEW



This mixed pattern may reflect the fact that in the real world things are always in flux and some landlords and tenants will not have fully adjusted to current conditions. It may also show that regulation does not modify market outcomes as much as is often perceived. In this context, current evidence suggests that across OECD countries there is no clear evidence that average rent levels are lower in countries with continuing rent controls (Andrews et al. 2011). This suggests that it is important to unpack the details of regulation in each country to understand how perception and reality might be different. In particular, regulation is not a single homogenous factor but includes elements that may incentivise expansion and others which tend towards contraction.

Finally regulation is not the only factor determining the size of the PRS. The size, vibrancy and relative position of the sector is shaped by a range of practices, policies and contextual factors that affect supply and demand. The impact of regulation on the private rented sector depends on its interaction with other government policies that may aim to boost specific forms of investment and to support households differently across tenures. Government policies such as low-interest loans, operating subsidies in the form of interest-free loans or grants to enhance the rate of return on investment, favourable tax provisions including accelerated depreciation and tax-favoured investment funds, etc., may have at least as much impact as rent regulation, particularly on the construction of private rental housing. Equally, the fact that in some countries low-income renters are eligible for government financial assistance but owner-occupiers are not affects household choice.

The size of the PRS is thus directly affected not only by regulation, but also by supply-side subsidies to PRS landlords, the structure of income-related subsidy systems, supply-side fiscal incentives and demand-side benefits. Other indirect influences include the supply and accessibility of subsidised rental housing, the quality of social rented housing, the gap between social and market rents, households' access to mortgage finance, instruments affecting the cost of homeownership, and the availability of other housing options such as co-operative housing.

The next chapter looks at issues around the measurement of the degree of regulation. We are then in a position to examine the detailed empirical evidence in Part II.

4. *Measuring the nature and strength of regulation*

This chapter discusses earlier attempts at measuring the strength of regulation and clarifies the approach taken in this research.

There have been a number of attempts to measure the strength of regulation using a single index. The outcomes clearly depend upon both the attributes of regulation that are included and the weights given to each attribute. In this chapter we review the latest summary measures and argue that any single figure cannot reflect the complexity of regulatory regimes and the extent to which different elements may complement or offset one another.

Our approach is therefore to distinguish the main elements of regulation; for each country to assess how each affects the degree of regulatory constraint; and to examine the extent to which the different elements work together.

The outcome is inherently still a summary but one where the different elements can be examined individually at the time as giving a picture of each overall regime.

4.1 APPROACHES TO MEASURING REGULATION

Measuring the extent to which the private sector is subject to regulations and controls, and how well these are enforced, is difficult to do comprehensively even for just one country. This is particularly true because the reasons for regulation differ so greatly, with some types of regulation potentially benefiting both landlord and tenant while other forms clearly benefit one side at the expense of the other. It is even more difficult when a number of countries are involved.

One approach has been to develop an index of the stringency of controls and regulations. The first such undertaking, by Malpezzi and Ball (1993), was carried out as part of a larger international research project on the relationship between rent controls and housing-market performance. The purpose of this preliminary exercise was to explore how the strength of rent control might be measured and how any such index might relate to other policy indexes and outcomes.

The sample consisted of 51 developed and less-developed mixed and market economies for which reasonable evidence regarding rent regulation could be obtained. The information regarding different types of controls and their strength was gathered via a questionnaire.

The indicators used by Malpezzi and Ball (1993) included:

- Enforcement of regulation
- Coverage of regulation
- Initial rents
- Rent increases (measured by indexation)
- Cost pass-through (landlords' ability to pass increasing costs, such as land taxes, on to tenants)
- Treatment of new construction
- Rent setting for new tenancies
- Tenure security

Each country was ranked on a scale of 0-2 for each of these indicators. The 0 value was assigned when no regulation was in place, or regulation covered only a very small part of the stock; a value of 1 was used to imply a moderate degree of regulation or regulation that covered only small proportion of the stock and a value of 2 indicated a strong degree of regulation across a large part or all of the stock.

Because the effectiveness of any regulatory measures is intrinsically linked to its enforcement and coverage, scoring 0 on either of the first two variables (enforcement and coverage) resulted in the automatic assignment of 0 for all subsequent variables. In other words, points for regulation over specific aspects of the rental market were allocated only in countries where regulation covered at least a small proportion of the stock and where there was some evidence of enforcement.

In order to capture the real effect of rent freezes and strict controls over rent increases across countries, a variable was created to indicate the level of inflation. The value assigned to this variable was established by dividing the average inflation rate over the period of 1965-1985 by ten.

The final numerical values for the index ranged from 0 to 21, suggesting a wide degree of variation between countries. The results from this index were then compared with indices of house prices, land-use regulation and financial markets, with the ultimate objective of understanding how one influences the other. The preliminary analysis suggested that the less developed economies were no more likely to have regulation in place than more advanced economies, but where regulatory regimes existed and were enforced, they tended to be more stringent in lower-income countries. Countries with stricter regulatory regimes tended to have lower rents and higher house prices.

A much more recent attempt to quantify the degree and strength of regulation was carried out by OECD economists Andrews et al. (2011). Drawing on data from the OECD Housing Questionnaire, the index included information on rent control and regulation of landlord-tenant relations for 30 OECD countries. The PRS and social rented sectors were assessed separately.

The indicators used included:

- Control of rent levels (the existence of regulations, their coverage and the criteria used)
- Control of rent increases (the existence of regulation, its coverage and the nature of the control mechanism)
- Ease of eviction (regulation over acceptable grounds for eviction, protection, and methods for settling disputes)
- Tenure security (any regulation over minimum contract duration, contract content, average contract length and notice period for landlords)
- Deposit requirement (regulation over whether allowed, and restrictions on the amount).

The index rated countries on a scale of 0 to 6. It suggested that regulation was strongest in countries such as Germany which had maintained rent controls over a long period of time and had indefinite contracts. At the other extreme within Europe were countries such as the UK, where rent regulation on new lettings was removed in 1988.

OECD cross-country evidence (Andrews et al. 2011) shows that stricter rent regulations and tenant protections are associated with a greater probability of being a renter.

4.2 OUR APPROACH

The objective of measuring regulation by some type of index or other summary approach is to stand back from the complexities of the specific institutional framework in order to examine more general relationships and impacts.

An index where only one value is assigned to each country provides a snapshot summary overview of regulation at one point in time. The calculation of the index is based on explicit weights, but these ultimately reflect the interpretations of the researchers. Only if all the elements work in the same direction can a single measure reflect the underlying fundamentals effectively. Equally, they apply only to a point in time and may not clearly indicate important recent changes, so there can be a contradiction between the index of regulation and outcomes of that regulation.

A rather less restrictive approach with similar objectives is to describe regulation in a particular country or over time in relation to a set of core elements affecting the relationship between regulation and private rented sector outcomes.

Based on our analysis of regulation in Chapter 3, we identify four elements as particularly relevant:

- rent levels – initially and at the beginning of a tenancy;
- rent increases both between and within tenancies;
- security of tenure in terms of length of contract; and
- regulation relating to enforcement, eviction, quality etc.

This allows two distinct improvements: regulatory systems can be compared between regimes and over time on a consistent and clearly specified set of criteria; and the extent to which the different elements of regulation are positively or negatively related to one another can be more easily clarified.

To operationalise the approach we need first to categorise the nature of each regulatory regime. It is necessary to score each element by the strength of the regulation – for example, to say whether the strength of a particular control is low, medium or high. A difficulty with this approach however is that the larger the number of elements, and the larger the number of scores included in the assessment, the more the possible groupings – so there is a trade-off between summarising/simplicity and enabling all aspects to be fully taken into account. For instance, were we to restrict our categorisation to three main areas of regulation (such as rent levels, rent increases and security of tenure) and rank each as ‘low’, ‘medium’ or ‘high’, there would be 27 possible combinations – although it is probable that only some of these combinations would be found in practice (Table 5 provides an example which reflects observed regimes). A core issue in limiting these combinations is the extent to which different elements are correlated with one other. In this context, both the researchers’ understanding and theory can be used to determine what simplifications can reasonably be made, while still maintaining adequate detail.

TABLE 5: EXPECTED EFFECTS ON THE HOUSING SYSTEM OF TYPICAL REGULATORY COMBINATIONS: AN EXAMPLE

EXTENT OF REGULATION (HIGH-MEDIUM-LOW)			LIKELY EFFECT ON PRS
Rent levels	Rent increases	Security of tenure	
Low	Low	Low	Market-determined scale
Low	Low	Medium	Some benefits to both sides – best in countries with stable prices
Low	Low	High	Best in countries with stable prices and clear enforcement of contract
Low	Medium	Medium	Disincentives to landlord if costs/prices expected to rise
Medium	High	High	Disincentives to landlords unless regulated initial rents mirror market, costs/prices are stable and there are few other investment opportunities
High	Medium	Medium	Strong disincentives to landlords unless initial regulated rents mirror market

When attributing scores, analysts tend to see a spectrum from unregulated or market to highly regulated, where government makes the decisions. But, depending on how an individual measure is to be used, this may provide only a partial picture. As we have noted, certain types of regulation may help landlords, others may help tenants, and still others may help both. If this dimension is to be recognised effectively, there is a further stage required in the analysis, transposing the form of regulation into a measure of impact.

While we do not intend to bring the scores for each element into a single measure, for the reasons discussed above, we do need to clarify to the extent possible the importance to be placed on the different aspects of regulation. Here again, the use of more elements allows more sophistication but also makes more demands on both theory and expert knowledge.

Finally, any summary measure of regulation will provide only a small part of the answer as to how regulation affects housing markets. For instance, the group of countries with strong regulatory systems includes both one of the smallest and one of the largest private rented sectors in Europe, which implies that the impacts of superficially similar regulatory systems are actually very different. Thus, understanding the impact of regulation requires at least three other elements:

- First, in addition to the core regulatory features, there are other factors that impact on incentives to be in the market either as landlord or tenant. These include not just policy measures but also market factors – e.g., access to funding.

- Second, it is important to realise that the relationship between particular regulations and size can often not be deduced from summary information. So, for instance, a well organised third-generation rent control system, which under most classifications would be technically heavily regulated, may support private renting, while one that is poorly implemented whatever the extent of formal regulation may well result in a smaller private rented sector.

- Third, there is the issue of adjustment. Is a private rented sector large or small because actors have adjusted to the regulatory framework and other determining factors, or are there reasons to think that long-run equilibrium has not yet been reached?

- A final issue is the relative position of private renting and its regulation as compared to other tenures, which are themselves subject

> to regulation or other government policies. So the overall impact of regulation on the private rented sector is not just about direct effects on landlord and tenant incentives, but also on the regulation and indeed relative tax position and accessibility of other tenures and investments. All of these issues need to be explored in the context of specific regimes.

The next, empirical, part of the report will address these issues, bringing together the material from our case-study countries. In Chapter 5 we describe the regulatory regimes across our eleven case-study areas. In Chapter 6 the links between the different regimes and the size of the private rented sector in each country are examined. In Chapter 7 the private rented sector is placed in the wider housing-market context. Finally Chapter 8 brings together the findings and answers to the research questions.

Part II



Analysis and Findings

5. *Comparative analysis of regulation across eleven countries*

This chapter summarises the core of the empirical analysis based on the detailed country analyses set out in Annex 4. It provides an overview of the regulatory regimes in place in the early 1980s and how they have changed over the three decades since. In the main, initial rent regulation has become less onerous – often allowing initial rents that are equal or close to market rents. However the picture is much more mixed with respect to both rent increases within a tenancy and the extent of security of tenure. Regulation in a few countries has hardly changed, while at the other extreme a few countries have experienced many changes – sometimes reversing earlier policies within the time period examined.

The chapter provides summary breakdowns for each country, based on the main attributes of regulation, for the beginning and end of the period, enabling patterns of regulation to be distinguished. These are then translated into a multi-dimensional assessment of the degree of regulation in each country and presented in the form of spider diagrams and comparisons made between the 1980s and the present time – remembering that in some countries there is more than one regime operating at any given point in time. The spider diagrams clarify the great variety of regulatory regimes both over time and between countries, but also the degree of stability in a subset of countries.

It is important to remember that these summary measures relate mainly to the formal attributes of each regime. Contextual information and much more detailed analyses are presented in the country chapters presented in Annex 4.

5.1 OBJECTIVE OF THE EMPIRICAL ANALYSIS

Our initial objective is to understand how the nature of regulation differs between countries and over time. To address this issue we examined the details of the regulatory regimes in place in the early 1980s and compared them to the regulatory frameworks currently in place. After presenting a general overview of regulation in the 11 countries, we describe the methodology used to assess the attributes and strength of regulation in each country. We then compare regulatory regimes both across countries and over time.

Annex 4 contains the detailed reports on each country, while this chapter draws on the information presented there to provide a more comparative perspective.

5.2 OVERVIEW

Up to the 1980s, regulation in the private rented sector across Europe was much stronger than it is now, mainly because tough regimes introduced during World War II to support tenants in times of extreme housing shortage were still in place. As a result, rents were often far below market levels and there were few arrangements for increasing rents even to reflect costs, let alone market pressures. Security of tenure was also strong. Maintaining this position became more difficult as a result of the rapid inflation in the 1970s, even though in some contexts increased restraints on rents were introduced to support macro-economic income and anti-inflationary policies. Regulation in most countries could properly be described as 'first generation', producing strong incentives for landlords where possible to leave the sector and for tenants to remain.

In some countries, there had already been movement towards either deregulation or more sophisticated forms of regulation that more directly reflected cost and market pressures. In England and France for instance there had been significant moves to deregulate rents on new lettings, while existing tenancies usually remained unaffected. In some other countries, notably those with regulatory regimes based on setting rents in the private and social sectors by 'comparables', there had also been some loosening of rent constraints although not necessarily any change in the legislative base.

Our project starts in the 1980s, when regulation of both rents and security in the private rented sector was still relatively strong in the majority of our case-study countries – but there was also a great deal of variation between countries with respect to the details of that regulation. But, by that time, in the main, post-war numerical housing shortages (i.e., the number of households exceeding the number of dwellings) had been overcome. It was therefore the beginning of a period when households had more housing options, and there were also more general moves towards liberalisation across economies and particularly finance markets.

Over the following three decades, the strength of regulation in the majority of countries declined, with fewer controls on both rents and rent increases. In a few countries, regulation remained fairly stable – these were mainly countries where both initial rents and rent increases were anyway more responsive to the longer-term fundamentals of the market. A small number of countries, France and the Republic of Ireland in particular, introduced certain increased controls, mainly with respect to security of tenure. Overall, there has probably been as much movement towards more sophisticated systems of regulation – which at least in principle benefit both landlord and tenant – as towards continuing deregulation.

In most countries where there has been movement towards deregulation, there is more than one regime still in place (Table 6). This is because in these countries any reductions in regulation generally only affect new leases, so tenancies in place prior to the change remain subject to existing conditions. The sub-sectors subject to earlier regulation inherently become less important – even in countries like Spain and France where there have been many such changes. In some countries, there has been later regulation to bring more properties under the new regime. In decentralised systems, there may also be differences between localities and regions. Denmark is notable for having significant differences in how the system is implemented between areas, with Copenhagen having some of the strongest regulation. It is also distinct in relating the regulation to the date at which the dwelling is built rather than to the initial date of the tenancy. As a result the earlier (pre-1991) regulatory regimes remain very important even in the context of new lettings. In other countries, there are different regimes for different types of lease – such as in Finland where the regulations governing indefinite and fixed-term contracts are different, or Sweden and Norway where sub-tenancies or lettings attached to the landlord's owner-occupied property are less regulated.

TABLE 6: THE CURRENT RANGE OF REGULATORY REGIMES ACROSS CASE-STUDY COUNTRIES

COUNTRY	NUMBER OF SYSTEMS OPERATIONAL IN 2000s	BASIS OF DIFFERENCES	IMPORTANCE OF DIFFERENT REGULATORY SYSTEMS
Denmark	Multiple	Area specific; also year of construction and dwelling type (dwellings in buildings erected post-1991 and new penthouses not regulated)	About 90% of rented dwellings are regulated but differences in regulation are important, particularly in Copenhagen
England	Two	Pre-1988 tenancies come under earlier fair rents regime	Proportion of regulated tenancies very small and declining
Finland	Two	Regulation of rent increases affects only fixed-term contracts; rents and increases freely set within contract terms for indefinite contracts	Indefinite tenancies dominate
France	Multiple	Pre-1964 tenancies subject to the strict regulation of that period; a number of later changes affect different types of dwelling and length of tenancy	Post-2008 regime, which allows market rents for new tenancies but controls rent increases, dominates
Germany	Single system		
Netherlands	Two	Rents administratively controlled on the vast majority but freely determined on all properties renting for over €665 per month	Free market currently around 30% of sector, and growing
Norway	Multiple	Pre-war tenancies remain highly controlled. Rents on properties attached to owner-occupied dwellings freely set; differences between types of lease	Indefinite contracts dominate
Republic of Ireland	Single system		
Spain	Multiple	Two main systems (pre- and post-1964 legislation). Some differences even within post-1964 tenancies but also differences in contracts between 1964 and 1994 because of a large number of regulatory changes	Important differences, but most tenancies now fall under the 1994 Act
Sweden	Two	Contracts between landlord and tenant (first-hand) are indefinite. Conditions for sub-lets depend on the specific contracts which include fixed terms	Affects only subtenants
Switzerland	Single system		

The system in the Netherlands is unique; dwellings that have rent for more than €665/month are not subject to regulation – in both the private and social sectors. This clearly incentivises landlords to improve properties so that that they will command such rents – and possibly to build larger units which will nearly always attract rents of €665 or more. More generally, the existence of even sizeable numbers of tenancies still subject to earlier forms of regulation does not **directly** affect current landlord and tenant decisions except to the extent that there is memory of control – which may be important where there are political uncertainties.

If the objective of this project were specifically to examine how regulation affects the incentives for new investment or for tenants to enter the sector, the emphasis would be more on the regulation that applies to new entrants at the relevant date. However, the aim of this report is to concentrate on how the sector has developed over the last 30 years and ultimately whether and how this relates to the scale of the sector – so we look at the position in the 1980s and now but also at important changes in the regulatory regime during that period. The question of future incentives is for another study.

5.3 IDENTIFYING PATTERNS OF REGULATION

The next stage of the project involved scoring the extent of regulation in each country in both the early 1980s and now. On the basis of our earlier discussion of the most important aspects of regulation, we developed indicators for six:

(i) initial rent setting;

(ii) rent increases;

(iii) minimum length of lease;

(iv) the landlord's ability to repossess the property during the lease;

(v) the landlord's ability to sell the property or transfer it to another tenure; and

(vi) the landlord's ability to enforce the lease if the contract is broken.

For each of these indicators we identify the main regulatory categories that we observe. For example, under initial rent setting we use three categories: market rent, mirror comparables and administratively determined. These cover the main forms of regulation observed in the case-study countries but are, of course, themselves summaries. In every country, there are additional complexities (which are described in more detail in the country chapters). For instance, the term 'initial rents' masks a difference between countries as to whether the landlord has the same freedoms with respect to a new tenancy as to the first letting of a property. In the main, initial lettings and new tenancies are now treated similarly. However, in the 1980s, permissible rent increases for new tenancies (i.e. letting to a different tenant) tended to be governed by the same rules as rent increases for sitting tenants – in other words, rent regulation was related to the dwelling rather than the person.

Another complexity is that in a number of countries initial rents can be set freely, but the tenant has a right to query that rent. In some countries, such queries rarely result in any change; in others they almost always succeed – so rents are really determined on the basis of comparables, which may be well below notional market rents. Sweden is particularly relevant here – initial rents are technically freely set, but the right to query both initial rents and rent increases means they are nearly always limited to comparable rents. Any summary must therefore be treated with care.

5.4 THE POSITION IN THE 1980s

Tables 7 and 8 summarise the regulatory regimes of the 11 case-study countries at the beginning of the research period in the early 1980s. The six main indicators of regulation are each subdivided into three categories to reflect the different types of intervention.

Table 7 shows that in the 1980s administrative determination was still an important method of rent setting, as was comparison with rents for comparable properties, which as normally defined also included social sector lettings. There had however already been significant deregulation in some countries, especially with respect to initial rent setting. Partly as a result, market rents were in place in a significant minority of countries albeit subject in some places to constraints, such as the tenant's right to query whether the rent had been set too high. Rent increases were more generally

quite heavily controlled. Although adjustments were allowed, the size of such adjustments was restricted – often rents could be raised only in line with a general inflation or cost index, or by a percentage that was politically determined. Rent increases therefore usually lagged behind real costs. Tenancies were generally long term or more often indefinite.

TABLE 7: ASPECTS OF REGULATION IN THE PRIVATE RENTED SECTOR, 1980s

	INITIAL RENT SETTING			RENT INCREASES			LENGTH OF LEASE			CAPACITY TO GET PROPERTY BACK DURING LEASE			CAPACITY TO SELL PROPERTY			ENFORCEMENT/ EVICTION IF CONTRACT BROKEN		
	Market rent	Mirror /comparables	Administratively determined	Market increases	Longer tenancy with formal adjustment/comparables	Administratively determined	1 year or less	5 years or less	Indefinite/lifetime	Yes, at short notice	Only under certain defined conditions	No	Yes, can gain vacant possession and sell to other landlord/transfer to other tenure	Sell property within PRS but only with tenant protected/sell to tenant	Cannot transfer property to another tenure	Easy and cheap	Time consuming but certain	Very difficult
Denmark		•			•				•		•				•		•	
England			•		•				•		•			•			•	
Finland			•			•			•		•			•				•
France	•				•			•			•		•					•
Germany		•			•				•		•			•			•	
Netherlands			•			•			•		•			•			•	
Norway			•		•			•			•			•				•
Republic of Ireland	•			•			•			•			•					•
Spain	•				•				•			•		•				•
Sweden		•			•				•		•			•			•	
Switzerland	•				•				•		•		•			•		

Here it is important to realise that the interpretation of 'indefinite' tenancies varies between countries, the most important difference relating to the conditions under which landlords can give notice. Under English law for instance, an indefinite contract would normally give security only for the period determined by rent-payment requirements (one week, one month, etc.). Thus, security in countries that follow English law depends on contractual conditions including whether the tenant has a right to negotiate a new lease. In the 1980s, tenancies in England were for life (and indeed allowed for the possibility of succession). (Nowadays, they are for a minimum of six months and the tenant has no right to remain after the end of the contract). In Switzerland indefinite contracts provided relatively little security to the tenants until 1990 (now tenants can appeal against termination if it is seen to violate good faith). In most other

countries, however, 'indefinite' was interpreted as meaning that the tenant could stay unless they broke the contract or certain other specific conditions applied. These conditions might, for instance, allow the landlord to break the lease if the property was required for family use, they wanted to improve or demolish it, or wanted to sell it with vacant possession on the market. In Denmark, Finland and Germany, for instance, the lease usually gave tenants strong, long term security but in other countries there was more potential for the landlord to regain possession.

The impact of these conditions under which the lease could be terminated is captured in the next two indicators (the landlord's ability to repossess the property during the lease and to sell the property or transfer it to another tenure), so the three indicators need to be interpreted together to understand the strength of tenant security. In the 1980s, these conditions were generally quite tightly drawn (as part of earlier stronger rent regulation). With respect to termination, they also tended to favour the tenant when there was a dispute. In addition, except in countries where leasehold or condominium legislation was well developed, it was generally not possible to sell flats into owner-occupation.

The final summary indicator, the quality of enforcement and eviction procedures, varied across countries. Especially from the point of view of landlords, these procedures and how they were implemented were mainly in the range between difficult and nearly impossible. This adversely affected risks and rates of return as resolution of problems often involved lengthy and costly litigation. It also supported the view that regulation was tenant oriented in most of the case study countries.

To some extent, we can interpret the three categories under each of the six indicators as reflecting the strength of regulation – defining strength as the distance between actuality and free market outcomes. This is represented in Table 8. So for instance, under the initial rent category, market rents would be classified as zero/low regulation (depending on the right to query); mirror comparables represent an intermediate level of regulation; and administratively determined covers the strongest forms of regulation. But, as is clear from the discussion above, there may be no strict one-to-one relationship because each element must be interpreted in relation to the overall system and the relationships between the indicators. To address this issue, we add a final 'perception' column identifying countries with strong, significant and limited regulatory regimes, reflecting the qualitative evidence provided in the detailed chapters in Annex 3.

Taken together, the data in tables 7 and 8 suggest that almost every country had a different regulatory profile, although Germany and Sweden were in general terms quite close to one another. Strong regulation (often including first-generation rent controls) was found only in a minority of countries – albeit a significant minority. In part this was because some deregulation had already occurred in countries such as France, which had very strong regulation in the immediate post-war period. However across almost all the case study countries regulation remained significant both with respect to rents and security of tenure.

5.5 THE CURRENT POSITION

Turning now to the current position, we can see that most regulatory regimes have moved more towards market determination, especially with respect to initial rents (Table 9). There are continuing constraints on rent increases, but adjustment tends to be much more closely related to cost and market pressures than in the 1980s. In this context countries such as Germany and Switzerland can be regarded as providing examples of second generation controls. A number of countries have now moved to fixed-term and shorter leases, while landlords' capacity to obtain possession and to

use the dwelling as they wish has sometimes increased. Finally, the quality of enforcement and eviction procedures depends crucially on the clarity of the regulations, the cost and time involved in accessing legal redress and the resultant gains if successful. In most countries, these procedures remain costly and lengthy for both parties, and in some countries, notably Spain, there is little belief in the elements of the justice system responsible.

TABLE 8: OVERVIEW OF REGULATION IN THE 1980s

COUNTRY	INITIAL RENT	RENT INCREASES	LENGTH OF LEASE	REGAINING POSSESSION OF PROPERTY	SELLING PROPERTY	ENFORCEMENT PROBLEMS	GENERAL PERCEPTION OF REGULATORY FRAMEWORK
Denmark	High	Medium	High	Medium	High	Medium	Strong
England	High	Medium	High	Medium	Medium	Medium	Strong
Finland	High	High	High	Medium	Medium	Medium	Strong
France	Low	Medium	Medium	Medium	Low	High	Significant
Germany	Medium	Medium	High	Medium	Medium	Medium	Significant
Netherlands	High	High	High	Medium	Medium	Medium	Strong
Norway	High	Medium	Medium	Medium	Medium	High	Significant
Republic of Ireland	Low	Low	Low	Low	Low	Medium	Limited
Spain	Low	Medium	High	High	Medium	High	Strong
Sweden	Medium	Medium	High	Medium	Medium	Medium	Significant
Switzerland	Low	Medium	High	Medium	Low	Low	Significant

In Denmark and the Netherlands the table reflects the regulation that applies to post-1991-built properties and properties with rents under €665 respectively. The shaded cells reflect the differences in the regime for pre-1991 dwellings in Denmark and for more expensive properties in the Netherlands.

Table 10 summarises indicators and qualitative data for the current regulatory framework. Together with Table 9, it suggests that the level of regulation is generally lower than in the 1980s. Even so, five of the case study countries remain in the same category – one strong (the Netherlands) and four in the significant category. Only one country, the Republic of Ireland, has increased regulation enough to move to a higher regulatory category.

5.6 COMPARING REGULATION IN THE 1980s AND THE LATE 2000s

The next stage is to summarise the evidence on regulation in the two periods diagrammatically to help us compare the core regulatory regimes in each country between the 1980s and 2000s as well as between countries. We use the indicators, in Tables 7 and 9 to develop detailed spider diagrams for each country and period. Figure 3 shows how the various indicators are represented in the full circle. Of the six indicators, the first two – rent levels and increases – are strongly related to one another and help to clarify the strength of rent controls. We allocate 20 percent of the full circle to each of these indicators. The next three are all related to security of tenure. We allocate 20 percent to the length of lease, as this provides the framework for security, and 10 percent each to the capacity of the landlord to get the property back during the lease and to sell the property. Finally we allocate 20 percent to enforcement procedures.

TABLE 9: ASPECTS OF REGULATION IN THE PRIVATE RENTED SECTOR, 2000s

	INITIAL RENT SETTING			RENT INCREASES			LENGTH OF LEASE			CAPACITY TO GET PROPERTY BACK DURING LEASE			CAPACITY TO SELL PROPERTY			ENFORCEMENT/ EVICTION IF CONTRACT BROKEN		
	Market rent	Mirror /comparables	Administratively determined	Market increases	Longer tenancy with formal adjustment/comparables	Administratively determined	1 year or less	5 years or less	Indefinite	Yes, at short notice	Only under certain defined conditions	No	Yes, can gain vacant possession and sell to other landlord/transfer to other tenure	Sell property within PRS but only with tenant protected/sell to tenant	Cannot transfer property to another tenure	Easy and cheap	Time consuming but certain	Very difficult
Denmark	•				•				•		•				•		•	
England	•			•			•				•		•				•	
Finland	•			•					•	•			•				•	
France	•				•			•			•			•				•
Germany		•			•				•		•			•			•	
Netherlands			•			•			•		•			•			•	
Norway	•				•			•		•			•					•
Republic of Ireland	•			•				•			•		•				•	
Spain	•				•			•			•			•				•
Sweden		•			•				•		•			•			•	
Switzerland	•				•				•		•		•				•	

Notes: Initial rents in Norway, Republic of Ireland and Switzerland were market but tenants had the right to query.
The shaded cell in Denmark reflects the distinction between dwellings built before and after 1991; those for the Netherlands reflect the regulation that applies to more expensive properties.

It is important not to put too much emphasis on these proportions – they are only there to help the reader identify change and to clarify where patterns differ greatly between countries. Initial rents and changes in rents should be interpreted together, as should the three security elements.

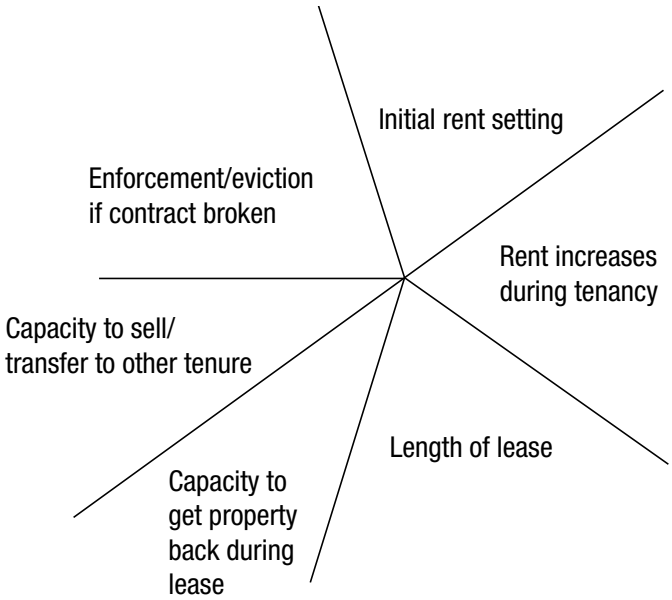
Within each segment we need to clarify the level of regulation. Table 7 categorises each indicator for the 11 European countries in the 1980s, while Table 9 addresses the position in the 2000s. We use this evidence to score the levels of regulation as follows:

- a value of 0 is assigned where no regulation or a low degree of regulation is in place;
- a value of 1 is used to imply a moderate degree of regulation; and
- a value of 2 indicates a strong degree of regulation.

TABLE 10: THE OVERVIEW OF THE LATEST REGULATION IN THE 2000s

COUNTRY	INITIAL RENT	RENT INCREASES	LENGTH OF LEASE	TERMINATION OF LEASE	SELLING PROPERTY	ENFORCEMENT PROBLEMS	GENERAL PERCEPTION OF REGULATORY FRAMEWORK
Denmark	Low	Medium	High	Medium	High	Medium	Significant
England	Low	Low	Low	Medium	Medium	Medium	Limited
Finland	Low	Low	High	Low	Low	Medium	Limited
France	Low	Medium	Medium	Medium	Low	High	Significant
Germany	Medium	Medium	High	Medium	Medium	Medium	Significant
Netherlands	High	High	High	Medium	Medium	Medium	Strong
Norway	Low	Medium	Medium	Low	Medium	High	Limited
Republic of Ireland	Low	Low	Medium	Medium	Low	Medium	Significant
Spain	Low	Medium	Medium	Medium	Medium	High	Significant
Sweden	Medium	Medium	High	Medium	Medium	Medium	Significant
Switzerland	Low	Medium	High	Medium	Low	Low	Significant

FIGURE 3: A SPIDER DIAGRAM SHOWING THE DIFFERENT ASPECTS OF REGULATION



As the indicator scores for some aspects of regulation are related, we do not add up the various scores but simply bring them together into a spider diagram for each country. Equally the size of the shaded segment should not be interpreted as implying strength except to the extent identified above (the circular representation inherently means that a 'score' of 2 results in a much larger shaded area). In addition we note the size of the private rented sector at each point in time – but leave discussion of how regulation and size relate to one another to the next chapter.

The objective of this stage is twofold: to identify any important changes between the 1980s and 2000s, and to clarify the very different mix of regulations between countries. We first describe the position in the 1980s; then we compare the position in the 2000s, taking account of major changes that have affected the regulatory regime.

The 11 countries are classified into three groups according to the trajectory of regulatory change:

1. those where there has been little change in the regulatory regimes and their implementation;

2. those where the strength of regulation has increased; and

3. those where there has been significant deregulation.

The attributes, similarities and dissimilarities are then discussed for each group.

Limited regulatory regime change:
Germany, the Netherlands, Sweden and Switzerland

Tables 7 and 9 suggested that regulatory regimes in Germany (where the figure for the early 1980s relates only to West Germany), the Netherlands, Sweden and Switzerland have remained relatively stable through the years from the 1980s to 2000s. Figure 4 reflects this evidence in spider diagrams for each country. There has been hardly any change in regulation in Germany and in Sweden. In Switzerland, the extent of legislative change was somewhat greater with respect to security. In the Netherlands a proportion of high-value properties (those that rent for more than €665 per month) have been fully deregulated. This sub-sector is expected to expand over time.

Although all four countries exhibited stable regulatory regimes, the form of regulation differs greatly among them. The only factors in common are that they all operate on the basis of indefinite tenancies and have sustained that emphasis over the period (Figure 4). In the Netherlands, the government sets the annual maximum rent increase (Haffner et al. 2010, Priemus 2010). In Germany, initial rent setting is based on reference rents and increases are linked to increases in operating costs, interest charges or land taxes. There is no control on initial rent setting in Sweden and Switzerland, but tenants have the right to query the rents if they feel they are too high. In Sweden this right is of considerable importance; in Switzerland less so.

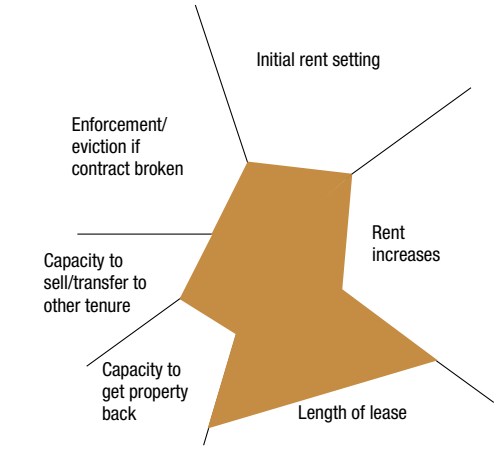
In Switzerland, all tenancies are indefinite and can only be terminated by notice in writing. A minimum of three months' notice is required to terminate indefinite leases of dwellings. Both the notice given by a landlord and by the tenant can be challenged if it is seen to violate the basic principles of good faith. The right to appeal against notice was introduced in 1990, extending the protection of tenants against eviction. While rent setting is free, rent increases have been linked to a rent index that was adjusted in line with shifts in mortgage interest rates. Starting from February 2011 an improved index also took into account the quality of dwellings (surface area, number of rooms, age, number of bathrooms etc.), their environment (distance from town centre, nearby shops, local tax rates etc.) and their immediate attributes (view, surrounding space, sunshine) (Vermeulen 2011).

The Netherlands is highly atypical of this group in that it has recently undergone a complete change in policy with respect to regulation. The new deregulated system, reflected in Figure 4a, applies to both social and privately rented housing and is associated with a shift from supply- to demand-side subsidies in social housing, as well as concerns about the shortage of privately rented homes. This subsector is expected to grow both because of increasing rents and because the incentive it provides to upgrade accommodation to achieve market rent status.

FIGURE 4: STABLE AND STRONG REGULATORY REGIMES IN THE PRIVATE RENTED SECTOR

1980s	2000s

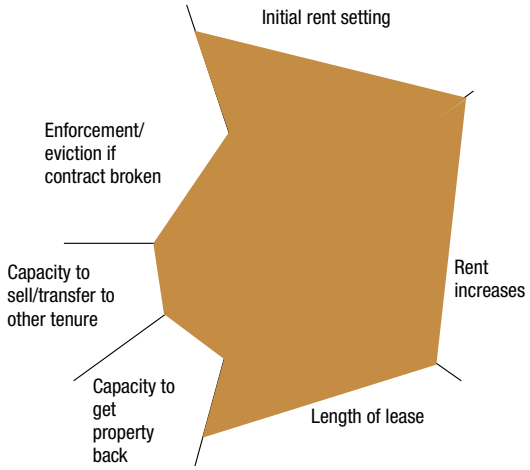
GERMANY: 45%



GERMANY: 49%



NETHERLANDS 19%



NETHERLANDS: 10%

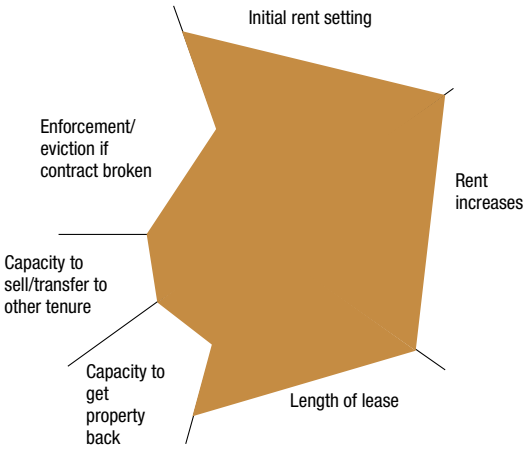
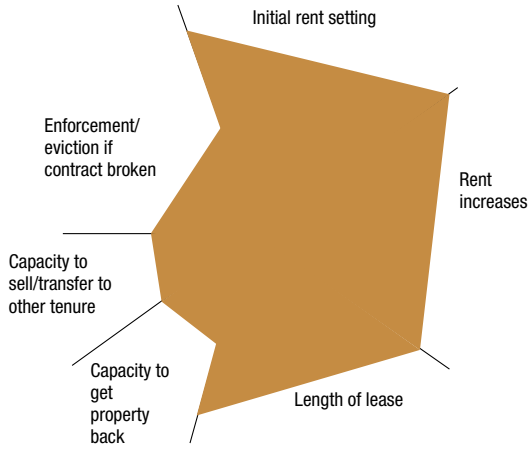


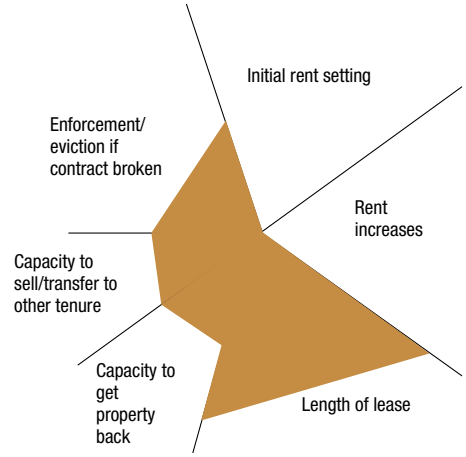
FIGURE 4A: REGULATION FOR HIGHER RENTED PROPERTIES

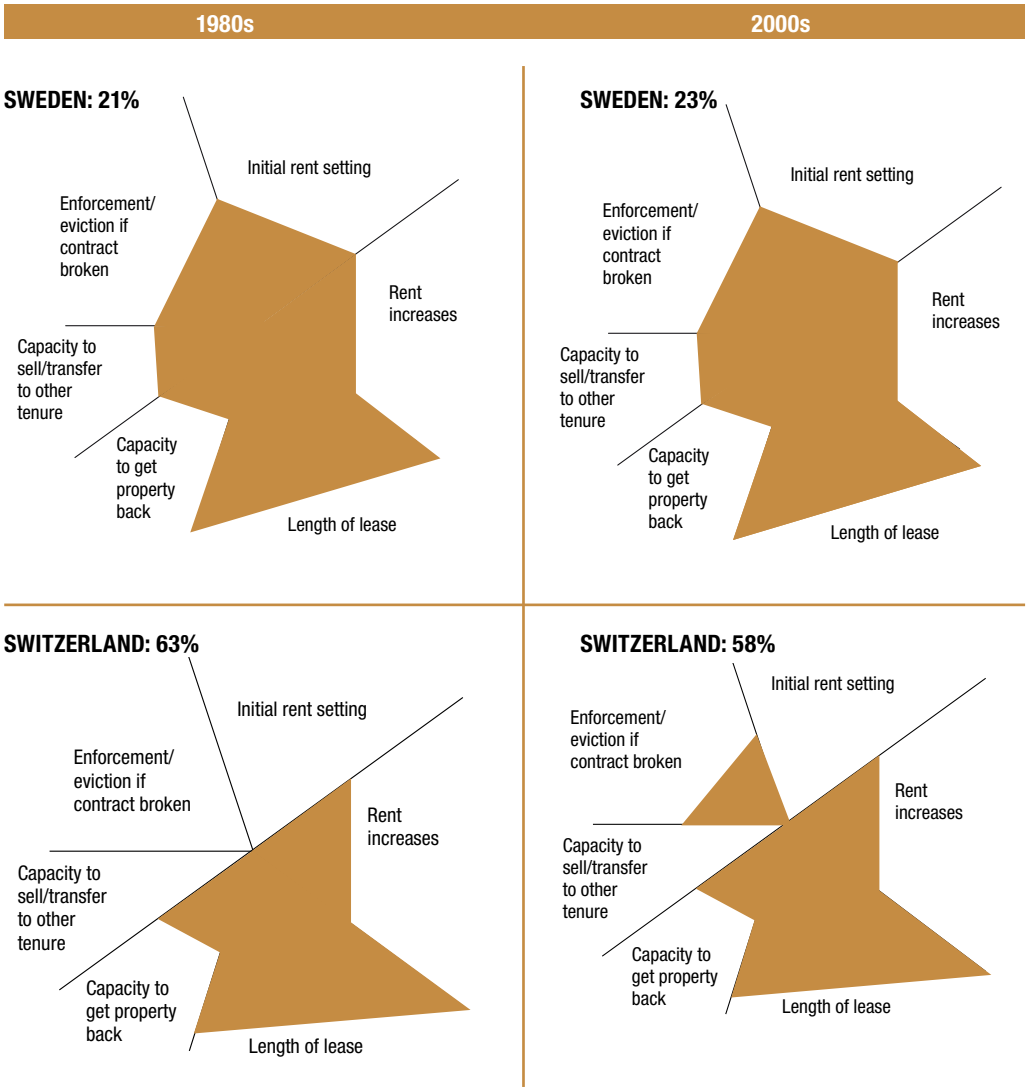
1980s	2000s

NETHERLANDS:



NETHERLANDS





Note: Netherlands in the 2000s excludes those private rental dwellings which rent for more than the rent control ceiling (currently €665 per month)

Increased regulation: France and Republic of Ireland

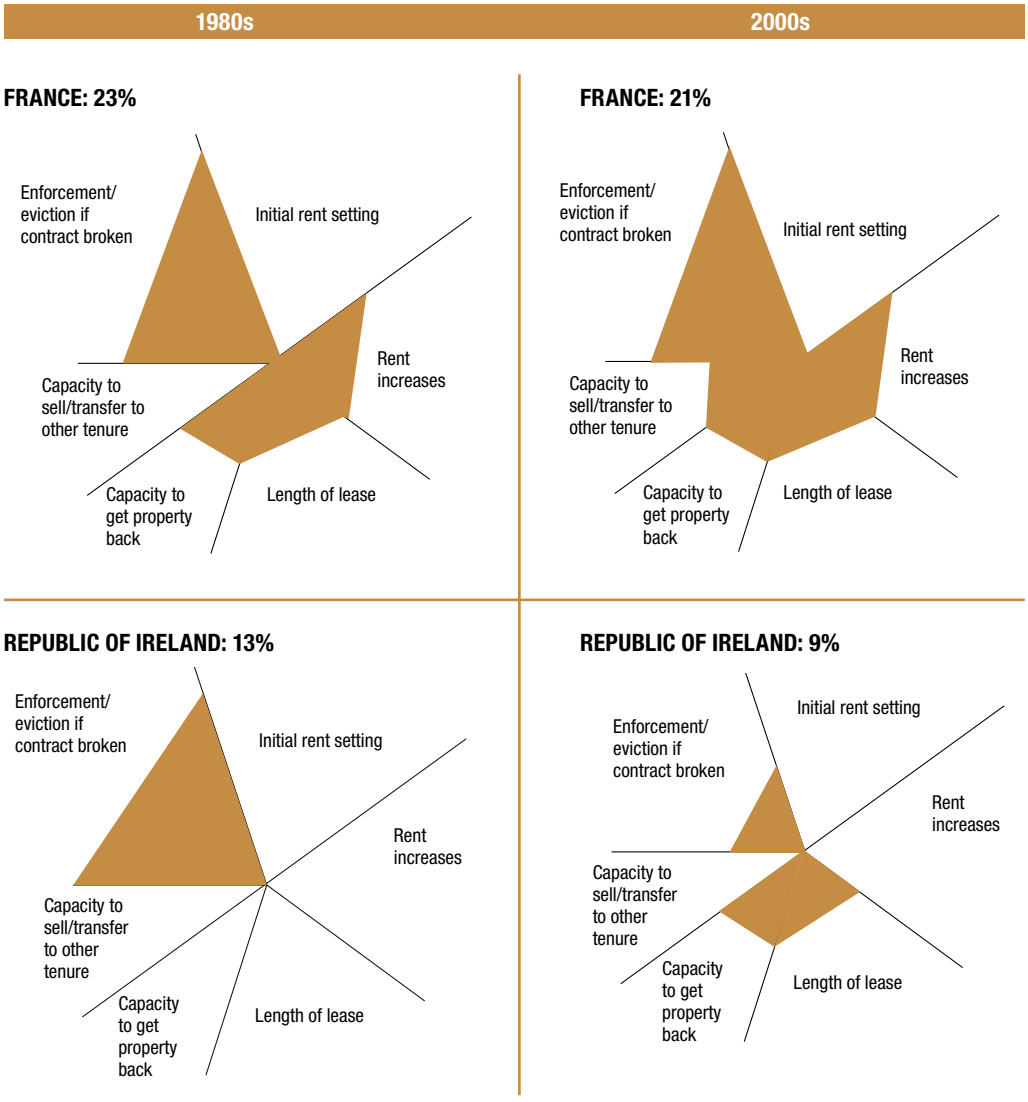
Only France and Ireland have experienced significant increases in regulatory powers over our research period. In France this is more a reflection of the starting date chosen for the analysis, as there have been periods of decontrol as well as of increasing regulation over the three decades.

In France, rent control exists in a variety of forms depending on the type of property and the length of the tenancy. Under the most common form (Figure 5), rent setting is free for new contracts, but the annual rent increase is strongly influenced by the government (Ball 2011). From 2008, annual rent adjustments are based on the cost of living index alone. The standard length of a contract is three years for furnished dwellings and one year for unfurnished dwellings. Landlords are allowed to terminate a tenancy agreement at the end of the lease if they wish to use the property for their own occupation or to house a close relative or family member, sell the property, carry out major refurbishment, or if the tenant has consistently failed to meet their obligations in the past.

The recent policy of using private rental housing in the Republic of Ireland to house social tenants has impacted on the regulatory regime in the private rented sector (Figure 5). The private rented sector remained largely unregulated until the Residential

Tenancies Act in 2004. This significantly improved security of tenure by introducing four-year cyclical tenancies (Norris 2011). During the first six months of the tenancy, landlords are allowed to terminate a tenancy without specifying grounds by giving 28 days' notice. But once a tenancy has reached six months, it can only be terminated during the following three-and-a-half years if the landlord needs the dwelling, the apartment needs to be renovated, or the tenant does not comply with the obligations of the tenancy. At the end of the fourth year, a new tenancy agreement must be signed. Rent setting however is free, and annual rent adjustments are based on market conditions.

FIGURE 5: INCREASED REGULATION IN THE PRIVATE RENTED SECTOR



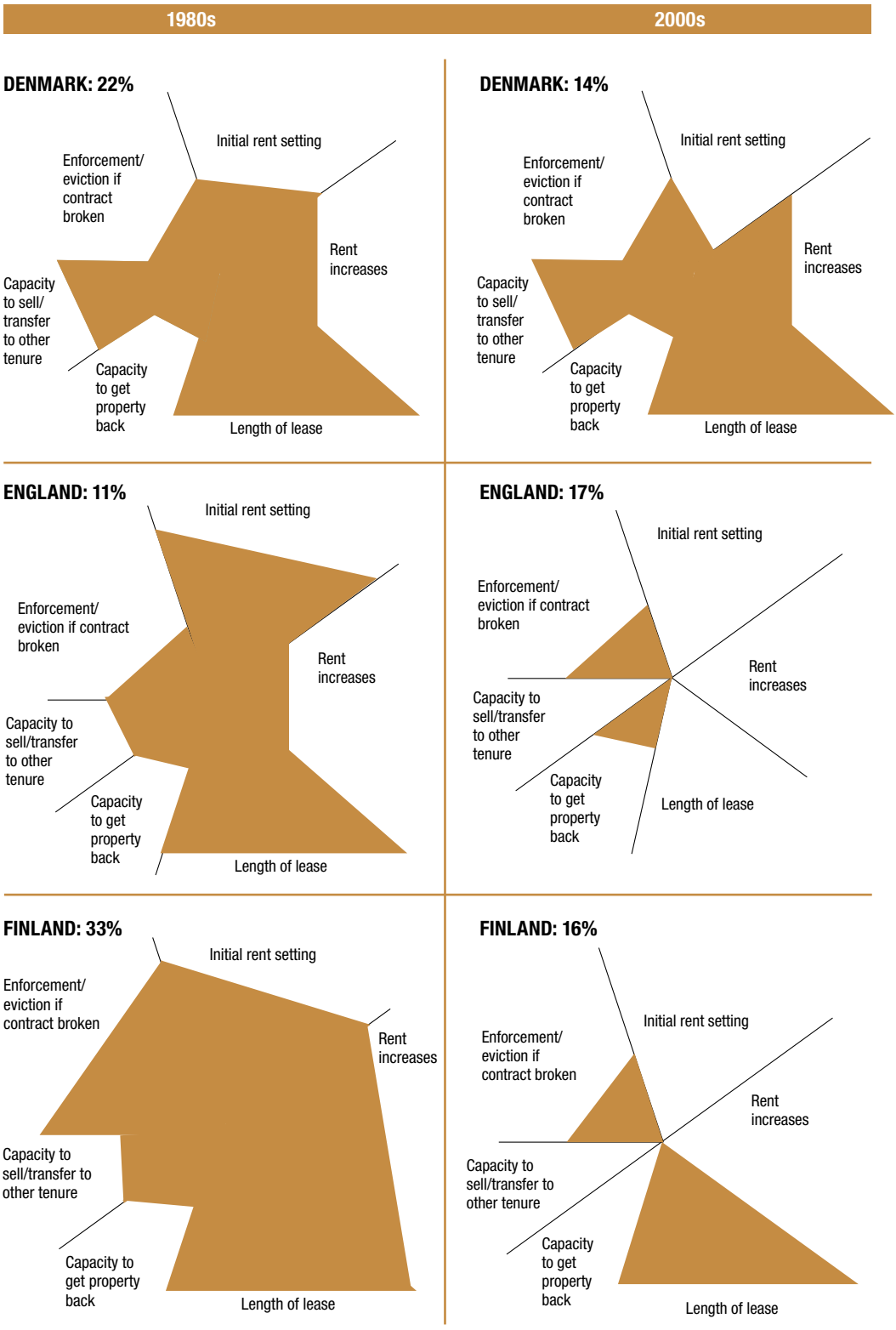
In both France and Republic of Ireland there is currently a clear understanding that regulation has a role to play in maintaining the role of the private rented sector. This is in contrast to attitudes in the 1980s. It is particularly interesting that the Republic of Ireland in increasing regulation has concentrated not on rents but on improving contractual relationships and ensuring that contracts are both longer and more transparent.

Decreased regulation: Denmark, England, Finland, Norway and Spain

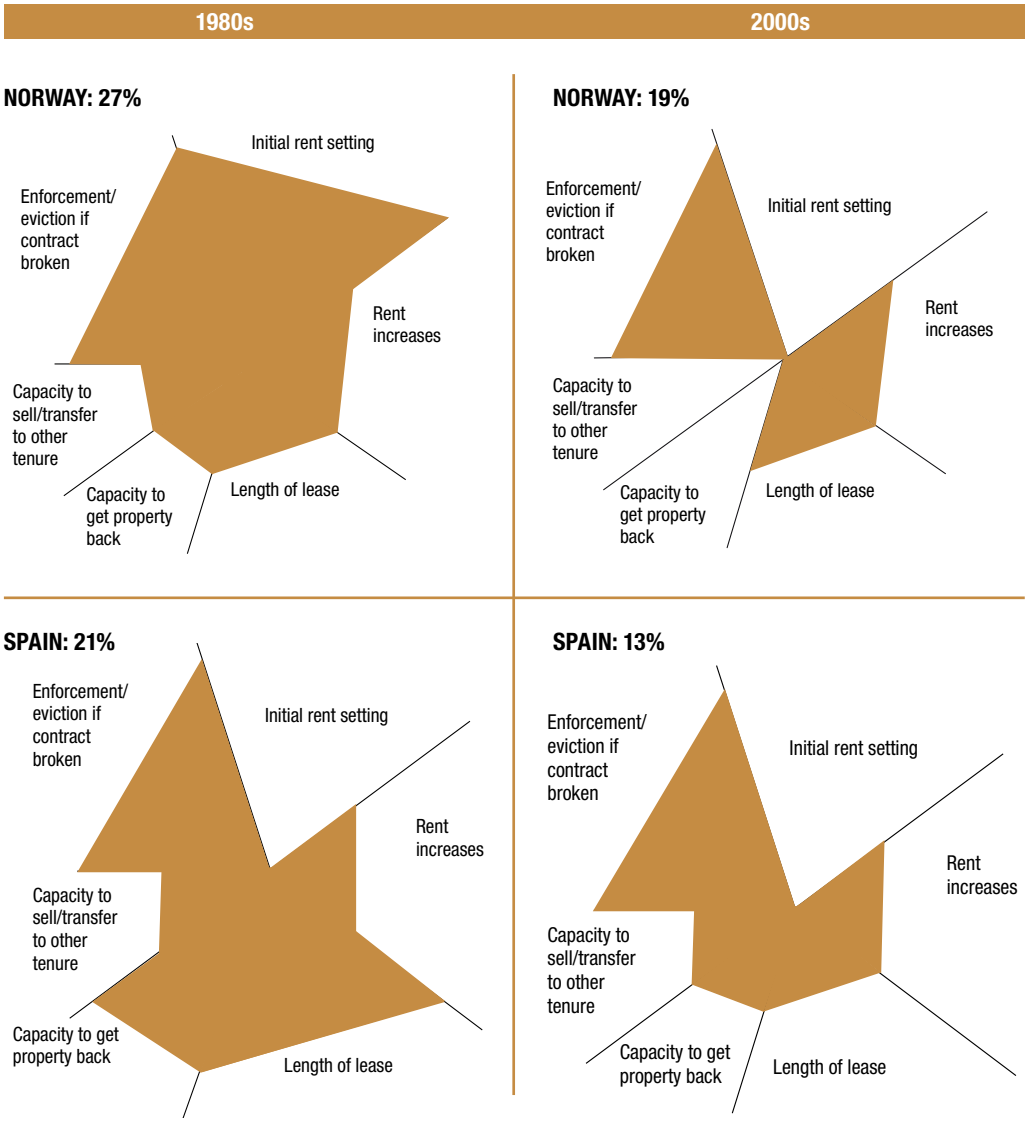
In five of our case study countries, as in the majority of other European countries, there has been some degree of deregulation in the private rented sector in the last 30 years. The changes are reflected in Figure 6. The extent of deregulation was the

greatest in England and Finland. Deregulation of the private rented sector in England occurred in piecemeal fashion before 1980, when 'assured shorthold tenancies' (six-month short-term tenancies) were made possible for newly built dwellings. After 1989 this was extended to all private rented dwellings. Landlords and tenants were allowed to agree rents at the market level, and lease terms were further deregulated in 1997 by making 'assured shorthold tenancies' the default legal position, giving landlords the ability to remove tenants after the initial lease term with two months' notice.

FIGURE 6: DECREASED REGULATION IN THE PRIVATE RENTED SECTOR



Note: Denmark in the 2000s excludes those private rented dwellings constructed or brought into use before 1991.

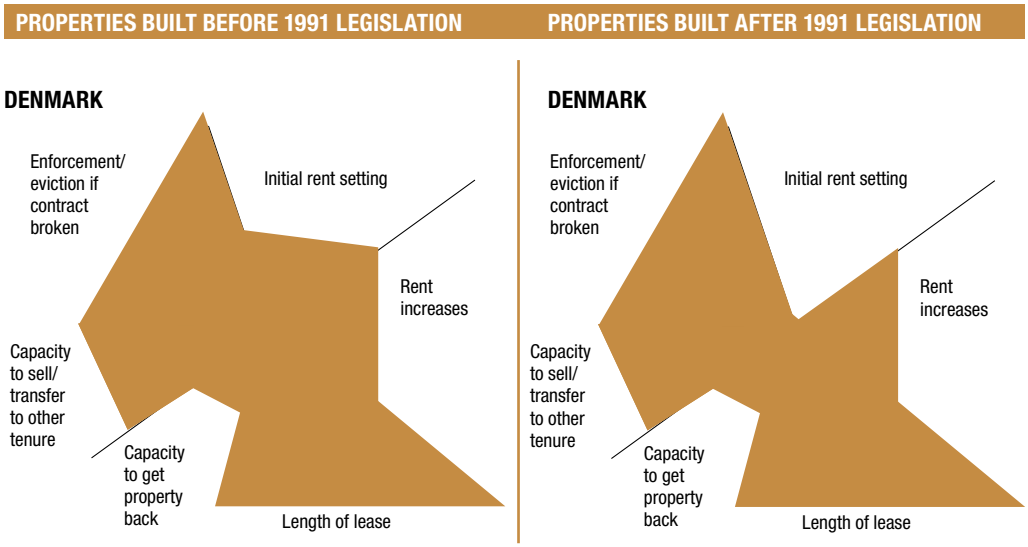


Note: Denmark in the 2000s excludes those private rented dwellings constructed or brought into use before 1991.

Rent control in Finland was abolished in 1995 in an attempt to increase investment in the private rented market. At the same time, the regulations on security of tenure were relaxed, making the Finnish private rented market one of the least regulated in Europe (Lyytikainen 2006).

Denmark and Norway have both modified their regulations on rents and rent increases. In Denmark, relaxations on rent control started in 1974 when a system of cost-based rents was introduced (OECD 1999). This regime is reflected in the 1980s spider diagram. In 1991, landlords of new buildings and their tenants were permitted to agree rents freely for units where a new lease was being negotiated. For freely-set rents, subsequent rent rises remained limited to the increase in the cost of living. Because the form of regulation depends not on the date the tenancy started (as is the case in all other case study countries) but on when the property was built, rent controls continue to be of considerable importance – about 90 percent of private rented dwellings are subject to them. Figure 6a shows the position in the 2000s for properties built before and after 1991.

FIGURE 6A: DENMARK: THE POSITION IN THE LATE 2000s



In Norway, all rent controls for new and existing rental units, except for pre-war rental housing, were removed in 1999. Rents for new tenancies were allowed to be set freely and are increased annually in line with the retail price index.

Spain is the only country that has formally relaxed regulations on security of tenure without affecting rent determination. The compulsory extension of new tenancy contracts was eliminated in 1985, and in 1994 this was extended to all pre-1985 rental contracts, reducing the tenant's right to extend the lease automatically. Rent regulation has however remained tight, and rent increases are tied to the cost of living. Spain is also unusual in having some variations between regions and perhaps five regimes currently in place. However the majority of tenancies come under quite similar arrangements to those reflected in Figure 6.

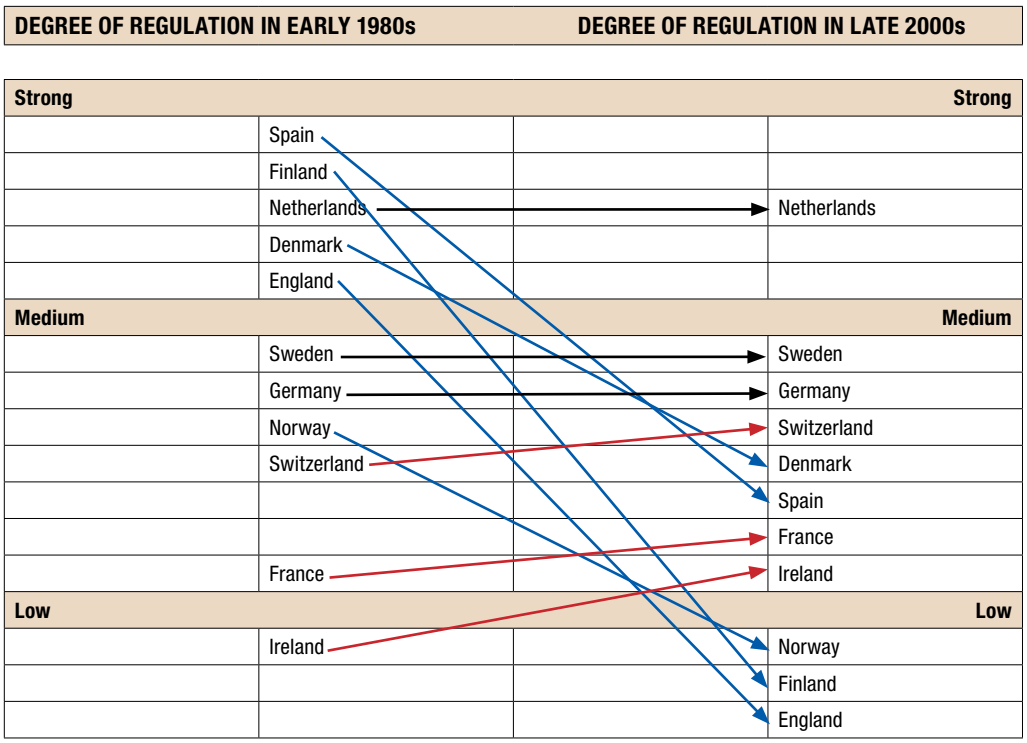
The forms of deregulation that we have seen in these five countries all point to a view that private renting can operate better without constraints that hold rents below market levels – and also sometimes without requiring longer-term contracts.

5.7 REGULATORY REGIMES COMPARED: SUMMARY

Regulation in the 1980s undoubtedly held rents, and especially rent increases, below market levels and generally ensured that tenants had considerable security of tenure. Five case study countries had strong regulation and a further five had medium levels – often involving 'comparables' as well as considerable constraint on landlords being able to recover their properties. Enforcement and eviction procedures were usually costly and longwinded.

Figure 7 categorises regulation into strong (high), medium and low in the early 1980s and late 2000s. Where there is more than one regime in place at a given time, the regime that is the norm for new lettings is used. The figure shows clearly that the general trajectory with respect to regulation has been downward, with two countries dropping two categories (from high to low) over the period and a further three dropping one category. Of the five countries with strong regulation only one, the Netherlands, remains (and they have introduced a free market for more expensive properties). Two, England and Finland, have moved from strong to low levels of regulation while the other two, Spain and Denmark, have reduced their degree of regulation to medium. However it should be remembered that very large parts of the sector in Denmark still fall under the strong pre-1992 regulatory regime.

FIGURE 7: HOW REGULATION HAS CHANGED*



* Ordered by degree of regulation within categories

The figure for Denmark shows a decline in regulation. It is based on the most recent regulations implemented in 1991. This change does not affect private rental dwellings which were constructed before 1991. Denmark is unusual in that "agreed rents" are possible in dwellings brought into use after 1991. For rented dwellings brought into use before that, the degree of regulation has not reduced over the period (see Figure 6a above).

Three medium level countries – Germany, Sweden and Switzerland – still exhibit similar levels of regulation to that in the 1980s, although with some tightening of that regulation in Switzerland. Because of the more general deregulation across Europe these three countries now appear relatively strongly regulated (as does the subsector in Denmark that remains under the older regime). Norway among the other countries with medium regulation in the 1980s is the only one to decline from strong to a low level of regulation.

The only country to exhibit low regulation in the early 1980s was the Republic of Ireland. It together with France has shown some increase in regulation, mainly related to security of tenure, and can now be regarded as in the medium category. But by the 2000s, Norway, Finland and England were in the lowest category.

Overall at the beginning of the research period there was strong or at least significant regulation in all but one of our case-study countries. However the details of regulatory regimes varied greatly between countries that also had different legal systems, different trajectories of deregulation and different housing pressures. By the twenty-first century the strength of regulation had declined in most countries. Medium-level regulation is now the norm although there are exceptions and there is continuing variation about how regulation is implemented within as well as between categories The perception of regulation, its impact and its value had also changed in the majority of countries but remained stable in a minority of countries which generally favour regulation.

6. *Regulation and the scale of private renting*

Chapter 6 relates the degree of regulation to the size of the sector in each country (in proportional terms). In the 1980s there were both larger sectors and higher degrees of regulation than there are now. In the 2000s, whatever the degree of regulatory change it was generally associated with proportionate declines in the sector – because most private rented sectors are still shrinking There is still a positive relationship between strength of regulation and scale in some countries but the pattern is by no means consistent. In Germany and Switzerland and to a lesser extent Sweden, stable systems are related to relatively stable size. But in the Netherlands, strength of regulation is associated with a much smaller sector. In a minority of countries, low or medium levels of regulation are associated with fairly stable private rented sectors. England stands out as the strongest case where deregulation is related to a larger sector. But in other such countries deregulation has been associated with significantly smaller private rented sectors. Thus both in the 1980s and the 2000s there was a multiplicity of outcomes clarifying that regulation alone is not enough to explain the scale of private renting. Relating changes in regulation with changes in the scale of private renting shows a similarly mixed picture.

It is worth reiterating that all these relationships are in flux and the speed of adjustment to regulatory change may be very slow. In all cases therefore the qualitative discussion on each country provides important contextual information, especially on future trajectories.

6.1 THE SIZE OF THE PRIVATE RENTED SECTOR

So far our analysis has looked only at regulation. We now move to compare regulation and the size of the private rented sector in each country. We first look at the evidence on size. Figure 8 sets out the basic data on the size of the private rented sector in the 1980s and gives the latest available information on our case study countries. We group the countries into three categories according to the size of the private rented sector: large (30 percent plus of the total housing stock); medium (between 15 and 29 percent); and small (below 15 percent).

In the 1980s three countries had 30 percent or more of the housing stock in private renting, with nearly two thirds of the stock in Switzerland and not far short of half in Germany. Finland had the third largest private sector at one third of the stock.

The middle group dominated with six countries, all but one with sectors above 20 percent. Only two countries had sectors that were smaller than 15 percent, England and the Republic of Ireland.

In that largest group, the size of the sector in Germany has remained fairly stable throughout the period (apart from the change in the statistical base after reunification). In Switzerland the picture is rather different with signs of continuing decline since the turn of the century. Although private renting remains the largest sector, survey and other data suggest that there has been a significant shift towards home-ownership in the last few years. The third largest, Finland, has experienced the largest decline among all the case study countries, with the sector shrinking from 33 to 16 percent.

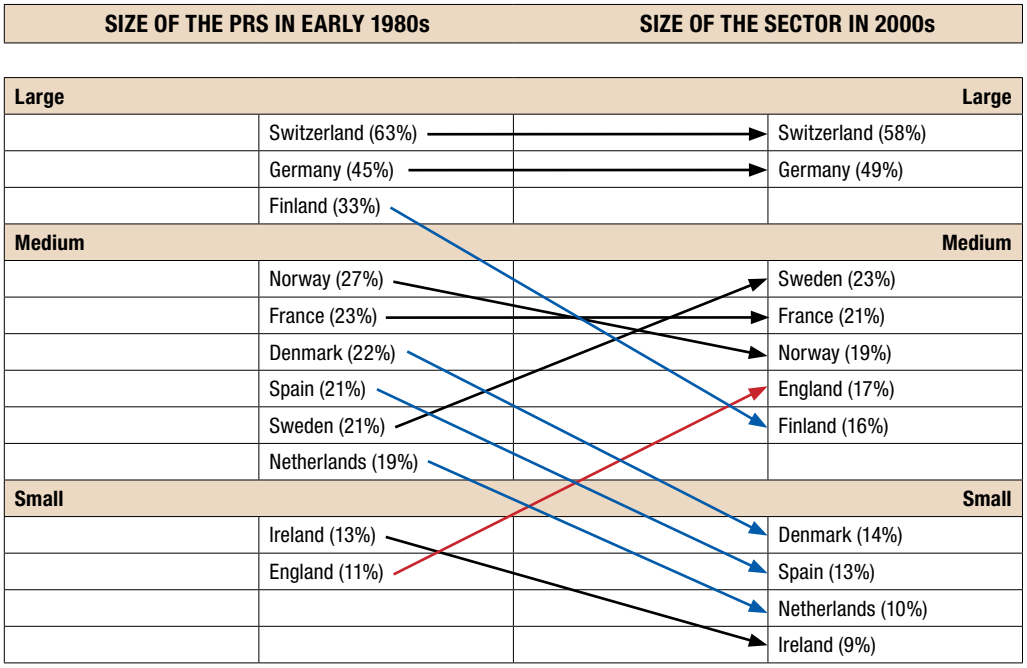
Among the medium group, the private rented sectors in two countries have remained fairly stable over the period – Sweden and France. Sweden shows a small increase

(although the data for Sweden are particularly difficult to interpret). However, it is now beginning to experience a loss of private rented stock as blocks transfer into the co-operative/condominium sector. The sector in France has declined in proportional although not in numerical terms. The four other countries with medium sized sectors in the 1980s have seen quite large declines, averaging around 8 percent. As a result three countries that were in the medium category – Denmark, Norway and the Netherlands – now have small sectors of less than 15 percent.

Over the period the two smallest private rented sectors diverged – England experienced the only significant increase expanding from 11 to 17 percent while Ireland continued to decline.

As a result, by the 2000s the average scale of private renting had shifted down, with four countries below 15 percent, five in the medium category and only two in the largest category – but these were now more than double the size of any of the other countries.

FIGURE 8: HOW THE SCALE OF THE PRIVATE RENTED SECTOR HAS CHANGED

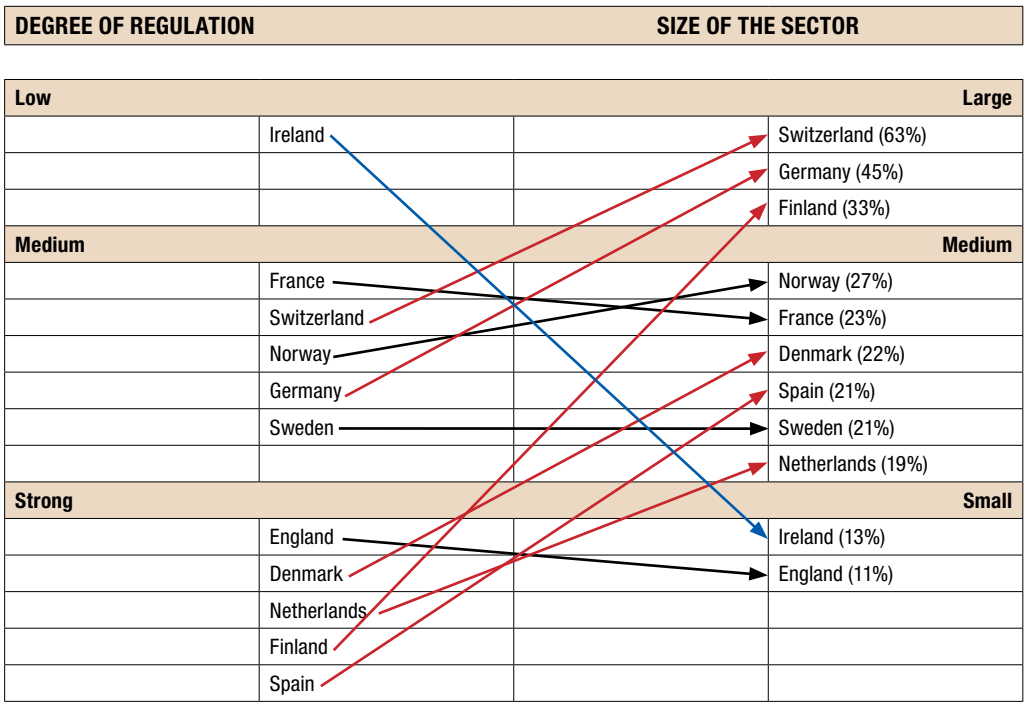


6.2 REGULATION AND THE SCALE OF PRIVATE RENTING

The next stage takes the evidence so far and brings it together to answer the question: can we identify clear relationships between on the one hand, the degree of regulation and changes in that regulation and, on the other, the size of the private rented sector and changes in size over the three decades? To do this we use the categories of regulatory strength developed in Figure 7 to clarify how regulation has changed and the size categories in Figure 8. We then relate levels of regulation to size at the beginning and end of the period. Finally we look at changes in size against changes in regulation.

Figure 9 relates the degree of regulation to the size of the sector at the beginning of the research period. In the 1980s most countries have medium to strong regulation and most also had medium-sized or large private rented sectors.

FIGURE 9: REGULATION AND SIZE IN THE 1980s



Among the five countries with strong regulation only one, the Netherlands, had a large sector, three had medium-scale private rented sectors and one – England – had a small sector. Looking at the relationship the other way round, three countries, Switzerland, Germany and Finland had large sectors in the 1980s, and two of these had medium regulation, while Finland had strong regulation.

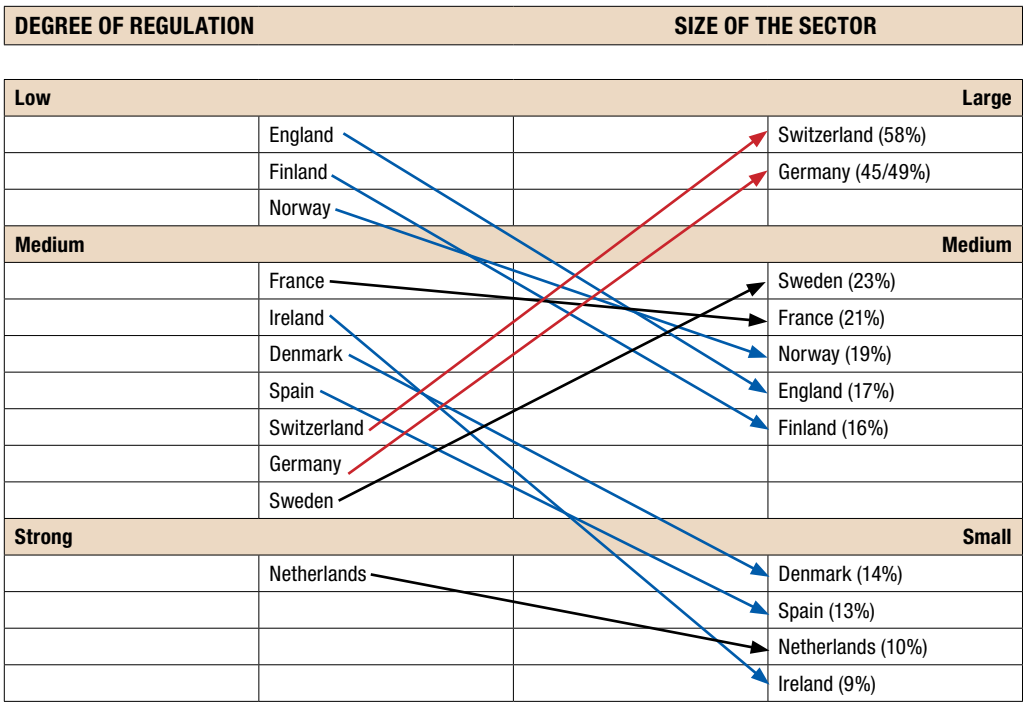
Among countries with medium regulation, two had particularly large private rented sectors and the other three had medium-sized sectors. The six countries with medium-sized sectors included three with strong and three with medium regulation – and each had a different mix of regulatory indicators.

Only one country – the Republic of Ireland – had low regulation, and it also had a small private rented sector. The other country with private renting accounting for less than 15 percent of all housing was England with a strong regulatory framework – although much less regulated than before 1957.

So there was some evidence of regulation and size being positively related (rather than the negative relationship usually hypothesised). The only case of low regulation did have a small sector, but among the other countries the relationship depended more on the fact that post-war regulation was still strong while private renting had traditionally been the majority sector in most countries. Whether this relationship was stable was not clear – indeed qualitative evidence suggested there were many landlords by default rather than choice in some of these countries.

By the 2000s (Figure 10) the relationship between regulation and size was equally blurred by the fact that in the main private rented sectors had become smaller. The Netherlands with strong regulation has one of the smallest private rented sectors. At the other extreme, the three countries with low regulation had medium-sized private rented sectors, although all still below 20 percent. Among the seven countries with medium regulation, two have particularly large sectors (as they did in the 1980s); four have small sectors and one a medium-sized and stable sector. (In this group Denmark's position as having a large proportion of the stock still covered by strong regulation should again be noted.)

FIGURE 10: REGULATION AND SIZE 2000s



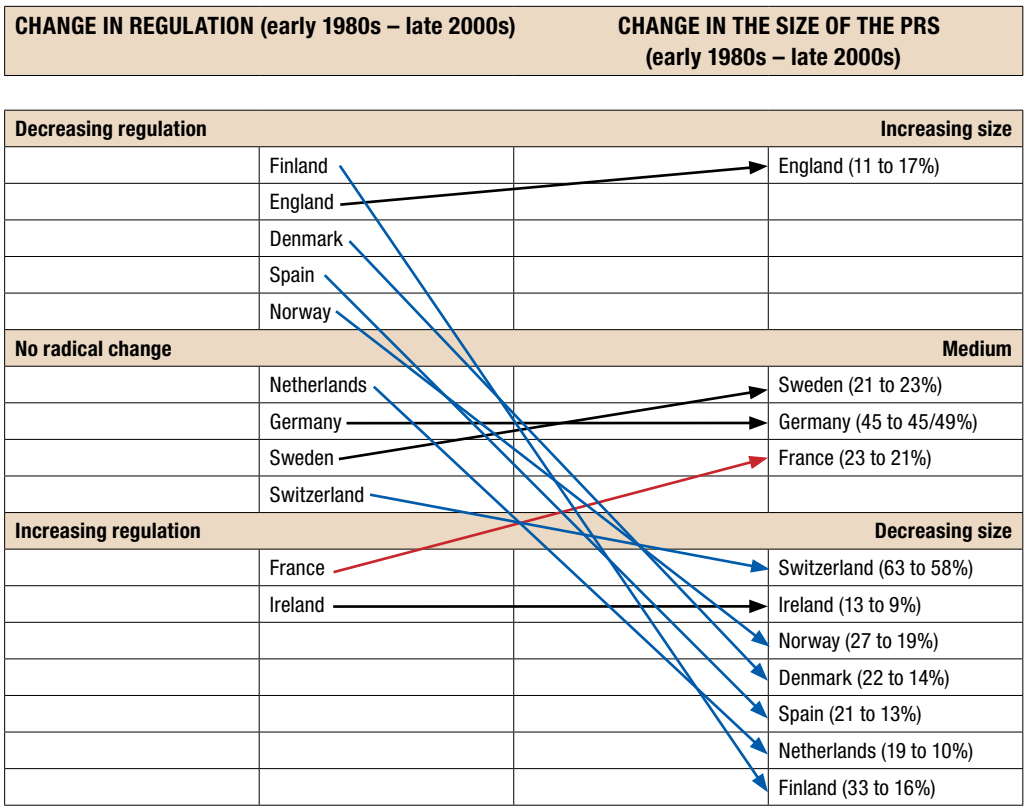
Looking at the relationship the other way round, there are now only two countries that have large private rented sectors on our definition (Switzerland and Germany), both of which have medium (second-generation style) regulation. At the other extreme, there are now four countries with small sectors of less than 15% (Denmark, Spain, the Netherlands and the Republic of Ireland), which respectively have medium/strong, medium, high, and medium levels of regulation. The five countries with medium-sized sectors include three with medium and two with low levels of regulation.

Again, the relationship between regulation and size is very mixed. One reason for this may be that in many countries where there have been changes in regulation adjustment is not yet complete. Regulation may keep landlords in the sector when they would wish to leave and equally may benefit existing tenants. On the other hand it takes time for attitudes and institutions to change even if in the longer term there may be incentives to expand the sector.

However, so far decreased regulation of the private rented sector has not in the main had the effect of increasing its size, as Figure 11 shows. Indeed decreasing, stable and increasingly strong regimes have all been associated with declines in the size of the sector.

In four of the five countries where there has been legislation to reduce regulation – Norway, Denmark, Spain and Finland – there has also been a decline in the size of the sector, although the rate of decline has generally slowed since the turn of the century. The exception is England where the private rented sector has grown strongly. Yet even here the story is not simple. The sector grew only slowly after full deregulation in 1988. The big increases did not occur until the introduction of 'Buy to Let' mortgages in the late 1990s, which enabled large numbers of individuals to invest in privately rented housing.

FIGURE 11: CHANGE IN REGULATION AND CHANGE IN SIZE



Among those countries with increases in regulation there has been no radical change in the size of the sector in France. In Ireland where regulation has increased at the same time as there has been a transfer of social housing responsibilities to the private sector, the size of the sector has declined (although there may now be evidence of some increase mainly thought to be related to the financial crisis).

Finally among countries with stable regulatory frameworks, two countries have sectors that have not changed much in size, one has experienced some decline since the turn of the century and one has experienced major decline.

So again, looking at changes in regulation and size, as opposed to levels, the picture remains extremely mixed. Finally, it should be remembered that it is unlikely that any country is actually in equilibrium between regulation and scale. There are several reasons for this: first, adjustment may take a very long time; second, changes in regulation do not all work in the same direction; and third, and most importantly, because many other factors influence the size and role of the sector. It is to this question that we now turn.

6.3 REGULATION AND CHANGES IN THE SIZE OF THE PRIVATE RENTED SECTOR: SUMMARY

While data are sometimes difficult to compare, the private rented sector has generally declined in proportional terms across the case-study countries, although to different degrees. Indeed, between the two time periods that anchor our research, the relative size of the private rented sector declined in all the case-study countries except England, Sweden and Germany – and in Germany this may be more an outcome of the change in national boundaries than of sector behaviour while in Sweden there are

data issues. The end result is a patchwork of outcomes. In only two countries is private renting the most important tenure; four have fewer than 15 percent and five are between 15 and 30 percent. The overall median is around 20 percent.

Linking the level of regulation in each country with the size of the sector at both the beginning and end of the research period shows very few clear relationships between regulation and scale. The same can be said about changes in regulation and changes in scale.

As is often the case, Germany and Switzerland, where the largest private rented sectors are found, are exceptions to the general pattern. They have stable systems where the relative size has not changed much. Sweden is similar but at a much smaller scale (and with declines since the latest statistics). But regulatory stability is not enough to protect the sector, as shown by the case of the Netherlands where the sector has shrunk despite consistency of regulation. Among the other countries we see almost every possible pattern – deregulation associated with decline and with increase and increased regulation also associated with both decline and increase. Regulation is clearly not the only factor that explains the relative scale and role of private renting compared to other tenures. In the next chapter we therefore turn to examine these other determining factors.

7. *Private renting in the context of other tenures*

The final element of the research involved an analysis of other factors which help to determine the relative scale of the private rented sector. Most of them change the relative costs and risks of private renting: to potential landlords compared to alternative investments, and to tenants compared to alternative accommodation.

The initial discussion raises issues relating to the history of built form, housing finance and the legal framework – all which helped to determine feasible options in terms of tenure. However the most important factors at any given time tend to relate to government policy – and what is particularly clear in this context is that different elements of policy tend to work together. So for instance if there is relatively little social housing, then tax and subsidy systems will tend to favour private renting. Equally if the policy emphasis is on owner-occupation there will be little reason for government to give tax breaks to landlords. What we therefore observe are packages of policies which tend to favour one tenure over another in ways that fit with more general government priorities.

This chapter examines the spectrum of government support – both to supply and households – across tenures. It then looks at the ways that private rented housing is treated for tax purposes especially in comparison with owner-occupation, before looking from the consumer's point at ease of access to owner-occupation and social renting.

The evidence strongly supports the view that in countries such as Germany and Switzerland which have large private rented sectors, households have fewer desirable housing alternatives. In particular they have small social rented sectors. In countries with smaller private rented sectors, owner-occupation has often been much easier to enter (because for example of relatively low transactions costs) and much more favoured by policy. Large social rented sectors play a similar role in reducing the incentives for individuals to choose private renting and for governments to provide tax and other benefits to private landlords.

7.1 PUTTING PRIVATE RENTING IN CONTEXT

The importance of private renting in any given country depends not just on regulation but on the development of housing over the centuries in terms of legal and institutional frameworks, the characteristics of the stock, the nature and extent of urbanisation and government intervention. Private renting is significantly an urban phenomenon. Historically, people with capital – often major landowners and employers – provided the funds necessary to build at high densities and to ensure the necessary infrastructure. In countries with more rural economies, including case-study countries Ireland, Norway and Spain, home ownership has tended to dominate housing provision, often in the form of low-density houses.

In the case of apartment blocks, the main tenure option in Europe, at least until the post-war period, was undoubtedly private renting – because this type of built form requires both large capital outlays and legal structures to ensure management and maintenance. After 1945, governments became the most significant housing suppliers

in many countries while at the same time new tenure arrangements, notably different forms of condominium and leasehold, allowed the transfer of individual units from private renting to owner-occupation. Where these forms of tenure have not been put in place, private renting tends to remain the main form of urban provision while in countries where processes are well defined and the transfer is easily financed, owner-occupation has tended to grow.

Within these physical and legal constraints the decisions by landlords and tenants to enter, remain in or leave the private rented sector depend on the relative costs and benefits of different options available to them. Thus the scale of private renting depends not just on the conditions in that sector but also on its relative position with respect to other tenures and (for landlords) with respect to other investment opportunities.

Numerous commentators have discussed the fundamentals of different tenures and therefore their suitability for different household groups. In particular, private renting is more flexible than other tenures and its benefits include low entry and exit costs and the fact that tenants can rent units that are smaller and cheaper than in other tenures. Private renting therefore tends to work well for younger and more mobile households and those who do not want to or cannot afford to invest in housing assets. On the other hand, social rented and owner-occupied housing is seen to work better for families and older households who value security in all its many aspects. So private renting would in principle be most suitable for countries with a younger demographic and greater labour mobility (including immigration).

On the supply side, individual and institutional investors tend to invest in residential property on the basis of expected returns as well as the security of these returns and the other options open to them. For instance, individuals can more easily borrow against the security of the physical assets provided by residential property than against the financial assets available on the stock market. Historically this meant that individuals had few investment opportunities open to them other than owner-occupation. As financial markets have developed, however, borrowing in order to let out the property has become an option. Institutions have many more options but are often looking for secure cash flows where the value will be maintained over time. For them private renting can constitute an important utility-style asset class, especially in countries where rents can be readily increased to reflect higher costs and inflation. On the other hand, where the expected total return is made up not only of rents but also of potential capital gains, there is less certainty about its magnitude, so the sector may appeal more to those prepared to take higher risks.

As we explained in Part I, regulation itself is an important factor affecting the options available. If rents are held below market levels, those who are already tenants will generally want to remain while new entrants may find it hard to find accommodation. Equally, landlords may wish to leave the sector but may only be able to do so by selling a unit with a sitting tenant. In other words, regulation links with other factors to determine choices made by landlords and tenants. But perhaps the most important way in which regulation affects choices is indirect: the history of government intervention conditions market actors' expectations of how government policy may affect their options in future.

Outwith this more general discussion, the emphasis in the literature has been very much on three specific issues that impact on the costs, benefits and accessibility of different tenures:

- the impact on tenure choice of differentials in government support between tenures, including both subsidies to landlords and tenants in private renting as compared to owner-occupation and social housing, as well as differentials in tax treatment;

- the extent of constraints on entry into owner-occupation particularly because of financial regulation and transactions costs; and
- how difficult it is for different groups of households to access social renting.

7.2 THE SPECTRUM OF GOVERNMENT SUPPORT

The first stage is to look across our case-study countries at the different aspects of tax and subsidy treatment which affect private renting, including:

- the extent to which landlords are eligible for subsidies to support provision;
- the tax framework in which landlords operate; and
- the subsidies and tax reliefs available to tenants to pay their rent.

Table 12 clarifies the position with respect to capital subsidies available to private landlords to provide or improve rented accommodation in 11 European countries. In some countries no such subsidies are available. These include countries with very limited social sectors but also countries where there are large social sectors, notably the Netherlands. The two countries where supply subsidies have been particularly important are Germany, where the vast majority of such subsidies (which have become less generous over time) go to private landlords, and France where there have been relatively neutral subsidy arrangements including for intermediate tenures. In the other countries where private landlords have access to some subsidies these tend to be relatively limited, especially as compared to those available to social housing providers and sometimes, as in England and Finland, to intermediate homeownership (Scanlon & Whitehead 2007).

TABLE 12: SUPPLY SUBSIDIES TO PRIVATE RENTING: ELIGIBILITY OF PRS LANDLORDS FOR SUBSIDIES

Subsidy type	Denmark	England	Finland	France	Germany	Nether-lands	Norway	Republic of Ireland	Spain	Sweden	Switzerland
Supply-side subsidies such as soft loans	Yes**	Yes*	Yes	Yes	Yes	No	No	No	No	No	No
Refurbishment subsidies	Yes**	Yes*	No	Yes	Yes	No*	No	No	Yes*	No	No

* Exemptions apply
** Under urban renewal schemes

Usually as or more important is the tax treatment of private landlords, which incorporates the various aspects shown in Table 13. In the main, private rented housing is treated like other investments: tax is charged on net incomes (rents less costs) and on capital gains. The big differences relate to whether private rented property can be depreciated like other types of physical asset, and whether losses can be set against other types of income (negative gearing). In most countries residential property is treated as a perpetual asset so no depreciation is allowed. Germany traditionally provided very considerable benefits to landlords through depreciation, including accelerated depreciation allowances, although since 2008 accelerated depreciation cannot be claimed. Spain however has moved in the opposite direction in an attempt to support the private rented sector.

The situation with respect to allowing losses against other income is straightforward. England and Ireland, which have similar tax rules, are the only countries which restrict the way that losses can be set against other income. Other differences relate to what costs can be deducted. In England for instance, only direct financial payments can be deducted, meaning that small landlords cannot claim a tax deduction if they do their own repairs and management. Indeed England is a good example of the extent to which private landlords may be disadvantaged while still apparently being treated like other investors. First, landlords pay tax on income but losses can only be set against rental income; mortgage interest is fully deductible but only financial costs can be allowed; there are no depreciation allowances – which are allowed against other physical investments; and monetary capital gains are taxed at a higher rate for individuals than for companies. Overall therefore, the taxation of residential rental property is less favourable than that of other physical investments.

TABLE 13: THE TAX TREATMENT OF PRIVATE RENTED LANDLORDS IN CASE-STUDY COUNTRIES

	Denmark	England	Finland	France	Germany	Netherlands	Norway	Republic of Ireland	Spain	Sweden	Switzerland
Tax payable on rental income	Yes	Yes	Yes	Yes	Yes	No for individuals/ Yes for institutions	Yes*	Yes	Yes*	Yes	Yes
Mortgage interest deductible from rental income	Yes	Yes	Yes	Yes	Yes	No/yes	Yes	Yes (75%)	Yes	Yes	Yes
Costs can be deducted from rental income	Yes**	Yes	Yes	Yes	Yes	No/yes	Yes	Yes	Yes since 1998	Yes	Yes
Depreciation allowance	No	No	No	Yes	Depreciation restricted to 2.5% from 2008	No/yes	No	Yes	Yes since 2008	Yes	Yes
Losses allowable against other income	No	No*	Yes	Yes	Yes	Yes	Yes	No	Yes*	Yes	Yes
Capital gains tax payable	Yes	Yes	Yes	Yes*	Yes*	Yes*	Yes	Yes*	Yes*	Yes*	Yes

* Exemptions apply

** Applies to institutional investors such as pension funds and insurance companies

In all the countries with larger private rented sectors, governments offer fiscal benefits that reduce the cost of owning and managing a rental property, thus improving the landlord's ability to generate a profit and reducing their likelihood of making a loss in spite of regulated rent increases. Some or all of these benefits, including depreciation allowances, mortgage interest tax relief and negative gearing, are in place in all the countries with larger private rental sectors. Supply-side subsidies such as low-interest loans for construction and purchase are, or have fairly recently been, available in all these countries except Switzerland. In some countries the capital gains tax is lower on assets that have been held for a long period, which incentivises longer-term investment over speculation.

A final issue relates to the availability of income-related assistance to tenants. Such assistance benefits both tenants and landlords as it increases market rents and reduces the risk of arrears and the costs of eviction. Table 14 shows its availability across tenures.

Housing allowances are available for private tenants in most of the case-study countries, usually on the same terms as for social sector tenants. The exceptions are the Republic of Ireland, where rents for eligible households are set in relation to household income; Spain, where national allowances were abolished in 2012; and Switzerland, where rents paid can be offset against income for tax purposes (which only benefits those with enough taxable income against which to charge rental costs).

The role of housing allowances differs between countries. In most European countries with generous social security systems, these systems provide the safety net and housing allowances are there to make housing affordable. This applies to Scandinavia and the Netherlands in particular. In other countries, notably England, housing allowances, which can cover up to the total rent, act more to ensure that households can afford other goods and services (Kemp 2007). From the point of view of the landlord, however, allowances both increase rental income and reduce risks.

TABLE 14: HOUSING ALLOWANCES IN CASE-STUDY COUNTRIES

	Denmark	England**	Finland	France	Germany	Netherlands**	Norway	Republic of Ireland***	Spain*	Sweden	Switzerland
Private rented	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Regional	Yes	No but tax deductions
Social rented	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No but tax deductions
Owner-occupiers	No	No	Yes	Yes	Yes	No	Yes	No	No	Yes	No

*Removed in 2012; allowances continue to exist in some regions but are very limited

**Other, less generous, social assistance exists for owner-occupiers

*** Rents set in relation to income for eligible tenants in both sectors

7.3 COMPARING PRIVATE RENTAL SECTOR WITH OWNER-OCCUPATION

Turning next to the issue of the comparative positions of private renting and owner-occupation, it is clear that in almost all countries the two tenures are treated differently. Generally, owner-occupation is treated relatively generously. If owner-occupation and private renting were to be treated in a similar way, this would imply that both income, net of the costs of owning and letting, and capital gains from private renting should be taxed, as should imputed income, net of costs including mortgage interest, and capital gains from owner-occupation. Tax relief should be allowed on mortgage interest and other costs for both tenures. No country treats owner-occupation strictly in this way, although Switzerland comes closest with some tax on imputed income and some relief on capital gain. Other than Switzerland, only the Netherlands and France tax the imputed incomes of owner-occupiers, but both do so at relatively low rates and the Netherlands only taxes those who are still paying the mortgage – so the impact is relatively small. In most countries capital gains on the principal home are largely untaxed, or only short-term gains are taxed in order to incentivise households not to move. The relative treatment of capital gains therefore also usually benefits the owner-occupier. The main question in that context is whether there are large capital gains to be made. Although there has been volatility, in almost all of our case-study countries house prices have risen, sometimes rapidly. The exception is Germany

where in many areas prices have been stable and in some have fallen considerably – so the lack of a capital gains tax has had little impact.

England and more lately Germany are atypical in no longer offering mortgage tax relief for owner-occupiers. Thus they treat owner-occupation as if it were a consumption good, which offsets some of the benefits of a lack of imputed income tax. A number of countries including Denmark, Finland, Norway and now Sweden clearly favour ownership through the treatment of imputed income and capital gains tax, while Switzerland and to a lesser extent France treat the two tenures more equally. Elsewhere comparisons are not straightforward, but generally the tax systems favour ownership.

Returning to the impact of differential housing allowances (Table 14), many systems favour rental over ownership for lower-income households. In others, poorer owner occupiers (who are often older) receive similar benefits to renters, although they are sometimes smaller. The overall impact could be expected to be at best neutral and more often reinforces the chances that lower-income households will be in the rented sector – but whether in social or private depends on the size and nature of the social sector.

TABLE 15: ATTRACTIVENESS OF OTHER TENURES: TAX TREATMENT OF OWNER-OCCUPATION

	Denmark	England	Finland	France	Germany	Nether-lands	Norway	Republic of Ireland	Spain	Sweden	Switzerland
Imputed rent taxable	No	No	No	Yes	Not since 1986	Yes, until mortgage is repaid	No	No	No	Not since 2007	Yes, but at rate slightly below market rent
Mortgage interest deductible from taxable income	Yes	No	Yes	Not since 2010	Not since 2005, until then benefits available once in a lifetime for each house-hold	Yes	Yes	Yes	Yes, but since 2011 only for low-income house-holds	Yes, since the 1950s in some form	Yes
Capital gains tax payable	Not for primary residenc-es below a certain size	Not for primary resi-dences	Yes, but exempt after 2 years	Yes, but exempt after 5 years	Yes, but exempt after 10 years	No	No	No, except building society loans (80%)	Yes, but exemp-tions apply	Yes, but can be post-poned if a new home is bought	Yes, but exemptions apply

Finally with respect to owner-occupation there is the question of whether those who would like to enter owner-occupation are able to do so. On the whole this is a function of finance markets. Table 16 suggests that the most important constraints on entry into owner-occupation are found in Germany and Switzerland and to a lesser degree France. In all these countries commentators suggest that financial constraints have limited owner-occupation and ensured a larger private rented sector than would otherwise be the case. And the evidence from the post-financial-crisis situation is that the massive decline in the availability of finance has led to rapid increases in private renting. This has been the case especially in England and Ireland, but probably also in most other countries that have seen significant deregulation in the last decades.

Another constraint on access to owner-occupation is the transactions costs of both buying and selling (OECD 2012). Estimates differ considerably between sources and the tax elements in particular are subject to rapid change (notably since the financial crisis). Table 17 gives some estimates of typical costs in various countries of buying a

home with a mortgage based on a report by the European Mortgage Federation published in 2010. These costs include registration, real estate agency fees (where imposed on the buyer), legal costs, mortgage loan costs and sales and transfer taxes. In many countries VAT is also charged. Selling costs are normally lower, as they exclude financing and (usually) transfer taxes. Significant transactions costs, notably in France and to a lesser extent Germany (as well as in the Netherlands and Finland which were not covered in the EMF report) are sometimes quoted as an important reason why owner-occupation rates are constrained – and certainly as a reason why more mobile households prefer to rent. However there are counter examples – notably Spain – with high transactions cost and a high owner-occupation rate.

TABLE 16: ATTRACTIVENESS OF OTHER TENURES: FINANCIAL ACCESS TO OWNER-OCCUPATION

	Denmark	England	Finland	France	Germany	Nether-lands	Norway	Republic of Ireland	Spain	Sweden	Switzerland
Regulation of mortgage finance	Low	Low, but possibly increas-ing	Low	Medi-um	Medium	Low	Low	Low	Medi-um	Low	Medium
Limitations on mortgage loan-to-value ratio	Maximum 80% set by law	No regu-latory limits	No regu-latory limits	Yes, 60% to be eligible for mort-gage-backed securi-ties	Yes, 60% to be eli-gible for mort-gage-backed securities / special housing loans	No regu-latory limits	Yes, approxi-mately 60%	Yes, 80% for build-ing society mortgages	Yes, 80%	No regula-tory limits before 2010. Now the banks are recom-mended not to lend more than 85%	Yes, usually 80%, even lower for interest-only mortgages

TABLE 17: HOUSE PURCHASE COSTS IN SELECTED EUROPEAN COUNTRIES

COUNTRY	PURCHASE AND MORTGAGE ARRANGEMENT COSTS
	% of property value
Denmark	3.0
England	1.5
France	7.4
Germany	4.6
Republic of Ireland	1.6
Spain	11.4
Sweden	2.3

Source: European Mortgage Federation Study of the Cost of Housing in Europe 2010

7.4 COMPARING PRIVATE RENTING WITH SOCIAL RENTING

In many countries the other important tenure option, available mainly to lower income households, is social renting, where rents are usually below market levels and allocation is administratively determined. Because rents are subsidised and social housing may provide other benefits to tenants, demand is usually greater than supply – and those who cannot access social housing (either because they are not eligible or because of queues) will normally become private tenants. Thus private renting can be seen as the residual sector. Especially in countries with limited social provision, private renting may be expected to play a social role with the assistance of housing support. This is particularly the case in Germany but also now in other case-study countries such as Ireland, England and even Spain.

TABLE 18: ATTRACTIVENESS OF OTHER TENURES: SOCIAL RENTING

COUNTRY	SCALE OF SOCIAL PROVISION %	RELATIVE TO PRIVATE RENTING	RENT DETERMINATION	SECURITY OF TENURE	ACCESS
Denmark	19	Larger	Cost-based at estate level	High	Relatively easy
England	17	Similar	Below but related to market values	High	Difficult
Finland	14	Smaller	Cost-based	High	Relatively easy in most areas
France	18	Somewhat smaller	Cost-based	High	Varies greatly across country
Germany	11	Much smaller	Comparator	Medium	Difficult
Netherlands	32	Much larger	Below but related to market values	High	Relatively easy in most areas
Norway	4	Much smaller	Cost-based	Low	Relatively easy for narrow range of eligible households
Republic of Ireland	12	Larger	Cost-based	High	Difficult
Spain	2	Much smaller	Cost-based	High	Difficult
Sweden	21	Similar	Comparator	High	Relatively easy but only outside major urban areas
Switzerland	3	Much smaller	Cost-based	High	Difficult – and narrow range of eligible households

Table 18 sets out some of the main attributes of social renting that are relevant to its likely impact on private renting. In the Netherlands in particular, the social rented sector is much larger than the private and provides good quality accommodation for a wide range of households. Private renting would find it hard to compete and is mainly restricted to more mobile households and those excluded because of queues – in other words, the majority of prospective tenants consider it the less desirable option. In Sweden, Denmark, Finland and even France and England, social housing may also provide the better rental option for large numbers of households, but because of the smaller size of the social sector more households will find accommodation in private renting.
At the other extreme, in Germany and Switzerland private renting dominates the rented sector and social renting plays a very limited role even in providing for those on low incomes. In countries with the greatest emphasis on owner-occupation, notably Norway and Ireland, both rented sectors are relatively unimportant – but private renting can at least in principle adjust to accommodate those who cannot access owner-occupation.

Finally in some countries, notably in Scandinavia but also in England and Germany, tenure options are not restricted to owner-occupation and private renting. In particular, co-operatives and other intermediate tenures play an important role in accommodating working households and others with enough income to pay the necessary rents/mortgage payments. To the extent that these tenures are desirable and accessible, private renting will tend to be more downmarket (except for the very mobile).

7.5 OTHER IMPORTANT DETERMINANTS OF THE SCALE OF PRIVATE RENTING: SUMMARY

The discussion in this chapter makes it clear that the scale of private renting, and the attributes of private tenants, depend as much on the cost, availability and suitability of housing in other tenures as on conditions in the private rented sector itself.

Tax systems tend to favour private renting only in the minority of countries – notably Germany and Switzerland, where private renting still dominates. Owner-occupation is favoured by the tax regimes of the majority of countries including in particular Spain, Norway, the Republic of Ireland and to some extent England. Countries which have traditionally had tenure-neutral tax systems also tend to have had larger social sectors (Denmark, Sweden, the Netherlands and, to a lesser degree, France). Over the last two decades in most of these countries, owner-occupation has tended to increase, although this process has been slowed or even reversed by the financial crisis, except perhaps in Switzerland.

In all countries there is a part of the private rented sector that houses those excluded from other tenures. Similarly there is almost always a market rented sector, however small, that accommodates well-off mobile workers and others who want the attributes of private renting. But between these extremes there is the question of the extent to which private renting is an option of choice for large numbers of households. Germany and Switzerland, with small social sectors, are clearly the best examples of this type of housing system but there is also a growing role for private renting across the spectrum of countries for younger employed households who cannot afford or do not want to own. In addition there is a growing interest in intermediate tenures, especially in countries that have little tradition of better quality private rented housing.

Regulation, especially in the past, has been a central factor affecting supply and demand – but taxation, subsidy and government provision of housing may well be just as, or more, important. And behind all these policy determinants lie the fundamentals of demography, incomes and their distribution and the characteristics of the housing stock that help to structure the observed tenure mix.

8. *Conclusions*

The concluding chapter starts by reiterating the original research questions before reviewing the principles of regulation with respect to regulatory objectives and outlining how regulation has operated in practice. We then summarise our case study approach and our first conclusion – that it is neither feasible nor desirable to construct a single summary measure of the strength of regulation.

With respect to our four main questions, the findings of our research suggest that

(i) private renting has declined in relative terms in most of our case study countries over the last three decades;

(ii) on the whole initial rent setting has become more market-oriented but fewer countries have reduced security of tenure;

(iii) countries with the largest sectors tend to have had stable regimes but there are very few clear patterns where regulation has been reduced – in some countries liberalisation has been associated with a declining sector while in others the reverse is true; and

(iv) other factors, particularly policies with respect to taxation, subsidy and social housing are probably just as important as regulation in determining the scale of the sector.

The picture is thus one of diversity with respect to regulation, scale and the relationship between the two.

8.1 THE STARTING POINT FOR THE RESEARCH

The research project arose from the very strong and opposing views held about the role of regulation in the private rented sector. At one extreme, all regulation was seen as constraining the sector, while at the other it was argued that only with strong regulation could there be a well-operating private rental system. The objective of the research was not to pass judgement on the role of regulation nor indeed the role of private renting, but rather to clarify experience across a range of countries with different housing systems and so to provide an evidence base for more detailed analysis of what might be desirable in different contexts. To this end we specified a number of questions:

1. What has happened to the size of the private rented sector in countries across Europe since the 1980s?

2. What types of rent and security regulation were in place in the 1980s and how did they change over the period to 2010?

3. Is there any obvious relationship between the extent of regulation and changes in that regulation and the size of the sector and its growth or decline over the period?

4. Are there other factors which help to explain why the scale of private renting varies between countries?

To put the empirical findings into context we first reviewed the literature on regulation to clarify the different roles that regulation could play in principle, and provided an overview of how regulation, and particularly deregulation, has operated in Europe since the end of the Second World War.

8.2 REGULATORY OBJECTIVES

The vast majority of commentary on regulation in the private rented sector, especially among economists in Anglo Saxon countries, sees rent controls as distorting the market and generating deadweight losses through resultant inefficiencies. For this reason many governments have regarded deregulation as a necessary condition if a sustainable private rented sector is to be achieved.

Other commentators stress the positive efficiency reasons for regulation: to control rents and provide security of tenure in periods of excess demand when landlords have relative power over tenants and to address a wide range of market failures so that more effective contracts can be made between landlord and tenant. In addition, they see regulation as improving equity by helping to ensure access to adequate housing. Their emphasis is on the benefits of regulation to tenants. The subsequent question is therefore whether such benefits can be achieved through improvements in resource allocation without disadvantaging landlords.

8.3 REGULATION IN PRACTICE

The regulations introduced in war conditions during both the first and second world wars were generally what have been called first-generation rent controls. These controlled rents at below-market levels, did not provide adequately for rent increases when economic conditions changed and costs rose, and often introduced stringent security of tenure rules which allowed tenants to stay for life and sometimes to pass the tenancy on to the next generation. It is hardly surprising that landlords facing these conditions had every incentive to leave the sector, especially when the dwelling became vacant and especially if the property could be transferred to another more vibrant tenure – in many countries owner-occupation. Where this was not possible, landlords tended to reduce management and maintenance in order to reduce costs, so properties fell into disrepair.

The response in many European countries was to deregulate, usually over some decades and sometimes leaving in place legacy tenancies which survive today. In other countries the policy approach was to introduce more sophisticated forms of regulation, known as second- and third-generation rent controls. Under these regimes landlords were free to set initial rents at market levels but were permitted to increase rents only in relation to some well-defined index or to costs incurred. Security of tenure was also remodelled to emphasise contractual enforcement and increased freedom for landlords to regain possession in well-specified circumstances. The specific attributes of each regulatory regime determine whether it is more pro-landlord or pro-tenant, but to be sustainable into the longer term there must be some balance between the different stakeholders to generate the investment required to meet demands.

What scale of private rented sector is appropriate in any given country depends on the attributes of the overall housing market and on inter-tenure relationships. Many countries over the decades have favoured owner-occupation as the tenure of aspiration. In these countries the emphasis has also often been on deregulation of finance markets, enabling dwelling units to move flexibly between tenures and reducing transactions costs – as well as on deregulation of the private rented sector. In such countries the role of the private rented sector is almost inherently going to be smaller than in coun-

tries where tax treatment of housing is more tenure-neutral, subsidies are offered to landlords and there are non-housing investment opportunities for tenants.

Equally some countries have large social sectors which accommodate not only poorer and more vulnerable households but sometimes a much wider range of working households. Again this will reduce the sustainable size of the private rented sector. On the other hand there are countries that see private renting as able to provide for the whole range of tenant households and therefore look at investment in private renting more favourably. On the whole, countries in this category tend to use taxes as much as subsidies as the main means of supporting the sector.

Governments in the main are both more incrementalist and more holistic in their policy approaches than commentators tend to suggest. So countries with larger private rented sectors, observing the need for change, tend to look to the private rented sector for solutions; while countries that emphasise different tenures will tend to look first to those other tenures to solve emerging problems. So governments will tend to use the range of instruments which they already understand and for which they have the appropriate legal infrastructure. Equally, we often see changes in regulation being complemented by changes in taxation, subsidy or the role of direct provision. For instance, landlords may be offered tax incentives to invest in private renting when regulation which makes it easier to leave the sector is introduced. Further, governments tend to follow well-trodden tracks when developing policy, so for instance many of the changes in policy towards private renting have followed from broader policy agendas such as privatisation and financial deregulation. Finally, policies may simply be a response to problems that were a consequence of earlier policy change – so for instance as social housing has declined in importance, governments have placed more emphasis on the private rented sector's role in accommodating more vulnerable households.

The starting point of the project in the 1980s was a period when many changes in regulation had already been introduced. In particular, second-generation rent controls were already in place in a number of countries – notably Germany and Switzerland and to a lesser degree France among the case study countries. In other countries there had been very significant moves towards deregulation, resulting in almost complete decontrol in Ireland and significantly increased freedom (which often resulted in landlords leaving the sector) in England. Starting from the position in the early 1980s the research examined how regulation has changed across major European countries over the following decades and how these changes can be related to the scale of private renting in each country. The picture presented is a complex one.

8.4 THE RESEARCH APPROACH

The first element in the research involved looking at the definitions of private renting and the importance of the sector in countries across Europe. In principle one might expect the definition of private rented housing to be based either on ownership (that is, to include all rented housing owned by profit-seeking providers – even though this would exclude many who let for other reasons) or on allocation (that is, to include all rented housing allocated by the market – although this would run up against the reality that regulation normally restricts rents so that a non-price allocation mechanism is required).

In practice there was no single definition across, or often within, countries. For instance sometimes the definition applied to households and sometimes to dwellings; sometimes it included furnished accommodation, sometimes not; and in some countries, it was simply a residual category – that is, all rented units (or tenant households) whose landlord was not a government agency.

In undertaking this type of comparative analysis it was usually only possible to use the definition employed by government and international agencies, even though this may mean that we are not fully comparing like with like. On this basis the case-study countries include 70 percent of all dwellings in Europe and 80 percent of all private rented provision. It is therefore one of the most comprehensive studies of regulation in Europe available.

Our initial approach involved selecting eleven European countries across the spectrum of regulation with very different scales of private renting: these were (in alphabetical order) Denmark, England, France, Finland, Germany, the Netherlands, Norway, the Republic of Ireland, Spain, Sweden and Switzerland. Initially we looked to provide a general picture of regulation and changes in regulation in relation to the size of the sector for all countries. We then expected to concentrate in greater detail on six countries with larger rented sectors that represented the range of different circumstances. In practice the extent of detail examined has depended more on the complexity of the regimes and the role played by private renting within their overall housing systems. Thus among the 'light touch' countries there is relatively little detail on the Republic of Ireland and Norway where the scale of private renting is small and regulatory change can be readily described. There is more detail on Switzerland where private renting is the dominant tenure, and on Denmark and the Netherlands where there have been important changes on regulation which do not fit the general pattern.

The approach to understanding the situation in each country was:

- First, to review the available literature and to summarise the most important elements of each housing and regulatory system over the three decades of the study;
- second, to ask country experts to check and expand on our findings;
- third, to hold a Roundtable to discuss both detailed issues about the individual countries and more general comparative and cross-country questions;
- fourth, to analyse the resultant material in order to develop typologies of regulation and to relate these typologies to the scale of the private rented sector;
- fifth, to consider other attributes that affect the position of private renting relative to other tenures, including subsidy, taxation and investment and broader policies; and
- finally, to bring all the material together into a full report together with annexes for each country.

It is very important to remember that the objective of our research was not to develop a single index of regulation and use it to compare countries. Regulation, with its very different objectives and mix of instruments, is far too complex for this approach to be appropriate. Rather our first objective was to provide a multi-faceted typology of regulation by which it is possible to examine both the nature of regulation at any given point of time and changes over time within each country. The second was to examine whether there were clear relationships between regulation and the scale of the sector in each country, and the third was to place this analysis within the more general framework of housing markets and housing policy. The final step was to provide an overview of all these relationships to discover whether clear patterns emerge.

8.5 THE FINDINGS

Before discussing our findings it is important to re-iterate that (i) the data are often poor and difficult to interpret; (ii) while general patterns may be clear, in each country there is an enormous range of regulatory detail which impacts on behaviour in different ways and cannot always be easily summarised; and (iii) it is important to read the main report in conjunction with the country chapters because that detail is often important. It is also necessary to distinguish carefully between perceptions of regulation, which may be affected by past experience or ideology as well as by how the regulatory regime operates on the ground, and the legal and administrative framework which ultimately determines the rights and responsibilities of current and potential landlords and tenants.

Our detailed findings can be summarised as follows:

The main attributes of any regulatory regime include

(i) how initial rents and rent changes are determined, which is the core element addressed in the literature;

(ii) the security of tenure available to tenants and the impact this has on landlords' property rights. Attributes of security of tenure include in particular

  (a) the length of the lease;

  (b) the ease with which tenants can extend their tenure on the one hand and the ease with which landlords can gain vacant possession on the other;

  (c) the right of the landlord to sell the property whether tenanted or vacant;

(iii) the mechanisms and effectiveness by which these regulations are enforced.

In addition regulatory regimes address issues of housing quality – but these are not generally tenure specific, so are mainly excluded from the discussion.

Using a typology based on these three main attributes – rents and rent changes, different aspects of security of tenure and enforcement – we can categorise the regulatory systems in the eleven countries. What then becomes clear is that each country has its own mix of attributes, that these attributes have changed over time and that the elements that make up each regulatory regime and how they have changed, are not independent of one another.

Equally, specific elements of regulation may operate quite differently in different countries. Indefinite contracts may in some countries allow tenants to have near-lifetime tenure while in others there may be many ways in which a landlord can terminate an indefinite contract.

Taking these complexities into account, it was still possible to produce a simplified typology which categorised countries into three groups: those with limited regulation; those with strong regulation and those in between, where the regulatory framework has various degrees of additional flexibility. In the 1980s five of our case-study countries (Denmark, England, Finland, the Netherlands and Spain) had strong regulation; another five had medium/significant regulation (France, Germany, Norway, Sweden and Switzerland) and only one country, the Republic of Ireland, had low levels of regulation.

Over the following three decades regulation eased across much of Europe. Deregulation took place mainly from the 1980s (and in some cases earlier) to the mid-1990s. Since then systems have generally been quite stable with some limited evidence of increasing regulation, notably with respect to security of tenure.

Deregulation has taken place more in countries where the degree of regulation was highest in the 1980s and most of the largest changes relate to initial rent-setting procedures. As a result there are examples of countries, in particular England and Finland, moving from highly regulated regimes to almost unregulated ones.

It should be noted that most countries have more than one regulatory regime in place. Generally, these are earlier and stronger systems which die out as tenants move on (or die) and new tenancies are governed by current rules. The exceptions are Denmark and the Netherlands. In Denmark traditionally strong regulation continues to apply to all dwellings that were built before 1991 – which includes the vast majority of privately rented units. In the Netherland the new deregulated system applies only to a small proportion of relatively expensive properties, although this will change over time.

The relationship between the levels and changes in the size of the sector and changes in regulatory frameworks is not consistent across countries. What is clear however is that lower regulation is not generally associated with larger private rented sectors. Where growth in the private rented sector has been observed in countries with declining regulation it has not followed immediately on regulatory change but rather has occurred later and at least in part in response to changes in other factors. More generally, housing systems take long periods to adjust so by looking at particular points in time we observe situations which are more or less in disequilibrium.

England is the most obvious example here, where the size of the sector rose very slowly after the most important deregulatory initiative in 1988. It was only when Buy to Let mortgages were introduced in the late 1990s that the size of the sector began to increase rapidly in response to mortgage availability and worsening affordability and increased financial risks associated with owner-occupation. Deregulation was therefore a necessary but not a sufficient condition for growth.

Large-scale private rented sectors are concentrated in countries with long histories of state support and fiscal benefits to encourage investment in private renting. These have helped to maintain its attractiveness in relation to other investment options including owner-occupation. Germany and Switzerland are the main examples among the case-study countries. In these countries the regulatory regimes generally protect tenants from unexpected increases in rents but have clear-cut mechanisms for enforcing contracts and means of adjusting rents in response to changes in demand and cost. Equally they tend to have limited social rented sectors and significant constraints on entering owner-occupation.

Importantly these countries have had relatively stable regulatory regimes. However, this is also true in the Netherlands where the size of the private rented sector has declined dramatically. It is also true in Sweden where the size of the sector has remained fairly stable but at a much lower proportion of the total stock than in Germany and Switzerland. Unlike Germany and Switzerland, both the Netherlands and Sweden have large social sectors that meet many people's demands for rental housing.

In recent years, a number of European countries have been looking to modify their regulatory systems to help meet the needs of those excluded from owner-occupation and to reduce the cost to the public sector of providing effectively for poorer households. The nature of these revisions has differed between countries: some have deregulated further, while others have increased regulation (mainly with respect to security of tenure).

More generally there is no obvious consensus across countries about how an effective private rented sector should be regulated, in part because of the very different economic, fiscal and legal arrangements in place in the different countries.

What does appear to be the case is that the nature and extent of regulation in the private rented sector in each country tends to be in line with more general attitudes and policies being implemented in that country. For instance Germany and France have not undertaken large-scale liberalisation programmes and still have significant regulation of private renting. England and Finland have instigated large-scale general deregulatory policies and have privately rented sectors which are strongly market oriented.

8.6 ANSWERING THE QUESTIONS

Finally, to answer the specific questions:

1. *What has happened to the size of the private rented sector in countries across Europe since the 1980s?*

The relative scale of private renting has declined in most of the case study countries. Only in England has there been a really significant increase in proportional terms, although in some countries there has been relative stability while others have seen increases in absolute numbers.

2. *What types of rent and security regulation were in place in the 1980s and how did they change over the period to 2010?*

In the 1980s the 'norm' was strong first-generation rent controls with little capacity to adjust rents in relation to either costs or demand. There was also generally long-term security of tenure for tenants. Over the period traditional rent control has almost ceased to exist and regulation has become both more flexible and more sophisticated – at its best taking account of market pressures while at the same time addressing market failures.

3. *Is there any obvious relationship between the extent of regulation and changes in that regulation and the size of the sector and its growth or decline over the period?*

The general picture is of decline in scale whatever the regulatory framework even though there are still examples of countries with large private rented sectors and relatively stable regulatory frameworks. There is only the one example where deregulation has been associated with significant growth in the sector – and that growth took at least a decade to emerge. Examples where regulation has been stable or even in some cases increased include countries where the sector has declined rapidly as well as others where there has been little change in scale.

4. *Are there other factors which help to explain why the scale of private renting varies between countries?*

A number of other factors may be equally or more important than regulation in different contexts. The most important factors include the relative taxation and subsidy position of private renting as compared to other tenures and the scale of social housing provision but each country has its own mix of regulation and other policies.

Overall, what we observe is a multiplicity of regulatory regimes different in both their basic approach and in detail. Further, the size of the private rented sector is not just an outcome of these regulatory regimes but also of the relative attractiveness and accessibility of other tenures as well as of the availability of other investment opportunities.

Bibliography

Anas, Alex (1997) "Rent control with matching economies: a model of European housing market regulation," *Journal of Real Estate Finance and Economics,* 15(1): 111-137

Andrews, Dan, Sánchez, Aida Caldera and Johansson, Åsa (2011) *Housing Markets and Structural Policies in OECD Countries*. France: OECD. http://www.oecd-ilibrary.org/docserver/download/fulltext/5kgk8t2k9vf3.pdf?expires=1322231936&id=id&accname=guest&checksum=EA25143D8DB40C5276CCE75D29E023B7

Arnott, Richard (1995) "Time for revisionism on rent control?" *Journal of Economic Perspectives,* 9(1): 99-120

Arnott, Richard (2003) "Tenancy rent control," *Swedish Economic Policy Review,* 10: 89-121

Ball, Michael (2004) *The Future of Private Renting in the UK. London: Social Market Foundation*. http://www.smf.co.uk/assets/files/publications/TheFutureofPrivateRentingintheUK.pdf

Ball, Michael (2010) *The UK Private Rented Sector as a Source of Affordable Accommodation*. JRF programme paper: Housing Market Taskforce. York: Joseph Rowntree Foundation. http://www.jrf.org.uk/sites/files/jrf/rented-accommodation-private-sector-full.pdf

Ball, Michael (2011) *2011 European Housing Review*. London: RICS. http://www.rics.org/site/download_feed.aspx?fileID=8882&fileExtension=PDF

Basu, Kaushik and Emerson, Patrick M. (2000) "The economics of tenancy rent control," *Economic Journal,* 110(466): 939-962

Ellingsen, Tore and Englund, Peter (2003) "Rent regulation: an introduction," *Swedish Economic Policy Review,* 10: 3-9

European Central Bank (2003) *Structural Factors in the EU Housing Markets*. Frankfurt am Main: European Central Bank. http://www.ecb.int/pub/pdf/other/euhousingmarketsen.pdf

European Mortgage Federation (2010) *Study on the Cost of Housing in Europe,* 2010, Brussels, EMF

Haffner, Marietta E.A. and Boelhouwer, Peter J. (2006) "Housing allowances and economic efficiency," *International Journal of Urban and Regional Research,* 30(4): 944-959

Haffner, Marietta, Elsinga, Marja and Hoekstra, Joris (2007) *Balance between Landlord and Tenant? A Comparison of the Rent Regulation in the Private Rental Sector in Five Countries*. Paper presented at the ENHR International Conference on 'Sustainable Urban Area', Rotterdam

Haffner, Marietta, Elsinga, Marja and Hoekstra, Joris (2008) "Rent regulation: the balance between private landlords and tenants in six European countries," *European Journal of Housing Policy,* 8(2): 217-233

Harloe, Michael (1985) *Private Rented Housing in the United States and Europe*. London and Sydney: Croom Helm

Hubert, Franz (2003) "Rent control: academic analysis and public sentiment," *Swedish Economic Policy Review,* 10: 61-81

Krol, Robert and Svorny, Shirley (2005) "The effect of rent control on commute times," *Journal of Urban Economics,* 58(3): 421-436

Lind, Hans (2001) "Rent regulation: a conceptual and comparative analysis," *European Journal of Housing Policy,* 1(1): 41-57

Lind, Hans (2003) "Rent regulation and new construction: with a focus on Sweden 1995-2001," *Swedish Economic Policy Review,* 10: 135-167

Markkanen, Sanna, Monk, Sarah and Whitehead, Christine M.E. (2011) *Is Regulation the Reason Why Private Renting is more common in Some Countries than Others?* Paper presented at the 23nd ENHR Conference, Toulouse, France

Malpezzi, Stephen and Ball, Gwendolyn (1993) "Measuring the urban policy environment: an exploratory analysis using rent controls," *Habitat International,* 17(2): 39-52

McFarlane, Alastair (2003) "Rent stabilization and the long-run supply of housing," *Regional Science and Urban Economics,* 33(3): 305-333

OECD (2011) Housing and the economy: policies for renovation, in *Economic Policy Reforms: Going for Growth 2011.* http://www.oecd.org/document/15/0,3746, en_2649_37443_47448207_1_1_1_37443,00.html

OECD (2011) Economic Surveys: *European Union,* 2012, Paris: OECD

O'Sullivan, Eoin and de Decker, Pascal (2007) "Regulating the private rental housing market in Europe," *European Journal of Homelessness,* 1: 95-117

Pareja-Eastaway, Montserrat and Sánchez-Martínez, María Teresa (2010) European rental markets: regulation or liberalization? The Spanish case, in Philip Arestis, Peter Mooslechner and Karin Wagner (Eds.) *Housing Market Challenges in Europe and the United States,* pp. 131-157. New York: Palgrave Macmillan

Rugg, Julie and Rhodes, David (2008) The Private Rented Sector: *Its Contribution and Potential. Centre for Housing Policy,* University of York. http://www.york.ac.uk/inst/chp/publications/PDF/prsreviewweb.pdf

Scanlon, Kathleen and Kochan, Ben (2011) *Towards a Sustainable Private Rented Sector: The Lessons from Other Countries.* London: LSE. www2.lse.ac.uk/geographyAndEnvironment/research/london/events/HEIF/HEIF4b_10-11%20-newlondonenv/prslaunch/Book.pdf

Turner, Bengt and Elsinga, Marja (2005) "Housing allowances: finding a balance between social justice and market incentives," *European Journal of Housing Policy,* 5(2): 103-109

Turner, Bengt and Malpezzi, Stephen (2003) "A review of empirical evidence on the costs and benefits of rent control," *Swedish Economic Policy Review,* 10: 11-56

ANNEX 1: DEFINITIONS OF PRIVATE RENTED SECTOR USED IN NATIONAL DATA

DENMARK
Social rental dwellings are rented out by a non-profit housing association. These housing associations must be approved by the Minister of Housing. Social rental dwellings receive public grants. The income from the rent and public subsidies must balance out in the accounts. Private rental dwellings are dwellings not rented by non-profit housing associations, but for instance, by a private individual, a company, etc.

ENGLAND
A self-contained dwelling unit occupied by a person other than the owner against a fee and not owned by a local authority, a housing association, or an employer of the tenant.

FINLAND
A social rental dwelling is financed with a state-subsidised housing loan. It concerns public communities and non-profit housing societies. Residents are selected on social grounds, e.g. means tested and housing is allocated by officials. Private rental dwellings are non-subsidised rental units owned by private individuals or institutions.

FRANCE
The distinction between social and private rental dwellings is made on the basis of the status of the owner of the dwellings. Social rental dwellings are dwellings owned by HLM bodies. Other social housing benefiting from state subsidies is owned by the Sociétés d'Economie Mixte (SEM) or by the Société Centrale Immobilière de la Caisse des Dépots et Consignation (CDC). These latter categories have regulated rent, but do not have the HLM status.

GERMANY
Rental dwellings are dwellings which are not owned by the occupants or by any other member of the household. A distinction is made between the social and private rental dwellings constructed in or after 1949. Social rental dwellings are rental dwellings for which supply-side financial aid is received and rent caps apply. The rest of the category consists of private rental dwellings.

IRELAND
There is no official definition for private rented dwellings. However, the regulation under the Residential Tenancies Act (2004) covers only self-contained rental units excluding bed and breakfast accommodation and lodging rooms.

NETHERLANDS
Social rental dwellings are subsidised, relatively cheap rental dwellings, built and rented out by a housing association or by a municipality. All other independent rental units owned by an institution or a private person can be regarded as private rented.

NORWAY
Norway has no official definition of a private rented sector. Public statistics regard all rental units that are not owned or controlled by the state as private rented.

SPAIN
The difference between (subsidised) social rental housing and private housing refers to the fact that in the former the amount of rent is set administratively (a given percentage is applied to the price of the dwelling) and is updated every year by applying the consumer price index. Social rental dwellings are subsidised as well. Other rental dwellings are private rental dwellings.

SWEDEN

Sweden has by definition no social housing. There is however public non-profit housing. About half of the rental sector (mainly consisting of multi-family housing) is owned by non-profit municipally owned housing companies. The other half is privately owned and for profit. No restrictions (e.g. income ceilings) apply as to the groups that may rent the flats owned by public non-profit companies. Through the rent-setting system the rent level in the public non-profit sector virtually determines the rent level in the private for-profit rental sector. The rent for a privately owned dwelling may not substantially exceed the rent for an equivalent dwelling rented from a public non-profit company in the same locality.

SWITZERLAND

The private rented sector incorporates all dwellings owned by profit-making landlords and state-regulated institutional investors (such as pension funds) and used for rental purposes.

ANNEX 2: PRIVATE RENTED SECTOR IN EUROPE

PRIVATE RENTED SECTOR (PRS) IN EUROPE		
Country	**Total dwelling stock**	**Private rented sector as proportion of total stock (%)**
Belgium	4,858,000	24
Czech Republic	4,486,000	9
Germany (including former GDR from 1991)	39,551,000	49
Estonia	633,000	0
Ireland	1,733,000	10
Greece	6,136,000	13
Spain	23,918,000	13
France*	30,425,000	22
Italy***	26,700,000	15
Cyprus (4)	325,000	14
Latvia (3)	998,000	18
Lithuania (4)	1,300,000	7
Luxembourg	125,000	24
Netherlands	6,859,000	8
Austria	3,872,000	20
Poland	12,872,000	4
Portugal	5,462,000	16
Romania	8,202,000	2
Slovenia	805,000	4
Slovakia	1,940,000	3
Finland	2,760,000	14
United Kingdom	26,198,000	13
Norway	2,055,000	19
Switzerland(1)	3,028,000	58
Sweden	4,404,000	23
Denmark	2,621,000	17
Hungary**	3,724,000	4
Bulgaria** (2)	3,716,000	2
Malta**** (4)	125,000	16
Total in all countries	229,831,000	

Sources:
Total housing stock from EMF (2010), rounded to nearest 000; PRS share from OECD (on request)
* figure for 2004
** figure for 2001
*** figure for 2003
**** figure for 2006
(1) Swiss data (all) for 2000 from Federal Statistics Department
(2) PRS share for Bulgaria (2001) and Romania (2002) from Tsenkova (2005)
(3) PRS data for Latvia from European Union Housing Statistics (2010)
(4) PRS data from Dol & Haffner (2010) Housing Statistics in the European Union 2010.

ANNEX 3: STYLISED IMPACTS OF REGULATORY CONTROLS ON LANDLORDS AND TENANTS

Tables 1-5 deal with the effects of specific types of regulation on the various economic actors in the system, and Tables 6 and 7 set out the expected effects of some typical regulatory combinations on the housing system as a whole.

COLOUR KEY
Regulations benefit these economic actors/produce the incentives intended
Regulations impose costs or increase risks for this category/lead to perverse incentives
Incidence of costs or benefits depends on detail of regulation and/or relative negotiating power of economic actors

REGULATION TYPE 1: CONTROL OF RENT LEVELS

Economic rationale: Addresses asymmetric power of landlords stemming from inelastic supply of rented housing (due to geographical constraints, planning restrictions, financial system etc.)

TABLE A1: INCIDENCE OF REGULATION FOR CONTROL OF RENT LEVELS

CATEGORIES OF ECONOMIC ACTORS		HOW THESE ECONOMIC ACTORS ARE AFFECTED BY CONTROL OF RENT LEVELS	
		FINANCIAL COST OR BENEFIT/ POTENTIAL RATE OF RETURN	INCENTIVES
Landlords	Those who own when the measure is first introduced	Income cost in terms of reduced rents achieved; fall in capital value reflecting lower yield	Before imposition of regulation: incentive to raise rents. After: incentive to under-invest in maintenance (if it cannot be recouped by higher rents) or to transfer dwelling to other tenures if this is allowed
	Subsequent landlords	Depends. In theory neutral, as they paid a lower initial price reflecting limited yields – but this only holds if future rent levels are predictable	
	Potential landlords		Depends. If asset values accurately reflect low yields then in theory neutral
Tenants	Tenants when the measure is first introduced	Benefit in terms of below-market rents, but may face problems of maintenance	Incentive to remain in rent-controlled dwelling when household otherwise would move. Incentive to sublet at market rent
	Subsequent tenants		
	Potential tenants	Benefits those who can find a dwelling to rent; disadvantages those who cannot because of reduced supply. Latter probably predominate	Time-rich and cash-poor have an incentive to spend time searching for rent-controlled dwellings; others must find dwellings in other tenures

REGULATION TYPE 2: CONTROL OF RENT INCREASES

Economic rationale: Addresses asymmetric power of landlords stemming from inelastic supply of rented housing (due to geographical constraints, planning restrictions, financial system etc.) and monopoly power of landlords vis-à-vis sitting tenants (i.e., because each dwelling is unique each landlord is a monopoly supplier of the dwelling[s] he owns)

TABLE A2: INCIDENCE OF REGULATION FOR CONTROL OF RENT INCREASES

CATEGORIES OF ECONOMIC ACTORS		HOW THESE ECONOMIC ACTORS ARE AFFECTED BY CONTROL OF RENT INCREASES		
		FINANCIAL COST OR BENEFIT/ POTENTIAL RATE OF RETURN		INCENTIVES
Landlords	Those who own when the measure is first introduced	Depends on details of regulation. Some impose income cost in terms of reduced rents achieved leading to a fall in capital value reflecting lower yield, but others result in market- or near-market rents	If rent increases are permitted on new leases, incentive to evict existing tenants	If landlords can increase rents to pay for improvements, incentive is to invest in PRS
	Subsequent landlords			
	Potential landlords	Depends. If asset values accurately reflect low yields then in theory neutral		
Tenants	Tenants when the measure is first introduced	Benefit in terms of below-market rents, but may face problems of maintenance	Incentive to remain in rent-controlled dwelling when household otherwise would move. Incentive to sublet at market rent	
	Subsequent tenants			
	Potential tenants	Benefits those who can find a dwelling to rent; disadvantages those who cannot because of limited supply. Latter probably predominate		

REGULATION TYPE 3: PROVISIONS TO PROTECT TENANTS' SECURITY OF TENURE

(including unlimited or long minimum lease terms, compulsory lease renewal at tenant's request, permitting landlord to terminate lease only for certain reasons, long notice periods for eviction, lease terms binding on subsequent owners of the dwelling)

Economic rationale: Addresses asymmetric power of landlords stemming from inelastic supply of rented housing (due to geographical constraints, planning restrictions, financial system etc.) and monopoly power of landlords vis-à-vis sitting tenants (i.e., because each dwelling is unique each landlord is a monopoly supplier of the dwelling[s] he owns)

TABLE A3: INCIDENCE OF REGULATION FOR PROVISIONS TO PROTECT TENANTS' SECURITY OF TENURE

CATEGORIES OF ECONOMIC ACTORS		HOW THESE ECONOMIC ACTORS ARE AFFECTED BY PROVISIONS TO PROTECT TENANTS' SECURITY OF TENURE	
		FINANCIAL COST OR BENEFIT/ POTENTIAL RATE OF RETURN	INCENTIVES
Landlords	Those who own when the measure is first introduced	Effect on income depends on provisions of associated rent control. Effect on capital value depends on whether lease terms bind purchaser. Reduces landlords' freedom, which could be expected to negatively affect value	Incentive to rent only to 'safe' tenants
	Subsequent landlords		
	Potential landlords		May deter investment, particularly if lease terms bind succeeding purchasers
Tenants	Tenants when the measure is first introduced	Offers certainty that long-term residence is possible	
	Subsequent tenants		
	Potential tenants		

REGULATION TYPE 4: MEASURES THAT AFFECT LANDLORDS' ABILITY TO EVICT PROBLEM TENANTS

These include regulations specifically designed to protect tenants' rights but also those features of the bureaucratic and legal system that affect evictions in practice. Examples include

- minimum period of written notice for eviction
- if court order required, typical time and expense required to secure such an order
- legislation setting out specific permissible reasons for eviction

In general, the longer the time required to remove problem tenants, the greater the economic loss to the landlord through foregone rents and possibly damage to the property.

Economic rationale: Addresses asymmetric power of landlords stemming from inelastic supply of rented housing (due to geographical constraints, planning restrictions, financial system etc.) and monopoly power of landlords vis-à-vis sitting tenants (i.e., because each dwelling is unique each landlord is a monopoly supplier of the dwelling[s] he owns)

TABLE A4: INCIDENCE OF REGULATIONS THAT AFFECT EVICTIONS OF PROBLEM TENANTS

CATEGORIES OF ECONOMIC ACTORS		HOW THESE ECONOMIC ACTORS ARE AFFECTED BY PROVISIONS THAT AFFECT EVICTIONS OF PROBLEM TENANTS	
		FINANCIAL COST OR BENEFIT/ POTENTIAL RATE OF RETURN	INCENTIVES
Landlords	Those who own when the measure is first introduced	Effect on income depends on length of time required to remove problem tenants and associated cost. Reduces landlords' freedom, which could be expected to negatively affect value	Incentive to rent only to 'safe' tenants
	Subsequent landlords		
	Potential landlords		May deter investment
Tenants	Tenants when the measure is first introduced	Offers protection against capricious eviction	
	Subsequent tenants		
	Potential tenants		

REGULATION TYPE 5: QUALITY AND SAFETY STANDARDS

(fire, electrical and gas safety; minimum space standards; ventilation and access, etc.)

Economic rationale: Addresses negative externalities (e.g. fire risk to neighbouring properties of unsafe structures) and increases information through inspections. Possible merit good justification for some regulations.

TABLE A5: INCIDENCE OF REGULATION FOR QUALITY STANDARDS

CATEGORIES OF ECONOMIC ACTORS		HOW THESE ACTORS ARE AFFECTED BY QUALITY & SAFETY REGULATION	
		FINANCIAL COST OR BENEFIT/ POTENTIAL RATE OF RETURN	INCENTIVES
Landlords	Those who own when the measure is first introduced	Relative cost incidence between landlord and tenant depends on detail of regulation – in some countries landlords can pass on costs	
	Subsequent landlords	Small cost for ongoing repairs, inspections etc – but may be passed on to tenants	
	Potential landlords	Probably neutral if all properties meet standard	
Tenants	Tenants when the measure is first introduced	Relative cost incidence between landlord and tenant depends on detail of regulation – in some countries landlords can pass on costs	
	Subsequent tenants	Higher rents if landlord can pass on costs	
	Potential tenants	Higher rents if landlord can pass on costs	
Others	Owners of neighbouring properties	Possible benefits if improvement of rental units increases value of neighbouring dwellings	

Part III



Country chapters

Contents

Denmark	98
England	110
Finland	121
France	126
Germany	134
Netherlands	146
Norway	156
Republic of Ireland	161
Spain	166
Sweden	180
Switzerland	192

III

DENMARK

About 14 percent of dwellings were privately rented in 2010, down from 35 percent in 1970, 22 percent in the early 1980s and 18 percent in the early 1990s.

Although there had been earlier attempts to make the regulation of the private rented sector more flexible, until 1991 the whole of the Danish private rented sector was strongly controlled. There were two main sets of rules about rent-setting; one applied a formula that related rents to costs, and the other allowed for administratively determined rents that were based on the rents of comparable dwellings. Both sets of rules produced rents that were well below notional market levels. Security of tenure was strong.

In 1991 initial rents were completely deregulated but this deregulation only applied to new dwellings. As a result, most rents remain strongly regulated, especially as multi-unit buildings constructed before 1966 for private rental are effectively locked into the tenure, as it is not legal to divide the ownership and sell units to owner-occupiers. Since 1991, there have been few changes in the regulatory picture.

Currently some 88 percent of rented dwellings have regulated rents. Initial rent levels are regulated for all pre-1992 units while rent increases must be set out in the lease contract, even for those dwellings whose initial rent is unregulated. There is strong security of tenure: the standard lease is an open-ended contract, while the landlord can regain the property only in a few prescribed ways. Tenants may sub-let and trade tenancies.

Although experts including the OECD have criticised the Danish system and called for the gradual elimination of rent regulation, the topic is politically contentious and there seems to be little prospect of imminent change. The sector is seen as the poor relation in a country where owner-occupation is strongly tax-favoured and social housing is of good quality and is not stigmatised.

REGULATION PRIOR TO THE 1980s

The first regulation of rents in Denmark was a rent freeze in 1916, imposed in response to big rent increases in the first year of World War I. Rent committees were set up by municipalities to ensure that the freeze was adhered to and renters' rights protected. After 1918, the freeze was gradually relaxed until it was removed in 1931. Rent regulation was then imposed 'temporarily' in March 1939, 'for fear of strong rent rises during the coming world war, and of shortages of material for new construction' (Lunde 2010 p. 263). This was in harmony with the creation of redistributive welfare-state structures through the 1930s. The state in effect compelled landlords to subsidise rents, and the result was virtually to shut down private investment in rental dwellings ending the prolific construction of new rental buildings that had characterised the 1930s. In addition to the rent freeze, there were bans on evictions and demolitions, a ban on owning more than one house, and forced auctions of empty homes.

Over the decades after World War II the stock of Danish housing grew, due to massive state subsidies for new construction of social housing, and the post-war housing shortages disappeared. Rent control, however, remained and became a tool for redistribution. Rather than eliminate the rent regulations (which were still categorised as 'temporary'), politicians added to them. The oft-amended law governing rent control

during the post-war period was the rent act *(Lejeloven)*, under which rents are determined by 'the value of the rented dwelling'. This was not a synonym for market rents, but in practice meant rents were based on the rents of units that were similar in terms of location, type, size, quality and standard (OECD 2006). There were various changes to the system in the 1950s, including permitting smaller municipalities to do away with regulation, but no change in principle.

In 1966, however, there was political agreement about the desirability in principle of removing rent regulation and allowing rents to move with the market. It was felt that a one-off change would be too drastic, so a scheme was devised that was intended to gradually bring rents in both private and social rented housing up to market levels by 1974. But the scheme, which was based on fixed annual percentage increases in rent, did not anticipate the high inflation of the early 1970s and was not adjusted to take it into account. In 1974, then, rents in the private rented sector were at more or less the same level in real terms as they had been in 1967 (Christoffersen 2010; OECD 1999).

The 1966 agreement also for the first time allowed for the division of ownership in former rental buildings, to permit creation of owner-occupied apartments. There were minimum requirements regarding the physical condition and facilities, and new multi-unit buildings could be owner-occupied from the beginning. This led to the exodus of the best quality parts of the private rented sector from the tenure. After 1975 this type of change increased greatly, as tenant co-operatives were given the right of first refusal. The calculation of sales prices was regulated in such a way as to make it difficult for the original owners to capture any capital gains. This avenue of tenure change was closed in 1979 for most properties.

In 1975 a new rent-control act *(Boligreguleringsloven)* was passed which replaced or supplemented some of the provisions of the *Lejeloven* in certain areas of the country. The act introduced a system of cost-based rents, which applied automatically to municipalities with a population of more than 20,000 inhabitants in 1979. Other municipalities could choose whether to regulate rents using the provisions of the earlier Lejeloven or the new law, and as of 2003 about 369,000 units were subject to the cost-rent regime with only about 55,000 under the earlier law (OECD 2006). The new system implied a real increase in rents in 1976 of about 30 percent in real terms (OECD 1999). There are currently plans to combine the *Boligreguleringsloven* and *Lejeloven* into a single act; proposals are due to be published in early 2012.

The lack of maintenance in the PRS that many attributed to rent control was addressed by a series of urban renewal programmes in the 1970s. These did not explicitly target the PRS but as these were the buildings in worst repair they benefitted most.

DEREGULATION OF RENTS ON POST-1991 CONSTRUCTION AND THE COMPLEXITY OF CURRENT RENT SYSTEMS

In 1991, the law was changed to allow landlords and tenants freely to agree rents on negotiation of a new lease but only for dwellings constructed after 1991, and only if the lease specifically stated that the rent was not subject to control. For freely-set rents, subsequent rent rises are limited to the cost of living or *trappeleje* (step change), where the rent increases annually by a set amount that is stipulated in the lease. In 2004, landlords were allowed to charge market rents for new rooftop ('penthouse') apartments built on top of otherwise rent-controlled buildings. A relatively small percentage of privately rented dwellings were built since 1991 and thus are not subject to any kind of rent regulation. Calculations based on official statistics indicate that they make up about 7 percent of the stock (Table 1), while Folketingets Boligudvalg (2011b) states that they comprise about 12 percent of the rented stock. In all, about 90 percent of all privately rented dwellings are subject to some form of rent regulation. Some 88 percent of buildings with between 11 and 20 units have regulated rents.

TABLE 1: APPLICATION OF RENT REGULATION ACROSS PRIVATE RENTED HOUSING STOCK, 2011

PRIVATE RENTED DWELLING TYPE	AGE	NUMBER (000S)	REGULATED?	% OF TOTAL
Dwellings in buildings with 3 or more units	Pre-1991	270	Most yes	66
	Post-1991	18	No	4
Single family houses or dwellings in two-unit buildings	Pre-1991	107	Most yes	26
	Post-1991	12	No	3
TOTAL		407		

Source: CCHPR estimates based on Danmarks Statistik – statistikbanken.dk Table BOL 101. Excludes non-self-contained and 'other' dwellings

Calculation of rents is complex. Edlund (2003) states that 'currently, at least five different rent control systems exist simultaneously.' This has come about because the various changes in regulation sometimes applied only to housing constructed subsequently, while existing housing remained subject to the previous regulatory regime.

The most important systems now are the running-cost system or *omkostningsbestemt husleje*, which applies in most areas, and the value-of-the-rented-property or *det lejedes værdi* system. Under the running-cost system, which applies to most dwellings with regulated rents, the landlord and tenant are not free to agree the rent level. The permitted rent is based on the landlord's running costs plus a fixed owner's yield (which varies with the age of the building and is based on the 1973 value of the dwelling) and a fixed amount for exterior maintenance. Rents can be raised if the running costs exceed the existing rent, or if the landlord has made improvements (Edlund 2003).

The other main system is called the 'value of the rented dwelling'; this applies to all properties (whether houses or flats) constructed before 1991 and not subject to the running-cost system. The concept of the value of the rented dwelling can be traced back to a 1923 law designed to prevent usury by private landlords in Copenhagen. It was not meant to be a market rent, nor was it a rent calculated on the basis of the dwelling's characteristics; rather, it was meant to reflect the average rent for a dwelling of a particular quality in specific area of the city. Under this system it is possible (and not uncommon) for tenants to sign a lease agreeing to pay a certain rent, then request immediately that it be reviewed by the rent tribunal with a view to having it reduced to 'the value of the rented dwelling.'

For pre-1991 dwellings, individual municipalities can decide whether to use the running-cost system for multi-unit buildings; if not the value-of-the-rented property rules apply. The value-of-the-rented property rules also apply to smaller buildings everywhere. In practice however the rents on smaller buildings are heavily influenced by the cost-based system, because in establishing the value of the rented dwelling it is only permissible to look at comparable dwellings in properties with seven or more units and most dwellings in such blocks are covered by the running-cost system (Folketingets Boligudvalg 2011c). The concepts of the two methods of rent control are very different. The rent levels resulting from the value of the rented property now tend to be higher than those in areas with running-cost rents, although this was not the case when the latter was introduced. Initial rents under the running-cost system may exceed 'the value of the rented dwelling', but if the initial running-cost rent is lower then it cannot subsequently be raised above 'the value of the rented dwelling.'

With the agreement of their tenants, landlords subject to running-cost rents can bring their units out of the purview of this system by carrying out a 'thorough renovation'; this is known as a 'paragraph 5 clause 2' renovation. After this rents can be set according to 'the value of the rented dwelling', generally somewhat higher but still below the market level. This renovation and rent rise is on a unit-by-unit basis, so there are

buildings where some units are renovated and have near-market rents, while others are unrenovated and have cost-based rents. About 2000 dwellings are modernised per annum under this provision, and on average the rent increases by 70 percent. In 18 percent of PRS buildings, over half of units are renovated; professional landlords are the most likely to carry out these renovations (Andersen 2010 p. 205).

There is a system of rent tribunals that deals with disputes between landlords and tenants (Edlund 2003). According to Edlund, 'there is considerable uncertainty with regard to tenancy laws, particularly as a result of the many differing and complicated sets of rent regimes in force. Moreover, it is not possible for lay people to properly calculate the maximum rent applicable to a particular tenancy.'

The effect of rent regulation is strengthened by the fact that the standard lease takes the form of an open-ended contract, which the landlord can interrupt only in a few prescribed cases. The tenants may sub-let and trade tenancies (OECD 2006).

Table 2 sets out some details of the different rent control regimes in Denmark.

TABLE 2: RENT CONTROL REGIMES IN DENMARK

RENT REGIME	LEGISLATION	DATE	APPLIES TO	APPROX NUMBER OF DWELLINGS
'Value of the rented dwelling' or 'value of the tenancy' *Det lejedes værdi (DLV)*	The Rent Act *Lejeloven*	1939 et seq	All private rented dwellings built before 1991, unless the Housing Regulation Law is in force in the municipality	55,200 as of 2003 (OECD 2006)
Cost-based rents *Omkostningsbestemt husleje*	Housing Regulation Law *Boligreguleings-loven*	1975	More than 6 units, built before 1991. Default form of regulation for rental-only buildings in larger communes (over 20,000 residents), although local authority may decide not to apply this law. Smaller municipalities may choose to employ this form of regulation	191,400 as of 2003 (OECD 2006)
Small buildings *Småhuse*	Housing Regulation Law *Boligreguleings-loven* The Rent Act *Lejeloven*	1975	In unregulated municipalities the Rent Act is in place. In regulated municipalities, the Rent Act is also in place if the building has 1-6 units, but in reality rents are determined by the Housing Regulation Law.	142,000 as of 2003 (OECD 2006)
Renovated dwellings	Paragraph 5.2 of Housing Regulation Law *Boligregulerings-loven*	1996	Dwellings previously subject to cost-based rents that have been the subject of major improvements (those costing more than 1,984 DKK/m^2 or DKK 266,918 total; cost floor updated annually)	12,500 as of 2003 (OECD 2006)
New buildings		1991	Buildings constructed post-1991 are free from rent regulation if so stated in the lease	17,400 as of 2003 (OECD 2006)
Penthouses		2004	New rooftop apartments built on top of otherwise rent-controlled buildings	No information

Sources: Retssal.dk (2011) *Huslejeændringer* (Changes in rents) www.retssal.dk; accessed 18 Feb 2011; De Økonomiske Råd (2001) 'Chapter III: The housing market – skewed and inefficient' in *Dansk Økonomi Forår 2001* (Danish Economy Spring 2001); EUI Tenancy Law Project: Final Report Denmark; OECD (2006) 'Chapter 4: Housing: Less subsidy and more flexibility' in *OECD Economic Survey Denmark*

	DETERMINATION OF INITIAL RENT	DETERMINATION OF SUBSEQUENT INCREASES	OVERSEEN BY	COMMENTS
	NOT market rent, despite the name. Based on typical rents for similar units in the area, 'in terms of situation, type, size, quality, fittings and state of repair'	Lease to specify periodic rent increases (*trappeleje* – rent steps). If the rent is 'significantly' (10-15%) below 'the value of the rented dwelling', the landlord can demand an increase to that level. This can be done at the earliest 2 years after initial lease or preceding rent rise. Rents can be increased when taxes rise	Municipal Rent Board *Huslejenævn* and Housing Courts *(boligretter)*	Tenancies governed by these provisions are confusingly known in Denmark as 'unregulated' (by comparison with cost-based rents, below) even though rents are not freely determined
	Rents are 'freely agreed' but based on landlord's running costs + fixed amounts for yield (different formulas depending on age of building) and exterior maintenance. Lease cannot contain rents or conditions more onerous than for other tenants in the building	Lease to specify periodic rent increases. Tax increases can be reflected. For leases from before 1/7/96: Lease terms could not be more onerous than rents and conditions for other tenancies in the building. For leases after 1/7/96: Step increases can only be agreed if the initial rent was below the permitted cost-based rent	Municipal Rent Board *Huslejenævn* and Housing Courts *(boligretter)*	These tenancies are known as 'regulated' rents. This regime applies in about six times as many communes as the *lejeloven*, including most of the larger municipalities – together they have about 87% of the housing stock. About 92% of all PRS dwellings are in municipalities that apply cost-based rents *(Folketingets Boligudvalg 2011b)*. Calculation of yield for buildings built after 1964 gives cost-based rents higher than market rents in some cases
	Rents based on 'value of the rented dwelling' but the relevant comparators are dwellings with cost-based rents	As above	As above	Cost-based rents considered inappropriate for smaller buildings
	Free but cannot go substantially above 'the value of the rented dwelling'			As of 2010 about 28,000 dwellings *(Folketingets Udvalg 2011b)*
	Freely agreed, but cannot be 'obviously unfair'	Lease to specify periodic fixed rent increases, or rent increases according to RPI		From 1991-2001, 14,000 private rental dwellings were built in cost-based rent municipalities
	Freely agreed, but cannot be 'obviously unfair'			

TAX AND REGULATORY TREATMENT OF PRIVATE RENTING COMPARED TO OTHER HOUSING TENURES

According to Ball 2002, 'landlords' yields are taxed more than the returns of property owners in other sectors.' Landlords (private individuals or companies) pay income tax on their rental income, and can offset interest charges. In the past, pension funds and life-insurance companies that owned private rented housing have received tax incentives during certain periods. These institutions were the main investors in new private rented housing in the period 1985-1999 (OECD 1999). In the early 2000s there was again a move to stimulate investment in the PRS, and pension funds and private investors were given tax credits and grants to invest in the construction of new rental housing directed at middle-income groups (OECD 2000; Ball 2004). Since 2002, the profits of pension funds and insurance companies from investments in private rented property have been taxed at 15 percent rather than the normal corporate tax rate of 30 (OECD 2006). Landlords who are private individuals cannot access these subsidies.

All other housing tenures in Denmark receive some sort of subsidy. The construction of social housing and new co-operatives is subsidised by the state, and neither social housing providers nor co-operatives are subject to income tax (and conversely have to bear the full burden of mortgage interest).

Mortgage interest is currently deductible at a top rate of 32.7 percent. Until 1998 the treatment was more generous, as all interest payments (including but not limited to mortgage interest) were deductible at a tax rate of 40 to 46 percent (Ball 2002) down from 55 to 60 percent in the early 1980s (OECD 1999). This was offset by a tax on imputed rental income, but the calculation of the imputed income was set at such a low rate that the overall tax position was very favourable to home ownership. The so-called 'Whitsun' package of tax reforms of June 1998 lowered the deductibility of mortgage interest by fixing the applicable tax rate at 32 percent, and ended taxation of the imputed rent of owner-occupied dwellings. In its place a slightly higher property tax was imposed. The combined impact of these measures was to raise average net owner-occupier housing expenditures by 15 percent (Ball 2001), but the tax burden has since been reduced by a property-tax freeze (OECD 2006). As of 2002 there was no capital gains tax on the sale of owner-occupied properties (Ball 2002).

THE CURRENT SCALE OF THE PRIVATE RENTED SECTOR (AND SUBSECTORS)

According to the most recent statistics, about 14 percent of the Danish housing stock is in the PRS; in Copenhagen it is slightly higher at 18 percent. There are about 414,000 PRS units in Denmark today. The number has been falling since about 1970, when it peaked at just over 600,000. Over the same period the number of social rental units has more than doubled from about 230,000 to over 500,000 (Christoffersen 2010 p. 21). Table 4 gives tenure changes since 1960. It suggests that the percentage of private rented dwellings has fallen steadily since 1960. However, recent information provided by the Danish Social Ministry suggests that the number of private rented dwellings increased by about 50,000 in the period from 2000-2010 (Folketingets Boligudvalg 2011).

In Danish law, different regulations apply to various physical types of buildings, so it is meaningful to subdivide the PRS into dwelling types (Table 5). Danish experts consider the 'real' private rented sector to be comprised only of dwellings in buildings with three or more units. Definitional issues make it difficult to be precise about the number of units in the PRS: according to Danish official statistics there were about 414,000 private rented units in 2011 (Table 5), while information provided by the Danish Social Ministry to Parliament gave a figure of 495,828 for 2010 (Folketingets Boligudvalg 2011a).

Table 3 summarises regulation and subsidies to housing in Denmark.

TABLE 3: REGULATION AND HOUSING SUBSIDIES

INSTRUMENTS	HOUSING TENURES			
	Owner-occupied	Private rental	Social housing	Co-operatives
Income tax	Mortgage interest tax deductible	Profits taxed at 28%	Exempt	Exempt
Real estate tax	Yes	Exempt	Exempt	Exempt
Land tax	Yes	Yes	Yes	Yes
Rent regulation	n/a	Yes for older dwellings	Yes	Yes
Character of housing support	Low real estate tax; subsidies from urban renewal scheme (as loans); exemption from capital gains tax	Insider advantage accruing from rent regulation; subsidies from urban renewal scheme	Exemption from real estate tax; insider advantages accruing from rent regulation; subsidised construction	Exemption from real estate and capital gains taxes; price cap on shares implies low second-hand prices; loans to finance new co-op dwellings guaranteed by municipality
Housing allowances for low income	No	Yes – about 35% of private renting households received in 2004	Yes	No
Housing supplement in state pension	Yes, as a loan	Yes	Yes	Yes, 40% grant 60% loan

Source: OECD 2006, Table 4.2; Lejernes Landsorganisation 2004, Table 5.2

TABLE 4: TENURE SINCE 1960 (%)

	1960	1970	1980	1990	2000	2004	2011
Owner-occupied	45.7	48.6	52.1	51.7	51.3	50.5	49.2
Co-operative*			2.1	4.5	6.3	6.7	7.3
Private rental	39.8	34.7	22.1	18.4	18.0	17.4	14.1
Social rental	9.8	14.5	14.4	16.8	19.1	19.0	18.9
Official housing	4.7	2.2	3.1	2.6	1.4	1.4	1.6
Not in use			6.2	6.1	3.9	5.0	6.4
Other or unknown							2.4
Total number of dwellings (000s)	1,463	1,743	2,109	2,353	2,489	2,561	2,745

Source: Lunde 2010; Danmarks Statistik – statistikbanken.dk Table BOL 101

* The co-operative tenure was created in the 1970s in order to allow tenants in private rented housing to buy their property (OECD 1999).

TABLE 5: DWELLING TYPES IN THE DANISH PRIVATE RENTED HOUSING STOCK, 2011[1]

DWELLING TYPE	NUMBER OF UNITS	% OF PRS DWELLINGS
'Permanent' private rented units (in buildings with 3 or more units)	287,287	69
Rented single-family homes or units in two-family buildings	119,398	29
Not self-contained dwellings	2,922	0.7
Other	4,629	1.1
Total number of PRS dwellings	414,236	

Source: Danmarks Statistikbank Table BOL 101

[1] Folketingets Boligudvalg (2011b) gives a more detailed breakdown of dwelling types in the private rental stock.

PRS dwellings tend to be older and smaller than the rest of the housing stock. Some 36 percent of private rented dwellings were built before 1920, compared to 19 percent for the housing stock as a whole (Danmarks Statistikbank Table BOL 101).

In Denmark, the tenure of buildings is generally fixed and can only be altered with difficulty according to Christoffersen, 'when a house is originally established in a given tenure, there are important restrictions and barriers with regard to later change of tenure' (Christoffersen 2010 p. 29). In particular, 'permanent' rental buildings cannot generally be sold as individual units to owner-occupiers. This has been a matter of political contention, and there have been periods when such 'breaking up' was permitted as part of urban regeneration programmes or to encourage owner-occupation or the formation of co-operatives (in Denmark a form of owner-occupation). The current position is that some rental buildings listed buildings or those built since 1966 can be broken up and sold as owner-occupied flats. In addition, any rental building with more than six units can be sold at market price to tenants if they create a co-operative housing society (ibid p. 197) although the tenants only have right of first refusal and cannot force a sale (i.e., there is no 'right to buy'). According to Ball (2001), 'Such rental buildings can be bought cheaply and come with significant tax breaks. A large number of conversions to co-operatives have arisen as a result.' It is generally prohibited to demolish private rented housing.

New construction of private rental dwellings basically ceased in the 1970s but started again in the 1980s, mostly funded by institutional investors. Rules for construction of new social housing imposed a maximum m² cost, which meant it couldn't be built in the best locations or the best quality, especially in the Copenhagen area (e 2010). This left a gap in the market for high-quality rental units. From a low level, new PRS construction continued to increase until the mid-2000s. From 2003-2007 there was an annual tax-incentive programme for institutional investors in the PRS, as well as a subsidy to private developers to build dedicated student accommodation. In addition, after 2007 there was an influx to the sector of newly constructed flats that were originally destined for owner occupation; when the decline in the housing market made them impossible to sell they were changed to private rental. As these units were originally built for owner occupation, they can in the future be sold as such.

RENT LEVELS AND LANDLORDS

There is no up-to-date source of rent statistics in Denmark. In central Copenhagen in 2008, controlled rents averaged DKK 1,039/m², while freely agreed rents on post-1991 dwellings averaged 28 percent more at DKK 1,328/m², according to figures produced by the Danish Property Federation (Ejendomsforeningen 2012). In some areas, however, average market rents are below controlled rents. IPD Dansk Ejendomsindeks collects data on freely agreed rents for the big professional landlords; their figures show that the Copenhagen area has rents about 20 percent higher than in the provinces, and that rents are higher in buildings owned by professional investors (Christoffersen 2010 p. 199).

While rents for regulated dwellings are certainly below market levels, they have been increasing in real terms since 1980 (see OECD 1999, Figure 19). This is largely because of changes in the formulae governing cost rents, in particular increases in the allowances for maintenance and capital charges. In 2001, Ball estimated that 'for modern dwellings, rents are now similar to those in an open market, although such market rents in general still lie below levels where investments in building private rental properties are profitable.' However, the Danish Economic Council said in its 2001 report on housing that rents would have to rise by 43 percent to reach market levels, and a 2004 study calculated that market rents were some 53 percent above controlled rents in the Copenhagen area and 20 percent higher in small towns (Lejernes Landsorganisation 2004, Table 15.1).

Recent surveys show that about 40 percent of private landlords are individuals with other jobs; they tend to have small portfolios and therefore own only 8 percent of PRS dwellings. Professional landlords either individuals or businesses make up 35 percent of landlords but own more than half of PRS dwellings. The remaining landlords are companies whose main business is not renting, builders, and institutional investors. These last represent 7 percent of landlords and have 10 percent of dwellings. They tend to have been involved in the PRS for decades, as on average their first property was purchased in 1930 (Andersen 2010).

The market value of private rented housing currently far exceeds the capitalised yield because investors have been expecting the government to further free the rental market.

MANY EXPERTS RECOMMEND DEREGULATION

Experts both internal and external have been proposing reform of Danish rent regulation for decades. The Danish Economic Council said in 1970 that there was no longer a shortage of housing in Denmark and advocated the elimination of rent regulation, but to no avail. In 1987 the Ølgaard Commission was appointed to look at housing policy, and published its report the following year. It focused mainly on social housing, and said that lifting rent control on the private sector would be a political gesture without real effect as long as the subsidies given to other tenures were unchanged (Christoffersen 2010 p. 123).

In 1994 a rent law commission *(Lejelovskommissionen)* was set up to look specifically at rent regulation. Its 1997 report *(Lejelovskommissionen 1997)* recommended only marginal changes and did not address the issue of differing subsidies to different tenures.

The OECD devoted chapters to housing in its 1999 and 2006 economic surveys of Denmark; both made the case strongly for a relaxation leading to eventual elimination of rent regulation. The Danish Economic Council made similar points in a widely cited 2001 report on the country's housing market.

The criticisms are based on the effect of the regulations on the utilisation and maintenance of the stock, and the disincentive they represent for new construction. Rents paid do not necessarily relate to dwellings' desirability in terms of location, size and general attractiveness, leading to overconsumption of housing, lock-in effects and an insider/outsider split, where desirable homes are acquired on the basis of insider knowledge. In addition, the limited availability of private rented housing brought about by rent control leads to a 'pushing out' of households into other tenures. This has a price effect on housing in those other tenures, particularly owner-occupied housing.

In terms of maintenance, until the late 1990s the formulae used for the various rent-control regimes applied a standard amount for maintenance which did not reflect differences in buildings' physical condition or location, and landlords were limited in their ability to pass these costs on to tenants. This has led to an underinvestment in maintenance. The OECD in 1999 identified 'a back-log of maintenance work of about DKr 12 billion (1989 prices) for the pre-1950 stock' (p. 115).

The maintenance charges were increased in the late 1990s, which improved maintenance somewhat. Of greater importance though were the effects of a widespread urban renewal programme in the early 1990s. Most of the housing improved was private rental housing. 'Most of the urban renewal projects (were) carried out with the landlord as contractor, for whom the urban renewal project typically replaces and finances maintenance investment that the landlord otherwise would have had to undertake at a later stage to keep up the value of his housing capital' (OECD 1999 p. 117). The OECD points out that 'one of the main lessons to be drawn from the experiences of Denmark

and many other European countries is that rent controls, most often without proper regard for incentives to maintenance, have serious long-term effects on the quality of the relevant housing stock, in the end necessitating heavy government outlays to offset the deterioration of the capital stock' (OECD 1999, p. 116).

REFERENCES

Andersen, H S (2010) 'Den private udlejningssektor nu og i fremtiden' [The private rented sector now and in future] in Christoffersen et al (2010)

Ball, M (2001) *RICS review of European housing markets 2001* London: RICS

Ball, M (2002) *RICS review of European housing markets 2002* London: RICS

Ball, M (2003) *RICS review of European housing markets 2003* London: RICS

Ball, M (2004) *RICS review of European housing markets 2004* London: RICS

Ball, M (2005) *RICS review of European housing markets 2005* London: RICS

Christoffersen et al (2010) *Den private ejendomsudlejnings betydning for samfundet [The private rental sector's role in society]* Copenhagen: Ejendomsforeningen Danmark

Danish Economic Council (2001) *Dansk Økonomi forår 2001 Kapitel III: Boligmarkedet – Skævt og ineffektivt [Spring Report 2001: The housing market – unequal and inefficient]* Online at http://www.dors.dk/sw1163.asp . Accessed 9 February 2011

Edlund H (2003) *European University Institute Tenancy Law Project: Final Report Denmark* Online at http://www.eui.eu/Documents/DepartmentsCentres/Law/ResearchTeaching/ResearchThemes/EuropeanPrivateLaw/TenancyLawProject/TenancyLawDenmark.pdf. Accessed 9 February 2011

Ejendomsforeningen (2012) online table LEJ01 at http://stat.ejendomsforeningen.dk

Folketingets Boligudvalg (2011a) 'Spørgsmål nr. 71' 25 February 2011 http://www.ejendomsforeningen.dk/multimedia/13-05-2011-71.pdf accessed 25 May 2012

Folketingets Boligudvalg (2011b) 'Spørgsmål nr. 73' 25 February 2011 http://www.ejendomsforeningen.dk/multimedia/13-05-2011-73.pdf accessed 25 May 2012

Folketingets Boligudvalg (2011c) 'Spørgsmål nr. 74' 25 February 2011 http://www.ejendomsforeningen.dk/multimedia/13-05-2011-74.pdf accessed 25 May 2012

Lejernes Landsorganisation (2004) *Lejervilkår i Danmark: om lejernes sociale og økonomiske vilkår [Rental conditions in Denmark: Tenants' social and economic conditions]* Copenhagen: Lejernes Landsorganisation

Lejelovskommissionen (1997) *Lejeforhold: Lejelovskommissionens betænkning [Rent relations: The rent law commission's report]* Copenhagen: Housing Ministry

Lunde J (2010) 'Private lejeboliger: Den misrøgtede boligform må gentænkes' [Private rental housing: The neglected tenure must be rethought] in Christoffersen et al (2010)

OECD (2006) Chapter 4: Housing: Less subsidy and more flexibility in *OECD Economic Surveys:* Denmark Online at http://www.oecd-ilibrary.org/economics/oecd-economic-surveys-denmark-2006/housing_eco_surveys-dnk-2006-6-en Accessed 9 February 2011

OECD (1999) Chapter IV: Policies for the Housing Market in *OECD Economic Surveys: Denmark* Online at http://www.oecd-ilibrary.org/docserver/download/fulltext/1099131e.pdf?expires=1297269379&id=0000&accname=ocid71015720&checksum=A59628CDD25C5B9B6D9B78DED9EB0A8D Accessed 9 February 2011

III

ENGLAND

Private rented housing currently accounts for some 17 percent of the housing stock, down from over 50 percent immediately after the war, but up from about 11 percent in the early 1980s and 9 percent at its minimum in the late 1980s.

Rent deregulation started in the 1950s when creeping decontrol was introduced and more expensive properties and newly built or converted units were freed from controls. In the 1960s fair rents were introduced which aimed to track notional market rents as if there were no scarcity. In fact in most of the country there was scarcity, and resulting rent levels were usually well below market. Tenure security remained very strong.

In 1980 Margaret Thatcher's government set in motion the deregulation of the sector by relaxing security of tenure on short-term lets and introducing market rents on long-term tenancies. In 1988 rent regulation was abolished for all new leases, and in 1997 the default form of tenancy was changed to one where the landlord has the right of possession at the end of the lease term. There is a tiny rump of tenancies still under older rules, but in general the English system is almost completely deregulated: the standard lease is a six-month or one-year contract after which the landlord can reclaim the property with two months' notice, and rent levels and rent increases are freely set.

The relaxation of regulation, combined with the introduction in the mid-1990s of Buy-to-Let mortgages specifically targeted at residential landlords, together with problems of affordability and access to finance in the owner-occupied sector has led to the doubling of the sector since 1990, with most of the growth since the turn of the century.

Private renting is still seen as inferior to owner-occupation by the vast majority of households but it is increasingly important in housing not just for the young and mobile but also for families.

REGULATION PRIOR TO THE 1980s

Looked at through the lens of history, the story of housing tenure in England[2] is one of a rise in owner-occupation and a corresponding shrinkage of the rental sector and particularly of private renting. This was the trend that prevailed throughout the 20th century. Owner-occupation grew from a small minority tenure at the turn of the 20th century until by 1971 just over half of dwellings were owned by their occupants. In 2000 owner-occupation reached its zenith with 70 percent of dwellings in that tenure.

Rent control was first introduced by the Rent Act of December 1915 as consequence of World War I, as in all other European countries involved in the war. This Act and its successors were all meant to be temporary, but in actuality rents continued to be controlled until the 1980s. Throughout the post-war period and up into the 1990s, the private rented sector was in decline. In 1938, 58 percent of the total housing stock was rented privately, and this had fallen to 32 percent by 1960 (Green Paper 1977, cited in Ball 1983). This section discusses some of the most important policy developments over the century, but omits much detail.

[2] Except where otherwise noted the chapter focuses on England rather than all of the UK, since there are some differences in housing policy between its constituent countries.

The 1957 Rent Act automatically decontrolled rents on all dwellings over a certain rateable value. Landlords could increase rents for existing tenants of lower-value dwellings, but the tenants could object if the property was in disrepair. For these lower-value dwellings, rents were decontrolled on vacancy. The measures were thought to be radical but did not lead to an upsurge in supply. Many landlords didn't increase rents even though they were allowed to, and continued to sell properties into the owner-occupation market. The measure allowing for decontrol of rents on vacant possession led to forced evictions so landlords could raise rents.

The 1964 Prevention of Eviction Act reintroduced security of tenure to deal with the forced-evictions problem created by the 1957 Act. The 1965 Rent Act reimposed rent control on new construction, and introduced 'regulated tenancies' with 'Fair Rents' assessed by rent officers. Rent 'regulation' was seen as distinct from rent 'control', as it was 'designed to create a market in which the overall pattern of prices responds to changes in supply and demand' (Donnison 1967, quoted in Kemp 2004 p. 45). However existing tenancies remained subject to the previous regime until 1972, when the Housing Finance Act provided for the transfer of pre-1965 lettings to new regulated tenancies.

The 1974 Rent Act brought furnished accommodation into regulated rents for the first time, but excluded lettings by landlords who themselves lived in the building. Furnished lettings had previously always been uncontrolled, but landlords had tried to evade rent restrictions by letting property with a minimal amount of furniture.

The 1977 Rent Act consolidated previous legislation and set out the rules for calculations of Fair Rents. It said that the Rent Assessment Committee should determine what the notional fair market rent for the property would be if there were no scarcity. The committee should have regard to 'the age, character, locality and state of repair of the property and the quantity, quality and condition of any furniture provided under the tenancy'. For subsequent registrations of rent, rent officers were to decide a Maximum Fair Rent (based on an allowable percentage increase from the previous registered rent) and a valuation rent; the allowable or registered rent would be the lower of the two. If the landlord had improved or repaired the property, and that was considered to have increased the appropriate rent by 15 percent or more, the Maximum Fair Rent would not apply. A registered rent lasted for two years. Existing tenancies that began before 15 January 1989 are still 'protected tenancies' under the Rent Act 1977, and the rents on these tenancies are regulated. In 1994/5, 14 percent of PRS tenancies were regulated, but by 2007/08 this had fallen to 4.3 percent (English Housing Survey 2008/09, Table 731).

POST-1980: ALMOST COMPLETE LIBERALISATION

In 1980 some 11 percent of the housing stock was privately rented. This proportion had been falling since the early 1900s and was continuing its slow decline. Most landlords were private individuals with portfolios of a few units, as had been the pattern for several decades. There were some institutional owners of large blocks in the 1930s, but the ownership of most of these blocks had been broken up and the units sold into owner-occupation. Private renting generally had a poor reputation as a tenure of shabby, unattractive dwellings owned by unscrupulous landlords. The term 'Rachmanism' was applied, after 1950s London landlord Peter Rachman, notorious for his poor treatment of tenants.

The government of Margaret Thatcher, elected in 1979, set in motion a major deregulation of the sector. 'The notion of an easy-access tenure able to facilitate employment mobility was the immediate motivation for (this) major rethink of law and policy' (Hughes & Lowe 2007 p. 4). The 1980 Housing Act represented a major break in regula-

tion of rents. It drew a distinction between long and short-term tenants. Long-term tenants were left alone under the existing system, although the review period for Fair Rents was reduced from three years to two.

What changed was the treatment of mobile tenant households. The Act introduced 'shorthold tenancies' for new lets of vacant property. These were for fixed periods of between one and five years, and the landlord was guaranteed repossession at the end of the term. Initially these tenancies were let on Fair Rents. From 1982 Fair Rents applied only in London, and this provision was abolished entirely in 1987.

The 1980 Act also established 'assured tenancies' for newly built dwellings, thus deregulating rents on new construction for the first time since 1965. The changes were designed to attract corporations and institutions into the sector to replace small, 'amateur' landlords. Thus not all landlords were permitted to let on assured tenancies – only organisations, not individuals, were allowed to do so. Some 188 landlords were approved for the scheme in the first few years but only a few hundred assured tenancies were created (Crook & Kemp 2011).

The revival of England's private rented sector is often dated from the adoption of the 1988 Housing Act, which abolished rent regulation for new leases signed from 1 January 1989. Pre-1989 leases were unaffected. Landlords were permitted to charge full market rent, with rent increases as set out in tenancy agreements and not specified by statute. However tenants could apply to the Rent Assessment Committee if they felt increases were too high.

The Act did away with the requirement for approval of landlords using assured tenancies, which now became the default form of lease. These gave the tenant relatively strong security of tenure; the landlord had no automatic right of possession even at the end of the lease term.

The 1988 Act also created the possibility of fixed-term 'assured shorthold tenancies' (now usually known simply as shorthold tenancies) with a minimum term of six months, after which the landlord was free to evict the tenant on two months' notice without giving a reason. To use this form of tenancy, the landlord had to state explicitly to the tenant that he wished to do so; otherwise by default the tenancy would be an assured one, with security of tenure. Nevertheless, a study conducted three years after deregulation found that there were twice as many shorthold tenancies as assured tenancies (Bone & Walker 1994). Clearly these landlords valued the ability to remove tenants at short notice, and prospective tenants were willing to sign leases on these terms or perhaps felt they had no choice. In 1997 the default tenancy was changed from assured tenancies (landlord has no automatic right of possession even at the end of the lease term) to assured shorthold tenancies (landlord has right of possession at the end of the lease term, provided he has given two months' notice).

It was probably this change more than any other that was responsible for the strong growth of the private rented sector in England since 1990. This was not because landlords themselves were necessarily keen to evict sitting tenants; most landlords would prefer to keep good tenants for as long as possible. Rather it made private rented dwellings more attractive as collateral for mortgage loans, since lenders could be relatively certain of being able to sell an untenanted property in the event of possession, which had not previously been the case. This change was necessary for the development of a dedicated range of mortgage products for residential landlords, which fuelled investment in the PRS since the mid-1990s (see below).

The effect of the 1988 Act was to raise rents across the private rented sector. Although there is no good time-series data on private rents covering the period before and after deregulation, the government did commission some surveys to determine how the rents were affected. One study looked at about 1000 privately renting households in five local authority areas. Fieldwork was carried out in late 1991/early 1992, three years after deregulation took effect. It found that 'rents for both types of deregulated tenancy combined…were around twice as high as those for Regulated tenancies' (Bone & Walker 1994, p. xii). The difference between regulated and deregulated rents was largest in high-cost areas. Rents on regulated tenancies went up as well, because the rents on post-1989 leases provided new benchmarks for setting the Fair Rents that applied to many of them. The average registered rent for a regulated tenancy in 1988 was £18/week; by 1990 it was £24 (Holmans 2005 Table H.17).

THE INTRODUCTION OF DEDICATED MORTGAGES FOR SMALL LANDLORDS

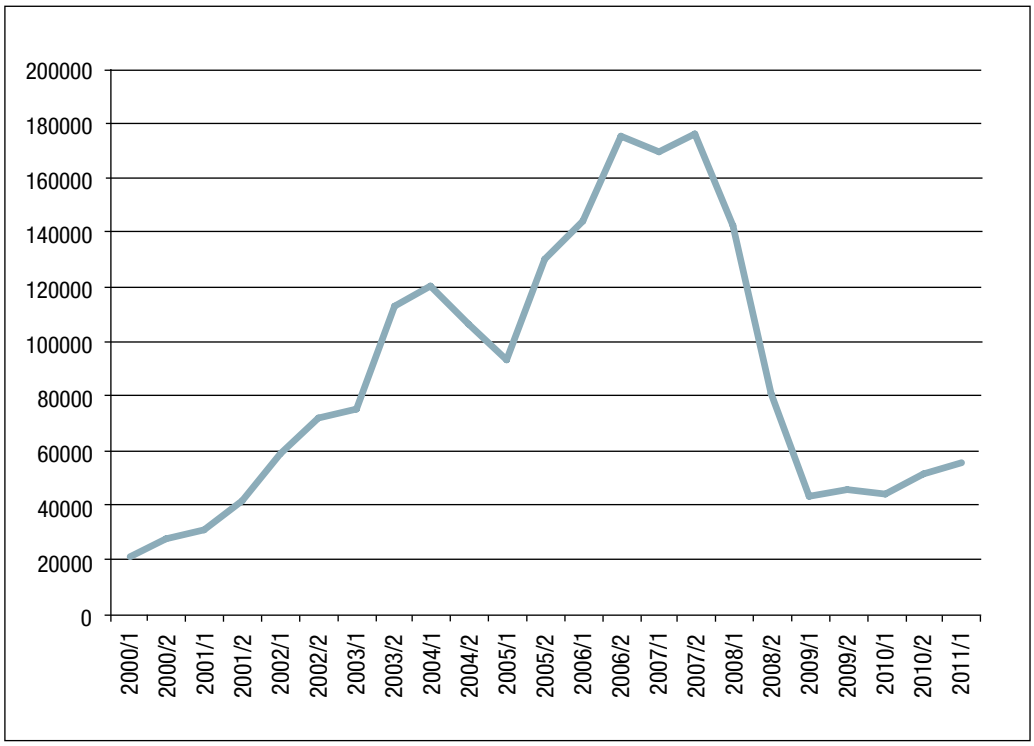
The deregulation of rents in 1988 made private rented dwellings a more attractive investment for landlords, and the change in default tenancy type in 1997 made it less likely that landlords would have unwanted sitting tenants. These changes increased the return on and liquidity of rental units, and led mortgage lenders to reconsider their approach to lending to landlords. Landlords had always been able to borrow to finance new acquisitions, but these loans were generally on commercial terms, which were more expensive than mortgage loans for owner-occupiers.

In the late 1990s this changed with an in initiative known as 'Buy to Let', devised by the Association of Residential Letting Agents and supported by a group of leading lenders. These lenders offered special mortgages to landlords which allowed them to use the rented dwellings as collateral and, crucially, to use projected rental income to meet monthly repayments. Other lenders joined the original group until most lenders offered these loans (now known generically as buy-to-let). The early 2000s saw the arrival of a number of buy-to-let specialist lenders, of which Paragon is the best known. Interest rates on buy-to-let mortgages, which had originally been somewhat above those on mortgages for owner-occupiers, fell until there was little difference between them.

The number of new buy-to-let loans grew explosively in the early 2000s, increasing by a factor of nine from 20,000 in the first half of 2001 to almost 180,000 in late 2007 (Figure 1). During this period buy-to-let investment became an increasingly popular alternative to other asset classes. Many investors were motivated by the prospect of capital gains rather than by rental income.

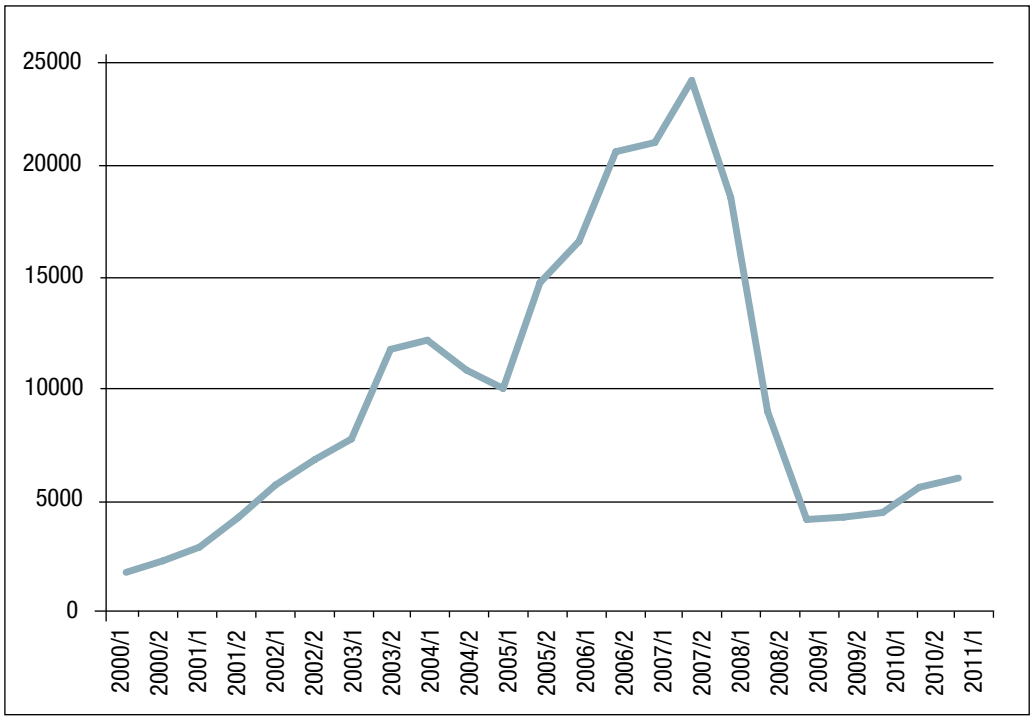
In the wake of the credit crisis buy-to-let lending dropped dramatically (Figures 1 and 2) to less than one-quarter of peak levels. This reflected both a fall in demand from borrowers and the reduction or elimination of buy-to-let mortgage offers from lenders. Several buy-to-let specialists withdrew from the market temporarily as their funding model was based on wholesale borrowing, which dried up during the crisis. Buy-to-let lending has since recovered somewhat but is still far below peak levels.

FIGURE 1: SEMI-ANNUAL NUMBER OF NEW BUY-TO-LET MORTGAGES, 2000 - 2011



Source: Council of Mortgage Lenders Table MM17

FIGURE 2: SEMI-ANNUAL VALUE OF NEW BUY-TO-LET MORTGAGES (£M), 2000 - 2011



Source: CML Table MM17

THE STRUCTURE OF THE ENGLISH HOUSING MARKET AND THE HOUSE-PRICE BOOM AND CRASH

In 1981 some 59 percent of English dwellings were owner-occupied and 11 percent were in private rental. Nearly three times as many (29 percent) were in social rental (Table 1). During the 1980s the private rented sector continued to contract, reaching a low of 9 percent of dwellings in 1989. From the mid-1990s however it staged a remarkable turn-around, nearly doubling its proportion of the housing stock to 17 percent in 2010. This growth in the private rented sector was matched by a contraction in the proportion of owner-occupied housing and a much larger contraction (in proportionate terms) in the social rented sector. According to the latest figures there are now nearly 4 million privately rented homes in the UK (Table 2).

The tables below show the changing tenure distribution over time, culminating with the situation in 2010.

TABLE 1: TENURE DISTRIBUTION IN ENGLAND (% OF DWELLINGS)

YEAR	OWNER-OCCUPIED	PRIVATE RENTED	SOCIAL RENTED
1981	59	11	29
1991	68	9	23
1996	68	10	22
2001	70	10	20
2006	68	14	18
2010	65	17	17

Source: DCLG Live Table 104, Dwelling Stock by tenure, England http://www.communities.gov.uk/documents/housing/xls/table-104.xls

TABLE 2: ENGLISH HOUSING STOCK: TOTAL AND PRIVATE RENTED

	1981	1995	2010
TOTAL HOUSING STOCK	17,912,000	20,305,000	22,693,000
TOTAL NUMBER OF PRS UNITS	2,051,000	1,998,000	3,938,000

Source: DCLG Live Table 104, Dwelling stock by tenure, England http://www.communities.gov.uk/documents/housing/xls/table-104.xls

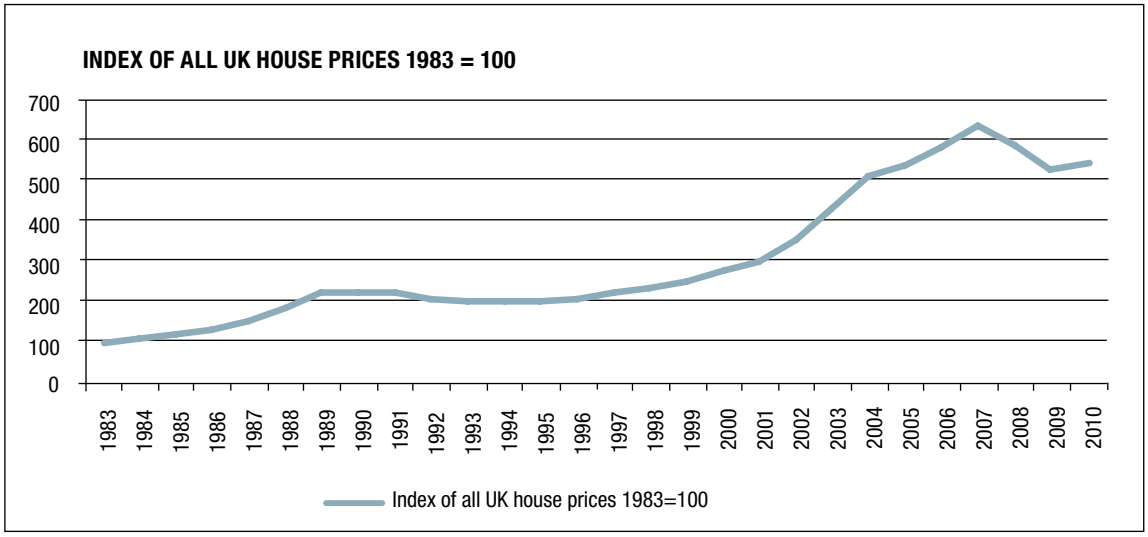
Figure 3 shows developments in house prices in the UK over the period 1983 – 2010. Like most developed countries, the UK experienced a strong house-price boom that lasted for more than ten years, from 1996 to 2007 (Whitehead & Scanlon 2011). Prices peaked in 2008, but transactions had begun to fall several months earlier, in mid-2007. Several factors underpinned the very strong house-price growth in the UK. Chief among them was the country's tight planning regime, which limits the ability of developers to respond to price increases with new construction. Southern England in particular, where house prices are highest and demand pressures strongest, is already one of the most developed areas of Europe. As a result, even during the period of highest construction, the number of new dwellings was not enough to keep up with the number of additional households. This mismatch between the strength of demand and the lack of supply response is one of the factors underpinning the UK's high house prices and rents in comparison to other European countries.

A second factor contributing to accelerating house-price growth in the 2000s was the prevailing low interest rate. The UK mortgage industry is one of the world's most developed and competitive, and mortgage lenders introduced an array of new prod-

ucts to help borrowers purchase homes that they would otherwise have been unable to afford. These products included high loan-to-value loans (in some cases over 100 percent), high loan-to-income multiples, and products that reduced initial costs such as interest-only loans (Scanlon et al. 2008).

After the global financial crisis these 'risky' loan types disappeared completely from the market, and lenders reverted to more traditional underwriting standards. 100 percent mortgages were no longer available, and even 90 percent mortgages (which had been a standard product before the crash) disappeared from the market. Buyers were required to provide down payments of at least 20 percent, with the lowest interest rates reserved for those with a deposit of 30 percent or even more. So even though house prices fell and interest rates remained low, first-time buyers were largely kept out of the market except for those who had parental help with down payments. These erstwhile first-time buyers remained in private renting.

FIGURE 3: NOMINAL HOUSE PRICE DEVELOPMENTS SINCE 1983 (1983 = 100, ANNUAL INDEX FOR ALL UK)



Source: Lloyds Banking Group: Halifax house price index

PRIVATE RENTS

There is no good long-term series of private rent statistics in England. The following tables cover England and its regions and give snapshots of rents for all dwellings (Table 3) and two-bed flats (Table 4). They are based on data collected by the Valuation Office from lettings agents and private landlords. The VO first began to release figures publicly in September 2011, so it is not yet possible to use them to construct a time series. These figures give a median rent for England of £574 per month, and an average rent of £696.

The tables show that, as expected, rents in London exceed rents elsewhere in the country by a factor of two. Even though 60 percent of all privately rented dwellings are houses, analyses of private rents often use a two-bedroom flat as a proxy for a typical private rented property. The median rent of such a flat in London is £1195 and the average is £1358 per month, while in the country as a whole the median is £575 and in the cheapest region, North East England, it is £450.

The aggregate data indicate that a household on median income could easily afford to rent a dwelling at the median rent in most areas; only in London would they have to pay more than 30 percent of income. However for lower-paid households the rental burden is higher; in most of southern England a household whose income was in the 25th centile would pay 1/3 or more of its income to rent a home whose rent was average for the lower quartile (Table 3). For two-bed flats the effect is even stronger: in London a household with earnings in the 25th centile would pay more than half its income to rent a lower-quartile property (Table 4).

TABLE 3: RENTS AND RENT-TO-INCOME RATIOS FOR ALL PRIVATELY RENTED DWELLINGS, ENGLAND AND REGIONS, 2011

REGION	MEDIAN RENT	MEDIAN PAY	MEDIAN RENT/MEDIAN INCOME RATIO	LOWER QUARTILE AVERAGE RENT	25TH CENTILE AVERAGE PAY	LOWER-QUARTILE RENT /25TH CENTILE INCOME RATIO
England/UK*	£575	£2,201	26%	£450	£1,472	31%
North East	£450	£1,961	23%	£395	£1,373	29%
North West	£495	£2,037	24%	£400	£1,384	29%
Yorkshire & the Humber	£470	£2,046	23%	£390	£1,417	28%
East Midlands	£495	£2,087	24%	£400	£1,453	28%
West Midlands	£500	£2,086	24%	£425	£1,423	30%
East	£595	£2,173	27%	£485	£1,453	33%
London	£1,095	£2,877	38%	£795	£1,869	43%
South East	£700	£2,372	30%	£575	£1,572	37%
South West	£595	£2,053	29%	£495	£1,419	35%

*Rent data are for England, earnings data for UK

Source: CCHPR calculations based on Valuation Office rent data for September 2011 and Annual Survey of Hours & Earnings 2010 data for gross incomes of male employees, inflated by 2.3% annual wage growth

CHARACTERISTICS OF TENANTS AND LANDLORDS AND RENTAL YIELDS

One of the main rationales for the deregulation of the PRS in the 1980s was to bring more corporate and institutional landlords to the sector. However despite a series of policy initiatives[3] designed specifically to attract them, it has largely remained the province of individuals and couples. According to a 2010 survey, 89 percent of landlords were private individuals, and 71 percent of rented properties were owned by such landlords (Table 5). This figure is up from 67 percent in 2003. Portfolio sizes are generally small; some 78 percent of landlords owned only a single rental dwelling (DCLG 2011). Only 8 percent were full-time landlords.

Demand for private renting is underpinned by the shortage of social housing in most parts of the country and the difficulty for first-time buyers to access owner-occupation because of tightened mortgage availability. England also continues to attract migrants from the rest of Europe and beyond, and these households normally first locate in the private rented sector though the longer they stay in the country the more likely they are to buy their own homes.

[3] The Business Expansion Scheme (1988), Housing Investment Trusts (1996) and Real Estate Investment Trusts (2007)—see Crook & Kemp 2011 for details.

TABLE 4: RENTS AND RENT-TO-INCOME RATIOS FOR PRIVATELY RENTED TWO-BEDROOM FLATS, ENGLAND AND REGIONS, 2011

REGION	MEDIAN RENT	MEDIAN PAY	MEDIAN RENT/MEDIAN INCOME RATIO	LOWER QUARTILE AVERAGE RENT	25TH CENTILE AVERAGE PAY	LOWER-QUARTILE RENT /25TH CENTILE INCOME RATIO
England/UK*	£550	£2,201	25%	£475	£1,472	32%
North East	£450	£1,961	23%	£400	£1,373	29%
North West	£495	£2,037	24%	£425	£1,384	31%
Yorkshire & the Humber	£460	£2,046	22%	£400	£1,417	28%
East Midlands	£480	£2,087	23%	£435	£1,453	30%
West Midlands	£500	£2,086	24%	£450	£1,423	32%
East	£585	£2,173	27%	£500	£1,453	34%
London	£1,195	£2,877	42%	£950	£1,869	51%
South East	£715	£2,372	30%	£625	£1,572	40%
South West	£595	£2,053	29%	£540	£1,419	38%

*Rent data are for England, earnings data for UK

Source: CCHPR calculations based on Valuation Office rent data for September 2011 and Annual Survey of Hours & Earnings 2010 data for gross incomes of male employees, inflated by 2.3% annual wage growth

TABLE 5: LANDLORDS AND TENANTS

		2003	2006	2010
Landlords		67% of dwellings owned by individual landlords. 33% of PRS owned by single-dwelling landlords.	74% of landlords individuals and couples; 16% companies; 10% other organisations.	89% of landlords individuals and couples; 71% of dwellings owned by individual landlords. 17% of dwellings owned by companies and 16% by other organisations' 40% of rented stock owned by single-dwelling landlords.
Tenants	Short demographic profile		2008: private tenant households more likely to be lone parents with children (10% vs 7% overall), multi-person households, e.g. sharers (17% vs 8%) and single males (19% vs 13%). Less likely to be couples, with or without children.	
	% of PRS tenants receiving housing benefit or equivalent		19.3 (2008/09)	23.7 (2009/10)

Sources: English House Condition Survey 2006: Private Landlords Survey Table 1; English Housing Survey live table FA324; DCLG Private landlords survey 2010; DCLG Live Table 804; English Housing Survey Table 5

The running yield on rental investments in the UK is relatively low, which is one of the reasons that repeated government efforts to attract more institutional investment have failed. Many small investors were attracted to the sector by the promise of capital gains rather than the desire to run a long-term business. During the boom years some landlords had negative yields – that is, their mortgage payments were higher than the rents they received.

According to Investment Property Databank (which compiles information mainly from those institutions that do invest), income yields in 2010 averaged 2.8 percent and only those landlords with properties in central London had seen any capital growth in the preceding three years. However despite the downturn in the housing market, 24 percent of landlords responding to a recent government survey (and 53 percent of new landlords) said they sought only capital appreciation, not income (English Landlords Survey 2010, Annex Table 4.8).

CONCLUSIONS

The nature of the English housing stock, where an individual dwelling can change immediately from owner-occupation to rental and back again, means that it is very flexible and the market can respond quickly to changes in demand; however it also means that the benefits from initiatives to boost the private rented sector can leak away into owner-occupation if market conditions change.

Deregulation of private renting occurred in a piecemeal fashion before 1980 and then more strongly, particularly after 1989. Landlords and tenants were allowed to agree rents at the market level and lease terms were deregulated, giving landlords the ability to remove tenants after the initial lease term with two months' notice. This was a necessary but not sufficient condition for the sector to grow in size. Other important factors included the introduction of buy-to-let mortgages and the huge influx of new landlords into the sector from both buy-to-let and right-to-buy. These new landlords were almost all individuals and couples, not institutional investors. Rents on the new uncontrolled leases were higher than regulated rents, and because of the way regulated rents are calculated, the second-round effect also increased regulated rents.

Landlords and prospective investors have certainly gained from the deregulation of the system, as have many tenants. The standard of private rented accommodation is now better than in the past, and there is a thriving market in most areas and price ranges. Home movers, migrants, young professionals, students and those looking for temporary homes can usually find appropriate accommodation in the private rented sector. The changes have, however, made the tenure less attractive for those seeking a long-term home.

REFERENCES

Bone, M & Walker, E (1994) *Private Renting in Five Localities* London: HMSO

Crook, T and Kemp, P (2011) *Transforming Private Landlords: Housing, markets and public policy* Oxford: Wiley-Blackwell

Department for Communities and Local Government (2011) 'Private Landlords Survey 2010' http://www.communities.gov.uk/publications/corporate/statistics/privatelandlordssurvey2010

Holmans, AE (2005) *Historical Statistics of Housing in Britain* Cambridge: Cambridge Centre for Housing and Planning Research

Hughes, D and Lowe, S (editors) (2007) *The private rented housing market: regulation or deregulation?* Aldershot: Ashgate

Investment Property Databank (2011) 'IPD Residential Index 2010'

Kemp, P (2004) *Private Renting in Transition* Coventry: CIH Publications

Scanlon, K, Lunde, J and Whitehead, C (2008) 'Mortgage product innovation in advanced economies: More choice, more risk' in *European Journal of Housing Policy* 8:2, 109–131, June 2008

Whitehead, C and Scanlon, K (2011) 'Europe's Selective Housing Bubble: The UK' in Bardhan, A, Edelstein, R and Kroll, C (eds) *Global Housing Markets: Crises, Institutions and Policies* Hoboken NJ: John Wiley & Sons

FINLAND

Finland's private rented sector has fallen from around one third of the stock in 1970 to about 16% now. Since the early 1990s the sector has actually been increasingly slightly from a minimum of around 13 percent.

There has been a long history of state control and regulation over the private rented sector. Until the relaxation of regulations in 1987 to enable landlords to generate a reasonable profit from their rental properties, the government controlled every aspect of the PRS, including initial rent setting, rent increases and security of tenure. Landlords' ability to regain control over their properties was limited, and eviction of sitting tenants was allowed only under certain (very limited) conditions.

The deregulation of the sector took place in two stages between 1993 and 1995. In 1993, all new contracts were removed from government regulation, and in 1995 this deregulation was extended to cover all private rental properties. Since then, the content of rental contracts has been subject to very few constraints. Initial rents and rent increases are no longer regulated, except in the case of those fixed-term contracts with predetermined rents which do not include clauses allowing rent increases. Notice periods apply to all private rented tenancies, and are linked to the duration of the tenancy. The landlord's rights to regain the property are only restricted for fixed-term tenancies. Most landlords therefore opt for indefinite tenancies, even though very short fixed-term tenancies are allowed.

Since the deregulation of the PRS, rents have risen steeply, especially in the capital region. Equally since deregulation the size of the sector has increased in absolute and to a limited degree in relative terms. This growth is seen as related to conditions in other tenures as much as in private renting.

REGULATION PRIOR TO THE 1980s

The first Finnish Tenancy Act was passed in 1925 to regulate the quality of rented dwellings. Rent control was introduced during World War II and remained until abolished under the Tenancy Act of 1961. This period of deregulation, however, was short lived. New rent regulation measures were implemented again in 1968 following the devaluation of the Finnish currency in 1967 (Lyytikainen 2006).

Under the 1968 act, rents on dwellings built before the end of 1968 were frozen, although rents for new contracts could still be set freely. Landlords responded by selling off much of the rented stock and evicting sitting tenants, since security of tenure was poorly regulated. As a response, a new Act was passed 1970, increasing tenure security and preventing eviction to free a property for sale or so that the rent could be increased. This Act was eventually replaced by a new rent-control system in 1974, under which maximum acceptable rents and rent increases were determined by the government in collaboration with a panel of tenants and landlords. Limits on rents and increases varied according to the type, age, size and location of the dwelling. Although the purpose of the system was to enable rents to increase in line with running and maintenance costs, real rents in fact fell for a considerable period following the implementation of the new regulation (Lyytikainen 2006).

POST-1980 DEREGULATION

In 1987, the rent regulation was revised again to enable landlords to make a reasonable profit from lettings, and rents began to increase. The 1987 rent control regime applied to all private rented properties in the country until 1993, when control was lifted from new contracts. The deregulation of rents for new tenancies in 1993 increased the difference in average rents per square meter between new and existing tenancies from 10-20 percent to 25-35 percent. In 1995, rent control was abolished altogether in an attempt to increase investment in private rented market. At the same time, regulation on the security of tenure was relaxed, making the Finnish private rented market one of the least regulated in Europe (Lyytikainen 2006). As the economy improved, rents started to increase in the latter part of the 1990s, especially in growth regions. Institutional investment in the private rented market, however, did not increase significantly after the deregulation (Loikkanen & Lonnqvist 2007).

STANDARD LEASE TERMS

Leases are generally signed for an indefinite period, unless the property in question is a sublet or normally used as the permanent residence of the landlord, in which case the contract can be signed for a fixed term. Following the 1995 deregulation of the private rented sector, security of tenure in the sector has declined. Before deregulation, landlords were entitled to serve notice only for reasons such as recurring non-payment of rent or complaints of disturbance. From 1995 on, valid reasons include the landlord's wish to sell the property or increase the rent beyond what the sitting tenant is willing or able to pay. The notice period depends on the length of tenancy. The minimum notice period for landlords is three months for contracts that are not fixed term. If the tenant has occupied the property for 12 months or more, landlords must give six months' notice. Tenants must give one month's notice. Fixed-term contracts are more difficult to terminate prematurely (Lyytikainen 2006).

Most contracts include a clause tying increases in rent to the cost-of-living index. Low-income households in all tenures, including the private rented sector, are entitled to housing allowances. Students and pensioners have their own allowance systems, which differ from the general housing allowance. In 2009, nearly 20 percent of private sector tenants were receiving general housing allowance, compared with approximately 27 percent of social tenants. Some 24 percent of students living in the private rented sector were receiving the special housing allowance for students (Statistics Finland 2009).

FINNISH HOUSING POLICY AND OTHER HOUSING TENURES

The key objective of Finland's housing policy is to assure affordable and decent housing for all. Until the mid-1990s, all sectors of the Finnish housing market were subject to a high degree of government control through subsidies, taxes, tax incentives, financial market regulation and rent regulation.

Municipal governments play an important role in housing and planning. They control land use and planning within each municipality, and own many of the companies that provide subsidised housing. Municipal governments also set property-tax rates, within the limits set by central government.

Subsidised rented housing has a long history in Finland. The government offered subsidised so-called ARAVA loans to municipalities and other non-profit operators to provide social housing until 2007. In parallel, there was a system of state-guaranteed, interest-subsidised loans for rental housing construction. This system is still in use. These loans can be used for new construction or purchase of exsisting dwellings.

Until 1997, some ARAVA loans were also available for the construction of housing for owner-occupation. Since 1997 only low-income owner-occupiers have been eligible for interest-subsidised and government guaranteed loans (Saarimaa 2009).

All rental dwellings financed by subsidised loans and interest subsidies are subject to tenant allocation and based on cost rent. Tenants for subsidised rental dwellings are selected on the basis of social suitability and need, and rents are cost-based and determined by capital expenditure and maintenance costs. In terms of household income, tenants living in subsidised units are less well off than the population as a whole. The income criteria used for the allocation of subsidised rental housing, however, are lenient, and approximately 70 percent of Finnish households are eligible for a subsidised unit (Saarimaa 2009). Since 2008 the income criteria have no longer been applied. During the era of rent control, the vast majority of new rental housing was financed by government-subsidised loans or with the help of interest subsidies. Especially during the recession years in early 1990s, nearly all new construction was subsidised and thus the share of social rented housing of the overall stock increased in all parts of the country except Helsinki (Loikkanen & Lonnqvist 2007).

The deregulation of the financial system has increased volatility in Finland's housing markets. Before the liberalisation of the financial markets in the late 1980s, the regulation of interest rates and associated credit rationing kept mortgage loan-to-value ratios low. Loan maturity periods were short, often less than 10 years, and buyers required considerable savings (Saarimaa 2009).

Following the liberalisation of financial markets, the improved availability of mortgage loans with longer repayment periods released the excess demand created by financial regulation. Widened access to home ownership, together with rapid economic growth, triggered a house-price boom in the late 1980s. The boom was followed by a bust and rapidly falling house prices in the early 1990s. As a result of economic recovery, low interest rates, deregulation of rents in the private sector and increased immigration, the housing market started to recover in the latter part of the 1990s (Saarimaa 2009).

Promotion of home-ownership via tax subsidies is a central feature of Finland's housing policy. Since the tax reform of 1993, capital income has been taxed at a flat rate (currently 28 percent), and income from paid employment is taxed at a progressive rate. The tax system in its current form gives preferential treatment to owner occupiers over landlords and, subsequently, tenants living in private rented properties. Imputed rental income and capital gains from the sale of an owner-occupied property (which has been used as primary residence for at least two years) are not taxed, while mortgage interest is deductible from taxable income (Saarimaa 2009). First-time buyers under the age of 40 are also exempt from paying a transfer tax.

The benefits of tax subsidies and non-taxation of capital gain from the sale of owner-occupied property are partly offset by a municipal property tax, which was introduced in 1993. This tax, however, is payable by all property owners, landlords as well as homeowners (Saarimaa 2009). The 1993 tax reform also reduced the tax deduction rates of mortgage interest.

RENTS, RENT REGULATION AND SECURITY OF TENURE

A brief overview of changes in real rents in 1974-2004 shows a decline in average rents per square metre until 1979, apart from 1974 when the regulatory system was modified. In 1979-1988 the rents stayed fairly stable. From 1988, rents began to increase roughly at the same pace in both social and private rented housing. The impact of the 1993 and 1995 deregulations can be seen a few years after the deregulation, although the impact may have been dampened by the recession of the 1990s, which led to an

increased supply of rented housing at a time when demand diminished (Lyytikainen 2006). Table 1 below shows the changes in nominal rents per square metre by tenure over time.

TABLE 1: RENTS BY TENURE 1965-2009 (AVERAGE MONTHLY RENT IN €/M²)

YEAR	TENURE		
	Subsidised (social and intermediate)	Private	All rented
1965			0.77
1970			0.96
1980	1.91	2.08	2.01
1990	3.91	4.33	4.14
2000	6.39	7.67	7.10
2009	8.93	10.07	9.48

Source: Official Statistics of Finland (2009)

INVESTMENT IN PRIVATE RENTING

Investment in private rented housing in Finland has generally not been incentivised by fiscal policies. Unlike owner-occupiers, private sector landlords are not subject to any preferential treatment. Homeowners and landlords are both required to pay a municipal property tax (Saarimaa 2009). Although owner-occupiers do not pay tax on imputed rent, rental income is taxable. The dual income taxation system implemented under the 1993 tax reform increased the profitability of investment in private rented housing by making rental income subject to a fixed-rate tax on capital income (currently 28 percent) rather than the progressive-rate income tax. Landlords also pay capital gains tax, while owner-occupiers are exempt (OVV Asuntopalvelut 2009).

Costs associated with letting, such as service charges, utility costs, property taxes, insurance, advertising fees, and minor repairs are deductible from rental income. The cost of major refurbishment can be deducted from rental income over a period of ten years, with 10 percent of the costs being deducted annually. Any expenses caused by eviction of a tenant, including legal fees, are also deductible from rental income. Rental income from subletting is treated similarly to general rental income (OVV Asuntopalvelut 2009).

Further reductions for wear and tear can be made for furnished properties. The costs must be declared in detail or a cap of €30-45/month applies, depending on the size of the property. Appliances and furniture are subject to depreciation, but top limits apply (OVV Asuntopalvelut 2009).

Losses from letting can be offset against income from other capital investment. In the absence of other income subject to capital income tax, deductions can be made from earned income. In order to offset the losses against other income, a landlord must prove that the property has not been rented significantly below market rate (OVV Asuntopalvelut 2009).

In connection with the measures to fight the financial crises of 2008, government guaranteed loans were made more widely available to investors and developers across the board, including real estate companies building private rented properties. The purpose of the enhanced access to government guaranteed loans was to boost the building industry, shorten queues for social rented housing and generate more housing for

people who did not qualify for social and intermediate rented housing and subsidised tenure-ownership schemes. The system included an interest subsidy for a maximum period of 10 years. The system was in use for 2009-2010 and resulted in 7,400 new dwellings. At the moment there is a similar system without interest subsidies (only with state guarantee), but it has so far led only to a very limited number of new dwellings. Dwellings financed by government-guaranteed loans must be rented for a minimum of 20 years (Ministry of the Environment 2008).

HOW REGULATION IS PERCEIVED

The deregulation of rents and security of tenure is believed to have had a positive impact on the relative and absolute size of the private rented sector. While the number of private rented dwellings decreased in 1970-1990 under rent control, the period 1990-1995 witnessed an increase of nearly 50 percent in the number of private rented dwellings. Since 1995, the number of private rented properties has continued to increase, but the relative size of the sector has changed little (Lyytikainen 2006).

The decline in security of tenure under the 1995 Act has made it increasingly easy to sell private rented units for owner-occupation. The change in legislation reducing tenants' rights has arguably made private renting less attractive to prospective tenants, while the liberalisation of financial markets and improved availability of mortgage loans have made owner-occupation increasingly accessible.

REFERENCES

Loikkanen, H & Lonnqvist, H (2007) 'Metropolitan housing markets – the case of Helsinki' in Andersson, A, Pettersson, L & Stromquist, U (editors) *European Metropolitan Housing Markets* Springer (on-line publications)

Lyytikainen, T (2006) 'Rent Control and Tenants' Welfare: The Effects of Deregulating Rental Markets in Finland' VATT Discussion Papers, 385. Helsinki: Government Institute for Economic Research

Official Statistics of Finland (OSF) (2009) *Rents of dwellings* [e-publication]
Helsinki: Statistics Finland. Available online
www.stat.fi/til/asvu/meta_en.html. Accessed 22 May 2012

OVV Asuntopalvelut (2009) 'Vuokra-asunto verotuskohteena'
http://www.vuokrakas.com/sitenews/view/-/nid/13/ngid/3. Accessed 26 February 2011

Saarimaa, T (2009) *Studies on Owner-Occupied Housing, Taxation and Portfolio Choice Joensuu:* University of Joensuu. Also available online http://joypub.joensuu.fi/publications/dissertations/saarimaa_studies/saarimaa.pdf. Accessed 27 February 2011

III

FRANCE

The relative size of the private rented sector has declined very little since the early 1980s when it accounted for 23 percent of the stock. In 2006 the latest statistics show private renting at 22 percent.

The 1948 Rent Act decontrolled all new buildings and conversions while leaving in place strong security of tenure. This position changed dramatically in 1982 with the enactment of the Quilliot Law. This significantly strengthened tenants' rights and introduced rent controls across the entire stock. However, in the face of very low construction, rent controls were relaxed in 1986 with the adoption of the Mehaignerie Law. This freed the rents of new and vacated units and allowed them to be revised annually in line with the construction price index. Because rents increased dramatically in some areas following the passage of the 1986 law, the government reintroduced stricter controls under the Mermaz-Malandain Law in 1989, which allowed, in Paris only, the imposition of one-year limitations to rent increases when leases were renewed.

Today, the 1989 law remains the primary arbiter of rent control in France. It regulates rent increases during the lease, but leaves the landlord free to set the rent when signing a new lease. From 2006, the annual adjustment has been based on the National Institute for Statistics and Economic Studies Rent Reference Index, which was calculated on the basis of three indices: cost of living, maintenance and renovation costs and construction costs. Since 2008, annual rent adjustments have been based on the cost of living index alone.

Private renting is seen as more expensive and often less desirable than social renting but houses a significant proportion of vulnerable households. Landlords are eligible for some subsidies, as are properties in all tenures, and private tenants are eligible for personal allowances. There are some moves currently to try to restrain investment incentives to private rental investments and possibly to reintroduce some forms of rent control in Paris and other shortage areas.

REGULATION PRIOR TO THE 1980S

Since World War I, the state has played a significant role in the regulation of the housing market in France. Changes in the relative sizes of the different tenures have been greatly influenced by housing policy measures. Following the destruction of dwellings during the wars and a low level of construction during the inter-war period (only about 1,600,000 dwellings were built in France in the 20 years from 1919 to 1939), France was facing severe housing shortages at the end of World War II. To reduce the shortage, policies were put in place to stimulate investment in homeownership and rented dwellings for both the private and social rented sectors. The key measures included subsidy schemes and low-interest loans to stimulate the construction of properties destined for social renting and homeownership, fiscal policies to encourage homeownership, and relaxation of rent controls and regulation to encourage investment in the private rented sector.

Between 1945 and the 1960s, these policies together with the income growth that resulted from economic development led to a significant increase in the absolute and relative size of the owner-occupied sector. Incentives designed to encourage homeownership increased the relative attractiveness of this form of tenure as opposed to renting on the free market. Considerable investment was also made in developing social rented housing to ease housing shortages and consequently, the relative size of the social rented sector expanded rapidly (Haffner et al. 2009).

In 1977, the new Housing Act simplified subsidy systems for both social and private sector landlords. More support became available for home improvement, and the emphasis of subsidy systems shifted from the supply side to tenants. At the same time, more attention was paid to the quality of the housing stock. Subsidies and subsidised housing started to be targeted more specifically to low-income households. Large numbers of private rented properties were demolished under slum clearance initiatives.

In the private rented sector, the vast majority of rental units remained outside of rent controls. Only those built prior to the 1948 Rent Act were controlled.

POST-1980: CONTROLS ON RENT TIGHTENED THEN RELAXED

In 1982 the Quilliot Law (also known as the 1982 Rent Act) was introduced. This significantly strengthened tenants' rights and introduced rent controls across the entire stock. However, the tight control made investment in rental housing unprofitable and subsequently rental supply plummeted.

In the face of very low rental supply, and in line with the political views of the new government, rent controls were relaxed in 1986 with the adoption of the Mehaignerie Law. This freed the rents of new and vacated units and allowed them to be revised annually in line with the construction price index.

Although construction of rental units increased significantly from 5,000 per annum in 1984 to 20,000 in 1989, rents also increased dramatically in some areas, particularly Paris, following the passage of the 1986 law. The government felt it necessary to reintroduce stricter controls and did so with the passage of the Mermaz-Malandain Law in 1989, which allowed the imposition of limits on rent increases when leases were renewed (Van der Heijden & Boelhouwer, 1996). Such limits were imposed in Paris several times beginning in 1989, however they were considered window-dressing since their effect on rents was imperceptible.

Since the 1980s, more attention has been given to the efficient use of the housing stock and investment in the private rented sector. Various tax-incentive schemes were introduced that offered a fixed reduction of taxable income or accelerated depreciation for individuals investing in new rental dwellings. Also, some of the subsidised loans and subsidies used to finance social rented housing were made available for private investors. Rental dwellings financed with the help of these subsidies or subsidised loans are subject to certain tenant allocation criteria and regulations regarding income ceilings and maximum rents. Dwellings in this category form the intermediate rental sector.

Since 1999, landlords of private rental properties vacant for over two years in eight of the largest conurbations have been subject to a tax of 10–15 percent of the rental value of the vacant stock. Individuals who renovate a property that has been vacant for over 12 months and make it available for letting are entitled to a one-off cash premium from the National Agency for Housing (Agence Nationale de l'Habitat; ANAH) providing they are willing to agree to a certain maximum rent (Haffner et al. 2009). These measures however had no perceptible effect on the private rental market.

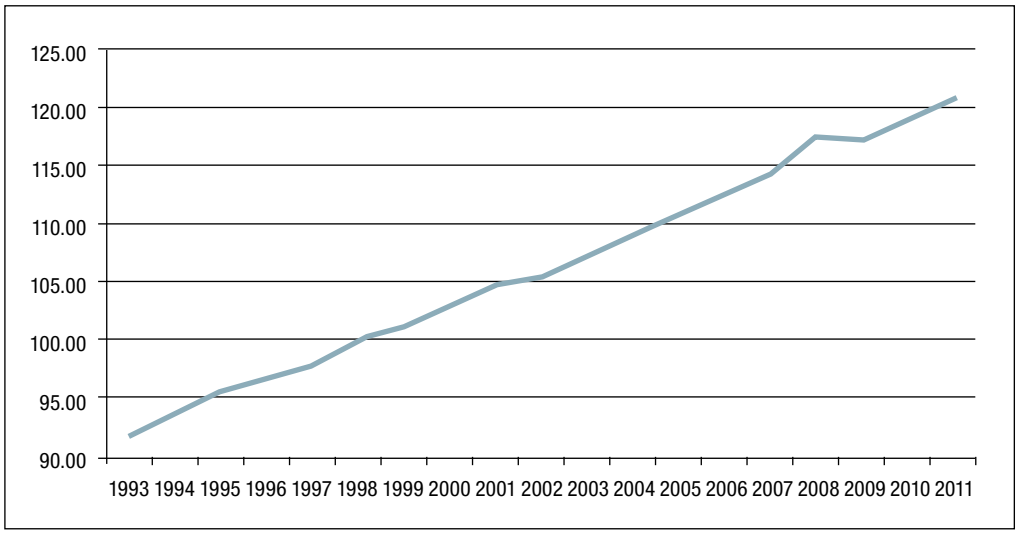
THE CURRENT SITUATION: FREE INITIAL RENT BUT INCREASES REGULATED

Today, the Mermaz-Malandain (1989) law is the primary arbiter of rent control in France. It regulates rent increases during the period of the lease, but leaves the landlord free to set the rental level when signing a new lease.

Under the most common form of arrangement, rent setting is free for new contracts but the annual rent increase is regulated. Less than five percent of the privately rented stock is subject to strict rent control under the terms of the rental law of 1948 (Ball 2011).

When a contract is renewed for a sitting tenant, the rent is based on the old rent or rents for similar properties in the same area. From 2006, the annual adjustment of rents has been governed by the National Institute for Statistics and Economic Studies (Institut National de la Statistique et des Études Économiques, INSEE) Rent Reference Index (Indice de Référence des Loyers, IRL), which was calculated on the basis of the index of the cost of daily living, the index of maintenance and renovation costs and the index of construction costs. Since 2008, annual rent adjustments have been based on the cost of living index (except rents) alone. However, the IRL grew quite substantially during 2007 and 2008, reaching almost 3 percent in the third quarter reflecting general inflationary pressures. In 2009, as inflation subsided, it flattened off but rose somewhat in 2010 (Figure 1).

FIGURE 1: RENT REFERENCE INDEX, 1993–2011 (1998 = 100)



Sources: 1993-2001 from Sak and Raponi (2002) Table 4.3A; 2002-2011 from Rent Reference Index (base 1998), France's National Institute of Statistics and Economic Studies, October 13, 2011 http://www.bdm.insee.fr/bdm2/listeSeries.action;jsessionid=34A1F648B22ACA84AD9EB74ACA101AFA

Rents in the private sector are significantly higher than social rented sector rents. In 2009, the average annual rent for a free market dwelling was €6,300 while that for regulated-rent market was €4,000 (Dol & Haffner 2010, Table 4.6). Because the average income of private sector tenants is in general below those of social tenants and owner-occupiers, they inevitably have to pay more of their income for housing costs. Table 1 shows that the poorest private tenants (those with incomes in the first decile) paid the largest proportion of their incomes on rent, over 35 percent in 2002 and nearly 40 percent in 2006.

Landlords can be protected by a government-backed insurance scheme, which provides cover for rent arrears and damage inflicted on the property by tenants, but only a minority of them take it up. Private insurance is more common. A substantial share of new private rental dwellings is sold as a package that includes the management of the property and insurance. Management fees can be deducted from rental income for taxation purposes (DCLG 2010).

TABLE 1: PERCENTAGE OF INCOME SPENT ON RENT BY INCOME DECILE, 2002 AND 2006

HOUSEHOLD INCOME DECILES	PRIVATE RENTED SECTOR		SOCIAL RENTED SECTOR	
	2002	2006	2002	2006
1	35.9	39.1	17.1	21.5
2	25.9	26.8	16.4	17.5
3	24.2	27.6	17.7	20.2
4	23.7	26.6	18.5	20.0
5	23.0	24.6	18.8	19.3
6	22.9	23.8	17.6	18.2
7	21.5	22.3	16.7	16.8
8	20.1	19.4	16.2	15.2
9	19.4	19.5	14.8	15.0
10	14.1	15.3	11.5	13.0
All	20.6	22.4	16.7	17.9

Sources: National Institute of Statistics and Economic Studies http://www.insee.fr/fr/themes/tableau.asp?reg_id=0&ref_id=NATnon05239 and http://www.insee.fr/fr/themes/tableau.asp?reg_id=0&ref_id=NATnon05240

The standard length of a contract in the 'free' market sector is three years for unfurnished dwellings (six years if the landlord is not an individual) and one year for furnished dwellings. Landlords are allowed to terminate a tenancy agreement at the end of the lease if they wish to use the property for their own occupation or to house a close relative or a family member, sell the property, carry out major refurbishment of the property, or if the tenant has consistently failed to meet their obligations in the past. If the landlord wishes to sell the property, the sitting tenant has the first right of refusal (DCLG 2010). Absolute security of tenure applies only for the duration of the tenancy agreement.

TAX INCENTIVES FOR PRIVATE RENTED HOUSING

France has a long history of strong state intervention in rented housing through subsidies, tax breaks, rent controls and regulations to stimulate investment. Subsidies peaked at the end of the 1990s then declined, but grew again after the creation of the *Agence Nationale pour la Rénovation Urbaine* (ANRU, National Agency for Urban Renovation) in 2004 to implement renewal projects in disadvantaged areas (Montabone & Gaudin 2010).

Tax incentives vary between individual and institutional landlords. Larger private companies are subject to corporation tax, which is payable on the difference between their revenue and items that qualify for deduction. These include various taxes, labour costs, depreciation and interest. Companies that own property also need to pay a tax of 3 percent of its market value. Companies that invest in and let property of which 75 percent or more is used as a residence are exempt from corporation tax. The number of such companies, however, is very small. Smaller companies are subject to regular income tax rather than corporation tax.

Individual landlords pay income tax on rental income. The simplified fiscal regime allows them to deduct a fixed 30 percent from annual gross rental incomes below €15,000 to offset costs. Those whose gross annual rental income exceeds €15,000 can opt for a "real expenses" regime which allows to deduct costs from rental income as they occur, including maintenance costs, refurbishment, improvements to the property and property taxes. Mortgage interest is also deductible as long as the balance remains positive. Negative balances of up to €10,700 can be deducted from income from other sources (Haffner et al. 2009).

Private rental sector landlords are also eligible for certain tax concessions and fiscal advantages under different schemes. For example, in 2003, two buy-to-let schemes were introduced for individual households wishing to invest in new private rental property: the *Robien recentré* (for the construction, purchase or refurbishment of dwellings for the 'free' market rental sector) and the *Borloo-neuf ou populaire* (for the construction of dwellings for the intermediate sector). Properties financed under these schemes had to be let for a minimum period of nine years and were subject to maximum rents, although these were much higher than in the social rented or intermediate sectors. Under the *Robien recentré* scheme, 6 percent of the construction or acquisition costs could be deducted annually from rental income for a period of seven years. For the following two years, annual deductions of 4 percent could be made. A maximum negative balance of €10,700 per annum applied. The scheme was available mainly in regions with tight housing markets (Haffner et al. 2009). Between 2003 and 2008 some 230,000 individual landlords participated (DCLG, 2010).

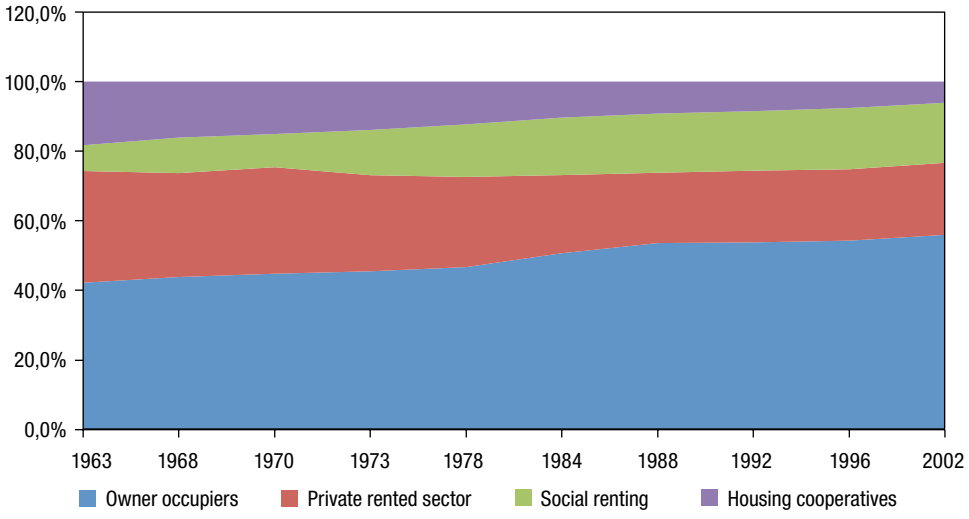
The *Robien recentré* and *Borloo-neuf* were replaced in 2010 by a new tax incentive scheme *(loi Scellier)*. The Scellier scheme initially offered a tax reduction equivalent to 25 percent of the property purchase price (up to €300,000) for nine years (Andrews et al. 2011, footnote 29); this percentage has been reduced since then, it is 13 percent in 2012. The incentive scheme is available only in urban areas and is due to expire at the end of 2012 (DCLG 2010).

Private rental landlords are eligible for ANAH subsidies and loans for home refurbishment and improvement, which aim to make existing stock available for social or intermediate rental sectors. These grants normally cover 15 percent of refurbishment costs, although larger grants are available for landlords willing to charge lower rents. Landlords renovating their rental properties are, under certain conditions, also eligible for a lower VAT rate of 5.5 percent.

POST-WAR DECLINE IN PRIVATE RENTED SECTOR, FOLLOWED BY REVIVAL AFTER 1980

The relative importance of the private rented sector has declined since World War II. In 1963, private rented dwellings made up approximately 36 percent of the total housing stock (Bonvalet & Lelièvre 1997). The proportion of market rented housing continued to fall, reaching 32 percent in 1984 and 24 percent by 2009. Even so, private renting is still the second most common tenure in France (Figure 2).

FIGURE 2: HOUSING TENURE IN FRANCE, 1984–2009



Source: enquête logement

Although the homeownership rate in France is below the European average, owner-occupied housing dominates the country's housing market. The homeownership rate increased from 39 percent in 1961 (Bonvalet and Lelièvre 1997) to 52 percent in 1984 and 58 percent in 2009 (Figure 2). In 2009, the social rented sector accounted for 17 percent of the country's housing stock. Most of the social rented stock is owned by the *habitation à loyer modéré* (HLM) organisations that can be either public companies controlled by local authorities or private non-profit organisations controlled by shareholders from both public and private sectors (Scanlon & Whitehead 2011).

The number of privately rented dwellings has expanded steadily over the past four decades from 5 million in 1963 to over 6 million dwellings today.[4] The stock is relatively new compared to those of many other European countries. Nearly 60 percent of private rented dwellings were built after 1948 and as many as 14 percent after 1990, with new building encouraged by attractive renovation subsidies and land allocations (Ball 2011). Private rental sector dwellings are also, on average, smaller than dwellings in other tenures. In 2009, the average living area of free-market rented dwellings was 57m², compared to 68m² in the social rented sector (Dol & Haffner 2010, Table 4.6). In comparison to the social rented sector, the private rented sector has fewer homes with three or more bedrooms (Table 2). Dwellings let by institutional landlords tend to be newer and in better condition than those let by individual landlords (Donner 2000, cited in Haffner et al. 2009).

TABLE 2: SIZE OF ACCOMMODATION BY TENURE, 2009 (%)

TENURE	1 ROOM	2 ROOMS	3 ROOMS	4 ROOMS	5 ROOMS	6 + ROOMS	TOTAL
Owner occupation	3.0	8.2	19.8	31.8	23.5	13.7	100.0
Private rented	18.7	26.9	27.6	18.0	6.4	2.4	100.0
Social rented	8.4	18.4	35.1	29.1	7.9	1.1	100.0
Other	10.0	18.2	26.6	25.1	12.8	7.3	100.0
Vacant	23.0	23.9	24.7	16.8	7.4	4.2	100.0
Second homes	18.0	25.2	24.9	16.2	8.5	7.2	100.0
TOTAL	10.1	16.4	24.3	25.8	15.1	8.3	100.0

Source: National Institute of Statistics and Economic Studies http://www.insee.fr/fr/themes/tableau.asp?reg_id=0&ref_id=NATTEF05257

The private rental sector is diverse in nature and accommodates different segments of the population. In particular, private renting is common among students and single working people. Households living in private rented properties are, on average, younger than households living in owner-occupied or social rented housing. Private renters are generally located in the inner city areas of the large cities, with the greatest number in the Paris area. Such tenants are highly mobile: two-thirds occupy their dwelling for less than four years (Ball 2011).

In terms of income distribution, the private rental sector serves an intermediate position in France's housing market. The average incomes of private sector tenants fall between those of social tenants and owner-occupiers. In 2006, just over 30 percent of private tenants fell into the two bottom income quartiles, while nearly 20 percent were in the highest income quartile (INSEE Housing Survey – for more detail, see Annex Table 2).

France has a long-established system of personal housing allowances, which are organised on a tenure-neutral basis, i.e., they are available to all low-income households regardless of tenure. The rental allowance in the private sector *(allocation de loge-*

[4] Figures based on INSEE National Housing Surveys provided by Jean Bosvieux, Director des étude.

ment or housing allowance) is a means-tested benefit. This is distinct from the APL (*aide personnalisée au logement* or personal housing assistance) for public-sector tenants, although the difference between AL and APL relates purely to the source of funding. The level of the allowance depends on the income and composition of the household and its housing costs, and the benefit is capped (Laferrère & Le Blanc 2004). Homeowners who are repaying a loan are also eligible for a personal housing allowance, but on a different basis.

The proportion of private rented stock owned and let by institutional landlords has declined steadily from the 1970s onward as the relative profitability of investment in private rented housing as opposed to other types of property has declined (Haffner et al. 2009). The vast majority (some 96 percent) of the private rental stock is owned by individuals. On average, each individual landlord (or couple) owns about 1.9 dwellings, although this figure excludes furnished flats and dwellings which are occupied rent-free (INSEE Housing Survey 2006).

HOW REGULATION IS PERCEIVED

Exceptionally for Europe, the relative size of the 'free' rented sector in France has increased since the early 1980s. This may partly be a consequence of the various tax incentives that have been available for individual rental investors. Except for those still governed by the 1948 regulations, the average quality of private rental properties has greatly improved over time because of the availability of loans, subsidies and tax incentives that have encouraged private sector landlords to refurbish and renovate their rental properties. Security of tenure in the private rented sector is strong within a tenancy.

Overall, the private rented market retains an important role in the French housing market, particularly for medium-income households. It offers an alternative to the social rented sector with its income limits and to owner-occupation with its high housing costs and current low loan-to-value mortgages (Andrews et al. 2011).

REFERENCES

Andrews, D, Sánchez, AC and Johansson, Å (2011) *Housing Markets and Structural Policies in OECD Countries,* OECD Economics Department Working Papers, No. 836, OECD Publishing. http://www.oecd-ilibrary.org/docserver/download/fulltext/5kgk8t2k9vf3.pdf?expires=1323272329&id=id&accname=guest&checksum=701600D5CCF9DEE57489F1DC1D814F4A

Ball, M (2011) *2011 European Housing Review*. London: RICS http://www.joinricsineurope.eu/uploads/files/EHRfullreport_1.pdf

Bonvalet, C and Lelièvre, E (1997) 'The transformation of housing and housing structures in France and Great Britain' *International Journal of Population Geography,* 3(3), 183-201

Department for Communities and Local Government (DCLG) (2010) *Promoting Investment in Private Rented Housing Supply: International Policy Comparisons* London: DCLG http://www.communities.gov.uk/documents/housing/pdf/1759530.pdf

Dol, K and Haffner, M (2010) *Housing Statistics in the European Union 2010*. The Hague: Ministry of the Interior and Kingdom Relations http://abonneren.rijksoverheid.nl/media/dirs/436/data/housing_statistics_in_the_european_union_2010.pdf

Haffner, M, Hoekstra, J, Oxley, M and van der Heijden, H (2009) *Bridging the Gap between Social and Market Rented Housing in Six European Countries* Housing and Urban Policy Studies 33. Amsterdam: Delft University Press. http://hofinet.org/upload_docs/Bridging%20the%20Gap%20Between%20Social%20and%20Market%20Rented%20Housing%20in%20Six%20European%20Countries.pdf

Laferrère, A and Le Blanc, D (2004) 'How do housing allowances affect rents? An empirical analysis of the French case' *Journal of Housing Economics,* 13(1), 36-67

Montabone, B and Gaudin, S (2010) 'Urban Regeneration and Housing Policy in France: Is Urban Renewal through Demolition a Metropolitan Strategy?' Paper presented at the ENHR 2010 conference, Istanbul, 4–7 July http://enhr2010.com/fileadmin/templates/ENHR2010_papers_web/papers_web/WS04/WS04_221_Montabone.pdf

Sak, B and Raponi, M (2002) *Housing Statistics in the European Union 2002*. Belgium http://web.cenet.org.cn/upfile/93296.pdf

Scanlon, K and Whitehead, C (2011), *French Social Housing in an International Context,* OECD Economics Department Working Papers, No. 862, OECD Publishing http://dx.doi.org/10.1787/5kgcd9s0q8f8-en

Van der Heijden, H and Boelhouwer, P (1996) 'The private rental sector in Western Europe: Developments since the Second World War and prospects for the future' *Housing Studies,* 11(1), 13–33

III

GERMANY

The size of the private rented sector in Germany, at somewhat below 50 percent, has remained relatively stable throughout the period of analysis – although it is difficult to interpret the statistics because of reunification and the complex interrelationship between social and private renting. The German private and public rental sectors have been closely intertwined since the West German First Housing Law (1950), which made direct subsidies and fiscal benefits available to anyone wishing to invest in housing. As a result, private sector investors were not squeezed out of the market in spite of significant state subsidy to affordable housing. Privately owned affordable dwellings simply passed into the free market after the expiry of the contract with the government.

Since the implementation of the comparable rents system (Vergleichsmietenregelung) in 1971, the regulation of rents and security of tenure in the private sector has changed very little. Now as in the 1970s and 1980s, rents for new contracts can still be set freely, although charging excessively high rents constitutes a criminal offence. Rent increases and their frequency are controlled, but special allowances now apply to modernised dwellings. Although landlords are now able to exercise a greater degree of control over the content of rental agreement, tenancies are still indefinite, security of tenure remains high, and evictions continue to be subject to restrictions.

This type of regulatory framework has kept rents for existing tenants below market level in areas of high demand, although the gap is small in comparison to most other European countries. From the beginning of 2002, rents for subsidised dwellings have been linked to market rents, further reducing the rent gap. A combination of low mortgage loan-to-value ratios and high security of tenure in the PRS has made the sector a viable long-term housing option for a broad range of households in spite of improved affordability of home ownership.

Regulation in the PRS is generally perceived as beneficial to tenants without being harmful to landlords. Fiscal incentives have been widely used to encourage investment in the PRS and privately rented property is a common form of pension provision. The effects of cuts to depreciation allowances in 2006, together with more recent reorganisation of the subsidy system and pension structure, may however lead to some reduction in the PRS.

REGULATION PRIOR TO THE 1980s

The West German[5] tradition of subsidising new construction to balance the housing market dates back to the post-war period. Like many other European countries, the post-war period in West Germany was marked by acute housing shortages aggravated by a rapid increase in the number of households. To stimulate construction and investment in residential lettings, the First Housing Law (1950) made available direct subsidies, loan guarantees, declining-balance depreciation and exemptions from real property tax to all investors in housing, including private investors. Quality was maintained through requirements regarding the size and fittings of the properties financed by such subsidies. The subsidised dwellings were subject to administrative tenant allocation and regulation of maximum rents, but only for a period specified by the terms and conditions of the subsidy.

[5] This cameo relates only to West Germany until reunification in 1990.

More than 50 percent of the new dwellings built in the 1950s were completed with the help of such subsidies. Subsidised housing was aimed at the general public, and most German households were entitled to apply. It was not until the early 1980s that subsidised housing began to be targeted more specifically to disadvantaged households.

After the 1950 law, the availability and conditions of the subsidies were alternately improved or reduced in line with changes in demand and the economic climate. Since 1953, all landlords investing in the construction of dwellings for the rented market have been able to deduct all costs associated with the rental property, including mortgage interest and depreciation, from their overall income. The Second Housing Law, passed in 1956, extended some of the subsidies and fiscal benefits to the construction of housing for owner-occupation. Germany's underdeveloped mortgage market, however, meant that relatively few households were able to take advantage of such opportunities, and very little housing was built for owner-occupation throughout the 1950s. From the mid-1970s, subsidies have also been available for the purchase of existing dwellings.

Deregulation of rents in the private rented sector started in the early 1960s, when regulations on rents were relaxed in those districts where the housing shortage fell below 3 percent. By the end of the 1960s, almost all districts had been deregulated apart from Berlin and a few other large urban areas. The deregulation of rents slowed down in the 1970s with the implementation of new restrictions on tenant security and the system of *Vergleichsmietenregelung* (rent setting regulation) to control adjustment of rents for sitting tenants (Voigtlander 2009).

Housing allowances *(Wohngeld)* were made available to low-income households in the rented sector in 1965 (Haffner et al. 2009). The amount of the allowance is determined by household size and composition, income and rent. Income and rent ceilings apply, the amounts of which vary by area. In 2005 the housing allowance system was restructured and housing subsidies for long-term unemployed households and households in receipt of supplementary benefits were incorporated into other benefits and made payable by local authorities. In 2004, before the reform, housing allowance was paid to some 9 percent of all households. At the end of 2009, this figure was down to 2.1 percent, but a further 10.3 percent received another type of housing subsidy known as *Kosten der Unterkunft* (KdU, translated literally as cost of accommodation). Approximately 90 percent of households receiving either housing allowance or KdU lived in (subsidised or non-subsidised) rented housing (DESTATIS 2010).

By 1980 in West Germany, regulation was in place to control most aspects of the rental market. Although rents for new contracts in the private rented sector could, in principle, be freely set, charging a 'substantially higher' rent than the average rents for comparable properties was considered to constitute a criminal offence under the Criminal Law on Economic Exchange. Acceptable rent levels and rent increases were regulated by the comparable rents system *(Vergleichsmietenregelung)*, which was first introduced in 1971. Under this system, acceptable rent levels were determined with the help of 'rent mirrors', although the exact methods used to construct these 'mirrors' were far from uniform. Landlords could increase rents without a tenant's agreement by applying to local courts only under certain conditions, and only every other year. Acceptable reasons for increasing the rent included (1) an increase in operating costs, interest charges or land taxes, in which case the full increase could be passed on to the tenant; (2) modernisation of the property (although the tenant's approval was needed for such modernisation); (3) the existing rent was demonstrably lower than rents for comparable units in the same locality.

The regulation of rent increases was coupled with high security of tenure. Tenancies were signed for an indefinite period of time, and landlords could terminate the tenancy only if (1) the tenant had broken a clause in the contract, for example by non-payment of rent; (2) the unit was required by the landlord or their family for their

own use; (3) the unit or the land on which it was located was to be utilised for more economic use. Tenants in 'special tenements' (i.e. units attached to housing used as a permanent residence by the landlord) could be evicted for any of the three reasons mentioned above, or for no specific reason, in which case an additional three-month notice period was required. Possession could be obtained against the tenant's will only via court, where the landlord had to demonstrate the reason for requesting possession of the unit. Even stronger controls (dating back to 1950) were still in place on pre-1948 properties in West Berlin (the only city where housing shortages continued to exceed 3 percent).

Although the regulation of the PRS did not constitute a major political issue, landlords were vocal in their opposition to the high degree of regulation, arguing that the 'rent mirror' should be structured using fairer and more scientific methods to ensure that it covered the full range of properties, which was not the case in all areas. The Landlords' Association also campaigned against the criminalisation of high rents and the 1971 comparable-rents system.

CHANGES TO THE SYSTEM 1980s TO THE PRESENT DAY

Throughout the 30-year-period, key changes in the regulation of the private rented markets were generally accompanied by changes in policies affecting other tenures, often at a time when general housing policy introduced new approaches or priorities. In terms of housing policy priorities, four distinct periods can be identified.

In the 1980s, the key objective of housing policy was to encourage construction to revive the struggling building industry. The decade was characterised by a relaxation of rent regulation in the PRS, a temporary move away from bricks-and-mortar subsidies and implementation of measures to support both owner-occupiers and PRS landlords. In spite of all these attempts to encourage investment in housing, the latter part of the decade witnessed a sharp decline in construction activity, preparing the ground for severe housing shortages in the early half of the 1990s.

The policy in the early half of the 1980s signalled a shift away from subsidisation and towards encouraging private investment. A new power to apply means testing enabled regional governments to charge higher rents from social tenants who no longer met the income limit used for allocation, signifying a shift towards a more restricted role for subsidised housing as a housing option for the most needy households. In line with this approach, the 1981 Budget Act made conditions for the early redemption of subsidised loans for low-income housing more attractive, in an attempt to incentivise the early repayment of public loans and shift properties from the subsidised sector to the PRS. At the same time, subsidies to existing social rented housing were reduced to release more funds for new construction and reduce rent differences. Following a government decision in 1985 to withdraw from financing new social rented housing the share of rented housing in all housing completions reached its lowest level (14 percent) in 1988 and 1989. The collapse of Neue Heimat, the largest housing association in the Western world, as a result of a corruption scandal in 1986 gave a final push to the removal of tax privileges to non-profit housing companies in 1989.

Private investment was incentivised by the 1984 supplement to the Housing Construction Act, which enabled government agencies to increase subsidies to investors if costs increased after construction commenced. As a response to criticism that strict regulation was impeding investment in rented housing, the *Vergleichsmietenregelung* was amended in 1982 to make rent increases easier by modifying the way in which comparable rents were calculated and raising the maximum rent increase over a three-year period to 30 percent. The linking of clauses in rent contracts to a price index was also permitted.

In an attempt to keep the construction industry going without large government grants, taxation in the early and mid-1980s favoured investment in housing generally, with only modest differences between tenures. In 1981, depreciation allowances available to PRS landlords were increased from 3.5 percent to 5 percent for the first 8 years after construction.

In 1989, further tax concessions were made available to PRS landlords as depreciation for new-build properties was increased to 7 percent per annum for the first 4 years, followed by 5 percent for the next 6 years, 2 percent for the following 6 years, and 1.25 percent for the last 24 years.

The shift from grants to fiscal benefits was visible also in the owner-occupied sector. In 1981, a reduction in grants for housing-specific savings for low-income households (from 18 percent to 14 percent) was offset by a temporary increase in the tax deductibility of interest payments for owner-occupiers who invested in (new) housing in 1983-1987. In 1986, the depreciation allowance (of 5 percent up to a property value of DM300,000 for the first 8 years) was extended to owner-occupiers. At the same time, owner-occupied housing began to be taxed as a consumer good rather than an investment good.

In spite of all these measures, construction continued to decline in 1984-1988. By 1985, the house-price-to-income ratio had declined by over 12 percent since 1980, although the decline in house prices was halted. Government attempts to stimulate investment in the PRS and owner-occupation were largely unable to counter the effects of restrictive mortgage regulation[6] and increasing mortgage interest rates caused by a monetary stabilisation policy designed to combat further decline in the GDP. The 1987 census revealed that the share of private renting and owner-occupation had declined by 2 percent since 1982.

In 1989, house prices fell to their lowest since 1980 after hovering close to their long-term average for four years, and the house-price-to-income ratio had fallen over 20 percent since 1980. Perhaps because of the combination of a 6 percent increase in the number of households between 1980 and 1985, and a low number of completions, demand for housing began to pick up again for the first time since 1982, leading to increased rents for new contracts.

Early 1990s

The first half of the 1990s saw a return to subsidisation of rental housing construction to ease the housing shortages caused by German reunification. Large-scale subsidy programmes were introduced, and additional fiscal benefits were made available to landlords. In 1992, the blocking of condominium conversions from public to private ownership (in effect in most big cities in the late 1980s to protect sitting tenants) was declared unconstitutional. In 1993, the upper limit on rent increases in a three-year period was reduced to 20 percent for all rental units built before 1980. In 1994, old rent control measures dating back to 1950 were lifted from the last city (West Berlin).

While policy measures and legislative changes affecting the rental market had a very clear objective to support construction and investment, the measures affecting the owner-occupied sector were more mixed in their nature and intent. Subsidies to owner-occupied housing continued through limited (additional) tax deductions that were made temporarily available to owner-occupiers in 1991. Access to finance was eased as building and loan associations began to broaden their financial services to include, for example, combined loan-insurance schemes. The limit for additional housing loans (in addition to the maximum 60-percent LTV loans from housing banks) was increased to 15 percent. At the same time, as part of the 1991 tax reform, the employee savings bonus available to aspiring homeowners, which had already been reduced in 1981 to

[6] Restrictive regulation of the financing of special housing banks limited the LTV ratio to 60% (with additional loans for another 10% from elsewhere being allowed).

14 percent, was further reduced to 10 percent. In 1992, additional tax deductions that had been made available to owner-occupiers in 1990 were removed.

Largely as a result of the subsidy programmes, construction activity increased sharply in 1990-1995, reaching its peak in 1995 with the completion of some 524,606 new units. Over a quarter (27 percent) were destined directly for the rented sector.

In spite of a sharp increase in completions, real house prices and the house-price-to-income ratio both increased steadily during this period. Because of the continuing regulation of rent increases, rents increased less rapidly than house prices, resulting in a peak in the house-price-to-rent ratio in 1989-1992. In 1993, the share of privately rented housing in the West had risen to 48 percent of the stock. The share of owner-occupied housing had also increased in the West to 42 percent, but in the East the share remained at some 28 percent.

Late 1990s

The latter half of the 1990s was characterised by decreased construction, increasing vacancies and falling rents, especially for new leases. The share of new completions destined for the rented market declined, as did house prices, house-price-to-income ratios and house-price-to-rent ratios. Decreased demand made regulation less necessary, except in growth areas. The decline of the house-price-to-rent ratio in line with the price-to-income ratio would suggest that the relative cost of renting increased, making the cost of renting similar to the cost of owning. Regional variations in rents and demand became increasingly pronounced, as measured by rental yields[7] (GdW, 2003).

As the increase in the number of households slowed down to an annual rate of less than one percent, much of the new demand for housing came from international migrants, whose number was estimated to reach six million by 1995. Federal harmonised rent laws and regulations came in effect in 1998, causing rental yields to decline in the East (GdW, 2003). In 1999 the holding period requirement to qualify for capital gains tax exemption was increased from two to ten years, but considering the very limited role of short-term capital gains as an investment motive among PRS landlords the consequences of this change are likely to have been limited. A much more important change was the commencement of large-scale sales of subsidised housing into private ownership in 1999. By 2001, the share of subsidised rental housing had declined to six percent.

In 1995 the depreciation allowances brought in for owner-occupiers in 1986 were also removed, but replaced with a once-in-a-lifetime homeowners' grant *(Eigenheimzulage)*, which was available to any household with a combined income below €140,000 per annum for a period of eight years. In 1996, government guarantees for mortgage payments to low-income households in former East Germany were introduced to boost access to owner occupation in the region. These policies may have functioned successfully to increase access to homeownership. By 2001 the rate of homeownership in former East was up to 31 percent, while remaining fairly steady at 43 percent in the West.

2000s

In the 2000s, house prices and house-price-to-income ratios continued to decline and fell faster than house-price-to-rent ratios, increasing the relative cost of renting. A decline in the number of completions was matched by slower growth in the number of households and population increases of below 1 percent per annum in the 1995-2000 period. Immigration was also beginning to slow down, with the number of migrants estimated to have increased by only a million in the five-year period.

[7] According to GdW data on yields of non-profit housing providers, average yields in the West were around 3.5-4 percent, while in East the rate was significantly lower at just under 1 percent. Although non-subsidised dwellings could generate higher yields, the difference between those and the yields generated by not-for-profit providers may be small, especially in areas of low demand.

Perhaps to counter the increase in the relative cost of renting caused by rapidly declining house prices, a New Rent Law came into force in 2001. This law extended the 20 percent upper limit on rent increases in a three-year period to all private rented housing (it previously applied only to pre-1980 units), recognised cohabitation (for inheriting tenancies) and cut the notice period for tenants down to three months, making it easier for tenants to move at short notice. It also introduced a new 'qualified' rent mirror, which relied on a more scientific method of determining average rents in any given region.

In the subsidised sector, the 2001 *Wohnraumforderungsgesetz* (the bricks-and-mortar subsidy act also known as WoFG) replaced the cost-rents system for subsidised housing with a system of negotiable maximum rents in an attempt to link subsidised rents more closely to market rents to reduce the rent gap. The WoFG also increased the federal states' responsibility for the allocation of subsidies, while shifting the emphasis from bricks-and-mortar to demand-side subsidies and thus targeting support more directly on 'needy' households.

The construction of new homes declined throughout the decade, falling by over 60 percent in 2000-2010. However, this was roughly in line with the number of new households. The share of rental units within this total also declined steadily, reaching an all-time low of just 11 percent in 2004 before beginning to grow again. A 30 percent cut in the value of homeowners' grant and a reduction in the income ceiling heralded its eventual abolition in 2007. These cuts to the support for owner occupiers coincided with the abolition of accelerated depreciation in 2006, which had been available to PRS landlords uninterruptedly since the 1970s, although at varying rates.

New housing output and household growth were in equilibrium for much of the early 2000s. The balance between new construction and household formation could offer an explanation for declining house prices, especially in an environment characterised by an abundance of affordable, good quality rented housing (Behring & Helbrect 2002). This development could also explain the recent shift in the focus of the German housing policy from incentivising investment in new construction to encouraging the modernisation of the existing housing stock.

In 2007, federal states retained full financial responsibility in addition to legislative competence over housing subsidy. As a result, the construction of specialised units was increasingly restricted to certain disadvantaged target groups. In the absence of official statistics the exact share of subsidised housing is unknown. While it is estimated to have declined from approximately 10-14 percent, possibly down to 6-8 percent (BMVBS 2011), a significantly larger proportion of the overall rented stock is estimated to be 'affordable'. Federal government support for energy-efficiency improvements, however, was increased.

In the period 2003-2008, rents increased more slowly than consumer prices overall (BBR 2008). In 2009, the number of new completions reached its lowest since 1980, at just 136,518 units. In spite of the 2008 recession, real house prices were increasing for the first time since 1995, and the decline in house-price-to-income and house-price-to-rent ratios showed signs of slowing. This development may indicate a growth in unmet demand, even though the number of new households remains close to the number of new completions. The most likely explanation for the recent increase in house prices is that the regional variation in demand and subsequent price increases in growth centres have finally reached levels high enough to affect the national average. Rent regulation may play a crucial role in controlling price increases and ensuring that housing remains affordable in growth areas as house prices and house-price-to-income ratios increase (as low growth at national level may hide very high growth at regional or local level).

THE CURRENT SITUATION

The subsidy system, which did not distinguish between private and public sector investors, laid the foundation for a strong private rented market. Subsidised properties owned by private investors eventually pass into the private rented sector when the commitment period determined by subsidy regulations expires. The absence of right-to-buy policies for the tenants in subsidised dwellings means that subsidised housing rarely becomes owner-occupied without first entering the private rented market.

Because of the structure of the subsidy system, it is difficult to draw a clear distinction between market and social rented sectors and estimates regarding the sizes of the tenures vary depending on how the categories are defined. According the classification used by Kemp and Kofner (2010), some 47 percent of the total housing stock is not subsidised and could be therefore be regarded as private rented in 2005, while subsidised dwellings (and dwellings subject to rent regulation and administrative tenant allocation for other reasons) comprised a significantly smaller share at 14 percent of the total stock.

Atypically for Europe, the relative size of the German PRS has remained fairly stable over the past three decades (Table 1 below). While the increase in the home-ownership rate in former East Germany is significant, the impact of this on Germany as a whole is limited by the relative size of the regions.[8] This exceptional tenure distribution makes Germany a particularly interesting case study for attempting to understand the underlying factors that contribute to consistently high demand for and supply of private rented housing.

TABLE 1: ESTIMATED TENURE DISTRIBUTION IN GERMANY (%)

		OWNER-OCCUPIED	PRIVATE	SOCIAL	OTHER
1981	East West	31		69	
1982	East West	40	45	15	
1987	East West	38	43	15	4
1993	East	26	73	1	
	West	42	48	10	
2001	All Germany	41*	49	6	5
2005	All Germany	39	47	14	
2006	All Germany	40	49	11	

Note: the data displayed in this table is based on calculations drawn from a number of different sources. Because German statistics do not typically distinguish between different types of rental properties, the estimates regarding the relative size of these two tenures vary notably depending the exact interpretations and definitions used.
Sources: 2006 Haffner et al (2010) p. 360
2005 Kemp and Koffner (2010) p. 382
1987 Census 1987 (West Germany only), but the size of the social rented sector has been questioned and some 4 percent of the owner-occupied stock was built with government subsidies
2001 BBR cited in Scanlon and Whitehead 2004
* 43% in West, 31% in East

[8] At the time of the German reunification in 1990, over 80 percent of the population lived in West Germany.

OTHER FACTORS AFFECTING THE SIZE OF THE SECTOR

The characteristic features of the German housing market include a long history of state intervention and a strong position for the private rented sector (PRS). This is linked to the structure of the German housing market, the priorities of housing policy over time, and a widespread attitude that buying a house is something a household does once in a lifetime. Comparatively strict mortgage finance regulation and low loan-to-value ratios, largely tenure-neutral tax treatment, and the inclusive nature of supply-side subsidy entitlement all play a role. Comparatively low housing market volatility, together with fiscal benefits available to landlords, has created an environment in which investing in residential property is fairly low risk, at least in the growth regions. In areas where demand for housing is high, the likelihood of making a loss from investment in residential lettings is low in spite of the high security of tenure.

Changes in regulation, tax treatment and subsidies in the PRS are often implemented more or less simultaneously with measures affecting other tenures. Combined with a decentralised planning system, government interventions to address housing market imbalances and surges in demand have generally been fairly efficient (Ball 2010). The peaks in overall residential construction in 1984 and 1995, for example, can be linked to policies intended to encourage construction among investors and owner-occupiers alike.

Existing literature highlights a number of factors which may explain the large size of the German PRS. In addition to subsidies to new construction for the rental market, influential supply-side factors include generous depreciation allowances and fiscal benefits available to PRS landlords (see for example Tomann 1990, Hubert 1998, Haffner et al. 2009, Kemp & Kofner 2010). The investment motives of landlords are also believed to play a role. Unlike many other countries where the relatively low yields available from investment in the PRS reduce its attractiveness as an investment option, favourable yield prospects or short-term capital gains are argued to play 'virtually no role' in the investment motives of individual private sector landlords in Germany. Instead, the main motives for investing in the PRS in Germany are to provide for old age (as a supplement to pensions), security of investment and capital accumulation (Kemp & Kofner 2010). The motives of individual landlords are important in order to understand the supply, as individuals account for the vast majority of PRS landlords in the country.

CHARACTERISTICS OF THE PRIVATE RENTED SECTOR TODAY

Over 60 percent of the German rented stock is owned by individual landlords, although clear data on the division between subsidised and non-subsidised sectors is not readily available. Approximately three quarters of them are so-called amateur landlords, who own up to 15 properties. The vast majority of individual landlords manage their properties themselves. Commercial landlords own approximately a quarter of the overall housing stock (Haffner et al. 2009, Kemp & Kofner 2010).

Nearly half of German rented stock owned by individual landlords was inherited or received as a gift, and only just over a quarter is financed by a loan. The most common incentive for individual landlords to invest in residential letting is pension provision. Pensioners own approximately 40 percent of the rented housing stock owned by individual landlords (BMVBS Survey, cited in Kemp & Kofner 2010). Approximately 40 percent of individual landlords make a profit from their investment. A similar proportion breaks even, and only nine percent report making a loss (ibid).

The private rented sector continues to provide housing for broad sections of the German population. Younger households are more likely to rent than own property, and the propensity to live in owner-occupied property increases with age. Rental proper-

ties are, on average, smaller than owner-occupied homes, but there are no significant differences between social and market rented sectors. Single-family homes are more likely to be owner-occupied than rented.

The rented stock is generally in good condition. Landlords can, subject to certain restrictions and conditions, pass modernisation costs (including costs of energy efficiency improvements) on to tenants.

INVESTMENT IN THE PRIVATE RENTED SECTOR

Fiscal policies do not particularly favour homeowners over landlords. Landlords must pay income tax on rental income, but this is offset by tax concessions on capital gains and depreciation. Different rules apply to institutional landlords, non-profit housing companies and individual landlords, and the depreciation rate depends, among other things, on the age of the dwelling. For properties built before 1925, the current depreciation rate is 2.5 percent for a period of 40 years. For properties built after 1925, the rate is 2 percent for a period of 50 years. Depreciation allowances apply to subsidised as well as non-subsidised dwellings (Kemp & Kofner 2010). From 2006 onwards only linear depreciation allowances have been in operation. Individual landlords are exempt from capital-gains tax after a ten-year holding period. Corporate landlords must pay tax on the capital gain when selling a rented property, but income tax is not payable after the ten-year holding period and most housing cooperatives are exempt from corporation tax. Any losses incurred from renting can be set against income from other sources.

CURRENT RENT REGULATION AND SECURITY OF TENURE

In 2001 a legislative change enabled landlords to exercise a greater degree of control over the detailed terms of the rental agreement, including a fixed term in certain circumstances. Tenancies are still generally signed for an indefinite period of time, security of tenure remains high and the landlord's right to evict a tenant continues to be restricted. Contracts can only be terminated if the tenant has generated at least three months' worth of arrears or is causing a nuisance, or if the landlord needs to reclaim the property to house themselves or a relative. The fact that the rent is below market or that the landlord wants to obtain a better yield are not allowable grounds for the termination of a rental contract. Tenancies can be transferred from the sitting tenant to another person, but only with the landlord's approval.[9] Since 2001, the notice period for landlords has been linked to the duration of tenancy, but restricted to a maximum of nine months (Haffner et al. 2009). The notice period for tenants is three months. If a landlord decides to sell the dwelling, the sitting tenant has the right of first refusal.

Rents for new contracts can be set freely. It is, however, a criminal offense to demand a rent that exceeds the local reference rent for dwellings of similar type, size, equipment, state and location by more than 20 percent (Kemp & Kofner 2010). Under the reference rents system *(Vergleichsmietenregelung)*, rents can be increased only if they have not been increased in the previous year and if the landlord can prove that the current rent is below the rental index rent for comparable dwellings in the same area. Landlords may not increase rents by more than 20 percent over a three-year period, except when modernisation or energy efficiency improvements have taken place. On modernised dwellings rent can be increased by 11 percent of the modernisation costs per annum.

[9] Unless the tenancy is inherited, in which case the right to stay is automatically granted and cannot be refused by the landlord.

This combination of continuing regulation of rent increases and high security of tenure means that rents for sitting tenants tend to be below market level in areas of high demand. Because rent increases during a tenancy are more strictly regulated than rents for new contracts, rents for tenants who have occupied the same property for a long period of time tend to be significantly below market rents. For many households in this situation, continuing to rent is the most cost-efficient housing option in spite of the declining house-price-to-income ratio and low house-price-to-rent ratio. The security of tenancy acts to increase the attractiveness of renting.

Although rents paid to private landlords are higher than those paid for subsidised dwellings, the rent gap between subsidised and non-subsidised dwellings is small in comparison to rent gaps between the social and the market sectors in most other European countries. From the beginning of 2002, rents for subsidised dwellings have been linked to market sector rents, further reducing the rent gap.

FUTURE OF THE GERMAN PRIVATE RENTED SECTOR

In spite of the fact that Germany's population is declining at a rate of 0.1-0.3 percent per annum, the number of households is increasing, largely as a result of growth in the proportion of one-person households (whose share exceeded 40 percent in 2010).

Because the private rented sector remains regulated, although somewhat less heavily than in 1980, average yields have remained fairly low at 4-5 percent. In the near future, demand for owner-occupied housing is expected to increase. In spite of high land prices, one- and two-family houses accounted for 60 percent of all completions in 2010. LTV ratios remain low (70-80 percent), but increasing real house prices, especially in desirable areas, and the relative cost of owner-occupation make the tenure increasingly attractive, although mostly to those who can afford a single-family home. Demand for rented housing is expected to decline, especially in the East (a projected 7 percent decline as opposed to 2 percent in the West). Regional differences have been growing rapidly, and this development is expected to continue. Prices for sales and rentals vary across the country, although the East-West divide is becoming more blurred (BBR 2008).

A chronological analysis of the developments that have taken place in the regulation of the private rented sector would suggest that the relatively high level of regulation of the sector has kept the sector as an attractive housing option in spite of the improved affordability of owner occupied housing, which is making the relative cost of renting similar to the cost of owning. Because the changes in regulation since 1980 have been fairly minor, their impact on the size of the sector has been small. More important have been the stability of access to housing finance, which has kept the owner-occupation rate fairly low. Equally, cuts to bricks-and-mortar subsidies and sales of subsidised housing to the private sector have affected the subsidised sector more than the market sector.

The effects of the 2006 cuts to depreciation allowances on investment in new private rented housing remain to be seen. We can speculate that a combination of lower depreciation and lack of subsidies may well reduce investment in the PRS, eventually pushing more and more people into owner-occupation, especially in areas where the mismatch between supply and demand in the rented sector leads landlords to neglect existing stock, thus reducing the quality of private rented housing. So far, however, the proportion of new completions destined for renting is fairly high and the quality of new built-to-rent housing is likewise good. Contrary to what might be expected in the light of cuts to subsidies and depreciation allowances, the proportion of new completions for renting has been increasing while the overall number of new completions decreased although it is currently increasing again.

Subsidised construction of dwellings intended for the rental sector and rent regulation that enables landlords to pass modernisation costs on to the tenants have generated a high quality rented stock which appeals to broad segments of the population. High security of tenure has made the sector a viable long-term housing option.

Relaxed eligibility criteria for landlords have made it possible for private investors to invest in the construction of affordable dwellings, which eventually move on to the free market after the affordability lock-in period runs out. Private sector investors have thus not been squeezed out of the market in spite of significant state subsidies to the affordable rented sector. Subsidies and fiscal benefits, especially accelerated depreciation, have been important tools for encouraging investment in rented property.

Decentralised planning regulation has made it possible for regions to respond to increased demand fairly quickly, making the housing market more elastic and less prone to house price inflation. Low loan-to-value ratios have also contributed to house price stability by making the housing market less vulnerable to inflation. Stable house prices have been an important contributing factor in increasing the attractiveness of investment in residential lettings in spite of strong regulation and security of tenure.

Regulation of rent increases has kept rents relatively low. Low rents in comparison to home ownership costs are an important factor contributing to the popularity of private renting. Comparatively strict mortgage regulation contributes to the stability of house prices, the relatively low level of home ownership and high demand for rented dwellings, making investment in rented property both more attractive and less risky.

The general perception is that regulation in the German context is beneficial to tenants without penalising landlords and reducing investment in the sector. However, home ownership may grow in the future as the affordability of owner occupation improves.

REFERENCES

Andre, C (2010) *A bird's eye view of OECD housing markets* OECD Economics Department Working Papers No. 746 Paris: OECD Publishing

Andrews, D, Sánchez, A C and Johansson, Å (2011) *Housing Markets and Structural Policies in OECD Countries OECD* Economics Department Working Papers No. 836 Paris: OECD Publishing

BBR (2008) *Housing and Real Estate Markets in Germany 2006* Bonn: Federal Office for Building and Regional Planning

BMVBS (2011) *Fortführung der Kompensationsmittel für die Wohnraumförderung* Berlin: Federal Office for Building and Regional Planning (BMVBS)

BBR (2008) *Housing and Real Estate Markets in Germany in 2006* BBR Online Publication 08/2008. Berlin: Federal Office for Building and Regional Planning (BMVBS)

Behring, K and Helbrecht, I (2002) *Wohneigentum in Europa* Ludwigsburg: Wustenrot Stiftung

Oxley, M, Lishman, R, Brown, T, Haffner, M and Hoekstra, J (2010) *Promoting Investment in private rented housing supply: International policy comparisons* London: Department for Communities and Local Government

Deutsche Bank (2010) 'German residential property: Back in fashion – with a good reason?' www.dbresearch.com, accessed 10 February 2011

Deutsche Bank (2011) 'Talking Point: Prime locations don't always mean prime yields' www.dbresearch.com, accessed 16 September 2011

Haffner, M, Hoekstra, J, Oxley, and van der Heijden, H (2009) *Bridging the gap between social and market rented housing in six European countries* Amsterdam: IOS

Haffner, M, Hoekstra, J, Oxley, M and van der Heijden, H (2010) 'Universalistic, particularistic and middle way approaches to comparing the private rental sector' 2010(4), 359 – 377

Hubert, F (1998) 'Private rented housing in Germany' *Netherlands Journal of Housing and the Built Environment* 13(3), 205 – 232

Kemp, P and Kofner, S (2010) 'Contrasting varieties of private renting: England and Germany' *International Journal of Housing Policy* 10(4), 379 – 398

Tomann, H (1990) 'The housing market, housing finance and housing policy in West Germany: prospects for the 1990s' *Urban Studies* 27(6), 919 – 930

Van der Heijden, H and Boelhouwer, P (1996) 'The private rental sector in Western Europe: Developments since the Second World War and prospects for the future' *Housing Studies* 11(1), 13 – 33

Voigtlander, M (2009) 'Why is the German Homeownership rate so low? *Housing Studies* 24(3), 355 – 372

III

THE NETHERLANDS

The size of the private rented sector in the Netherlands declined from 17 percent in 1980 to 8 percent in 2010.

Throughout the post-war period, the private rented sector in the Netherlands has been one of the most highly regulated in Europe and remains so today. Regulation covers initial rent setting, rent increases for existing tenants and security of tenure. Each dwelling in the regulated sector has a maximum rent determined on a points-based system covering size and quality. There is a legal maximum for rent increases, more recently based only on the cost of living. Tenant security is strong. Regulation in the Netherlands is intended to produce rents below market levels. However, the general view is that actual rents may only be substantially below (notional) market rents in the larger cities.

In 1990 the government began to liberalise the rental sector by enabling rents to be freely determined on dwellings with rents above a set amount, €665/ month in 2012. This limit is increased annually on 1 January (since 2011) and above it rents are free in both the social and private rented sector. The 'free' rented sector reached five percent by 2004 and the aim was that 25 percent would be deregulated in the following five years but this target was dropped by the new government in 2007. Some eight percent of the rented sector is thought to have been deregulated on 1 January 2009: about four percent in the social rented sector and about 30 percent in private renting.

Strong regulation, particularly rent control, is often seen as one reason for the decline in private renting. But as importantly both owner occupation and the social rented sector have benefited from subsidies and tax incentives while private landlords have been disadvantaged; especially from the 1980s on. Compared with other European countries, the social rented sector has dominated the housing market throughout the post-war period. Almost a third of households rent a social dwelling.

Regulation is generally perceived as beneficial, which may be why successive governments have found it difficult to introduce deregulation despite concern that regulation has contributed to the private rented sector's decline. Another reason is the fact that the costs of housing allowances will rise with rising rents, while Dutch ministries are limited in their expenditure by medium-term spending caps. Any spending setbacks must be offset by their own budgets.

REGULATION PRIOR TO THE 1980s

The context for housing policy in the Netherlands after the Second World War was one of acute housing shortages and high inflation (7 percent) although since 1950 wages have been rising roughly in line with prices. The standard of living rose and population increased. A state pension was introduced during this period which reduced the need for individuals to own property to rent out as their pension. Before the war the private rented sector was dominated by individual landlords owning one, two or three properties as a means of providing a retirement income. During the Second World War new housing output virtually ceased (Haffner 2002a).

The immediate housing policy response to wartime shortages was to introduce a rigid system of rent regulation, with a freeze on rents (which had started during the war) and lasted until 1951. This was followed by a series of differentiated rent increases (Priemus 2010). The government wanted to ensure that housing costs were not too high in order to keep labour competitive.

Early post-war housing policy also aimed to encourage new housebuilding. This involved the modernisation of the housing stock. A complex subsidy system was developed to encourage new investment in rented accommodation which applied to the majority of new rented dwellings. Subsidies were available to both commercial landlords and housing associations provided that their projects met certain government conditions. Both the municipalities and the housing associations played a dominant role in new house building from the 1950s to the 1980s.

The strict control over rent increases was intended to prevent rents from spiralling during a period of housing shortage. A general rent increase was only introduced in 1950. From 1955 rents were no longer to be related to pre-war levels but to the difference between costs and 'bricks and mortar' subsidies. Annual rent increases were introduced in 1967. Decontrol began in 1967 in areas with a crude housing surplus of 1.5 percent or more.

In 1971 a national points index of housing quality was introduced. The maximum rent for a dwelling was based on the number of 'quality points' it had been given. This took account of the characteristics of the home, its size and facilities, plus the local environment such as transport, shops, schools etc. In 1979 rent controls were extended to cover the whole country and the maximum rent increase was computed by government in relation to the cost of living, wages and building costs. This effectively abolished the liberalisation that had begun in 1967, leaving a very small 'free' market sector. New subsidised building was subject to special arrangements. For new tenancies, rents could be freely agreed between landlord and tenant, up to the maximum allowable rent level according to the quality points. If the tenants were dissatisfied they could go to the local rent committee where the points system would be applied.

Since the 1970s financial support to the rented sector has increasingly taken the form of housing allowances. This was originally a very small scheme but has developed into a major policy instrument which in 2009 cost €2.4 billion; it is today the largest item in the national annual housing budget.

CHANGES TO THE SYSTEM 1980 TO THE PRESENT DAY

Private rented sector

Private renting fell from 17 percent in 1980 (Van der Heijden & Boelhouwer 1998) to only eight percent in 2010 (Andrews et al. 2011). Owner occupation rose from 45 percent in 1990 to 55 percent in 2006 (Oxley & Haffner, 2006) and again slightly to 57 percent in 2010 according to Andrews et al's survey for the OECD in 2011. Social renting also declined over this period, from more than 40 percent (Oxley & Haffner, 2006) to 35 percent in 2010 (Andrews et al. 2011).

The rental market today remains largely regulated. Each social or private rented dwelling with a regulated rent has a maximum rent based on size and quality, and there is a legal maximum for annual rent increases, for example 1.1 percent in 2007-08, which was equivalent to the rate of inflation of the previous year. Rent increases are determined annually by a decision of Parliament. Only the most expensive rental dwellings (8 percent of the stock as of January 2009) are exempt from price regulation: about four percent in the social rented sector and about 30 percent in private renting. These are the dwellings with the so-called liberalised or deregulated rents. The regulation system is generally expected to produce lower rents, which can be seen as an implicit subsidy, especially in areas of housing scarcity.

Low income households in the regulated rented sector receive a rent allowance depending on the rent, income and household composition. In 2009 about a third of tenants received a rent allowance, worth a third of the average rent. Table 1, taken from Ras et al. (2011), shows the financial instruments and their approximate value.

TABLE 1: THE IMPACTS OF FINANCIAL POLICY INSTRUMENTS

	NUMBER OF HOUSEHOLDS	AMOUNT
	thousands	million Euros
Mortgage interest tax relief	3,500	10,000
Rent allowance	1,100	2,000
Total subsidies		**12,000**
Local property tax (owner occupiers)	4,100	900
Tax on imputed rent (owner occupiers)	3,567	2,200
Conveyance tax	130	1,800
Total taxes		**4,900**
Net flow		**7,100**

Source: Ras et al. 2011, page 977

It has been argued that the decline of the private rented sector is at least partly associated with the tight regulation of both rents and tenancies. While In 1985 there were 982,000 private rental dwellings, this number declined to 646,000 in 2010 (ABF Research - Systeemwoningvoorraad (Syswov) database). The government began to liberalise the rented sector in the 1990s and by 2004 some five percent of the sector was in the deregulated or 'free' sector (Boelhouwer, 2006). The intention was that 25 percent of rental dwellings would be deregulated in the following five years, but this target was dropped by a new government in 2007.

A further attempt to increase the liberalised part of the rented sector was introduced on 1 October 2011. This enables an increase in maximum allowable rents in ten areas where housing supply is scarce. Under the points system, maximum allowable rents in these areas can go up by either 15 or 25 points depending on the relationship between house value and floorspace. Rents for existing tenants, however, cannot be increased according to the new maximum allowable rent per dwelling, only those of new tenancies.

The government had also proposed allowing rent increases in part because the target group for social renting is limited only at the point of allocation, with no means testing after that point. The aim was to increase rents for sitting tenants with incomes of more than €43,000 p.a. by more than the average increase, and to allow extra rent increases in the most pressured areas (Haffner 2011). This proposal is still under consideration. It is expected to enable the rented housing market to operate more efficiently and increase supply to middle-income households.

The deregulated sector remains linked to the regulated sector, however. This is because it is defined in terms of dwellings with rents above a certain level, currently €665 per month (2012). This limit is revised annually on 1 January (since 2011), while annual increases in regulated rents are effected on 1 July.

Social rented sector

Despite the recent decline, the social rented sector in the Netherlands is proportionately the largest in Europe. The decline in the social rented sector has not been as marked as either the fall in private renting or the rise in home ownership. In absolute numbers the decline is limited to about 100,000 dwellings: the sector decreased from its largest number of dwellings of almost 2.37 million in 1998 to 2.27 million in 2010 (ABF Research - Systeemwoningvoorraad (Syswov) database). The decrease has been partly fuelled by the sale of public housing to tenants. This was not a 'right to buy' but an 'offer to buy' and social landlords have considerable discretion as to whether to sell or not (Ronald & Elsinga 2009). Most initial sales were of vacant units.

In 1989 a White Paper set out the future of housing associations in a much more market-oriented context. Housing associations were to operate as social entrepreneurs. By this time, local authorities were not only competing with housing associations as landlords but also supervising them and allocating tenants to homes. The situation was to be resolved by turning municipal housing companies into these more autonomous housing associations.

In practice most local authorities accepted this new role, and those with 'healthy' finances became housing associations. Many of them had become 'healthy' by selling stock, initially adding the proceeds to their general budgets, but later investing them in housing and regeneration. Those that were not healthy generally had old outdated stock with maintenance costs exceeding the regulated rental income. In some cases local authorities had extracted funds from the municipal housing companies. In more than one case in the larger cities, those with financial problems had to be rescued by the local authority when the municipal company was wound up.

The deadline for turning municipal housing companies into housing associations was January 1997. Most either transformed into a housing association or their stock was taken over or sold to an existing association. Although the term municipal housing company has officially been abolished, a tiny minority still exist, financially healthy and owning less than one percent of the social rented stock.

In 1995 all new general property subsidies ceased. Instead housing associations received the present value of the subsidies pledged by the government for the coming decades. In the same year housing associations had to convert public loans into private loans and accept many financial risks previously borne by government (the so-called Grossing and Balancing Operation – see Priemus 2010). A similar operation also took place with institutional investors in the private rented sector, but at a later date.

In 1992 the annual operational property subsidies had already ceased, awaiting the Grossing and Balancing Operation, and were replaced by a one-off contribution programme for a couple of years until 1995.

Government policy in the 1990s has been to encourage owner occupation and to this end housing associations have been set targets for selling homes to sitting tenants (Haffner 2002a). During that decade between 10,000 and just under 20,000 a year were sold, compared to a target of 50,000 a year. Housing associations cannot be forced to sell because they are private organisations. A more indirect way of encouraging sales has been suggested, such as a subsidy per sale from the CFV (CentraalFondsvoor de Volkshuisvesting) which is a mutual funding organisation established in 1988 to support financially weak organisations and where necessary help them to restructure.

In 1997 housing allowances improved significantly for both rented tenures (Haffner et al. 2009 p. 216).

In addition to social rented housing, more than 150 housing associations in the Netherlands offer one or more types of low-cost home ownership. These include Koopgarant which provides a 25 percent discount on the market price. There is an obligation to sell it back to the housing association when the purchaser wishes to move, with any gains or losses in value split between buyer and seller. Another product is Sociale Koop where the purchaser can buy a share of at least 50 percent, with an interest-free loan on the rent from the housing association and the right to buy it back at an indexed price. Ronald and Elsinga (2009) comment that these are remarkably risk-free approaches to a form of privatisation of the social stock. Most units remained in the hands of housing associations and units were sold under schemes that protected households from risk but undermined potential investment gains.

Owner-occupied sector

The owner-occupied sector in the Netherlands has grown significantly since 1980 although the current housing market crisis has led to a slow-down. Owner occupation has been encouraged by government subsidy in the form of mortgage interest tax relief. Mortgage interest is deductible for 30 years and is combined with a very low imputed rent which is added to the taxable income of the household. However as interest rates rose during the 1980s, the tax relief on interest far outweighed the additional tax paid on the imputed rent. Not surprisingly, owner occupation began to increase.

Furthermore, in the 1990s in an attempt to limit its annual expenses on bricks-and-mortar subsidies, the government applied rent increases which were much higher than inflation. This gave the impetus for tenants in the more expensive rental dwellings to leave the sector, if they could finance a mortgage loan. Mortgage requirements eased during this period. For example, in 1993, a second household income was allowed to be included (at 100 percent) when determining eligibility for a home loan. Furthermore, mortgage loans were developed in which the full amount of income-tax-deductible interest was paid during the loan term, first using 'endowment loans' and later, interest-only mortgages. These mortgage products allowed households to maximise their mortgage interest tax deduction. As a result, house prices could rise without generating liquidity problems for households, whose monthly housing or mortgage expenses remained affordable (Haffner & De Vries 2010 pp. 151-173).

The rapid growth of the owner occupied sector had the effect of concentrating low-income households in the social rented sector (Priemus 2010), although the sector still houses a broad socio-economic spread of tenants. Social rented housing accounts for a larger proportion of the housing stock in the Netherlands than in other European countries.

The growth in home ownership has been associated with strong growth in mortgage indebtedness. Since the 1980s, the government has offered generous mortgage subsidies. The Dutch mortgage market has expanded rapidly over the past decade, with residential mortgage debt rising to almost 100 percent of GDP in 2008, up from 60 percent of GDP in 1998. Owner-occupancy was around 55 percent of the occupied stock in 2005, up from 42 percent in 1980.

The proportion of mortgages with LTV ratios of more than 100 percent increased from 15 percent in 1990 to more than 70 percent by 2001-02. In 2007, the Code of Conduct for Mortgage Lenders was tightened to reduce the risk exposure of Dutch lending institutions. From 1 August 2011, as a response to the Global Financial Crisis, the code was tightened again. It restricted interest-only mortgages to 50 percent of loans and the LTV to 106 percent of market value.

The so-called box 3 taxation was introduced in 2001 as part of a number of reforms to the tax system.

Income was classified into three types or boxes, and income tax rates were reduced from a maximum rate of 60 percent down to 52 percent. In box 1, income from employment is taxed at a progressive rate with a maximum of 52 percent. In box 2, income from ownership of shares is taxed at a rate of 25 percent for shareholders with more than five percent of the shares of a particular organisation. Box 3 taxes other income from capital at 30 percent. However, income from capital is imputed at four percent. This means that a taxpayer who owns shares to the value of €100,000 and a debt of €40,000 is imputed a net income of four percent of the difference (€60.000), which is then taxed at a rate of 30 percent. Effectively this tax is calculated as 1.2 percent (30 percent of four percent) of net capital wealth minus debt (example taken from Haffner 2002b p. 530).

For owner-occupied housing, the principal dwelling is taxed in box 1. This is the only income from wealth that is taxed in box 1 – all the rest is taxed in box 2 or 3. Box 1 means that the imputed rent is taxed and mortgage interest is deductible from taxable income from employment. The only restriction is that the mortgage interest tax relief lasts for a maximum of 30 years. Tax on imputed rent is limited to the amount of interest deducted. So as the amount of interest to be deducted becomes lower than the amount of imputed rent, the tax paid falls, reaching zero when the mortgage has been repaid. Thus owner occupiers without a mortgage do not pay tax on imputed rent (Haffner 2002b). The percentage of the property that determines imputed rent is changed annually in line with rent increases (corrected for property price changes). Basically the 2001 tax reforms have meant that the owner-occupier is treated not in comparison to a landlord who would be paying income tax on profits, but to a tenant with an interest deduction. This implies a move away from treating housing as an investment good.

The result is increasing indebtedness as noted above. The government has implemented policies to discourage excessive mortgage growth in the past:

- In 2001 tax deductibility for mortgages used for non-housing consumption or investments and second-home purchases was removed.
- Also in 2001, interest deductibility was limited to 30 years.
- The 2004 change meant that the mortgage interest tax deduction is only available on 'necessary debt' after a move to a new property. Thus only the difference between the new house price and the equity from the previous house is tax deductible.
- From 2005 the tax on imputed rent was limited to the amount of interest deducted (see above).

Nevertheless, mortgage indebtedness continued to grow until the last quarter of 2011, when total new approvals were down 19.2 percent on the same quarter of 2010. Part of the rise can also be explained by rising house prices from the early 1980s to the end of 2008 (Haffner & De Vries 2010). Over 2011 as a whole, total outstanding residential mortgages amounted to €629.6 billion (Global Property Guide downloaded 24 May 2012).

The promotion of owner-occupation is in response to growing demand for people to own their own homes. This demand has grown sharply over the last ten years as a result of rising prosperity as well as government subsidies to house purchase. Home ownership also contributes to achieving the government's objective of giving people a greater say in how they live.

THE CURRENT SITUATION

The characteristic features of the Dutch housing system include a long-term decline in the size of the private rented sector, a smaller decline in social renting and a corresponding increase in home ownership. The private rented sector is highly regulated, and this, particularly rent control, is often blamed for the relative demise of the sector in recent years. Other commentators however argue simply that when it comes to subsidies, both the social sector and owner occupation were beneficiaries, at the expense of the private rented sector (Priemus 2010). Social landlords were and are still encouraged to sell to sitting tenants and to use the proceeds from such sales to invest in new social housing. A further government policy since the 1980s has been to promote housing choice, and as the majority of Dutch people say they prefer home ownership, the government has encouraged this. Thus the decline in private renting may partly reflect the increasing number of tenants who became home owners.

The Dutch housing system is one of the most highly regulated in Europe (Ras et al. 2011). It has a large social rented sector, rent allowances for low-income renters and tax incentives for owner occupiers. In 2009, in addition to rent allowances, the regulatory system resulted in a net flow of over €7 billion from the government to households, roughly 1.2 percent of GNP (Ras et al. 2011 p. 975). The argument that home ownership provides positive externalities caused many countries to subsidise home ownership in the post-war period, including Britain, Sweden, Germany, the USA and Canada. However, as the size of the subsidy has grown, many countries have questioned whether the benefits are worth the costs, and Germany, Sweden and the UK have phased them out. Several commentators have suggested that the Netherlands should follow suit, since the cost to the taxpayer has risen too far (Priemus 2010 Ras et al. 2011).

OTHER FACTORS AFFECTING THE SIZE OF THE SECTOR

The other two factors affecting the size of the private rented sector are the subsidies and/or favourable tax treatment in both the social rented sector and owner occupation. Compared with other European countries, the social rented sector has dominated the housing market in the Netherlands throughout the post-war period. Almost a third of households rent a social dwelling and there were more than two million social rented dwellings in 2005 (Elsinga and Wassenberg 2007). Today virtually all the social stock is owned by housing associations who have to act on a commercial basis but use their profits as a renewable fund for meeting further housing needs. They are able to act in a very flexible way, freely buying and selling dwellings, both to and from individual households and other landlords. They can sell vacant properties on the open market but when they wish to sell tenanted properties these must be offered to tenants who can choose to continue renting. There is no right to buy.

TABLE 2: TENURE STRUCTURE IN THE NETHERLANDS

TENURE	PROPORTION OF HOUSEHOLDS		
	1950	1990	2010
Owner occupation	29*	45	55
Private renting	60**	15	8
Social renting	12***	40	32
Other (co-operatives)			5
Total			

Sources: Van der Heijden & Boelhouwer, 1996; Oxley, 1995; Andrews et al. 2010

* Mouillart, 1990 based on Lefebre et al. 1990

** as at 1947

*** also 1947 (Haffner 2002a)

The housing stock is primarily single-family dwellings, both in the countryside and also in medium-sized cities. Almost half of the social stock is single-family houses, often in terraces, with 42 percent low rise flats and 11 percent high rise in cities. Social rented housing is not generally confined to single tenure estates, and most neighbourhoods have a mix of tenures (Elsinga & Wassenberg 2007). Table 2 shows the tenure structure and house type in 2002.

TABLE 4: DWELLING STOCK BY TENURE IN THE NETHERLANDS

	HIGH RISE FLATS	LOW RISE FLATS	HOUSES	TOTAL
Social rented	269,600 (62.9%)	1,017,000 (62.2%)	1,153,100 (25.3%)	2,439,600 (36.8%)
Private rented	64,900 (15.1%)	285,000 (17.4%)	245,400 (5.4%)	593,300 (9.0%)
Owner occupied	94,300 (22%)	331,800 (20.3%)	3,165,900 (69.4%)	3,592,000 (54.2%)
Total	428,800 (100%)	1,633,700	4,564,400	6,626,900

Source: Elsinga and Wassenberg 2007

In 2009, 55% of Dutch households lived in owner occupied dwellings. These are generally larger or better quality than rented dwellings. The home ownership market is not regulated in terms of entry conditions but house purchasers benefit from mortgage interest tax relief whereby they deduct mortgage interest from their taxable income. They also have to add imputed income from their dwellings to their taxable income, set at a percentage of the dwelling's value. Since 2005 this has been reduced for households without mortgages or whose mortgages are very low. In 2009 around 87 percent of home owners had a mortgage. On average, owner occupiers reclaim 19 percent of interest paid each year in tax relief. They pay local property taxes and a conveyance tax when purchasing (Ras et al. 2011).

HOW REGULATION IS PERCEIVED

The Dutch housing system is not tenure neutral and the private rented sector has declined severely since the Second World War. Its foundations stem from the immediate post-war period when the country faced an extreme housing shortage. The response was a rigid policy of rent controls coupled with security of tenure. Rent regulation today applies to about 70 percent of the private rented sector. In order to encourage investors to build new homes post-war, a complex subsidy system was introduced for the majority of new rental dwellings. Both housing associations and commercial landlords could apply for these subsidised loans, provided their schemes met government criteria. Local authorities as well as housing associations played an important role in new construction from the 1950s to the 1980s. However, these subsidies were not sufficient in the long run, especially when they were limited before they were abolished, to stimulate investments in private renting and the sector continued to decline.

As the Dutch economy began to grow and long-term interest rates fell, owner occupation became more attractive. As Priemus notes, 'In the years between 1950 and 1990 there were two winners in the housing market: social rented housing (mainly via new dwellings) and owner-occupation (via new dwellings and the sale of rented dwellings)' (Priemus 2010 p. 756). As a result, the private rented sector was the loser.

REFERENCES

Andrews D, Sanchez A C and Johansson A (2010) Housing markets and structural policies in OECD countries, *OECD Economics Department Working Papers* No. 836, OECD Publishing, Paris

Boelhouwer P (2006) A critical review of the modernization of Dutch rent policy. *Journal of Housing and the Built Environment,* 21(4), 355-364

Boelhouwer, PJ & Hoekstra, JSCM (2009). Towards a better balance on the Dutch housing market? Analysis and policy propositions. *European Journal of Housing Policy,* 9(4), 457-475

CBS Statistics Netherlands (2011) last accessed 30 November 2011 http://www.cbs.nl/en-GB/menu/themas/bouwen-wonen/nieuws/default.htm

Global Property Guide (2012) last accessed 24 May 2012 http://www.globalpropertyguide.com/Europe/Netherlands/Price-History

Groot L (2008) The welfare costs of subsidies to home owners in the Netherlands, Example 15 in *Public Sector Economics Example Bank* which accompanies Tresch (2008) http://www.palgrave.com/economics/tresch/example/pdfs/Example15.1.pdf

Haffner M (2011) The private rented sector in the Netherlands, chapter 4 in Scanlon and Kochan (eds) *Towards a Sustainable Private Rented Sector: The Lessons from Other Countries,* LSE London

Haffner M (2002a) 'Dutch social rented housing: the vote for housing associations?' plenary paper presented to the 9th European Real Estate Society Conference, Glasgow, 4-7 June 2002

Haffner M (2002b) 'Dutch personal income tax reform: an exceptional position for owner-occupied housing', *Housing Studies* vol. 17 no. 3, 521-534

Haffner, Marietta & Paul De Vries, 2010, Dutch house prices and tax reform, in: Miranda Stewart (ed.) *Housing and Tax Policy Sydney:* Australian Tax Research Foundation

Lefebre, B Mouillart M and Occhipinti S (1990) *Les Perspectives du Financement du Logement en France et dans les pays to la CEE* (Perspectives of housing finance in France and the EC) Paris: CERÈVE

Mouillart M (1990) *Mobilité et politiques du logement: perspectives Européenne* (Mobility and politics of housing: a European perspective) Paris: CERÈVE

Tresch R W (2008) *Public Sector Economics,* Palgrave Macmillan, Basingstoke

OECD (2009) *Advancing Structural Reforms in OECD Countries: Lessons from Twenty Case Studies. Annex 6 Draft Case Studies: Netherlands* Paris: OECD

Oxley M and Haffner M (2010) *Housing Taxation and Subsidies: International Comparisons and the Options for Reform* York: Joseph Rowntree Foundation

Priemus H (2006) The rental letter of Housing Minister Dekker: too early and too complicated, *European Journal of Housing Policy* vol. 6, no. 2, 221-235

Priemus H (2010) Housing finance reform in the making: the case of the Netherlands, *Housing Studies* vol. 25 no. 5, 755-764

Ras M, Ooms I, Van Gameren E and Eggink E (2011) Housing consumption and financial policy instruments in the Netherlands, *Housing Studies* vol. 26, nos. 7-8, 975-995

Ronald R and Elsinga M (2009) Housing commodification in the Netherlands: home ownership is not the only fruit! Presentation to the Housing Studies Association conference, Cardiff, 15-17 April

Van der Heijden H and Boelhouwer P (1996) The private rental sector in Western Europe: developments since the second world war and prospects for the future. *Housing Studies,* vol. 11 no. 1, 13-33

III

NORWAY

The size of the privately rented sector has declined from 27 percent in the early 1980s to 18 percent in the early 1990s and about 17 percent now. This is thought to be largely the result of the 1980s deregulation, which enabled many tenants in pre-war condominiums to buy their property at a low price. From the 1990s the decline halted and some growth occurred but only to about 17 percent at the present time.

Rent controls were initially imposed during the first world war and remained in place until after the second, when a more flexible system was introduced. Local housing rent committees determined the extent of acceptable rent increases, and they were mostly kept roughly in line with the consumer price index. Higher rent increases were allowed if the property had been improved or upgraded.

In 1999 all rent controls for new and existing rental units except for pre-war rental housing in Oslo were removed. Rents for new tenancies could be set freely, although charging 'unreasonably high' rents, defined as those out of line with average rents for comparable property in the same location, is unlawful. Security of tenure is high and landlords' rights to terminate contracts are restricted. The rent controls in Oslo were finally removed at the end of 2010.

Rents may be increased annually in line with the retail price index. Greater adjustments are allowed every three years to match market rents for similar properties in the same area. In 2010, these regulations were extended to the pre-war rental stock.

Private renting in Norway is regarded as a temporary tenure as the expectation for most people is to become owner occupiers. Short-term tenancies are the norm, and young single people and lower-income households are over-represented.

Because of the dominance of owner occupation, the current regulatory regime is seen as having a neutral effect on the size of the private rented sector. Tenants are protected against sudden or unreasonably high rent increases, and relatively relaxed rent control enables reasonable yields for landlords.

REGULATION PRIOR TO THE 1980s

The first general rent control was imposed in Norway during World War I to ensure that housing was affordable for the growing numbers of labourers in the main cities. This enabled rents to be frozen from time to time. The controls remained in place until after World War II, when they were finally replaced by a more flexible system under which local housing rent committees were established to determine acceptable rent increases. In most instances, rent increases were kept roughly in line with the consumer price index (Oust 2010). Larger rent increases, subject to approval by the rent committee, were allowed following major upgrades or improvements to the rental property. In the 1970s deregulation of the private rented sector in Norway was introduced for newly built dwellings.

CHANGES TO THE SYSTEM 1980S TO THE PRESENT DAY

The Rent Act of 1999 removed all rent control from new and existing rental units, with the exception of pre-war rental housing. The act allowed rents for new tenancies to be set freely, although charging 'unreasonably high' rents is regarded as unlawful. 'Unreasonably high' is generally held to mean in excess of average rents for comparable units in the same area. Rents may be increased annually in line with the retail price index. Greater adjustments are allowed every three years to match market rents for similar properties in the same area. In 2010, these regulations were extended to the pre-war rental stock in Oslo, when rent controls were removed.

Contracts can be signed for an indefinite period or a fixed term, but a minimum duration of three years applies to all fixed-term contracts. Security of tenure is high, and landlords' rights to terminate an indefinite contract or end a fixed-term contract prematurely are subject to certain restrictions. Tenants are required to give three month' notice at all times, except when a fixed-term tenancy comes to an end. If a tenant continues to occupy a dwelling for more than three months after the expiry date of a fixed-term tenancy, it turns into an indefinite one.

THE CURRENT SITUATION

Parties are free to agree on the rent at the start of the tenancy although rents must not be unreasonably high. All parties have the right to question the rent after the initial agreement. During the tenancy, the landlord may increase the rent once a year in line with the consumer price index. The tenant may also demand a reduction in rent if the consumer price index should fall. If the lease has been in place for at least two years, the landlord may adjust the rent to bring it in line with prevailing rent levels for local properties that are comparable in terms of size and standard and rented under similar terms and conditions. A minimum of six months notice' is required for such rent increases, so in effect the tenant has to have rented the property for two years and six months before the rent is increased to the prevailing level. If the rent is above the prevailing level, the tenant can require it to be adjusted downwards.

There are two main types of tenancy agreement, indefinite and fixed term. In addition it is possible to combine the two, by entering into an indefinite agreement which gives one or both parties a right of termination. Fixed-term agreements must last for not less than three years, except for tenancies on basement units and semi-detached dwellings where the landlord lives in the same house, where the minimum term is one year. Leases can also be shorter than one year when the property is to be used by the landlord or a member of the landlord's household, but only provided the tenant has been made aware of this when signing the lease, and provided the landlord does in fact move to the dwelling when the fixed-term agreement expires. Similar conditions apply where the dwelling is to be renovated or sold imminently.

The tenant has no right to renew a fixed-term contract. The landlord can also sell the property during the lease to a different landlord or the lease can be terminated if the property is to be sold into a different tenure, but only under the conditions above.

The Rent Disputes Tribunal (HTU) resolves disputes between landlords and tenants and can both mediate and make decisions in disputes. This does not apply to holiday rentals. In 2009 the average time taken to settle disputes by mediation was 9.5 weeks, and for cases settled by a decision it was 12 weeks.

Thus the current position is a private rental market that is virtually free from regulation yet 'unreasonably high rents' are unlawful. Since 2010 the pre-war rental stock has been decontrolled, and recent changes extended rent increases to match market rents to this sub-sector as well. The sector is relatively small and viewed primarily as a form of temporary accommodation for mobile, younger households.

OTHER FACTORS AFFECTING THE SIZE OF THE SECTOR

Owner occupation has always been popular in Norway, even before the housing policy became strongly favourable to the tenure. State policy has had a strong impact. Home buyers can access preferential interest rates through the State Housing Bank. Owner-occupiers also receive tax relief on mortgage interest payments. Owner-occupied dwellings are also exempt from capital gains tax.

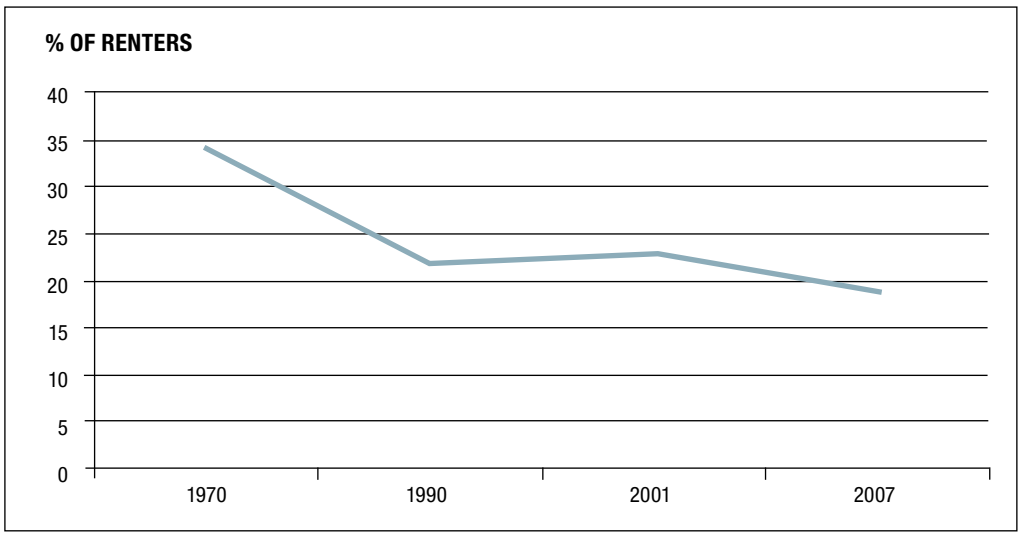
The long-term impact of this pro-home ownership policy is demonstrated by the fact that in 1920, about 47 percent of Norway's households were renters, but by 2004 only 18 percent rented (Brattbakk & Hansen 2004). In Oslo the share of renters was higher, at 29 percent of households.

The homeownership rate is fairly high, with some 63 percent of all dwellings being owner-occupied (Statistics Norway 2008) and a further 14 percent co-operative tenant-owned (Andrews & Sánchez 2011). Second homes and holiday homes are also prevalent in Norway and are exempt from capital gains tax if they have been owned for at least five years and the owner has used them in five out of the last eight years before sale.

THE CURRENT SCALE OF THE SECTOR AND SUB-SECTORS

The relative size of the private rental sector has declined considerably from 27 percent in 1980 to approximately 17 percent in 2007 (Scanlon & Kochan 2011). This was partly the result of deregulation of the housing market in the 1980s, which enabled many tenants in pre-World War II condominiums to purchase their units at a low price. In the 1990s, however, the decline of the sector halted and some growth could be detected, possibly because of the postponement of first-time-buyer purchases (Figure 1). Currently, the private rented stock (17 percent) is larger than the social rented stock (five percent).

FIGURE 1: PERCENTAGE OF PRIVATE RENTERS IN ALL HOUSEHOLDS IN NORWAY, 1970–2007



Source: Oust 2010, Table 1

Private rented housing in Norway is regarded primarily as a temporary housing option, and short-term tenancies dominate the market. Young single people and lower-income households are overrepresented among private rented tenants. Most of the landlords are individuals who are temporarily absent from their own ordinary dwellings or have extra dwellings at their disposal. Individual landlords own 78 percent of the private rental stock, and some 60 percent of these are second homes on temporary lets and units that are attached to landlord's home. Some 30 percent of tenants rent from a friend or a relative. The quality of private rented housing tends to be lower than owner-occupied housing, but high house-price-to-rent ratios also suggest that rents are not increasing at the same pace as real house prices.

OTHER REASONS FOR THE DECLINE OF THE SECTOR

Only about 21 percent of rental units are owned by professional landlords, that is owned by a real estate rental company or privately owned and situated in a multi-unit building. Probably as a result of strong government support for house purchases, about 10 percent of households in Norway own an additional housing unit. This is relatively high compared to the UK (just 2 percent) and the US and Canada (6.5 percent). About half of these second homes were inherited. Interestingly, about 50 percent of second-home owners do not rent out these units. This is probably due to the low rental yields, generally about 3 to 5 percent.

HOW REGULATION IS PERCEIVED

Because of the dominance of owner-occupation, the current regulatory regime is believed to have a neutral effect on the absolute and relative size of the private rented sector. Tenants are protected from unexpected rent increases and unreasonably high rents, and security of tenure is high. The three-month notice period requirement for tenants has protected landlords against unexpected vacancies, and relatively relaxed controls on rent increases enable reasonable yields in spite of the high level of tenant security. Regulation that allows both fixed-term and indefinite contracts makes the market more flexible and better able to respond to the needs of a variety of tenants. The sector offers more flexibility for mobile households such as young people, whose housing needs fluctuate according to their work and lifestyle.

REFERENCES

Andrews, D and Sánchez, A C (2011) *Drivers of homeownership rates in selected OECD* countries OECD Economics Department Working Paper No. 849 Paris: OECD Publishinghttp://www.oecd-ilibrary.org/docserver/download/fulltext/5kgg9mcwc7jf.pdf?expires=1329412627&id=id&accname=guest&checksum=6D976D08C2E4262E0CAE638A4495F922

Brattbakk, I and Hansen, T (2004) 'Post-war large housing estates in Norway – well-kept residential areas still stigmatised?' *Journal of Housing and the Built Environment* 19(3), 311-332

Forbrukerrådet (undated[a]) 'Contract for rental of accommodation (tenancy agreement)' Online at http://forbrukerportalen.no/filearchive/tenancy%20agreement%2026.05.2011.pdf last accessed 25 May 2012

Forbrukerrådet (undated[b]) 'Information on the regulations pertaining to tenancy agreements' Online at http://forbrukerportalen.no/filearchive/regler_husleieforhold-engelsk.pdf last accessed 25 May 2012

Husleietvistutvalget (2012) 'Information on tenancy disputes' webpage http://www.htu.no/kunder/htu/cms.nsf/$all/32BAF91AA008B5C3C125742C00645242?open&qm=wcm_2,15,0,0 last accessed 25 May 2012

Oust, A (2010) *Findings from the Norwegian private rental housing market 1970-2008* Doctoral colloquium in business administration FIBE 2010http://conference.rente.nhh.no/fibe/2010/proposals/oust-proposal.pdf

Scanlon, K and Kochan, B (eds) (2011) *Towards a sustainable private rented sector: The lessons from other countries* London: LSE

REPUBLIC OF IRELAND

The sector has declined steadily since the war and in 2006 comprised only 9 percent of the total stock. However there is thought to have been some increase recently, supported partly by an increasing role for private renting in social provision. The size of the sector has also been affected by the high rate of owner occupation in Ireland which peaked at 80 percent in 1991 and has since declined slightly.

Rent controls introduced in the pre-war period were abolished in 1982 and the sector was largely unregulated until 2004 when the Residential Tenancies Act re-introduced regulation in the private rented sector. It focused mainly on security of tenure but also introduced rent constraints. Private rents may not be higher that the open-market rate and may be reviewed either up or down only once a year unless there has been a substantial change to the property. Tenants must be given 28 days' notice of new rents, and may ask for a review if they feel they exceed the market rate for the property. Disputes can be referred to the Private Residential Tenancies Board (PRTB).

In 1993 regulations were introduced to set minimum standards for private rented accommodation. These were strengthened and enforcement improved in 2008 and 2009.

The almost total absence of regulation in the past contributed to the decline of the sector, as private tenants regularly experienced difficulties from rent uncertainty and evictions, and from low quality, unfit and unsafe dwellings. These created a negative perception of the sector as a housing option and many households avoided it or left.

Ireland is an exception in Europe in having strengthened rather than relaxed regulation on rents and security of tenure in recent years. Regulation is perceived as having a positive impact on the sector.

REGULATION PRIOR TO THE 1980s

During World War I, the British Parliament introduced measures for rent control and security of tenure. These persisted after Irish independence into the post-war period, and eventually developed into the Rent Restrictions Act 1960, an extremely complex set of restrictions.

The restrictions survived until the early 1980s, when they were the subject of a constitutional challenge. In Blake v Attorney General (1981), the Supreme Court ruled that Parts II and Parts IV of the Rent Restrictions Act 1960-1967 were unconstitutional as they amounted to an 'unjust attack' on landlords' property rights. The legislation, the Supreme Court complained, provided no compensation for landlords subject to rent control, and almost permanently alienated the property from the landlord. Following Blake, more moderate legislation was passed, designed to phase out the formerly rent-controlled sector by 2002 (the Housing (Private Rented Dwellings) Acts of 1982-1983). The net result was that tenants became largely unprotected from eviction, and the rent market was free.

CHANGES TO THE SYSTEM 1980s TO THE PRESENT DAY

Ireland is one of the very few countries where regulation of the private rental sector has increased in the past 30 years. Rent control measures introduced during the 1914–1918 period were abolished in 1982, and the vast majority of tenancies could be terminated with one month's notice from either the landlord or the tenant (Norris 2011).

The introduction of an entirely free market brought a reaction. Following campaigns by Threshold, a housing NGO, the Housing (Miscellaneous Provisions) Act 1992 was passed which provided new rights for tenants: longer notice-to-quit, minimum standards of accommodation, and the right to a rent book, plus a system of registration. It also abolished the old common-law right of the landlord to seize his tenants' property in lieu of rent (distress). However the Act did not address security of tenure, and there was another Threshold campaign, resulting in the Residential Tenancies Act in 2004, which is seen to be more anti-landlord.

Ireland has strong tenant protection laws. The parties are free to negotiate rents, but the amount must not exceed the open-market rate. The rent may be reviewed and can only be adjusted once a year. Rent disputes go to the Private Residential Tenancy Board (PRTB) which has quasi-judicial status and is empowered to mediate or adjudicate in order to resolve disputes between landlords and tenants (Department of the Environment, Heritage and Local Government 2004). Security of tenure is based on a system of four-year cycles. During the first six months, the landlord can terminate without specifying grounds. But once a tenancy has lasted six months, the landlord can terminate the tenancy during the following three and a half years only if:

- The tenant does not comply with the obligations of the tenancy
- The dwelling is overcrowded
- The landlord needs the dwelling in the next 3 months
- The landlord requires the dwelling for his own occupation or for a family member
- The landlord intends to refurbish, or
- The landlord intends to change the business use of the dwelling.

At the end of the four years, a new tenancy will commence and the cycle begins again unless otherwise agreed upon, i.e., the landlord can give notice without stating a reason within the first six months.

Tenants may give notice at any time without giving a reason, subject to any fixed-term lease or agreement contained in the contract. Regardless of the reason for the termination, the periods of notice to be given by both the landlord and the tenant depend on the length of the tenancy, as follows:

TABLE 1: NOTICE PERIOD FOR TERMINATION OF TENANCY

DURATION OF TENANCY	NOTICE PERIOD IN DAYS
Less than 6 months	28
6 months – 1 year	35
1-2 years	42
2-3 years	56
3-4 years	84
More than 4 years	112

Source: Private Residential Tenancies Act 2004

There have also been significant moves in recent years to improve the minimum standards of private rented housing. Until recently, such regulations were weak and largely unenforced. Under the Housing (Standards for Rented Houses) Regulations 1993, a landlord providing furnished accommodation was not required to provide a tenant with a cooker, refrigerator or central heating, and toilet/washing facilities could be shared by up to four flats. These standards were revised and upgraded under the Housing (Standards for Rented Houses) Regulations 2008 and the Housing (Standards for Rented Houses) (Amendment) Regulations 2009, which came into effect on 1 December 2009. The new regulations aim to gradually replace the non-self-contained bedsit by a self-contained rental unit with central heating. They also improve cooking, heating and laundry provisions, set minimum space and storage provisions to facilitate family living, require landlords to maintain the exteriors of dwellings and will completely phase out the traditional 'bedsit' (with shared facilities) by 2013 (Hayden et al. 2010).

OTHER FACTORS AFFECTING THE SIZE OF THE SECTOR

Unlike the prevailing view in many countries, in Ireland it is felt that over-burdensome regulation was a direct cause of the decline in the size of the private rented sector. However, the relationship between the growth of home ownership and the decline in private renting is not clear. Certainly, the dominant housing tenure in the Republic of Ireland is owner occupation, constituting 75 percent of the total (Figure 1). This high homeownership rate has been heavily influenced by a range of government policies over time (Drudy & Punch 2002, Hayden et al. 2010).

Over the last ten years, the boundary between the private and social rented sectors in the Republic of Ireland has become increasingly blurred. Previously, social rented housing was defined by legislation as dwellings specially built for social renting. But now, the government has leased private rental units to meet social housing need. The Rental Accommodation Scheme (RAS) introduced in 2004 is a new form of 'social' housing delivered by the private rental sector through long-term leases agreed between local authorities and private landlords. It involves the transfer of responsibility for long-term rent supplement recipients (in receipt for 18 months or longer) from the welfare ministry to the housing ministry. The Social Housing Leasing Initiative aims to source housing for those in need through the long-term leasing of units from the private sector rather than through traditional buy and build. This new hybrid tenure, which incorporates features of both social and private rental, has become a major model to deliver new social housing, although the units remain owned by the private sector.

The quality of private rented housing tends to be lower than that of owner-occupied homes, and private rental dwellings are more likely to lack central heating. As of 2006 nearly 90 percent of private rental dwellings were furnished or partly furnished by landlords (Central Statistics Office 2012). Norris (2011) identifies that the private rental housing stock in Ireland:

- contains more apartments and bedsits/studios;
- contains fewer rooms than the rest of the housing stock;
- has newer units than the remainder of the housing stock;
- is less likely to have central heating because of the large number of conversions of dwellings built pre-1919; and
- is unevenly spatially distributed, mostly located in Dublin.

Norris (2011) also notes that migrants are greatly overrepresented in the private rental sector, accounting for some 41 percent of all households in this tenure. As is the case in many other countries, private-sector tenants are fairly young, single or two-person households with below-average incomes. The sector, therefore, appears to play a role in providing short-term accommodation during the transition period to adulthood, with few long-term renters. The vast majority of private landlords are small investors who own one or two properties, and institutional investors are very rare.

THE CURRENT SCALE OF THE SECTOR AND PERCEPTIONS OF REGULATION

In 2006, the private rental sector comprised only 9 percent of the residential housing stock (2006 census) . Although this figure represents a dramatic fall from 43 percent in 1946, the sector has shown some signs of growth again in recent years, after a long period of decline. Evidence of growth in the private rental sector can be discerned from tenancy registrations with the Private Residential Tenancies Board (PRTB). At the end of 2009, in excess of 234,000 tenancies were registered, representing 116,000 landlords and more than 399,000 tenants (PRTB 2010). This increase in registrations has been supported by the Social Housing Leasing Initiative.

The almost total absence of regulation in the past contributed to the decline of the private rental sector in the Republic of Ireland. Private tenants regularly experienced difficulties from rent uncertainty, illegal evictions and deposit retention, and the dwellings themselves were often of low quality and unfit in terms of fire safety and other standards (Drudy & Punch 2002). These issues created a negative perception of the sector as a housing option and many households were encouraged to avoid or leave the sector. The Residential Tenancies Act 2004, however, has significantly increased the security of tenure of private tenants. Also, the Housing (Standards for Rented Houses) Regulations 2008 are likely to have a positive impact on the housing quality of private rental dwellings in the years to come. These new regulations, if enforced, have the potential to increase the sector's appeal and improve its capacity to meet the housing needs of a more diverse range of households.

The Republic of Ireland is an exception in Europe in that it has strengthened regulations on rents and tenure security in the private rental sector. Despite the continued government support for homeownership, the recent policy of using private rental housing to accommodate social tenants has changed the role of the sector.

REFERENCES

Central Statistics Office (2012) Ireland Private dwellings in permanent housing units in the Aggregate Town and Aggregate Rural Areas of each Regional Authority Area, classified by nature of occupancy, 2006,
http://census.cso.ie/Census/TableViewer/tableView.aspx?ReportId=76511

Department of the Environment, Heritage and Local Government (2004) *Residential Tenancies Act 2004: A Quick Guide* http://www.kildare.ie/countycouncil/Housing/PrivateDwellings/LinkToDocument,7387,en.pdf

Drudy, PJ and Punch, M (2002) 'Housing models and inequality: perspectives on recent Irish experience' *Housing Studies* 17(4), 657-672

Hayden, A, Gray, P, McAnulty, U, O'Malley, C and Jordan, B (2010) 'The private rented sectors in Northern Ireland and the Republic of Ireland: a case study in convergence analysis' *International Journal of Housing Policy* 10(4), 421-441

Norris, M (2011) 'The private rented sector in Ireland' in Scanlon, K and Kochan, B (eds.) Towards a Sustainable Private Rented Sector: *The Lessons from Other Countries* London: LSE

Private Residential Tenancies Board (PRTB) (2010) *Annual Report & Accounts 2009*
http://public.prtb.ie/DownloadDocs/PRTB_Annual_Report_2009.pdf

Statutory Instrument No. 462 of 2009
http://www.environ.ie/en/Legislation/DevelopmentandHousing/Housing/FileDownLoad,21710,en.pdf

SPAIN

The size of the private rented sector in Spain has declined from around 21 percent in 1980 to approximately 8 percent in 2010. The Spanish housing market is characterised by a very low share of any type of rental housing and a complete lack of tenure neutrality. The rental sector houses people who are in economically insecure or transitory situations and who do not have enough resources to access ownership.

Until 1985 a combination of restrictive regulations on rent increases and extremely strong security of tenure made it virtually impossible for landlords to generate a reasonable return from their rental property or to regain vacant possession from the tenant. This discouraged owners/landlords from putting their dwellings onto the market.

Since 1985 a number of different regimes have been introduced. As a result up to five different types of rental contracts are still in play, depending on the date of the initial contract. Each type is subject to a different degree of regulation. Between 1985 and 1994 a more relaxed regulation system, including a reduction in the minimum tenancy duration from its pre-1985 levels, was introduced. The 1994 Act marked a further significant reduction in regulation and most tenancies now fall within that framework. Since 1995, the government has relaxed regulation and improved fiscal incentives for landlords to increase investment in the PRS and to encourage owners to let their vacant properties, but with little success. This may reflect the fact that potential landlords do not trust the judicial system to enforce the changed regulations, and may lack knowledge about the most recent developments.

The Spanish housing system, including the subsidised sector, remains dominated by owner-occupation. However the current financial crisis is starting to change perceptions and opportunities.

REGULATION PRIOR TO THE 1980s

As a result of the large-scale destruction of the country's housing stock during the Spanish civil war (1936-1939), rental prices rose considerably. In order to support the middle classes, new laws were passed to provide security and stability in the rented sector by freezing rents and limiting landlords' rights to regain their properties (Hoekstra & Heras Saizarbitoria 2007). Policy measures were put in place to support the construction of low-quality public rental housing to meet the growing housing demand in the cities. These did not last long and had a relatively limited impact, as much of the public rented stock was soon sold off into owner occupation.

In 1946, the Urban Rent Act established a strict regulation over tenancy contracts, replacing the more liberal Civil Code that had applied until then. It introduced an indefinite term as compulsory for tenancy contracts, regulated rents, and made it possible for relatives to inherit tenancies. It also enabled a fixed one-off rent increase for tenancies that had been signed before the end of the Civil War (to compensate for the rent freezes introduced once the war had ended) and froze the rents for all new contracts. The 1955 amendment of the Rent Act allowed for rents to be set freely for contracts signed after 12 May 1956 and permitted landlords to include a rent revision clause in new contracts. Rent increases during a tenancy, however, remained capped and controlled by the government.

In 1964 a new Urban Rent Act was introduced. Its main purpose was to clarify existing regulation and formalise recent amendments. It did not change the 1946 regulation governing the terms of the contract but relaxed the strict government control over rent increases by tying them to the cost-of-living index after the first five years of a tenancy. This change, however, applied only to new contracts, and pre-1964 contract remained regulated by previous legislation. Compulsory renewals remained for all contracts.

SUBSIDISED HOME OWNERSHIP

Because of the importance of construction industry for the general economy, residential construction has been heavily subsidised during economic downturns. Brick-and-mortar subsidies have been frequently made available to developers, especially at times when the construction industry has needed stimulus. In 1950-1980, approximately 30 percent of new residential units were directly or indirectly subsidised by the state (Penã & Ruiz-Castillo 1984).[10]

During the 1960s and 1970s, policies were developed to subsidise homeownership among low- and middle-income households under the Officially Protected Housing schemes *(Viviendas de Protección Oficial)* known as VPOs. Under the VPO scheme, below-market interest rates were available for the construction as well as the purchase of subsidised housing. As a result, rented housing for low-income families constitutes less than two percent of the overall stock, while subsidised owner-occupied housing is estimated to account for approximately 12 percent (although it is difficult to estimate a stock figure for VPO housing in a particular year as VPO is a flow and over time the subsidised loans are repaid).

Since the 1960s, state-subsidised housing has been provided almost exclusively through the owner-occupied sector. Because of the high income threshold, some 90 percent of Spanish households are eligible to apply for such housing. This subsidised owner-occupied housing retains the status of social housing only for a given number of years. During this period the dwelling is subject to sale restrictions, and cannot be sold at a market price. The length of time these restrictions are in place varies between autonomous regions. In most instances, however, the units eventually move into the open market, making it possible for their owners to profit from the sale. Recent revisions to Spanish housing policy suggest that this model might change in the future. In some Spanish regions, subsidised owner-occupancy housing is now considered as a separate and permanent tenure category rather than a temporary subsidy arrangement (Hoekstra & Heras Saizarbitoria 2007).

In spite of the long history of subsidies, lower-income households experience great difficulties in accessing suitable housing. This is largely the result of a combination of rising house prices and a small rental sector that together make owner occupation virtually the only housing option. Policy governing the supply of land has been blamed for not doing enough to promote the subsidised housing programmes (Barrios Garcia & Rodriguez Hernandez 2004).

[10] According to Penã and Ruiz-Castillo (1984), the exact number of subsidised units, and the share of these subsidised by different types of subsidies, is not known because of the numerous and complex changes that took place in 1950-1980.

CHANGES TO THE SYSTEM 1980 TO THE PRESENT DAY

In the 1980s, two different regulatory regimes were in place. Depending on the start date of a tenancy agreement, PRS contracts were regulated either by the 1946 Urban Rent Act (1946-1965 tenancies) or the 1964 Urban Rent Act (post-1965 tenancies). For both categories, initial rents were set administratively at the start of the tenancy. For the post-1964 contracts, rent increases were tied to the cost-of-living index, while rents for contracts signed before 1964 remained frozen, as stipulated by the 1946 Act. Tenure security was very high for both types of tenancies: contracts were indefinitely renewable. Evicting a tenant who did not want to leave was virtually impossible as long as they met their payments. Tenancies could also be inherited with unchanged conditions by family members or close relatives of the tenant.

Policy towards the construction industry, general government housing policy and the regulation of the private rented sector are closely intertwined, and greatly influenced by the general economic climate. The thirty-year period 1980-2010 can be roughly divided into five segments.

1980-1984
This first period was characterised by economic stagnation and decline. As private-sector construction rates fell or remained low, construction of subsidised housing increased in an attempt to support the struggling building industry. In 1978-1986 some 50 percent of new housing was subsidised, as the VPO scheme was used to support the construction sector.

For the owner-occupied sector, this period marked the beginning of mortgage market liberalisation. In 1981, the Spanish Mortgage Market Act authorised commercial banks to grant mortgage loans and to issue bonds, while also enabling the development of credit institutions specialising in mortgages. This measure worked to facilitate home-ownership by easing access to housing finance. As a result, the homeownership rate continued to grow while the share of rental housing declined further.

1985-1991
During this period of economic growth and the associated increase in housing demand the construction of subsidised housing fell, as free-market housing became more lucrative for developers. At the same time, Spain's 17 autonomous communities (ACs), established by the 1978 post-Franco constitution, were granted more freedom over decisions regarding subsidies to housing in their regions.

In the private rented sector, the 1985 Boyer Decree eliminated the compulsory extension of new tenancy contracts, making it possible to have fixed-term contracts without the automatic right to renewal. Rent increases remained tied to the cost-of-living index. All contracts signed before 1985, however, continue to be regulated by the 1964 Urban Rent Act.

1992-1996
The 1990s marked the beginning of a housing boom, with starts and completions increasing first in line with the demand, and later exceeding demand. As a result of Spain's membership of the European Union in 1986, the 1990s saw an increase in immigration and foreign investment in housing. Declining mortgage interest rates and the liberalisation of financial markets eased access to housing finance, increasing demand for owner-occupied housing.

The 1992-1995 Housing Programme objectives included the stimulation of residential construction and the private rented market. Under this programme, incentives were introduced to encourage institutional and individual investment in the PRS. In 1992, Institutions for Collective Housing Investment (similar to REITs) were created, and giv-

en tax privileges if investing solely in housing. At the same time, corporate tax reductions of 85-90 percent were made available to companies whose principal activity was housing rental. In 1990-1996, an average of 240,000 dwellings were started annually.

In an attempt to encourage owners to let out vacant dwellings, the 1994 Law of Urban Leasing *(Ley de Arrendamientos Urbanos)* reduced the tenant's right to an automatic lease extension for pre-1985 rentals to five years, enabled landlords to gradually raise pre-1964 rents and to eventually recover their property, and imposed a 30-day notice period for tenants if they wished to dissolve the contract. Although the new law maintained the system of linking annual rents increases to the cost of living in the first five years of a contract, it granted landlords more freedom over the drafting of subsequent contracts after the initial five-year period.

In the subsidised housing sector, a new type of subsidised housing (*Vivienda de Precio-Tasado* or housing under controlled prices), known as VPT, was introduced. This was priced considerably higher than VPO housing but was not subject to the 30-year lock-in period that applied before VPO housing could be sold on the open market. Instead, the rules required all subsidies to be repaid for any VPT housing that was sold within the first five years. Also at the beginning of the 1990s, all pre-1978 subsidised housing units were retroactively deregulated, even where the qualification period had not expired.

Growth in the owner-occupied sector was induced by relaxed mortgage regulations and changes in tax regulations, which worked to further reduce the relative cost of homeownership. In 1992, the securitisation of mortgage loans reduced the risk of borrowing considerably.

1997-2007

The 1998-2001 Housing Plan followed in the footsteps of the previous programme with its key objective of stimulating homeownership as well as rental housing supply. The policy, together with favourable economic conditions, led to very high construction rates and increases in homeownership and mortgage lending.

During this period, the government passed several measures to incentivise investment in the PRS and revitalise the sector. The 1998 Personal Income Tax Reform made landlords' mortgage interest deductible from rental income, and allowed cost deductions against rental income.

Policies to enable low-income households to access rented housing were also devised in 2005, with the establishment of Publicly Held Rental Companies (*Sociedades Públicas de Alquiler,* or SAPs). The purpose of the SAPs was to act as intermediaries between tenants and landlords, managing the tenancies and minimising the potential difficulties for both parties. In its first four years of operation the SAPs created less than 10,000 rental contracts, and accumulated losses of several million euros (Orti Vallejo 2009). As a result, the government finally introduced some fiscal measures to revive the rental market in 2006. These included further adjustments to the benefits made available under the 1998 Personal Income Tax Reform, a 3 percent depreciation allowance, and tax exemptions up to 100 percent for landlords who rented units that served as principal residences. Tax deductions of 85-90 percent on rental income were made available to corporate landlords whose principal activity was residential lettings.

Other measures included redecoration subsidies of up to €6,000 for owners who would let a vacant dwelling of under 120m² at below-market rent for at least five years. On the demand side, a rent payment deduction from taxable income which had been abolished in 1998 was again made available to low-income tenants.

Addressing the ongoing concern over landlords' limited control over their let properties, in 2006 the Spanish Law of Civil Procedure *(Ley de Enjuiciamiento Civil)* made it possible for landlords to evict a tenant for non-payment of rent. The impact of this amendment, however, has been limited as it also granted the tenants the right to remain in the property for four months, even after legal action. In 2003, an amendment to eviction procedures made speedier eviction possible to landlords who were willing to reduce the amount owed.

In spite of all these changes, vacancies have remained high and the share of the rental market has not increased. Although the reluctance of owners to let their vacant properties has undoubtedly been a major factor affecting supply, changes that have worked to further increase the relative attractiveness of homeownership are likely to have also played a part. The abolition of taxation on imputed rent on main residences in 1998 together with the generous tax breaks for mortgage interest payments, capital repayments and housing saving schemes already in place helped fuel mortgage growth. As a result of relaxed mortgage regulations, loan terms became longer and loan-to-value ratios increased. Altogether, the subsidies effectively allowed homebuyers to increase their total borrowings by 15 to 20 percent. The share of rental housing declined as owner-occupation became increasingly accessible.

In 2003-2004 the number of new housing starts rose to more than 650,000, exceeded 700,000 in 2005 and finally peaked at 760,179 in 2006. A key factor behind this growth in demand was foreign investment, predominantly from EU nationals. In spite of the high level of construction activity, Spain experienced an enormous house price boom in 1996-2007. During this time, average house prices rose by 197 percent (117 percent in real terms), with the highest price increases to be found in Madrid, Barcelona and the Mediterranean coast. In 1996-2007, the price of coastal properties surged by 250 percent (155 percent in real terms) on average, largely as a result of the great increase in demand from non-Spanish EU nationals.

The increase in house prices, house-price-to-income ratios and rents resulted in worsened affordability (Pareja-Eastaway & Sãnchez-Martinez 2010). In an attempt to keep subsidised housing affordable, the 2005-2008 Housing and Land Plan increased the lock-in period for VPO sales back to 30 years. At the same time, the autonomous communities were given the freedom to determine the lock-in periods for both VPO and VPT housing. Some ACs opted for permanent or near-permanent lock-in periods, while others reduced them.

CURRENT HOUSING POLICY OF THE STATE AND THE AUTONOMOUS COMMUNITIES

Nationally the general housing policy target has been to stimulate homeownership and the construction industry (Pareja-Eastaway & Sãnchez-Martinez 2010). Since the 1950s, housing policy has had a significant impact on residential construction and tenure distribution. Since the democratisation of Spain in 1978, housing policies have focussed mainly on promoting home-ownership via both supply- and demand-side subsidies. Mortgage interest, property taxes, and a certain percentage of the house value have been deductible at very generous rates (13.5 to 16.5 percent), depending on the value of the house and household composition. Reduced capital gains tax and tax exemptions are also available to owner-occupiers.

The autonomous communities can modify and complement the state's housing policies with the help of their own resources. They are also responsible for regional housing and land use regulations, subsidised owner-occupied and rental housing stock, and subsidies to housing investments (Hoekstra & Heras Saizarbitoria 2007). Since 2002 they have had the right to amend, up to a 50 percent limit, the rate at which housing investments can be deducted from taxable income for purposes of their own taxation.

CURRENT CHARACTERISTICS OF THE PRIVATE RENTED SECTOR

The rental sector is largely the domain of people who are in economically insecure or transitory situations, such as young people who have recently left home and cannot afford ownership, recently divorced people, and immigrants with precarious employment (Hoekstra & Heras Saizarbitoria 2007).

In general, housing quality in Spain is acceptable. Some legal standards are in place to guarantee minimum conditions for housing construction in terms of materials, facilities, urban density, health and safety. The Spanish housing stock is younger than the European on average, because of the delay in the country's economic expansion. The percentage of housing in bad or dilapidated condition is relatively small and the highest percentages of deterioration can be observed in vacant and second homes in small and rural localities. There is, however, some evidence to suggest a demand for housing renewal (Pareja & San Martin 2003).

The large majority of Spanish rental dwellings are owned by individual private landlords (Hoekstra & HerasSaizarbitoria 2007). The rental stock is, on average, older, and has higher levels of deterioration than owner-occupied housing. Much of the rented housing stock is located in the old city centres (Pareja & San Martin 2003).

The chronic lack of an affordable housing stock in the rental sector makes new household formation by young adults difficult. Most continue to live with their parents after becoming economically active, often for extended periods of time, in order to acquire the financial resources they need to access homeownership. In spite of the expansion of the mortgage market from the mid-1990s on, most privately owned dwellings are fully paid for and only a minority of home-owners have outstanding mortgage debts (Pareja & San Martin 2003).

Rents in the free-market sector are significantly higher than in the subsidised sector. The social rented sector is, however, extremely small, accounting for approximately 2 percent of total stock and 20 percent of the stock in 1990, which is the last year for which data are available (EU Housing Statistics 2010). Rents for private rented properties vary considerably between pre-1964 and post-1964 contracts (Eastaway & Sãnchez-Martinez 2010).

TAXATION OF INVESTMENT IN THE PRIVATE RENTED SECTOR

Landlords in Spain must pay local property tax *(Impuesto sobre Bienes Inmuebles)*, local drainage and refuse collection tax, and tax on rental income. Non-resident landlords are subject to some additional taxes, and must also pay tax if their property is left vacant. The rules on the taxation of rental income have changed over time. The most recent change made rental income taxable as investment income.

Tax can be deducted directly from the rent paid by the tenant. Whether or not the tax on rental income is paid by the tenant, tenants who file tax returns in Spain are required to provide the landlord's name and tax identification number to help the authorities identify landlords' undeclared income. Maintenance expenses can be deducted from income, as can mortgage interest.

Investment in the private rented sector has traditionally not been subsidised. The first positive changes to landlords' unfavourable tax position were made as late as January 1999. From January 2003, individual landlords have been entitled to a 50 percent tax reduction if the property is used as a main residence of the tenant and since January 2007 tax reductions of up to 100 percent if their tenant is aged 18-35 years of age and has a low income. Companies whose main activity is residential lettings have been entitled to 85-90 percent tax reductions since 2006.

RENTS, RENT REGULATION AND SECURITY OF TENURE

The Spanish private rented sector can be divided into two main categories: dwellings with contracts signed before the 1964 Rent Act came into force, and those with contracts signed after it. In reality, however, up to five different types of regulation can exist, depending on the date of the initial contract.

The Urban Rent Act of 1994 has worked to reduce the differences between the contracts. The 1985 Boyer Decree changed the regulation of the rented sector rather radically by eliminating the compulsory extension of tenancy contracts. It also made it possible for landlords to sign fixed-term contracts without automatic right of renewal. Rent increases remained tied to the cost of living, and the liberalising measures applied only to post-1964 contracts.

The 1994 Law of Urban Leasing *(Ley de Arrendamientos Urbanos)* was implemented to counter the negative effects of total liberalisation and reduce the complications created by the coexistence of several differently controlled types of tenancy by restoring a balance between tenants' and landlords' interests. It ended the tenant's right to automatic lease extension under the old 1964 law for pre-1985 leases, and allowed landlords to gradually raise the pre-1964 rents and eventually to recover their property, although there remains some doubt as to whether or not this will happen in practice.

Taking a step back towards a higher level of regulation, the 1994 law imposed a five-year contract (or compulsory renewal of the contract for a period of five years) as standard for all new lets, with a 30-day notice period for tenants to dissolve the contract. It maintained the link between rent increases and CPI for the first five years of a contract. For leases lasting longer than five years, the parties are free to negotiate the conditions for rent increases after year five. If they cannot agree, the CPI governs rent increases during the whole term of the lease. Holiday rentals remain excluded from the general rent law and different types of contracts are used for short-term and holiday lets.

Tenancies established before the 1985 Boyer Decree are characterized by very low rents, especially for contracts that commenced before 1964. They are mainly held by retired elderly people with relatively low incomes, although in some instances heirs have benefited by inheriting tenancies with favourable terms and conditions (including frozen rents) under the 1964 Act.

The second category of tenancy contracts are those signed in 1985-1994 and still in effect in spite of the absence of compulsory renewal. The third category includes all tenancies under the 1994 Act. The last two categories are, under the 1985 Boyer Degree, subject to regulation over rent increases, but not regulation over initial rents. As demonstrated by Pareja-Eastaway and Sānchez-Martinez (2010), the rent differences between contracts established in the three distinct periods, under three different regulatory regimes, are noticeable.

Following the 1994 Law of Urban Leasing, new rental contracts can take the form of either a standard *Vivienda* (home) contract or a less common, short-term *Arriendo de Temporada* (seasonal rental) contract used for holiday lets. A *Vivienda* contract is renewable for up to five years and is seen as a 'residence' contract, whereby a person or a household rents a property to use as their permanent residence for the foreseeable future. *Vivienda* contracts are much more protected and have more stability than short-term *Arriendo de Temporada* contracts. The *Vivienda* contracts are normally written for one year, although the tenant has an automatic right to extend the contract for up to five. Rent can be revised upward each year by inflation. After five years, the rent and contract conditions can be amended provided both parties agree. If the landlord does not wish to renew the contract after the five years, the tenant must be officially

notified well before the contract ends. If notice is not given, the contract is automatically regarded as renewed for a further two years.

An *Arriendo de Temporada* contract normally does not exceed one year. It is meant to cover situations where the tenant does not intend to stay permanently and therefore does not confer full rights. Unlike *Vivienda* contracts, an *Arriendo de Temporada* contract is not automatically extended after the first year unless both the owner and the tenant wish to do so. The tenant has no legal rights to an extension of the contract. The contract will show the amount of rent payable, manner and date of payment, deposit details and the time period. The contract states clearly that it is not a permanent residence. All contracts must be registered with the Spanish housing department, although a failure to do so does not make the document any less legally binding.

Security of tenure is high for the first five years of a tenancy, during which time landlord is obliged to renew the contract. The contract can be terminated during this time at the tenant's wish. Landlord can acquire a court order to evict a tenant under certain conditions, which include

- non-payment of rent (but rent arrears need to be in excess of six months before action can be taken),
- damage to the property,
- immoral or illegal use of the property,
- subletting the property without prior permission, or
- use of the property for fraudulent activities.

In spite of the recent regulatory changes, eviction is generally regarded as a lengthy process that takes months to complete.

Tenants renting a property on a standard *Vivienda* contract are entitled to first refusal if the landlord wishes to sell the property. The landlord must notify the tenant in writing detailing the price and conditions of the sale, and must give them a reasonable period of time to reply. If the tenant does not reply or refuses then the owner is free to sell. A purchaser who buys a property that is occupied by a tenant on a *Vivienda* contract cannot amend or terminate the contract and must allow the tenant to stay in the property until the contract expires.

With temporary contracts the right of pre-emption does not apply, although it is considered good manners for the landlord to inform the tenant immediately if they wish to sell the property, possibly offering first refusal as a goodwill gesture. In any case, the tenant has the right to stay in the property until the end date stated on the contract. If the property is sold before this date the new owner must honour the existing temporary contract.

The 2008 reform of the Tenancy Law *(Ley de Arrendamientos Urbanos)* relaxed the compulsory term in an attempt to enable quicker possession by landlords in the event of non-payment of rent. This reform was included in the 2009 law *(Ley 19/2009 de Medidas de Fomento y Agilización Procesal del Alquiler)*, which made it possible for landlords to terminate tenancies if they need the property for their own use (or for an immediate family member) as their primary residence.

The Tenancy Law applies in the same form to all part of the country, but autonomous communities have the power to allow specific tax deductions for renters, owner-occupiers and landlords. These deductions are rarely general in nature and often only applicable to certain population groups (such as young or disabled people) or certain types of areas (such as small cities affected by population decline).

OTHER FACTORS AFFECTING THE SIZE OF THE SECTOR

The massive housing boom ended abruptly in 2008, as the global crisis hit and credit dried up. At the same time, financial crisis in other parts of Europe reduced sales to foreign buyers. Developers were left with blocks of unsold properties and massive debts. In 2008 new housing starts dropped to 328,600, and in 2009 the figure was down to 159,300 units. The high number of starts in the previous years, however, meant that the number of completions exceeded demand even after house prices began to fall in 2008. Despite the massive oversupply, dwelling completions exceeded 630,000 in 2008, as most units had been started before the crisis. In 2009, dwelling completions dropped to 424,000 (Global Property Guide 2011).

By the end of 2010, house prices had fallen by some 17 percent from the 2007 peak. Although the house price boom had ended, restricted access to credit caused a fall in demand. In the absence of viable alternatives to owner-occupied housing, reduced access to housing finance worked to worsen the already-apparent housing shortages. In the rental sector, unmet demand enabled landlords to raise rents for new and renewed contracts (Pareja-Eastaway & Sãnchez-Martinez 2010).

Recent housing market developments have resulted in a rapid increase in the number of bad loans and repossessions, and Spanish banks are now believed to be the largest property owners in the country. As a result of the combination of financial crisis, tightened mortgage regulations, rising unemployment and years of oversupply, the Ministry of Housing estimated that the number of unsold, vacant, properties in Spain reached 1 million, or 20 percent of the total housing stock, in 2009.[11] If this figure is accurate the proportion of vacant properties exceeds the share of private rented properties. It is estimated that it will take at least six years for the housing market to reach balance again (Global Property Guide 2011). At the same time, rising unemployment and tightened mortgage regulations have made access to owner-occupied housing increasingly difficult for low-income households and young people, and the demand for affordable rented housing has increased. Considering the very limited supply of rented dwellings in the market and associated difficulties faced by low-income households in accessing housing at the moment, it has been suggested that the vacant stock could be put to good use in the rental housing market (Orti Vallejo 2009).

Following the abrupt end of the housing boom, the stimulation of rental housing supply and utilisation of the vacant dwelling stock became increasingly important housing policy objectives. Several measures were taken to incentivise and encourage owners and developers to let vacant dwellings to reduce housing shortages. Building on previous legislative changes, further attempts were made to reduce landlords' fears about inability to regain control over their properties. In 2009 a law was passed allowing landlords to terminate tenancies prematurely if they need the property for their own use as their primary residence before the end of the five-year term. The same law reformed the eviction procedure to enable landlords to acquire possession of their properties faster (within one month) in the event of default via 'express eviction'. In 2011, further amendments were made to the taxation of rental income. On the demand side, housing allowances were made available to tenants under the age of 35 and earning less than €24,020 per annum from 2009 on.

[11] The share of vacant dwellings of the total housing stock was estimated to be over 20 percent as early as 2004 (Housing Statistics in the European Union 2010).

Some attempts were also made to provide more subsidised housing to low-income households, although still through the owner-occupied rather than the rental sector. The 2009-2012 Housing Plan included a government policy to purchase land for the construction of up to 1.5 million mainly small (30m² and up) VPO units in the period 2009-2019. Plans were also made to establish a public register to facilitate the enforcement of income criteria in the housing allocation process to avoid fraud.

Despite the growing realisation that a more robust rental sector is needed, little has been done to reduce the tax benefits available to home owners, apart from a small increase in capital gains tax for owner-occupiers in 2010.12 Instead of reducing the tax benefits available to owner-occupiers, the government continues to pursue policies supporting this tenure.

Most recently, in January 2011 the fiscal deduction for home buyers was finally almost eliminated. The full deduction of up to €9,040 was maintained only for those with taxable incomes below €17,000 per year. For people earning between €17,000 and €24,107 it was a little lower; and completely eliminated for those earning above €24,107. In 2012, however, the new conservative government announced the re-instalment of the pre-2011 tax advantage with retrospective effects for those who bought during 2011.

A reduced value-added tax of 6 percent on new houses was introduced in 1986 which was increased to 7 percent in 1995 and to 8 percent in July 2010. In 1995 a new super-reduced VAT of 4 percent was also introduced for VPO. In September 2011 and for four months until the end of 2011 the reduced 4 percent VAT was extended to all new houses and not only to VPO. Since January 2012, the new government has prolonged this 4 percent reduced VAT for all new houses. A similar transfer tax of 6-8 percent, differing between the autonomous communities, applies to the purchase of an existing house.

THE CURRENT SCALE OF THE SECTOR

The most characteristic features of the Spanish housing market are the very low share of rented housing, the virtual absence of subsidised rented housing and the complete lack of tenure neutrality. The Spanish housing market can be divided into two segments: owner occupied and rented. The owner-occupied sector is made up of subsidised and market housing, although this distinction is rarely made in housing statistics. The rented sector, comprising approximately 10 percent of the overall housing stock, can be divided into private rented (approximately 80 percent of rented housing or eight percent of the total stock) and social rented stock (approximately 20 percent of the rented, or two percent of the total stock), although this distinction is again rarely made in housing statistics. The share of rented housing has decreased rapidly over the past 50 years and today rented housing comprises a small proportion of the overall housing stock, while owner-occupied housing dominates the market.

The housing system has, for a long time, functioned to promote owner-occupation via measures that enhance access to the sector and favour home owners. Unlike most other European countries, subsidised housing is provided mainly via the owner-occupied sector, and therefore homeownership is the prevailing tenure among all income groups. A more detailed breakdown of the occupied housing stock by tenure is shown in Table 1.

[12] In 2010 capital gains tax rates increased from a flat rate of 18 percent to 19 percent on the first €6,000 and 21 percent for the rest. The rate falls as the holding period increases, and exemptions apply if the gain is to be used to purchase a dwelling as a permanent residence.

TABLE 1: ESTIMATED TENURE BREAKDOWN AND CHANGE OVER TIME

	PRIVATE RENTED	SOCIAL RENTED	OWNER-OCCUPIED	OTHER
	% of the housing stock			
1950	51	3	46	0
1960	43	2	51	4
1970	30	2	64	4
1981	21	2	73	6
1991	13	2	78	7
2000	10*		84	6
2008	13*		85	2

*Rented total (no distinction between private and social rented available)

Source: 1950-1980 Pareja-Eastaway and Varo (2002); 1991-2008 Housing Statistics in the European Union (2010). Exact figures on tenure distribution are not readily available. The data displayed in this table are estimates

The number of dwellings per household is high, largely because of an extensive secondary home market: approximately one-third of the stock is not being used as a primary residence, and approximately a fifth of the stock is vacant (Esteban & Altuzarra 2008). Household wealth is held largely in the form of property, including primary homes, vacant and second homes, together with commercial property (Esteban & Altuzarra 2008).

The supply of rental dwellings, however, is very limited. The stock is mainly owned by individual landlords, and there is a lack of qualified and professional suppliers (Pareja & San Martin 2002). Spain experienced an enormous house-price boom in 1996-2007, followed by worsened economic conditions and tightening of mortgage regulations. As a result, access to housing has become increasingly difficult. The shortage of affordable rental housing, as well as rental housing more generally, is making it increasingly difficult for low-income families and young households to meet their housing needs (Pareja & San Martin 2003).

OTHER REASONS FOR THE DECLINE OF THE SECTOR

The recent price hikes, combined with a scarcity of rental dwellings, have worsened the housing situation. Although the dwelling stock far outnumbers households (in 2001 there were as estimated 14.54 million households and 21.06 million dwelling units), Spain has one of the highest housing deficits for those demographic groups, including young people, low-income families and immigrants, who tend to be overrepresented in the rented sectors in other European countries (Leal Maldonado 2005, cited in Pareja-Eastaway & Sãnchez-Martinez 2010). The complex measures that have been in place for a long time to support homeownership have been identified as a hindrance to successful stimulation of the rental sector (e.g. Garcia Montalvo 2007, cited in Pareja-Eastaway & Sãnchez-Martinez 2010). These recent developments have resulted in a debate about the need for larger rental sector and increased provision of subsidised housing via the rental rather than the owner-occupied sector (Pareja & San Martin 2003; Hoekstra & Heras Saizarbitoria 2007; Pareja-Eastaway & Sãnchez-Martinez 2010).

Despite the obvious demand for more rental housing, supply has not picked up. The path-dependent nature of housing markets, a long history of stringent pro-tenant regulation and a strong cultural bias towards homeownership reflected in the differential taxation of tenures go a long way towards explaining the current tenure distribution. In recent decades, however several changes have been made to income taxation and regulation to incentivise investment in the PRS and to encourage owners to let their

vacant properties. Yet these measures have had a fairly small impact, being largely unable to increase the share of the tenure in spite of the growth in demand.

One obvious reason for the limited effect is the short time that has elapsed since the most radical amendments to taxation and regulation. Another explanation, however, may be the limited extent to which the changes in regulation can be implemented and enforced in practice – and the limited faith that owners of vacant units have in these changes.

The 1994 Law of Urban Leasing *(Ley de Arrendamientos Urbanos)*, as already mentioned, enabled landlords to gradually raise the pre-1964 rents and to eventually recover their property. Progress has however been slow, and there is little evidence that significant numbers of properties have indeed been recovered. The process has been complicated not only by tenants' refusal to leave their homes, but also by the cumbersome nature of the procedures, with different rules applying to different types of situations: tenants with their own and first contracts, those who inherited tenancies from the original tenants, and those who inherited tenancies that were themselves inherited.

Moreover, landlords have had the right to repossess the rented property for their own use (or the use of an immediate family member) within the first five years of the tenancy only since 2009. Although this should in theory incentivise owners to let their vacant dwelling in the PRS, the costs associated with premature termination of a contract are notable.[13] Similar problems apply to the enforcement of the law enabling express evictions: while the legislative change theoretically enables a quick and low-cost eviction in the event of non-payment of rent, the slow functioning of the legal system and strong social objections to the eviction of low-income households generate significant barriers to the practical exercise of these legal rights. Legislative changes and fiscal benefits must be accompanied with sufficient enforcement mechanisms before letting out a vacant dwelling becomes widely regarded as lucrative activity.

HOW REGULATION IS PERCEIVED

The Spanish private rented market is generally regarded as narrow and inaccessible, characterised by the coexistence of a variety of differently regulated contracts depending on when they were signed. Until 1994, extremely high security of tenure has made it very difficult for landlords to reclaim their property, even if they would have needed it for their own use. Extremely high security of tenure continues to limit landlords' ability to reclaim control over properties that were let before 1994.

The high level of rent control combined with strong security of tenure is generally seen as responsible for the poor quality and lack of maintenance of the private rented sector in Spain. High regulation is blamed for the high void level in the country, as property owners would rather keep their dwellings empty while waiting for a buyer than rent them privately. An inefficient judicial system and the cumbersome regulatory framework, including landlords' limited ability to acquire possession of their property, further discourage landlords from letting their vacant properties. In the early 2000s, approximately 14 percent of the stock was vacant, while the total proportion of rented housing in the overall stock was significantly lower at about 11 percent.

It has been argued that the rental regulations need to be changed to stimulate an increase in the supply of rented housing in the medium and long term. A larger rental stock could benefit the Spanish economy by facilitating residential mobility and thus helping to reduce unemployment. An increased supply of rented housing would also reduce the housing shortages among migrants and young adults and households with limited resources, and help young people to become independent at an earlier age.

[13] The owner must pay the former tenant two years' rent if the tenant leaves within six months, one year's rent if they leave within a year, etc.

Housing policy measures that favour renting rather than owning, it has been argued, would require less public funding and generate more beneficial outcomes (Pareja & San Martin 2003).

REFERENCES

Andrews, D, Sánchez, A C and Johansson, Å (2011) *Housing Markets and Structural Policies in OECD Countries* OECD Economics Department Working Paper No. 836 Paris: OECD Publishing

Barrios Garcia, J and Rodriguez Hernandez, J (2004) 'User cost changes, unemployment and home-ownership: evidence from Spain' *Urban Studies* 41(3), 563 – 578

Conefrey, T and FitzGerald, J (2010) 'Managing housing bubbles in regional economies under EMU: Ireland and Spain' *National Institute Economic Review* 211(91), 26 – 42

Dol, K and Haffner, M (eds) (2010) Housing Statistics in the European Union 2010, The Hague: Ministry of the Interior and Kingdom Relations

European Central Bank (2009) *Housing Finance in the Euro Area,* European Central Bank Occasional paper Series No. 101, March 2009

Esteban, M and Altuzarra, A (2008) 'A model of the Spanish housing market', *Journal of Post Keynesian Economics* 30(3), 353 – 373

Global Property Guide (2010) 'Spain' http://www.globalpropertyguide.com/Europe/Spain

Hoekstra, J and Heras Saizarbitoria, I (2007) 'Recent changes in Spanish housing policies: subsidized owner-occupancy dwellings as a new tenure sector?' presentation to ENHR 2007 conference, Rotterdam

Mora Sanguinetti, J (2009) *The Effect of Institutions on European Housing Markets: An Economic Analysis,* PhD thesis, Universidad Carlos III de Madrid (available online)

Matsaganis, M (2011) 'Estimating the distributional effects of mortgage interest tax relief in Europe' DEOS Working Paper No. 1105, Athens University of Economics and Business

Pareja Eastaway, M and San Martin Varo, I (2002) 'The tenure imbalance in Spain: the need for social housing policy' *Urban Studies* 39(2), 283 – 295.

Pareja, M and San Martin, I (2003) *The Importance of Housing Systems in Safeguarding Social Cohesion in Europe: National Report Spain* European Union Fifth Framework Project SOCO-HO (available online)

Peña, D and Ruiz-Castillo, J (1984) 'Distributional Aspects of Public rental housing and rent control policies in Spain' *Journal of Urban Economics* 15, 350 – 370

Tenant Check Wordwide (2007) *Landlord and Tenant Laws in Spain* http://www.tenant-check-worldwide.com/spain/spain_landlord_tenant_law.asp

Van Gent, W (2008) 'Housing Policy as a lever for change? The politics of housing, tenure and welfare state reform', ENHR working group conference *Building on Home Ownership: Housing Policies and Social Strategies,* Delft, November 2008

Voigtlander, M (2009) 'Why is the German homeownership rate so low? *Housing Studies* 24(3), 355 – 372

Wolswijk, G (2010) 'Fiscal aspects of housing in Europe' in Arestis, P,Mooslechner, P and Wagner, K (eds.) *Housing Market Challenges in Europe and the United States,* Palgrave Macmillan

SWEDEN

The private rented sector in Sweden is estimated to have grown slightly from 21 percent of the stock in 1980 to 23 percent in 2010 (although there are concerns about definitions and the quality of the data). This increase reflects the conversion of municipal rented homes into co-operatives as much as any notable increase in investment in private rented properties.

Sweden is known for its strong pro-tenant rent regulation. Municipal housing companies have traditionally played an important role in the country's housing policy and in the regulation of the private rented sector. Since 1878, the principle of 'fair rents' and increases set via a system of collective bargaining between municipal housing companies and their tenants has applied to all tenancies, both private and municipal. Rents in the PRS are allowed to be approximately 5 percent higher than those paid for comparable municipal rented units. It was not until 2011 that PRS landlords were granted equal status with the municipal housing companies in these negotiations. Because the negotiations are carried out at municipal level there are variations between municipalities.

Security of tenure is very high, and tenants have an automatic right to renew their tenancies unless the landlord has a compelling reason to refuse. The combination of rent controls and high taxation keeps income from rent fairly low, but profits from private renting are possible because of the sector's low operating costs and low risk, and because private landlords have the prospect of considerable capital gains when they sell. The most recent changes in rent negotiation procedures may eventually lead to higher rents, increasing the attractiveness of the PRS for investors.

Over the last few years there has been a growth in the rate of conversion of apartments into condominiums and there is some understanding that as a result the size of the private rented sector is now declining.

Rent regulation in Sweden is often regarded as excessive, and has been accused of forming a barrier to competitiveness and investment in the PRS, conflicting with EU legislation, and resulting in black- and grey-market transfers.

THE STRUCTURE OF THE SWEDISH HOUSING STOCK

Swedish statisticians divide housing into six main categories by dwelling type:

- privately owned single-family houses
- co-operative developments (mainly multi-family dwellings) where the tenant-owner is a member of a co-operative that owns the dwelling and has the right to occupy a certain house or flat
- multi-family dwellings with rented units, owned by municipal housing companies (social rented housing)
- houses and flats rented privately from individuals who either own the house, or hold the occupancy right for the flat (private rented housing)

- privately owned multi-family dwellings with leasehold units (condominiums)
- privately owned multi-family dwellings with rented units (private rented housing)

The distinction between different dwelling types is important because most housing statistics are available by dwelling type rather than tenure. The distinction between tenures is typically made only for rented apartments, co-operatives and 'other' in the multi-family dwelling category, although social and private rented properties are rarely distinguished from one another in official statistics. Because of this, data on types of landlord (institutional/individual) or tenancy are not readily available. In recent years, increasing numbers of single- or two-family homes have been built for tenant-ownership and renting. Statistics, however, do not typically distinguish between different tenures for this dwelling type.

Owner-occupied housing can take three forms: owner-occupied houses (freeholds), condominium units (leaseholds), and co-operatives (tenant-owned leasehold units in multi-family dwellings). Over 95 percent of detached and semi-detached houses (*småhus*) are owner-occupied (Statistics Sweden 2009), meaning that the vast majority of rented housing is in multi-unit dwellings of more than two housing units (*flerbostadshus*). The vast majority of single-family dwellings are freeholds, while all multi-family units are leaseholds or rentals. Owning an apartment is possible only via a co-operative, as private ownership of individual leasehold units is not possible.

Multi-family dwellings are generally built for a specific purpose and tenure. Owner-occupied housing in multi-family dwellings (*flerbostadshus*) takes the form of condominiums or tenant-owned co-operatives. In condominiums, the purchase of shares entitles an individual to occupy a specific unit of the dwelling, while the responsibility over the maintenance of common areas and facilities remains with the private-sector housing company who owns the building. Service charges are payable by all residents. In co-operative housing, a household makes a down payment (commonly 30-50 percent of the development costs per unit) in exchange for the right to occupy one of the units. A regular monthly fee is then payable which covers maintenance and payments on the co-operative's construction loan. Subletting or sale of individual units is allowed in both co-operatives and condominiums, although permission is required from the owner of the building (condominiums) or the board of the co-operative.

Rented units are available mainly in multi-family dwellings. Each building consists entirely of one type of tenure: private rented or social rented. Sweden has never funded construction of rented housing by direct budget allocations; instead, social rented housing can be distinguished from private rented housing by ownership and allocation procedures. Social rented housing is owned by municipal housing companies and allocated by municipal authorities. Private rented housing, on the other hand, is not subject to any allocation regime. Condominium units, co-operative units and houses can be let by individuals who own the house or have occupancy rights. Private rented properties owned by corporate landlords, who are believed to dominate the private rented sector, are commonly rented via an estate agent.

TYPES OF RENTAL CONTRACT

Rental contracts can take two distinct forms. A so-called first-hand contract is signed between the tenant and the person or business who owns the building in which the unit is located. This is used by tenants renting directly from an institutional landlord who owns a multi-family building, or an individual landlord who owns the house or unit in question. Second-hand contracts, or sub-lets, apply in cases of what is generally

understood to be sub-letting – that is, contracts between tenants and individuals with first-hand contracts for privately rented units. Sub-letting is fairly common, especially among young singles in areas of high housing pressure, but a landlord's permission is required. Second-hand contracts are also used by owners of condominiums or tenant-owned units, or housing co-operatives wishing to rent out unsold units. In 2009, some 81,000 units, or 1.8 percent of the total housing stock, were sub-let (Statistics Sweden 2010).

TENURE SPLIT AND SIZE OF THE PRIVATE RENTED SECTOR

First-hand contracts and sub-lets are both included in the general housing-statistics category of 'rented apartments' *(hyresrätt)*. The problem, however, is that this category includes units let by municipal landlords (public housing) as well as private sector landlords. Moreover, because statistics are commonly provided by housing type *(småhus* or *flerbostadshus)* rather than tenure, detached and semi-detached houses that are rented from individual landlords are typically excluded from the rented *(hyresrätt)* category, which refers only to units in multi-family dwellings. In 2009, some 136,000 houses *(småhus)*, comprising 3.1 percent of the overall housing stock, were rented out by owners (Statistics Sweden 2010).

Estimating the size of Sweden's private rented sector is therefore rather complicated. According to the OECD (Andrews et al. 2011), approximately 23 percent of the housing stock was rented privately in 2009.[14] Table 1 below shows how the relative size of the private rented sector changed over the period 1945-2009.

TABLE 1: ESTIMATED TENURE DISTRIBUTION AND CHANGE OVER TIME

	SOCIAL RENTED	PRIVATE RENTED	OWNER-OCCUPIED	CO-OPERATIVE (TENANT-OWNED)
	% of the housing stock			
1945	6	52	38	4
1960	14	43	34	9
1970	23	30	34	13
1980	24	21	41	14
1990	25	20	40	15
2002	24	22	38	16
2009	21	23	56*	

*Including co-operative (tenant-owned)

Note: the figures presented in this table are estimates

Sources: Turner 1996 for 1945-1990, Norris & Shields 2004 for 2002, Andrews et al. 2011 for 2009

Municipal, non-profit public housing companies have played a very important role in Swedish post-war housing policy. These companies play an important role in both social-welfare policy and housing policy. Sweden does not have public housing specifically for low-income households, and the social rented homes (i.e. stock owned by municipal housing companies) are in principle available to all, although often subject to long waiting periods in areas of high demand. The non-profit municipal housing companies received special treatment in terms of financing and taxation until January 1994 (Swedish Institute 1996).

[14] It is not uncommon for data on tenure distribution to differ between sources. In most instances, however, the variation is fairly small (1-2 percent).

Avoiding the development of large social housing estates and encouraging a fine-grained tenure mix were important goals of Swedish housing policy until the 1990s. Because the municipal sector traditionally catered for a broad segment of the Swedish population, social renting is not stigmatised. The good quality of both social and private rented dwellings has meant that living in either does not substantially disadvantage people. Until the 2000s, housing policy did not favour owner-occupation over other tenures.

A strong commitment to the provision of affordable and decent housing for all has defined post-war Swedish housing policy. More specific policy priorities, often influenced by the economic climate, have appeared at different times.

SUBSIDIES TO RESIDENTIAL CONSTRUCTION

The tradition of supply-side subsidies dates back to 1945, when the first governmental housing committee made a historic decision to make same subsidies available for construction of housing to all tenures, including municipal rental housing, co-operative housing and private ownership. This tenure neutrality was intended to allow people the housing best suited to their family. Mechanisms were put in place to prevent speculation, and housing co-operatives got access to direct subsidies to improve affordability. These subsidies were connected to specially designated housing loans, which were supplemented by commercial bank lending. The proportion of the value covered by state loans depended on ownership, with municipal housing companies being entitled to slightly higher percentages than co-operatives and private individuals or investors (Turner 1997).

A system of interest subsidies was put in place in 1975, under which the government subsidised interest rates on loans that covered up to 95-99 percent of approved building costs. The borrowers initially paid very low interest rates, which increased annually until they reached the market rate. The initial rate and the annual increase were both determined by the type of the building, with co-operative and rented dwellings having a lower start rate and annual increment than homes built for owner-occupation (Turner 1997).

Under the generous subsidy regime a lot of housing was built, especially in the early years. This housing, financed largely by government loans and interest subsidies, was built and owned by private companies and not subject to any allocation criteria, such as income limits. The direct housing subsidies continued uninterrupted, although subject to certain modifications, until the reorganisation of the financing system in the 1990s, which phased subsidies out over the course of a decade. The last supply-side subsidies, which went to municipal housing companies, were finally abolished in 2006.

Taxation of property is progressive, and new construction is exempt for the first five years and taxed at only 50 percent of the full rate for the next five; thus full property tax is paid only on properties more than ten years old. This helps support new construction, and until 2000 interest payments on newly built properties can be deducted at a higher rate than payments on older ones which also favours new construction. From 2000 on, this difference was eliminated, and the interest remains constant over time.

DEVELOPMENT OF RENT REGULATION

Sweden is known for its strong pro-tenant rent regulation, which controls initial rent setting, rent increases, and security of tenure. Under the 1942 legislation, the legal rent for each dwelling unit was linked to the cost of construction and ongoing expenditure.

Rents were, in practice, largely frozen at their initial levels. Only improvement expenditures or a certified rise in capital or maintenance expenditure led to a rent increase. This did not change until the 1969 Tenancy Act, which introduced a new regulatory framework characterised by high security of tenure and a system of 'fair' rents. These were set at the level of social sector rents, which were determined by negotiations between the tenants' association and municipal housing companies. This new system, modelled on the collective bargaining system in the labour market, was brought in over a period of ten years and culminated in the 1978 Rent Negotiation Act.

The 1978 act, which supplemented the existing Tenancy Act, imposed the principle of 'fair rents' on all tenancies, linking private and social rents for good. Rents in the private rented sector could be approximately 5 percent higher than those paid for comparable social rented units in the same municipality. Similar rules applied to rent increases. The upper limit for a 'fair' rent was determined by the highest rents charged by municipal housing companies. Because negotiations are carried out at municipal level, acceptable rents and the weights given to different factors in the negotiation process vary between municipalities.

The regulation of rents and security of tenure in the PRS has not changed since 1978. Under the current system, the principle of 'fair' rents governs the amount of rent that landlords can charge for their property. Yet the system operates in a roundabout manner, and does not set any limits on initial rents. In principle, the rent in a new lease (as opposed to continuing tenancies), can be freely agreed by individual landlords and tenants. A tenant who feels that they are being overcharged, however, can take the matter up with the Rent Tribunal after occupying the property for six months. The tribunal will then set the rent at the level of rents on comparable properties, which themselves are determined by rent regulation. The rents for all dwellings must match rents for comparable dwellings, including municipal housing, based on size and 'attractiveness'. Because unreasonable rents are reduced by the Tribunal, landlords tend to agree 'fair' rents when initial rents are negotiated.

Annual adjustment of rents is allowed. The tenant, however, can refuse a rent increase proposed by their landlord, and take the matter to the Rent Tribunal. If the new proposed rent is regarded as 'unfair' by the tribunal the rent cannot be increased. The annual rent (or the percentage change from the previous level), is decided on a square-metre basis for flats owned by municipal housing companies (MHCs), with occasional adjustments for certain types of flats. Once the rents are decided upon, all dwellings owned and maintained by the MHCs have the same rent adjustment.

Until 2011, private sector landlords had to repeat the whole process after negotiations between MHCs and tenants' associations were completed. In 2011 PRS landlords were granted equal standing with MHCs in the negotiations.

When contracts are extended, rent must be set at a 'reasonable' level (as determined by comparables). Rehabilitation of old dwellings to standards similar to new construction enables landlords to increase rents to the level of those for new dwellings.

Security of tenure is very high. First-hand tenancy agreements are extendable (tenants have an automatic right to prolong their tenancy) unless the landlord has a good reason for refusing, such as a desire to carry out major refurbishment or to use the property as their own main residence. Tenancies can be transferred from the tenant to a close relation or partner, but a landlord's permission is required. Sub-letting is allowed with the landlord's permission so long as the number of inhabitants does not constitute a health hazard or substantially degrade the dwelling.

Landlords are virtually unable to terminate tenancies unless there are substantial violations of the lease. Tenancies can only be terminated if

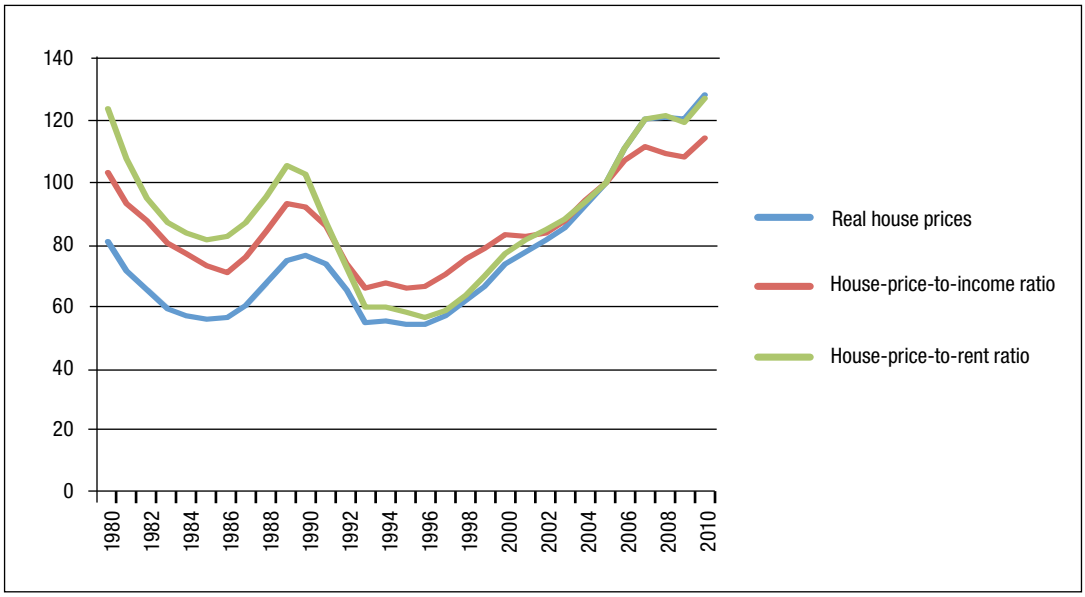
- the tenant is late in making rent payments,
- the tenant conveys premises or sub-lets without approval of landlord,
- the premises have been used for a purpose other than that intended in the lease,
- vermin invade the property because of the tenant's carelessness,
- the tenant is grossly negligent about use of the premises,
- the tenant denies landlord access to the property without valid reason,
- the tenant violates some of the terms of the agreement, or
- the premises are used for criminal activities by the tenant.

Landlords have no legal right to request a deposit for first-hand contracts although deposits are commonly required for sub-lets.

HOUSING POLICY AND TRENDS IN THE SWEDISH HOUSING MARKET

The Swedish housing market has been highly volatile in the past 30 years. The housing boom of the late 1980s turned into a bust in the early 1990s. The 1991 tax reform and 1993 housing finance reform led to significant falls in new construction. In particular there was a notable drop in the construction of dwellings for social renting. Coinciding with recession, these developments resulted in falling house prices and increased rents (Figure 1).

FIGURE 1: TRENDS IN HOUSING AFFORDABILITY (1980-2010)



Source: OECD 2011, data provided at author's request

Swedish housing policy does not focus on direct provision of housing by the state to needy households, but rather attempts to influence the structural institutional arrangements and by extension the operation of housing markets. While some changes in the subsidisation and taxation of housing have affected the PRS, these policies have not been exclusive to that tenure, and the size of the sector has remained very stable during that period. Any change in the position or size of the PRS in relation to other tenures has been mainly the result of changes in the taxation or subsidy of housing more generally, or of changes that increased the accessibility or attractiveness of other housing tenures to residents and investors. The most important housing policy developments are discussed below.

1980s

The first half of the 1980s was characterised by credit-market deregulation and economic decline. Housing policy priorities, which were little changed from the previous decade, included increasing housing construction, providing affordable housing for everyone (preferably in socially mixed communities), and improving and maintaining the quality of the existing stock.

To these ends, all tenures were entitled to government support, which took the form of interest subsidies and state loans. Interest-subsidised state loans were available for 25 percent of the cost of construction of private rented and owner-occupied housing. Most of the rest of the cost (up to 95 percent in all) could be covered by other interest-subsidised loans, provided by commercial lenders. The state guaranteed loans of up to 95 percent of construction costs. For municipal and co-operative housing these ratios were a little higher: municipal owners qualified for state loans of 30 percent and co-operatives 29 percent. For municipal housing, interest-subsidised loans and credit guarantees covered 99 percent of the cost of construction, while for co-operative housing this was 98 percent. In addition to subsidising new construction, the state subsidised landlords and home owners to upgrade their properties (Van der Heijden & Boelhouwer 1996).

Changing the tenure of a dwelling was made easier in the 1980s. In 1982, the Property Acquisition Act made it possible to convert a tenancy apartment into a co-operative. The tenure conversion had to be supported by at least two-thirds of the tenants. The tenants had to form an association and agree a purchase price with their landlord. In spite of regulatory changes in the 1970s that led to slightly higher rents for older private rented stock in attractive areas, rents for older buildings in large cities were still below the market level. The buildings could however be sold at market prices, meaning that this kind of conversion of rented condominiums into co-operatives could offer the landlords better returns. Not surprisingly, the 1980s was marked by large-scale conversion of both municipal and private rented condominiums to tenant ownership.

This development was aided by the abolition of interest-rate regulation in 1984 and the deregulation of mortgage markets in 1985. The removal of loan ceilings led to increased lending, growing loan-to-value (LTV) ratios and a great increase in household indebtedness. Eased access to housing finance generated growth in demand and, eventually, in supply.

The latter half of the 1980s was a period of economic growth, marked by a booming housing market. In 1985, the state mortgage institution (SPAB) replaced the state itself in making subsidised loans for housing, although the other main features of the scheme remained the same. An initial guaranteed interest rate of 2.7 percent was charged on loans for housing in all tenures except owner-occupied housing, where the rate was 4.9 percent. These initial rates were subject to annual increments depending on tenure.

1991-1993
The housing boom of the late 1980s turned into a bust in 1991, when the country entered recession. Prices of owner-occupied houses decreased, construction fell, and vacancies in the private rented sector increased. The measures undertaken by the newly-elected right-wing government to ease the situation were radical, signifying the liberalisation of housing market and a move towards a more market-oriented housing policy.

The 1991 tax reform reduced corporate tax from 52 to 28 percent, benefitting especially institutional private-sector landlords. Reduction of the marginal tax rates for personal and capital income, on the other hand, benefitted owner-occupiers as well as individual landlords. Owner-occupiers were further rewarded by the decision to abolish taxation of imputed rent. An increase in property tax, on the other hand, affected all property owners. At the same time as taxes were reformed, the annual rate of increase of interest payments on state housing loans was raised, which affected rental landlords and co-operatives.

In 1992, coverage of the credit guarantee system was reduced sharply. The credit guarantee was limited to 30 percent of production costs and subjected to a fee. A decision was made that in order to justify greater state support, MHCs had to operate on a non-profit basis and be genuinely controlled by the municipality. While existing MHCs were permitted to keep their special status, no new MHCs could be established.

The 1998 housing finance reform brought in more changes. Affecting all new construction, this reform abolished state loans, stopped the payment of interest subsidy when guaranteed rates reached market rates, and replaced the practice of linking of subsidies to production costs with a schedule of 'acceptable' production costs. Interest subsidies were also revised to make them more sensitive to changes in interest rates, and the interest subsidy system was phased out altogether by the year 2000.

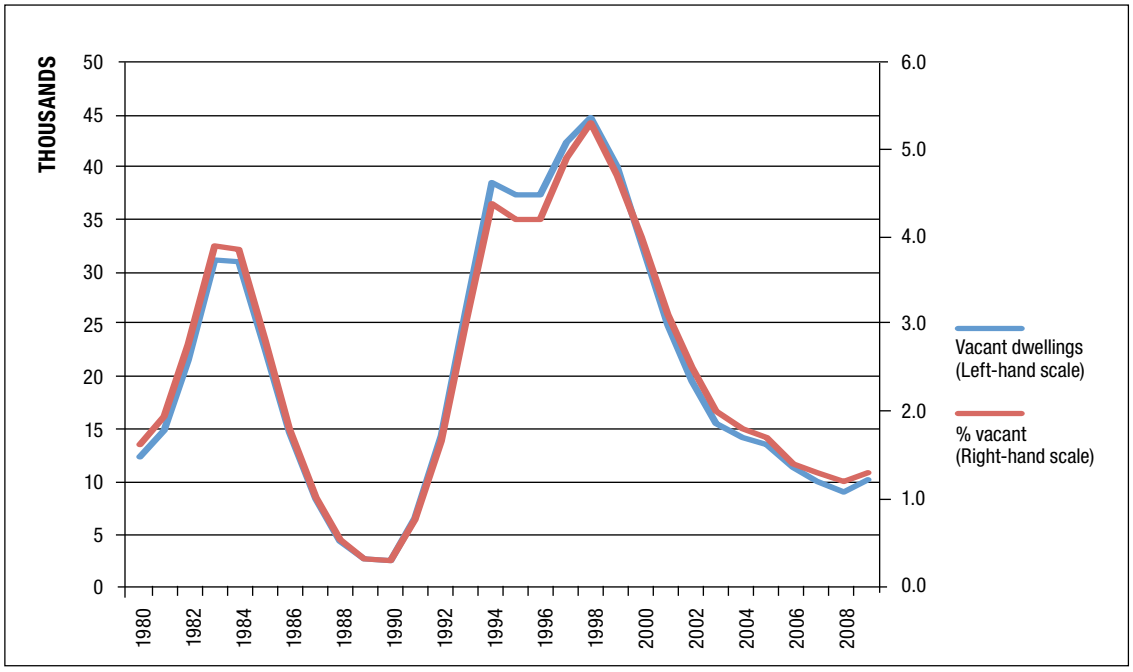
Private sector landlords, MHCs and co-operatives saw their interest subsidy entitlement decline to 57 percent of acceptable production costs for the first year, reduced annually by 4 percent until reaching 30 percent. Each year the subsidy entitlement for new construction was reduced. Owner-occupiers' entitlement to interest subsidies was reduced even further, to 42 percent of acceptable production costs for the first year, again with an annual reduction subsequently. Dwellings with floor areas exceeding 120m² were not entitled to subsidies (Turner 1997). A minimum equity capital requirement of 5 percent was imposed on all developers, effectively abolishing the favourable position of MHCs.

The eventual phasing out of supply-side subsidies following the 1993 reform served to increase the importance of income-related individual subsidies. The changes led to a significant drop in new construction in 1991-1995, and to persistently low rates of construction thereafter (Turner & Whitehead 2002).

1994-1999
The social democratic government that took office in 1994 was faced with a situation characterised by increased rents, house-price falls, a high mortgage default rate, and bankruptcies of co-operatives. Unable or unwilling to undo the changes implemented by the previous government, the social democrats continued in the same direction but targeted resources and subsidies more tightly on low-income households and high-need areas. The reduction in construction subsidies continued as the country sought to reduce its budget deficit at a time of slow and unsteady economic recovery. The only exception to this pattern was a small reduction in the annual increase in guaranteed interest rates for rental landlords and co-operatives in 1994.

After the mid 1990s, house prices began to increase again. In 1996, rent negotiations were amended to give higher weight to location in determining the utility value of a dwelling, except in Stockholm where the proposed change was rejected by the Tenants' Association and was not implemented. This development benefited private-sector landlords, whose dwellings were on average older but in better locations than municipal rental dwellings. This may have contributed to increasing rents, especially in areas of high demand (outside of Stockholm). The municipal sector suffered from high vacancy rates within the more recently built and unattractive stock (Turner & Whitehead 2002), prompting the sale of municipal housing to co-operatives and private-sector landlords.

FIGURE 2: VACANCIES IN MUNICIPAL RENTED HOUSING 1980-2009



Source: Statistiska Centralbyrån 2011, data provided at author's request 2000-2005

In 2000, the phasing out of interest subsidies was complete, which increased the relative importance of tax deductions and demand-side subsidies. In the municipal sector, interest subsidies were replaced by local investment grants. The proportion of new housing starts supported by state loans, interest subsidies or mortgage guarantees dropped from nearly 100 percent in 1999 to around 60 percent in 2000 (Lujanen 2004, p. 106). The negative consequences of leaving the housing market to rely on market forces, however, soon became evident. As a result, some time-limited subsidies were made available to stimulate the construction of affordable and student housing in the areas of worst housing shortage (Norris & Shields 2004). Even so, the mismatch between low construction rates and population increase in growth regions such as Stockholm generated acute housing shortages, repeating a pattern already familiar from the late 1990s (Johnson 2010). From 1996 to 2007, house prices rose by 217 percent (119 percent in real terms) in Greater Stockholm, 236 percent (185 percent) in Greater Malmö and 202 percent (156 percent) in Greater Gothenburg (Statistics Sweden 2009).

In 2000 the procedure for converting blocks of flats into co-operative housing was made easier, reducing the support required from residents from two-thirds to a majority.

The so-called Three Party Agreement was reached in 2002, which enabled increased private rental yields and thus indirectly encouraged growth of the private rented sec-

tor. This agreement, which was negotiated by the central organisations of municipal housing companies, private property owners and tenants, stipulated that

- the private owners should be allowed to play an equal part in the rent negotiations on the local level,
- demand should play a larger role in the setting of rents, and
- rents differentials between new and old tenants were acceptable.

Although not entirely realised in practice, this agreement was designed to improve the ability of especially private sector landlords to make higher profits from older properties in desirable parts of high-demand cities. Private landlords were not satisfied, however, because the Tenants' Association refused to increase the weight assigned to location in rent negotiations in Stockholm. In 2005, the Property Owners' Association filed a complaint claiming that the favourable treatment of MHCs was illegal under EU legislation. The European Court's ruling that state-subsidised housing should be reserved for low-income households led to the eventual removal in 2006 of all subsidies to MHCs.

2006-2009

In 2006, the newly elected right-wing government finalised a shift towards market orientation, stating that the priority of housing policy should be to establish well-functioning housing markets where demand was met by supply. The last state-operated supply-side subsidies were abolished, and housing agendas became increasingly localised in nature. While the principle of tenure neutrality continued to be regarded as a central plank of housing policy, practical measures implemented during this period worked to favour owner-occupiers over other tenures, demonstrating a shift in a direction that was entirely new in Swedish housing policy. At the end of 2006, the only benefit remaining for MHCs over other tenures was an entitlement to certain state support when vacancies reached very high levels.

Since 2006, reforms to property taxation have encouraged home-ownership by making it increasingly cost-efficient compared to other tenures. In 2006, taxes for owner-occupied housing and tenant-owned co-operatives and their members were reduced. In 2007, tax advantages were introduced for owner-occupiers who wished to renovate their homes, the tax on imputed rent was abolished, and the property tax on owner-occupation was cut. These developments coincided with the abolition of the wealth tax, also in 2007. In 2008, the real estate tax was replaced by a flat-rate municipal fee of SEK 4,500 (€481), which again effectively reduced the cost of owner-occupation, especially for people with high-value homes. The benefits of this, however, were partially offset by an increase in capital gains tax from 20 to 30 percent.

The global economic crisis of 2008 triggered a fall in house prices, until cuts in interest rates took effect and prices turned up again in 2009. The increase in house prices was supported by a shortage of new supply, as the number of completed dwellings dropped by 28.7 percent in 2009 and vacancy rates declined. The corporate tax rate was reduced from 28 to 26.3 percent in 2009, partly in an attempt to incentivise more investment in residential construction.

THE CURRENT SITUATION

The impact of recent tax reforms on the private rented market has been minimal, apart from perhaps making it relatively less attractive than owner occupation and co-operative housing. The combination of rent controls and high taxation keeps landlords' rental income low. Landlords' ability to make profits is, however, enhanced by

low operating costs and the possibility of renting out garage spaces separately from dwellings. Moreover, the relative attractiveness of investment in rented housing is improved by low risk and a prospect of considerable capital gains. The increase in the relative size of the private rented sector in comparison to the social rented sector, nevertheless, is likely to be linked to a reduction in the number of municipal dwellings rather than any notable increase in the investment in private rented properties.

The level of regulation has arguably contributed to a fall in the proportion of new housing destined for private rental. Because co-operative housing is sold at market prices, it is more profitable for developers to build for co-operative use rather than rental use, even if the sale takes longer.

From October 2010, a maximum loan-to-value ratio of 85 percent has been applied to all new mortgages (Soultaneva & Nordberg 2010), which has reduced access to owner-occupation for households without much savings.

The overall impact of these changes in the tenure of new construction and the accessibility of owner occupation is not yet clear. It is possible that the most recent changes in rent negotiation procedures will result in higher rents, increasing the attractiveness of the PRS to investors. This could stimulate construction of rented housing, while the relative size of municipal housing would be likely to diminish, possibly substantially if municipal dwellings were sold to private owners in large numbers. On the other hand, changes in maximum LTVs may indirectly slow the construction of co-operative housing and conversion of municipal rented housing to co-operative tenure and reduce demand for new owner-occupied housing.

HOW REGULATION IS PERCEIVED

The Swedish system of rent negotiations has resulted in a rent structure in which the distance from the central city is less important than the age of the dwelling in determining rent levels. Especially in the past this greatly disadvantaged PRS landlords, who were more likely than municipal companies to own older dwellings in attractive areas.

The rent regulation in Sweden is often regarded as excessive. It has been accused of forming a barrier to competitiveness and investment in the PRS, conflicting with EU legislation, and resulting in black- and grey-market transfers. The combination of high security of tenure and more stringent control over rent increases than initial rents has also been blamed for increasing the difference in rents between new and existing tenants and thus reducing mobility and generating a barrier to effective use of stock.

On the other hand, rent regulation has had a positive effect on the quality of the private rented housing. Because rents can be increased substantially when units are renovated, many private landlords have been investing in their properties. The high security of tenure, together with the reasonable cost of renting, has supported demand for private rented apartments and maintained private renting as a tenure of choice rather than a last resort.

REFERENCES

Andrews, D, Sánchez, A C and Johansson, Å (2011) *Housing markets and structural policies in OECD countries,* OECD Economics Department Working Paper No. 836 Paris: OECD Publishing

Johnson, G (2010) *Affordable housing: Position statements for Stockholm* Stockholm: Stockholm County Council Office of Regional Planning

Lind, H (2003) 'Rent regulation and new construction: With a focus on Sweden 1995-2001' *Swedish Economic Policy Review* 10, pp. 135 – 167

Lujanen, M (2004) (ed.) *Housing and housing policy in Nordic countries* Copenhagen: Nordic Council of Ministers

McFarlane, A (2003) 'Rent stabilization and the long-run supply of housing' *Regional Science and Urban Economics* 33, 305–333

Norris, M and Shields, P (2004) *Regular national report on housing developments in European countries* Dublin: Stationery Office

O'Sullivan, E and De Decker, P (2007) 'Regulating the private rental housing market in Europe' *European Journal of Homelessness* 1, 95 – 117

Soultaneva, A and Nordberg, A (2010) 'The impact of a maximum loan-to-value ratio on the borrowers' expenditure' Sverige Riksbank Economic Commentaries

Swedish Institute (1996) *Sweden: Housing and housing policy* Stockholm: Swedish Institute

Turner, B (1988) 'Economic and political aspects of negotiated rents in the Swedish housing market' *Journal of Real Estate Finance and Economics* l, 257-276

Turner, B (1997) 'Housing finance in Sweden' *Housing Finance International* 11(3), 36-44

Turner, B and Whitehead, C (2002) 'Reducing housing subsidy: Swedish housing policy in an international context' *Urban Studies* 39(2), 201 – 217

Van der Heijden, H and Boelhouwer, P (1996) 'The private rental sector in Western Europe: Developments since the Second World War and prospects for the future' *Housing Studies* 11(1), 13 – 33

III

SWITZERLAND

Private renting is the majority tenure in Switzerland. In 1980 private renting accounted for 63 percent of the stock The current estimate is that it continues to make up around 58 percent, although there is strong evidence that owner-occupation has been increasing in the last few years at the expense of the private rented sector.

Unlike most European countries, Switzerland has made relatively few legislative changes with respect to regulation since 1972. In the preceding two years (1970-72), traditionally strong controls were abolished but due to unacceptably large rent increases these were quickly reintroduced in the form of a less binding scheme against abuses in the rental sector.

There is no federal rent control or supervision of initial rents but the tenant can challenge the rent within 30 days of occupancy. Rents are judged to be unfair when excessive profits are made or when the rents are based on an excessively high purchase price for the residential building. Adjustments are justified when they are within the range for comparable dwellings, induced by higher costs (mortgage rates, maintenance, etc.) or compensating the landlord for inflation on the equity capital.

Security of tenure is high and tenancies are indefinite, terminated by three months' notice in writing. Security of tenure was increased in 1990 when the right to appeal against notice to leave was introduced, extending tenant protection against eviction. Generally, the Swiss regulatory system is designed to support long-term rentals.

The large size of the sector is linked to the general structure of the housing market, where regulation is designed to enable reasonable returns for private and institutional investors and owner-occupation receives no substantial fiscal benefits. Private renting is a predominantly urban tenure, whereas both owner-occupation and second-home ownership is more rural.

Regulation is seen as helping to assure a fair balance between the interests of dwellers and landlords in the relatively large size of the private rented sector as well as the good quality of the stock. However, the high cost of home ownership is also a contributing factor, as is the limited significance of a social rented sector.

REGULATION: A CONTINUUM FROM 1972

Switzerland has a long history of rent control and security-of-tenure regulations dating back to the nineteenth century. Controls were relaxed in 1925 but reinstated in 1936. There was some gradual relaxation of regulation during the 1960s, culminating in their abolition in 1970. However, they were re-introduced in 1972 in an attempt to combat massive increases in rents in the previous two years.

Unlike most European countries, the relative size of the Swiss private rented sector did not change much in the period 1980–2010, and it remains the largest tenure in the country. In 2010, the total housing stock in Switzerland was estimated at around 4,008,000 units, of which 53 percent were rental dwellings.[15] There is a very small and

[15] Due to the abolition of the decennial housing survey in 2010 the most recent comprehensive figures are from 2000. However, sample surveys suggest that the tenure pattern remains consistent despite a sharp increase in the construction of condominiums for individual home ownership.

diverse social housing sector, whose owners include housing cooperatives, public entities and public limited companies. Together they comprise approximately 1,700 non-profit housing bodies. Cooperatives own just under 8 percent of all rented dwellings, and the public sector plus the non-profit housing bodies own about 13 percent.

REGULATION OF THE PRIVATE RENTED SECTOR

Initial rents can, in principle, be freely agreed upon by the parties. There is neither federal rent control nor any supervision of rents. The tenant can, however, challenge the rent or a rent increase within 30 days of occupying a unit. Rents are held to be fair and adjustments justified when they are:

- within the local range for comparable dwellings,
- justified by higher costs (mortgage rates, maintenance, renewals),
- compensating the landlord for inflation on the equity capital, or
- following a special payment plan of which the tenant is aware.

Rents are held to be unfair when the resulting profits are judged to be excessive, or if they are based on what is felt to be an excessively high purchase price. In principle, rents can be adjusted upwards following increases in mortgage interest rates, but landlords who do this may also be required by their tenants to reduce rents if interest rates fall. Within this legal framework, most landlords tend to set rents according to costs. Profits that do not exceed the official reference mortgage rate by more than 0.5 percent are permissible in most jurisdictions.

The initial rent can be challenged:

- When the tenant was compelled to sign the lease agreement because of a personal or family situation or because of conditions on the local housing market and
- When the landlord raised the initial rent considerably over that of the previous lease.

These criteria entitle the tenant to challenge the rent before the Arbitration Authority. According to official statistics, the possibility of challenging the initial rent is rarely used. It is slightly more common in the French-speaking part of Switzerland but even there is of rather marginal importance. The combined effect of initial near-market rents, partial compensation for inflation, tenant mobility, the capacity to transfer property, value-enhancing improvements and current cost rents contribute to the attractiveness of investments in residential real estate. A recent study by the Zurich School of Management and Law showed that for the period 2001–2010 the nominal annual return on residential rental investment was close to 6 percent.

In 1939, an average of 20 percent of households' consumer expenditure went on rent for accommodation; today, the share of rent (excluding service charges) is still around 20 percent. Thus rents have increased at roughly the same rate as incomes. In 1924, a four-room apartment in Lugano cost an average of CHF 32 per month. In La Chaux-de-Fonds the rent was CHF 62 and in Zurich CHF 70. In 2010, the rent for a four-room apartment averaged CHF 1,273 in Lugano, CHF 800 in La Chaux-de-Fonds/Le Locle and CHF 1,495 in Zurich. The increase in rents has, therefore, been considerable (Vermeulen 2011). Table 1 shows that since 1985, average rents have increased by roughly 100 percent. Figure 1 shows that the rise in rents was particularly high in 1967, 1975, 1982

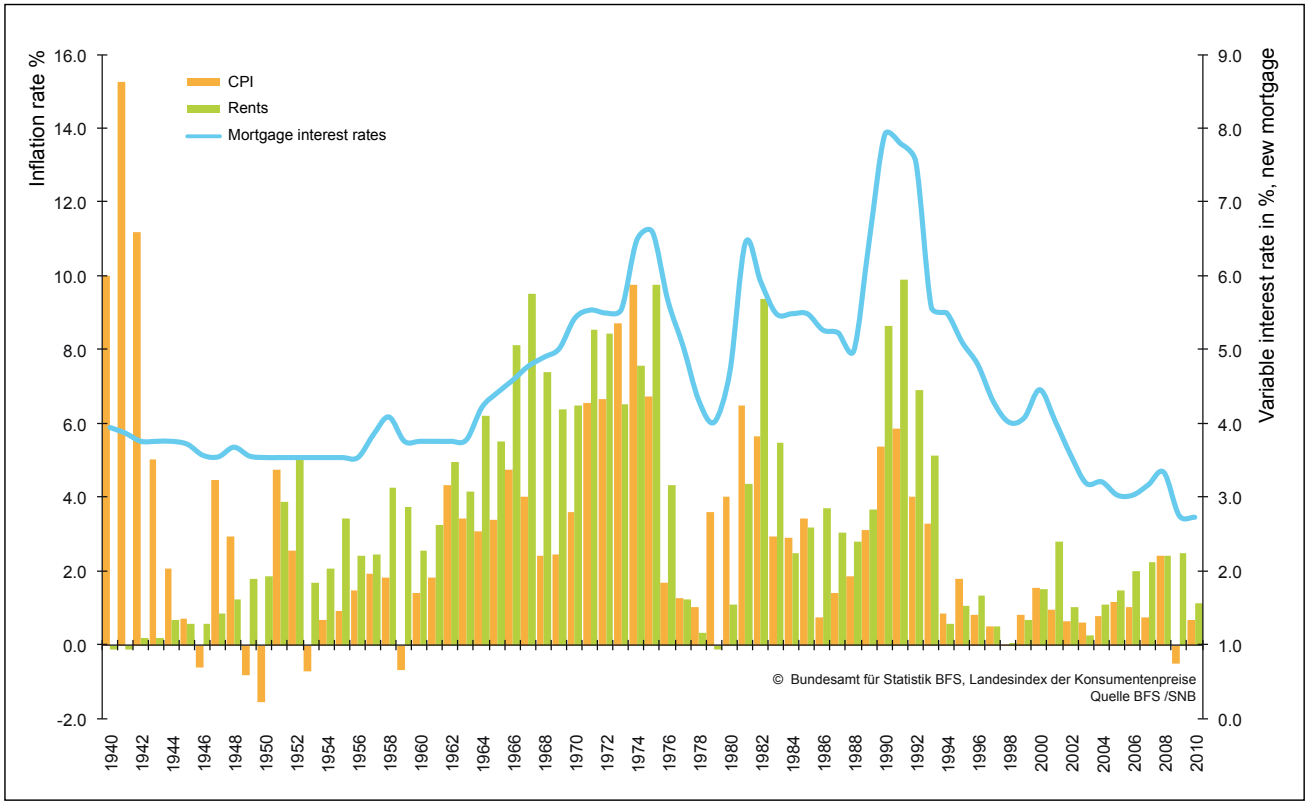
and 1991 when it reached almost 10 percent per annum, affected by increases in mortgage rates. Nevertheless because of increases in salaries or other income, the average rent-to-income ratio remained at a relatively stable level of 20.5 percent. It varies, of course, in accordance with income levels. For example, in 2009, the lowest-income households (those receiving under CHF 4,000 per month) paid on average more than 30 percent of their incomes whereas the richer ones spent only just over 10 percent.

TABLE 1: AVERAGE RENTS OF RENTED DWELLINGS, 1985–2011

	RENT INDEX	AVERAGE RENT IN CHF FOR OCCUPIED DWELLINGS			
	1993 = 100	2 rooms	3 rooms	4 rooms	5 rooms
1985	64.9	461	557	700	930
1990	80.3	625	752	941	1,256
1995	100.9	774	897	1,147	1,539
2000	105.1	796	947	1,193	1,542
2005	112.4	831	1,014	1,263	1,588
2010	124.4	939	1,145	1,402	1,791
2011	126.1	959	1,152	1,412	1,790

Source: Vermeulen 2011

FIGURE 1: ANNUAL CHANGE IN RENTS, THE CONSUMER PRICE INDEX (CPI) AND MORTGAGE RATES, 1940–2010



Source: Vermeulen 2011, p.2

In 2010, the rent index as part of the consumer price index was studied in detail and improved. The new model has been in use since February 2011, enabling the quality of dwellings to be measured according to their individual characteristics (surface area, number of rooms, age, number of bathrooms, etc.), their general location (distance from town centre, nearby shops, local tax rates, etc.) and their specific situation (view, surroundings, sunshine). Taking the quality of dwellings into account in this way allows for better comparability (Vermeulen 2011).

Because rents are adjusted in line with changes in mortgage interest rates, regardless of how the dwelling was actually financed, there is some debate about whether to change this and to link rents to the consumer price index. There have been several unsuccessful attempts to do this. In 2005 the government proposed that tenants should be allowed to choose between index- and cost-related rents. The proposal met with resistance and was abandoned. Similarly, 2008 proposals to do away with the link between rents and mortgage interest rates by replacing the cost rent with an indexation scheme were also abandoned. Security of tenure is high. Tenancies are unlimited (or indefinite), and can be terminated by a minimum of three months' written notice. Notices given by either landlords or tenants can be challenged if they are felt to violate the basic principles of good faith. The right to appeal against notice was introduced in 1990, which increased the protection of tenants from eviction. However, the landlord can give notice in the case of urgent personal requirements or if the tenant is in rent arrears or has seriously failed to care for the property. Generally, the Swiss regulatory system is designed to support long-term rental tenure (Bourassa et al. 2009).

REGULATION OF HOUSING QUALITY

The quality of the housing stock is determined by the specificities of the building code and by special requirements in connection with particular subsidies (for example, energy saving, etc.). A new building is usually checked by the local building inspectors before occupancy. Afterwards and under normal circumstances, no further controls are carried out apart from regular checks of oil tanks, chimneys, elevators and the like.

In the case of private rental dwellings, the landlord is obliged to hand over the unit at an appointed time in a condition which is appropriate for the intended use, and to maintain it in this state. Small repairs must be carried out by the tenant at his/her own cost. Other problems are the responsibility of the landlord. The tenant can demand that the fault be repaired within a reasonable set period of time. In the case of major faults that affect the use of the dwelling, the tenant can terminate the lease without prior notice or he/she can enforce repairs through court orders. In the meantime, he/she can demand a reasonable reduction of the rent and may place the rent due on secure deposit (in escrow) until the case is resolved. If a rental building is too dilapidated to be safely occupied the authorities can intervene and order its clearing.

PRIVATE RENTING SUPPORTED BY DIFFICULTY OF ACCESS TO OWNER OCCUPATION

The large size of the private rented sector is linked to the general structure of the housing market, which operates in a relatively liberal framework of rent regulations designed to secure reasonable returns on investment and a good climate for private and institutional financiers. The rented sector is of generally high quality, highly competitive and enhances the mobility of the population. There are no special fiscal benefits for individual landlords of rental dwellings. The tax laws allow professional investors as well as individual homeowners to deduct the interest paid on debts from their taxable income. On the other hand, the revenue of landlords is taxed as ordinary income while the homeowner's income is artificially augmented by an imputed rent

which corresponds, according to federal tax law, to roughly 70 percent of the market rent. For their own taxes, cantons sometimes apply a limit of 60 percent or even less.

Direct subsidies are now limited to not-for profit and public housing, but resources are very limited. Local authorities have tried to alleviate housing pressure by resorting to new and (in the Swiss context) unconventional measures such as reserving building zones for social housing, offering public 'rights to build', allowing higher densities or participating in the equity of cooperatives and other non-profit entities. The inhabitants of the town of Zurich voted recently in favour of a referendum which compels the town council gradually to increase the non-profit housing sector to 30 percent of the overall stock – but whether the resources will follow remains to be seen.

Access to owner-occupied housing has been constrained by various factors which stand at the root of Switzerland's traditional low rate of home ownership. These factors include high house prices relative to incomes, the high proportion of non-Swiss residents neither able nor eager to acquire property, the scarcity of direct public interventions to promote home ownership, occasional restrictions on the mortgage market and the late introduction of condominium ownership. Prior to 1965, it was legally impossible to buy a flat. This explains why home ownership is particularly low in cities dominated by large residential buildings. Over the last 40 years, this form of tenure has drastically expanded. For example, between 1990 and 2000, the number of these units has doubled. Newer figures are lacking, but given the fact that during the last decade most newly built dwellings were intended to cater for this particular niche, its share has doubtless grown.

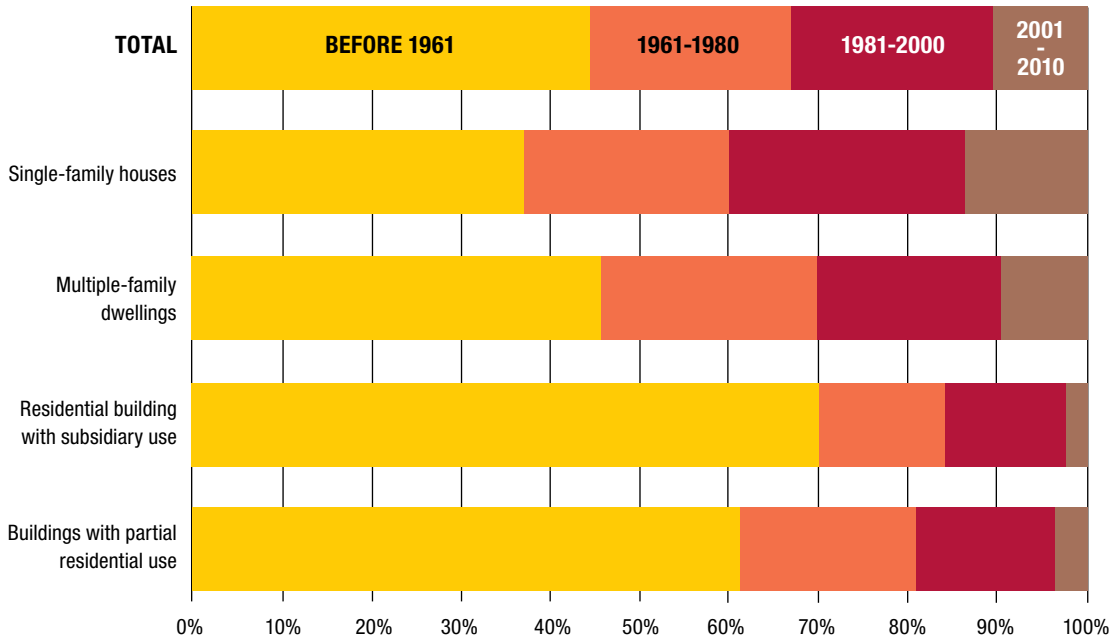
It is worth mentioning that home ownership in Switzerland is predominantly a rural phenomenon. In the vast majority of the cantons, the average home ownership rate is close to 40 percent. The proportion of owner-occupied property is higher among families with children. In 2000, 44 percent of all families with children were home owners, representing 40 percent of the population. If one considers that an additional 4 to 5 percent of all renter households also own a dwelling, the relatively low home ownership rate appears in a somewhat different light. Nevertheless, there has been a recent surge in home ownership, partly because individuals are permitted to withdraw a certain amount of their mandatory pension savings before official retirement age on condition that it be used for the financing of private property.

Overall, in the absence of other easily accessible housing options, the demand for private rented housing is high. The tenure-neutral housing policy reduces the relative attractiveness of home ownership. In the face of the high cost of home ownership, renting offers a cost-effective housing option.

THE RESIDENTIAL HOUSING STOCK GENERALLY: NEWER HOMES ARE LARGER

According to the Buildings and Dwellings Survey, the single-family house was the most common category of building in 2010, both in rural and urban areas in Switzerland (Figure 2). Indeed, since the first Buildings and Dwellings Survey in 1970, the single-family house has been the largest building category in Switzerland. Only in the core cities of the largest urban zones, such as Zurich and Geneva, are multi-family houses in the majority. Thus, despite the fact that single-family houses constitute the majority of dwellings, the majority of the Swiss population live in multi-family houses.

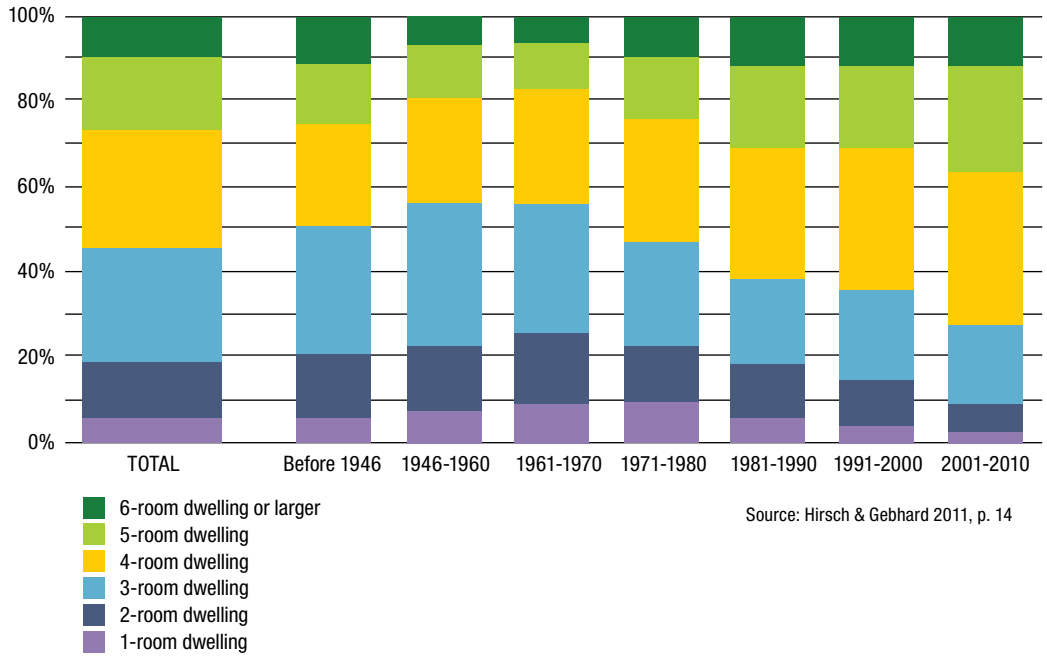
FIGURE 2: TYPES OF RESIDENTIAL BUILDING BY PERIOD OF CONSTRUCTION, 2010



Source: Hirsch & Gebhard 2011, p. 13

Since 1970, there has also been a downward trend in the number of persons per dwelling. Whereas in 1970 the average was 3 persons per dwelling, in 2000 it was only 2.3. Concurrently, there has been a move towards larger dwellings. The number of three-room dwellings fell continuously, while the number of five-room dwellings rose. Figure 3 shows that in the construction period 2001–2010, four- and five-room dwellings constituted the majority of dwellings for the first time. Among newly-built dwellings constructed after 2000, almost three-quarters have four or more rooms, whereas in buildings over 50 years old (i.e., built before 1961) their share is only 48 percent.

FIGURE 3: RESIDENTIAL DWELLINGS BY NUMBER OF ROOMS AND PERIOD OF CONSTRUCTION, 2010



Source: Hirsch & Gebhard 2011, p. 14

In general, the typical single-family house was built between 1961 and 2000, has four to five rooms and a surface area of 120 to 135m². It has two to three floors, is oil-heated and is located in an urban commune. Among all residential buildings (excluding single-family houses) at least two-thirds are less than four floors high. Only a tiny minority of the remaining residential buildings are more than five floors high and at the same time contain more than six dwellings. Of these buildings, 96 percent are to be found in urban areas.

Just under half of all residential buildings were built more than 50 years ago. Buildings that were built in the past 30 years (i.e., after 1980) make up about a third of the total building stock. The share of single-family houses that are more than 50 years old is 36 percent and is considerably lower than the average age of all building categories. Forty percent of single-family houses were built after 1980. Single-family homes tend, therefore, to be newer buildings, whereas mixed-purpose buildings are mostly older.

According to the 2000 population census, the average surface area for dwellings was 97m². But the latest 2010 Building and Dwellings Survey reports that the average floor area of dwellings today is 98m². More recently built dwellings are larger: those built in the 1970s have an average floor area of 93m², while those built in recent years average 125m². Overall, the average floor area of dwellings in urban areas is 96m² (Hirsch & Gebhard 2011).

THE HOUSING MARKET AND HOUSE PRICES

There was a significant downturn in prices in the aftermath of the real-estate crisis of the nineties. Since 2002 prices have risen again, and have in certain attractive regions shown signs of being a bubble in contrast to most of the rest of Europe, where the bubble burst years ago. Prices might have increased even faster had there not been such strong growth in new construction in recent years; this responded to a heavy influx of immigrants, exceptionally low interest rates and growing demand for more floor space.

There are no federal house-price statistics. Some of the most widely used data are generated by the consultancy firm Wüest & Partner based on observed transactions. They show prices for condominiums rising more rapidly than those for single-family homes or rental units (Table 2).

TABLE 2: HOUSE PRICE INDEX (1996 = 100)

YEAR	RENTAL UNITS	SINGLE-FAMILY HOUSES	CONDOMINIUMS
1996	100.0	100.0	100.0
2000	88.3	97.3	97.6
2005	104.6	111.5	118.8
2010	120.4	132.8	149.1
2011	124.0	135.6	154.4

Source: Wuest & Partner

THE PRIVATE RENTED SECTOR STOCK

Two-thirds of the rental stock consists of flats with three or four rooms, 25 percent has one or two rooms, and 13 percent has five or more rooms. By contrast, the majority of individually owned dwellings have five or more rooms. Rental dwellings tend to be

much smaller than owner-occupied ones. Also, owner-occupied units are more often in better locations and have better access to public services. However, the average quantity and quality of housing in Switzerland is adequate and, especially in new and renovated buildings, very good indeed.

In general, the private rental stock offers good quality cost-efficient accommodation to a broad range of households. According to the 2000 census, the average available floor space per capita was 39m² for tenants and 50m² for homeowners. In a 1998 survey, eighty percent of the interviewees declared themselves to be very or largely satisfied with their accommodation (renters 73 percent, home owners 93 percent). As regards the location of the dwellings (environment, social contacts, transport, sport and leisure facilities, etc.), 75 percent of respondents were very or largely content (renters 72 percent, homeowners 86 percent). With regard to housing costs, more than 80 percent of the population said that they were reasonable. Nevertheless, a considerable number of households have to confront high housing expenses because new buildings are primarily targeted at a wealthy clientele. There is a serious lack of housing for people with a minority ethnic or cultural background or those with specific needs (handicapped, elderly, large families, etc.).

The majority of private rental stock is owned by individuals. In 1970, individuals owned 55 percent of all private rental dwellings. In 2000 after some small fluctuations the proportion was 57 percent (Haffner 2010). Even so, compared to other European countries, Switzerland has a large share of institutional residential landlords. The share of institutional investors such as pension funds, insurance companies, property investment companies and asset management companies rose steadily from 1950 to 1980, although since then it has fallen. Such owners now have roughly one fifth of all rental stock. Within the institutional investor category, pension funds constitute the largest owner, with 8 percent of all rental units in 2000 (down from a peak in 1980 of 11.7 percent). This may be largely the result of legislation that set upper limits on this investment: each fund may invest no more than 30 percent of its capital in residential buildings and no more than 5 percent in a single building.

DEMAND-SIDE SUBSIDIES FOR RENTED HOUSING

There are two forms of federal demand-side housing subsidies. The first is part of a scheme which will be phased out soon, under which some 40,000 to 50,000 households who live in conventionally subsidised flats still receive additional allowances. The second is a supplementary benefit for housing costs that is paid to low-income pensioners; the amount paid under this scheme totals more than 400 million CHF per annum. A few cantons also provide limited housing allowances, and in two or three of them rents are deductible from income for tax purposes. Otherwise private tenants must pay their own way.

SUMMARY

Because of the scarcity of other easily accessible housing options in certain towns and areas, demand for private rented housing is high. The tax system favours owner-occupation only to the extent that imputed rental income is assessed at below-market rates. In the face of the high cost of home ownership, renting on the whole offers a cost-effective housing option, although the current availability of mortgages with very low interest rates has eroded this cost advantage.

Switzerland has some significant regulations on rent increases although not on initial rents. The tenant act also provides tenure security. The regulatory framework thus tends to support longer-term tenancies. On the supply side the incentives to invest

come from relative security of income and to a limited extent from expected capital gains. Nominal rates of return are thought to be of the order of 6 percent, which is high by international standards. Generally, regulation in the private rented sector in Switzerland is not perceived as onerous.

REFERENCES

Bourassa, S C, Hoesli, M and Scognamiglio, D (2009) *Housing Finance, Prices, and Tenure in Switzerland* Swiss Finance Institute Research Paper Series N°09 – 16.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1407609

Federal Department of Home Affairs (FDHA) (2011) *Statistical Data on Switzerland* 2011

Haffner, M (2010) *Country Policy Framework: Switzerland* Contribution to 'Promoting Investment in Private Rented Housing Supply: International Policy Comparison', a project for the Department of Communities and Local Government by the Centre for Comparative Housing Research, De Montfort University, Leicester, UK & OTB Research Institute for Housing, Urban and Mobility Studies, Delft University of Technology, the Netherlands
http://www.dmu.ac.uk/Images/PRS%20Policy%20Framework%20Switzerland_tcm6-66680.pdf

Hirsch, V and Gebhard, F (2011) 'How do the Swiss live? The buildings and dwellings statistic provides information' *ValueS: Living, Building: Switzerland's Built Environment* 2
http://www.bfs.admin.ch/bfs/portal/en/index/news/publikationen.html?publicationID=4628

Vermeulen, C B (2011) 'Measuring change in rents for accommodation over time: a look at the past and the future' *ValueS: Living, Building: Switzerland's Built Environmen* 2
http://www.bfs.admin.ch/bfs/portal/en/index/news/publikationen.html?publicationID=4628

The Private Rented Sector in the New Century
– *A Comparative Approach*

Published by:
Boligøkonomisk Videncenter

Jarmers Plads 2,
1551 København V.
Denmark

Photos:
Istockphoto

Design:
Kenneth Olsson

Printed by:
GP-Tryk

ISBN: 978-87-994127-5-4

September 2012