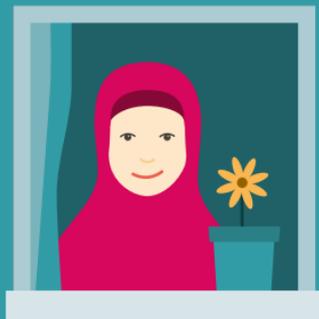




Berliner Landeszentrale
für politische Bildung

Englisch



HOUSING IN BERLIN

Questions
and answers



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1. How many people in Berlin live in rented apartments and how many own their apartments?

In 2018, 3.7 million people were living in about 2 million apartments.

1.6 million of these apartments were rented. Berlin is a city of tenants. Tenants pay monthly rent, ancillary costs and operating costs to the owners of the apartments.



Only 15 percent of the people in Berlin live in an apartment that belongs to them.

The average apartment area per person is 40 square metres, which is considerable. 'On average' means that some people live in cramped conditions, but others have plenty of room.



2. Is there a basic right to housing?

Housing is a basic human need. The United Nations has defined housing as a human right. This human right is not anchored in the German Constitution. However, the state still helps everyone to live in adequate housing. The right to live in adequate housing is anchored in the Berlin Constitution as a state goal. This right cannot be contested in a court of law.

“Everyone has the right to adequate housing. The state promotes the creation and provision of adequate housing, especially for people on low incomes, and the cultivation of condominium ownership” – Article 28 (1) of the Berlin Constitution.



3. What are housing associations?

Large housing companies deal with the construction, management or sale of apartments. Their buildings often form large neighbourhoods. The legal forms of such companies include AG (public limited company) and GmbH (private limited company). If they build their own apartments, they are known as 'housing associations'.

Some housing companies are corporate enterprises, and primarily oriented towards making a profit. However, if they belong to a municipality, a federal state, a religious organisation or a social institution, the main objective is not to make a profit. The main objective is to offer affordable housing and to manage it professionally.



4. What are private landlords?

The majority of Berlin's rented accommodation belongs to private landlords. These may be large property companies or private individuals. Large private property companies often expect to make a lot of money. This is particularly true of international companies that invest in housing. It may be advantageous to rent an apartment from 'small' landlords. The relationship is often more personal, since they usually find it important to have a good relationship with their tenants.



5. What are housing cooperatives?

Housing cooperatives are based on the principles of personal responsibility, independence and self-management. Self-management means that certain individuals are elected to represent the interests of all members at an assembly of representatives. Most cooperatives only allow their members to live in their apartments. Anyone who wants to become a member has to buy a membership share. The prices vary. The local municipal authorities may cover these costs for people who receive social security payments. In return for their membership, the members of a housing cooperative receive a right of residence and residential services.



6. What proportion of the rented apartments in Berlin is owned by municipal housing associations or cooperatives?

There are six municipal housing companies in Berlin. These companies are degewo, GESOBAU, Gewobag, HOWOGE, STADT UND LAND and WBM. They belong to the state of Berlin. In 2018, they managed a total of more than 300,000 apartments. This corresponds to roughly a sixth of all the apartments in Berlin.



More information can be found here:
<https://inberlinwohnen.de/>



There are also over 80 housing cooperatives in Berlin. They own about 200,000 apartments. That is 12 percent of all the rented apartments in Berlin. There are also small tenant cooperatives that manage only one house or a few houses. And there are also large traditional Berlin housing cooperatives that own several thousand apartments.



More information can be found here:

<https://www.berlin.de/special/immobilien-und-wohnen/adressen/wohnungsbaugenossenschaft/>



7. What is the ‘Mietspiegel’?

The ‘Berliner Mietspiegel’ (Berlin rent index) helps people to check the permissible rent level according to the size and quality of the apartment, and where it is located in the city. The ‘Mietspiegel’ is created by tenant and landlord associations in cooperation with the Senate. It is revised and published every two years.

Landlords and landlords can use the ‘Mietspiegel’ to justify rent increases. However, tenants can also use the ‘Mietspiegel’ to check that rent increases are justified. It allows the standard local rent to be calculated.



The ‘Berliner Mietspiegel’ (and calculation tool) can be found here:

<http://www.stadtentwicklung.berlin.de/wohnen/mietspiegel/>



8. How have rents developed in Berlin over recent years?

The rents in Berlin have been rising sharply for several years. This is especially true for new rentals. The rents in older buildings are most severely affected. However, rents for very small and very large apartments have also risen sharply.

Scarcity of housing and rising rents threaten not only people with low incomes. It is also becoming increasingly difficult for people with average incomes to find affordable housing. Rising rents are making it particularly difficult for people from other countries, young families, large families, old people, homeless people, people with addictions, people released from prison and people with debts to find accommodation.



9. What is the maximum percentage of net income that should be spent on rent and ancillary costs?

Tenant associations and social institutions say that total housing costs should not exceed one third of net income (income after deduction of social security contributions and taxes). If they are higher, too little money remains for other living expenses.

Affordable housing is particularly difficult to find for those with lower incomes. Basic social insurance benefits thus include the right to housing benefit or a rent subsidy.

(See questions 17 and 18)



10. What is the ‘Härtefallregelung’ of municipal housing companies?

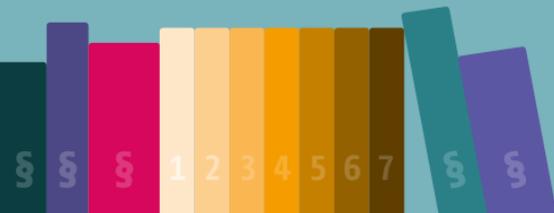
If the rent is higher than one third of the net income of a household, a claim for for ‘Härtefallregelung’ (hardship) can be asserted with municipal housing companies. This means that the affected households can apply to the municipal housing company for a rent reduction. However, cases of hardship can only be recognised if certain income limits are not exceeded. All the members of a household must provide proof of their incomes to the housing company. This also applies to any children, relatives or unmarried partners that live in the household. The size of the apartment also plays an important role in determining a case of hardship.

The conditions under which a municipal housing company must recognise a case of hardship are regulated in a cooperation agreement between the Senate Department for Urban Development and Housing and the housing companies. No such regulation exists for private landlords or landladies.



11. What are the most important housing laws?

Tenancy law is complicated. Information and advice are provided by tenant associations, district tenant advisory offices and social counselling centres. These organisations should be contacted by anyone who has problems with a landlord or landlady, or is unsure whether they have correctly understood letters about their apartments. Failure to comply with letters and requests may lead to the loss of an apartment. The most important regulations on rent and housing can be found in paragraphs 535 to 577a of the 'Bürgerlichen Gesetzbuch' (BGB, German Civil Code). Housing cooperatives are subject to a number of special provisions in the Cooperatives Act and the statutes of the cooperatives.



These laws cover the most important rights and obligations that apply to living as a tenant. Other important housing laws are:

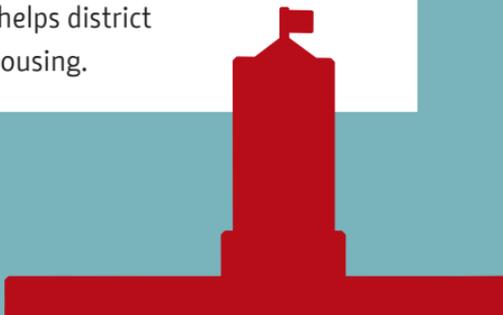
- The ‘Law on the Elimination of Housing Deficiencies’ (Wohnungsaufsichtsgesetz, Housing Supervision Law). This law is important if an apartment has serious defects.
- The ‘Wohnraumgesetz Berlin’ (Berlin Housing Law) and the ‘Berliner Wohnraumversorgungsgesetz’ (Berlin Housing Supply Law). These laws contain the regulations on social housing in the state of Berlin.

The regulations concerning the granting of benefits under Sozialgesetzbuch II (German Social Code II) and Sozialgesetzbuch XII (German Social Code II) are also important to those who claim or receive social welfare payments. These regulations specify how large an apartment can be and how much it can cost when someone is receiving housing benefits from the local municipal offices or job centre.



12. What influence do the Senate and district authorities have on creating affordable housing?

For almost 10 years, the demand for affordable housing in Berlin has been greater than the supply. The Senate is attempting to improve availability and strengthen the rights of tenants. Building cheap apartments quickly requires cooperation: The Senate and district authorities provide land and cheap loans. Municipal and private housing companies plan and build houses and create new districts. Citizens are increasingly being asked to express their opinions and suggestions concerning good accommodation in Berlin. The 'Vorkaufsrecht' (right of first refusal) sometimes helps district authorities to secure affordable housing.



13. What is the statutory 'Vorkaufsrecht'?

Higher prices in the housing market increase the risk of speculation. Houses can become commodities. Many tenants are threatened by eviction when houses are sold. In order to preserve the traditional social structure of the resident population, the district authorities may make use of the right of first refusal in certain areas. If they do, the houses are taken over by a municipal housing company. This does not apply if a prospective buyer commits to fulfilling social obligations to protect the tenancy.



14. What is the 'Geschützte Marktsegment'?

The 'Geschützte Marktsegment' (protected market segment) was established by the Senate to provide an apartment in the event of a housing emergency. With this in mind, a cooperation agreement was concluded between the State Office for Health and Social Affairs, the district authorities, and particularly the municipal housing companies. In 2018 there were 1,350 apartments in the 'Geschützte Marktsegment'. The competition for these apartments is high. Nevertheless, the 'Geschützte Marktsegment' helps many people in housing emergencies to rent an apartment.

The contract also regulates who is eligible as a tenant in the 'Geschützte Marktsegment'. Furthermore, it determines how such an apartment can be obtained. Whether someone can be accepted into the 'Geschützte Marktsegment' is decided by a 'socio-educational forecast' from the Department for

Social Housing Assistance. The Department must confirm that the person applying for the apartment is capable of living independently and maintaining a household in spite of the emergency.

There is no legal entitlement to be included in the 'Geschütztes Marktsegment'.



More information can be found here:

<https://www.berlin.de/lageso/soziales/geschuetztes-marktsegment/>



15. What is ‘Milieuschutz’?

‘Milieuschutz’ (neighbourhood preservation) is an urban planning regulation that helps to prevent displacement and speculation. It provides guidelines for the modernisation of housing. It also serves to restrict the rent of modernised houses and modernisation surcharges to certain limits.

‘Milieuschutz’ is defined in section 172, paragraph 1, no. 2 of the Baugesetzbuch (Federal Building Code). It establishes rules for city districts where the accommodation problems are particularly severe. This protects the social structure of the neighbourhoods. However, ‘Milieuschutz’ does not allow for individual legal claims from tenants.



16. What is the 'Mietpreisbremse'?

In the past, rents could be easily increased. In the case of new rentals of existing apartments, the 'Mietpreisbremse' limits the rent to 10 percent more than the standard local rent defined by the 'Mietspiegel'. However, it does not apply to new buildings or first lettings after extensive renovation. The 'Mietpreisbremse' can only be applied when tenants assert their rights. Anyone who thinks that their rent is too high must inform the landlord in writing. They must also inform the landlord of the maximum permissible rent. The landlord is then obliged to offer an explanation or to adjust the rent. Otherwise, the landlord can be prosecuted in court. So far, too little use has been made of the 'Mietpreisbremse'.



More information can be found at:

<https://mieterschutz.bund.de/>

17. What is a ‘Wohnberechtigungsschein’ and to whom are they given?

A ‘Wohnberechtigungsschein’ (WBS – residential entitlement certificate) confirms that someone has a low income. It is an official certificate that can be used by a tenant to prove that he or she is entitled to move into a publicly-funded apartment (social housing). Households whose income does not exceed the applicable income threshold are entitled to a ‘Wohnberechtigungsschein’.

Information on the income thresholds defined by the Senate can be obtained from state housing offices or here on the internet:



[www.stadtentwicklung.berlin.de/wohnen/
mieterfibel/de/mf_wbs.shtml](http://www.stadtentwicklung.berlin.de/wohnen/mieterfibel/de/mf_wbs.shtml)



18. What is 'Wohngeld' and who is entitled to receive it?



People who have a low income may be entitled to 'Wohngeld' (housing benefit). Wohngeld does not have to be repaid. Who exactly is entitled to Wohngeld and how much they will receive is calculated according to a complicated formula. The formula includes the number of people in the household, their incomes, several possible allowances and the gross basic rent.

You can find more information and a 'Wohngeld' calculator here:



<http://www.stadtentwicklung.berlin.de/wohnen/wohngeld/diwo.shtml>

Recipients of social security payments are not entitled to Wohngeld. The state legislator decided that accommodation costs are included in social security payments. So anyone who is receiving 'Arbeitslosengeld II' (unemployment benefit type 2) is not also entitled to receive 'Wohngeld'.

19. How many apartments in Berlin still require tenants to have a ‘Wohnberechtigungsschein’?

The rents of roughly 100,000 apartments in Berlin are reduced by public subsidies. These apartments are also known as ‘Sozialwohnungen’ (social housing). A ‘Wohnberechtigungsschein’ (WBS) is almost always required to rent these apartments. Such apartments can only be rented without a WBS in special cases. These apartments have to be provided by the appropriate municipal office in Berlin.

The construction of new social housing has been a priority since 2014. However, there are still too few of these apartments in Berlin.



20. What is 'discrimination in the housing market'?

Discrimination in the housing market means discriminating against people when they are searching for, moving into, or living in accommodation. Discrimination occurs on the grounds of attribution of characteristics that are recognised as discriminatory by the 'Allgemeines Gleichbehandlungsgesetz' (AGG, General Act on Equal Treatment). In the housing sector, discrimination occurs both in the allocation of housing and through unjustified rent increases that only apply to certain groups of tenants. It also occurs in neighbourhood conflicts and has the effect of limiting the victims' enjoyment of their accommodation. People that live in their own apartments may also be affected.



21. Who experiences discrimination, and why?

In principle, anyone can be affected by discrimination! In the housing sector, it most frequently affects migrants from various backgrounds. It also affects single parents, large families with low incomes, elderly people (especially women), gay and lesbian people and transsexuals. Discrimination is also experienced by people in special social situations, such as disadvantaged young people, people with mental health issues, people with disabilities, people that have been in prison and homeless people.

The current need for action in Berlin is due in particular to the lack of accommodation: This increases the competition for affordable housing among those who have average or low incomes.



22. How can one protect oneself against discrimination?

It is important that people know their rights and what they can do if they become victims of discrimination. Anyone who believes that they will be discriminated against should gather evidence to support this, and seek professional advice in any case. 'Fair mieten – Fair wohnen', the 'Berliner Fachstelle gegen Diskriminierung auf dem Wohnungsmarkt' (Berlin Office for the Prevention of Discrimination in the Housing Market) provides an individual



counselling service (www.fairmieten-fairwohnen.de).

The service is free of charge. It also offers information sheets in many languages and counselling for those affected.



23. What does the agency 'Fair mieten – Fair wohnen' do?

The objective of the agency 'Fair mieten – Fair wohnen' is to support non-discriminatory rental practice in Berlin by means of strategy and networking. It strives to eliminate discrimination in dialogue with politicians, administrators, housing providers and those affected. The agency requires its partners in dialogue to acknowledge the perspective of those affected and the willingness to negotiate.

This can encourage those affected to take action. The 'Allgemeine Gleichbehandlungsgesetz' is an important foundation for the activities of 'Fair mieten – Fair wohnen'.



fair mieten
fair* wohnen

24. What can be done in cases of discrimination?

If you feel that you are the victim of discrimination, you should stay calm, even if your anger is justified. It is important not to be provoked. Gather evidence. Talk to witnesses. Write an account of what happened. Go to a counselling centre.

These centres have various means of intervention, depending on the type of complaint and discrimination.

In consultation with the person affected, the centres can formulate a complaint of discrimination and ask those responsible to state their position. Public relations work can also help to rectify letting decisions.

If a complaint is unsuccessful, those affected can sue for compensation or damages.

IMPORTANT: ‘AUSSCHLUSSFRIST’ (COMPLAINTS DEADLINE)

In order for a claim to be pursued in court, the perpetrator must be supplied with a detailed complaint and an assertion of discrimination in accordance with the ‘Allgemeine Gleichbehandlungsgesetz’ within two months of the incident. After that has been done, the submission deadline for legal action is three years.



Here you will find a sample letter from the ‘Antidiskriminierungsstelle’ (Federal Anti-Discrimination Office):

http://www.antidiskriminierungsstelle.de/DE/Beratung/Handbuch/Anhang/Musterschreiben/Musterschreiben_node.html



25. How does the AGG prevent discrimination in the housing market?

The 'Allgemeine Gleichbehandlungsgesetz' (AGG) promotes equal treatment for all in everyday life, at work and also with regard to housing. Direct or indirect discrimination or prejudice on the grounds of ethnic origin, sex, religion, philosophy, disability, age or sexual orientation is against the law. In a few cases, exceptions may be tolerated if they are based on another legal principle. The AGG may permit preferential treatment in connection with the creation and maintenance of a socially stable residential environment and/or balanced economic, social and cultural conditions. However, anti-discrimination initiatives question these exceptions, since they are often misinterpreted.

In the event that the law has been broken, those affected have the right to request an injunction against discrimination, or to receive financial compensation. The right to rent the requested accommodation is not secured by law.

The AGG does not cover discrimination based on a person's social situation. Nor does it directly cover discrimination on the grounds of language, which is common in the housing market. As a result, it has so far been virtually impossible to prosecute such cases of discrimination.



26. What protection do tenant advisory services offer?

All tenant associations offer their members assistance in regard to tenancy law and discrimination. Tenant advisory services include the following: Correspondence with landlords or landladies, insurance for court proceedings under tenancy law, and general information on tenancy law and housing policy.

Tenant associations help their members to jointly assert their interests with regard to housing and rental policies. They protect their members against prejudices in tenancy law and tenancy agreements, and provide information on the development of the housing market in Berlin. If you would like to receive the advice of such an association, you need to become a member.



More information about major Berlin tenant associations can be found here:

<https://www.berliner-mieterverein.de/wir-ueber-uns/beratungszentren.htm>



<https://www.bmgev.de/beratung/beratungsstellen.html>

Starting in 2018/2019, all district municipal offices will also be offering free consultations for tenants. The 'Verbraucherzentrale Berlin' (Berlin Consumer Centre) offers free consultations to those who have debts with energy providers:



<https://www.verbraucherzentrale-berlin.de/energie/energieschuldenberatung-25165>

Free counselling services are often also available locally, for example from the Quartiersmanagement (Neighbourhood Management Service, (<https://www.quartiersmanagement-berlin.de/quartiere.html>), in district centres, or



from the offices of the housing policy initiatives in Kreuzberg-Friedrichshain and Neukölln.



27. Who helps refugees to find accommodation?



Information on finding accommodation is available in many languages at the 'Willkommenszentrum Berlin' (Berlin Welcome Centre). The centre can be visited in person (at Potsdamer Straße 65, 10785 Berlin-Mitte), or information about voluntary support



initiatives can be found on the website:

<https://www.berlin.de/willkommenszentrum/wohnen/wohnungssuche/>

The centre collaborates with the 'Netzwerk Wohnungssuche' (Apartment Seeking Network) and the 'Berliner Flüchtlingsrat' (Berlin Refugee Council). It organises regular information events for its supporters. Some districts finance projects that help refugees to find accommodation, while others have set up own agencies for this purpose. The 'Landesamt für Flüchtlingsangelegenheiten' (LAF, State Office for Refugee Affairs) also helps refugees to find accommodation (for more information on the LAF, see question 28).

28. How does the LAF help refugees to find accommodation?

The 'Landesamt für Flüchtlingsangelegenheiten' (LAF) was founded in August 2016. It covers all aspects of the care, assistance and accommodation of refugees. The service centre provides information on living in temporary accommodation and looking for apartments. It also covers the housing costs of refugees who are not yet supported by the Job Centre. Housing costs are only covered after the LAF has issued an 'Allgemeine Zustimmung zur Anmietung einer Wohnung' (General Agreement to Rent an Apartment). Some of the apartments that are provided by the LAF come from a pool of municipal housing companies. These companies offer a certain number of vacant apartments to refugees.



29. What is a ‘Modulare Unterkunft für Geflüchtete’?



A ‘Modulare Unterkunft für Geflüchtete’ (MUF) is a home or residential building that was erected in a very short time due to its simple construction. They all have similar layouts. Several people or families share the bathrooms, kitchens and recreation areas. Each of these buildings is managed by a supporting organisation and can accommodate approximately 450 refugees. Refugees should only live in a MUF temporarily, until they have found their own apartment. The Senate has launched the ‘Berlin Entwickelt Neue Nachbarschaften’ (BENN, Berlin Develops New Neighbourhoods) programme in order to strengthen neighbourhood communities in the vicinity of large homes for refugees. More information about BENN can be found here:



<https://www.stadtentwicklung.berlin.de/staedtebau/foerderprogramme/benn/>

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