

# Next Steps Following the Ruling of the German Federal Constitutional Court on the Berlin Rent Freeze

April 15, 2021

- Several constitutional proceedings were filed against the MietenWoG Berlin (“Berlin Rent Freeze”) in early 2020 after the law was enacted.
- Since then, the “First Senate” and “Second Senate” of the Federal Constitutional Court and the Constitutional Court of the Federal State of Berlin have each been working separately on the cases that they are competent for.
- **On April 15, 2021, the “Second Senate” of the Federal Constitutional Court now declared the Berlin Rent Freeze as unconstitutional and therefore void, because a federal state does not have the legal competence to pass its own rental legislation in competition to federal rental regulation.**
- The decision has the force of law and the consequence that **the law is to be regarded as never having existed**; it never had legal effects.
- The court’s decision approves that **the State of Berlin was not allowed under the federal constitution to enact this law** that contradicts principles of federal rent law.
- **The declaration of voidness is final.** We expect that the other Senate of the Federal Constitutional Court and the Constitutional Court of Berlin will discontinue its ongoing proceedings.

<b>Critical timing</b>	<ul style="list-style-type: none"><li>➤ The Federal Constitutional Court <b>Ruling comes at a very critical time</b> with general <b>elections</b> for the federal government and also for <b>the Berlin state government on Sep 26</b>.</li><li>➤ Most likely, there will also be a referendum on the issue of nationalization; it is not unreasonable to believe that the <b>nationalization debate will gain further momentum</b> on the back of this ruling.</li></ul>
<b>The stakes are high</b>	<ul style="list-style-type: none"><li>➤ Unfortunately, there is a <b>high risk</b> that <b>some landlords</b> will now fall back into the <b>familiar reflex of doing everything that is legally possible</b>; foregone rents may be clawed back and tenants who owe at least two months' rent and cannot pay may be evicted. This would undoubtedly <b>make an already tense situation even worse</b> and put a solution further out of reach.</li></ul>
<b>Challenge bigger than ever</b>	<ul style="list-style-type: none"><li>➤ The Berlin <b>housing market</b> is more <b>supply-constrained</b> today than it was before the Berlin Rent Freeze. (<b>Building permits</b> were <b>down 9.2%</b> in 2020; this was the fourth consecutive y-o-y decline).<sup>1</sup></li><li>➤ <b>Investments</b> in energy efficiency and senior friendly refurbishments have also been <b>held back</b>.</li></ul>
<b>Clear messaging required</b>	<ul style="list-style-type: none"><li>➤ <b>Tenants</b> in Berlin are now <b>afraid about the financial consequences</b> that the failed Rent Freeze legislation might have on them.</li><li>➤ <b>Vonovia</b> is <b>fully aware of the severity of the situation</b> – it will not be enough to simply install a hardship management or to promise to look at problems on a case by case basis as they arise.</li><li>➤ In this current environment, it is <b>critical to provide clarity and certainty</b>.</li><li>➤ That is why <b>Vonovia has decided not to claw back any of the foregone rent</b> from the rent freeze.</li><li>➤ We do not want our tenants to suffer financial consequences because of political decisions that were made.</li></ul>
<b>Vonovia is serious about stakeholder reconciliation</b>	<ul style="list-style-type: none"><li>➤ <b>Vonovia is a reliable partner for all stakeholders</b> and determined to be <b>part of the solution</b> in stabilizing the housing market.</li><li>➤ All stakeholders are called upon to <b>de-escalate and join forces</b> towards a viable path forward to refurbish the housing stock and add new affordable apartments to the market.</li></ul>

## No clawback of foregone rents

- As a result of the Berlin Rent Freeze Legislation, **Vonovia tenants paid ca. €10m less** than they would have without the rent freeze.
- We believe it is **important to contribute to de-escalating the situation** following the positive verdict for the industry.
- This is a **clear and unambiguous signal** that we are serious about our balanced stakeholder approach.

## Resetting the rent levels going forward

- We will **reset rents back to the levels prior to the Berlin Rent Freeze**, including the reversal of the 11/2020 rent reduction.
- In cases where the 2019 Mietspiegel data allows rent increases, we will **adjust rental levels based on Mietspiegel**.

## Information to tenants

- We will send **a letter to all of our Berlin tenants to inform them** about the amount of foregone rent that we will not claw back as well as about their new rent level.

## Portfolio investments

- We will reboot our **Upgrade Building investments, Neighborhood Development projects, and Optimize Apartment modernizations** for energy efficiency and CO<sub>2</sub> reduction and to provide much-needed senior-friendly apartments.

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