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SOCIALIZATION: A DEMOCRATIC, AFFORDABLE, AND LAWFUL SOLUTION TO BERLIN'S HOUSING CRISIS

The whole world is looking at Berlin with awe: in Art. 15 of the German Basic Law, Berliners have found a democratic, affordable, and lawful way to solve the housing crisis. After a year-long delay, the Berlin Senate has confirmed that the referendum on socializing housing stock proposed by a civic initiative called Deutsche Wohnen & Co. Enteignen is legally permissible. Now that socialization has been officially declared both legally and politically possible, the corporate real-estate lobby will try its best to misrepresent it as economically harmful and “authoritarian” in spirit. Indeed, the reverse is true. Socialization is a procedure in the best legal tradition of democratic Germany, enabling sustainable housing reforms and saving public money. It provides a valuable model for managing all kinds of public resources in the era of post-COVID-19 economic insecurity. If we all unite in the effort to collect nearly 200,000 signatures for a referendum on socializing housing, we can take Berlin from being “poor but sexy” to being “sexy, smart, and sustainable”.

WHAT IS SOCIALIZATION?

The legal concept of *Vergesellschaftung*—as written in Art. 15 GG—was again brought to public attention in Autumn 2018 by Berlin’s grassroots campaign Deutsche Wohnen & Co. Enteignen (DWE). DWE calls for the expropriation of all corporate landlords who own more than 3,000 apartments in the city (approx. 250,000 apartments in total). To achieve this, the proposal is to have a public referendum (*Volkssentscheid*) that would politically obligate the Berlin Senate to “initiate all necessary measures to turn land and real estate into common property for the purpose of socialization”.¹ Indeed, while “*Enteignung*” features in the campaign name, what the initiative is actually aiming for is *Vergesellschaftung*, the legal concept of which is included in Art. 15 of German Basic Law (*Grundgesetz*).

Socialization differs legally and politically from expropriation in that it fulfils three distinctive prescriptions. First, it takes crucial assets (such as land, natural resources, or means of production) away from large-scale owners who use their economic power in a way that harms societal wellbeing. Unlike straightforward expropriation, socialization has to be done at a large enough scale to affect the dynamic of the whole sector. Thus, if corporate landlords aggressively drive up rents, displacing lower-income people and destroying social equilibrium, *Vergesellschaftung* must apply to enough apartments to significantly alter the balance between profit-

and non-profit oriented landlords. In this way, socialization would bring Berlin a step closer to Vienna, where over half the apartments in the city belong to public/non-profit entities. This balance allows other landlords to make fair profits without displacing low-earning Viennese from the city.

Second and third, *Vergesellschaftung* demands that assets (such as apartments) are managed in a participatory way by a public institution that is also democratically controlled. This differs not only from expropriation but also from nationalization, which is often associated with an inefficient, top-down style of management. An appropriate legal form that enables a combination of the efficient management of socialized housing and democratic control is *Anstalt öffentlichen Rechts* (AöR).

There are many examples of AöR in Germany—such as public banks (including several Sparkassen), the Federal Agency for Technical Relief (*Technisches Hilfswerk*), and the German Meteorological Service (*Deutscher Wetterdienst*)—that have successfully dismantled the harmful myth that public ownership leads to inefficiency and fraud. While opponents of public housing systems like to evoke the 1980s corruption scandal involving housing company Neue Heimat (which was managed by unions and did not have the legal form of an AöR), similar fraud occurs in joint stock corporations, often exceeding the case of Neue Heimat in scale and boldness. In Germany, the most recent instance is the

multi-billion-euro fraud case at Wirecard AG. Yet an analysis of both the 1983 Neue Heimat case and the 2020 Wirecard AG case clearly shows that fraud is not enabled by a certain form of ownership (public or private), but by a lack of internal and external democratic control. DWE wants to use the legal possibilities included in founding an AöR to set up specific, in-built mechanisms of control and transparency that would structurally inhibit such fraud.

According to the Nobel Prize-winning economist Elinor Ostrom, the efficient management of crucial resources can be guaranteed by designing a property model that combines a socialized form of ownership with efficient, democratic management.² Years before Ostrom had published her works, similar ideas had prepared the ground for Art. 15 of German Basic Law and the legal concept of socialization.³ Thus, a dedicated group at the DWE initiative has been working both with tenants and experts to design an optimal organizational structure for an AöR able to manage socialized housing in Berlin.⁴

Socialization is thus a lawful and democratic tool, its aim being to open access to and ensure the better management of socially crucial assets. But why is socialization, specifically, a properly legal solution to the Berlin housing crisis? And why, in particular, should we socialize corporate stock-listed landlords? Below I summarize five main arguments that indicate the social and economic benefits of socializing approx. 250,000 apartments that belong to big-scale corporate landlords.

(1) Socialization Tackles the Housing Crisis at Its Root

What are the causes of the global housing crisis? The academic literature is united in claiming that, across cities as different as San Francisco, São Paulo, and Berlin, the roots of the housing crisis lie in processes of privatization and financialization.⁵ These processes have turned our homes into currency for financial speculation—a role previously reserved for gold (hence the German expression *Betongold*, concrete gold). Yet unlike gold, which has a limited use-value, housing is a basic human need.

Financial speculation on housing essentially relies on subordinating use value (home as a shelter) to exchange value (real estate as an abstract storage of capital). However, the particular mechanisms of speculation differ somewhat in each city. In London, where the housing system is oriented towards individual property, thousands of apartments in prime locations are purposefully kept empty, creating an artificial shortage on the housing market that drives prices up.⁶ This could never happen in Berlin at this scale thanks to a law (*Zweckentfremdungsverbot*) that obliges owners to rent out empty flats. As Berlin's housing market is 85 percent rental, making financial gains on housing relies on devising strategies for continuously increasing rents. Indeed, rent levels in Berlin's inner-city districts have more than doubled over the last decade.

How has it been possible to drive up Berlin rents so high despite the city's relatively strong tenant protection laws? The speculative leap of rents can be clearly linked to the emergence of a new type of landlord: the financial corporation. Corporations like Deutsche Wohnen (approx. 115,000 apartments in Berlin), Vonovia (approx. 40,000 apartments), ADO properties (approx. 22,000), Covivo (approx. 15,000), Akelius (approx. 13,000) and several others operate at a scale that influences the entire housing market. In both the scale

and purpose of their operation, housing corporations differ significantly from the proverbial "Frau Mustervermieter", that is, the average landlord who owns one or two tenant houses in Berlin.

The structural differences between Frau Mustervermieter and a corporate landlord translate into their different influences on the housing markets. Even if Frau Mustervermieter has conflicts with her tenants, she knows them personally and also feels compelled to treat them as her clients. For Vonovia or Deutsche Wohnen, the primary clients are *not* tenants but shareholders. Accordingly, it's the size of shareholder profit (*Kapitalrendite*) that determines the salaries and premiums of corporate managers, not tenant wellbeing. Neither is Berlin's long-term future an important factor in these decisions. In fact, none of Deutsche Wohnen's 250 biggest corporate shareholders are based in Berlin or has any personal stakes in the city's future.⁷ Many of them, like Pears International, can therefore skilfully avoid paying local taxes.⁸

Although Deutsche Wohnen, Vonovia or Akelius act as landlords, in reality they operate primarily in the realm of finance. They retain a mere instrumental interest in housing markets, seeking to leverage it to improve their position on the financial market. To fulfil their structural purpose, they have to keep finding new ways of increasing profits despite tenant protection laws (*Mieterrecht*). Thus, they keep inventing creative new "measures with rent-increasing potential"⁹—a euphemistic term used in Deutsche Wohnen's annual report to highlight their successes in terminating rental contracts, displacing tenants, and cutting their maintenance expenses.

Corporations are more successful in driving up rents than Frau Mustervermieter could ever be, and they owe it to their scale and legal clout. Rent increases in Berlin are typically justified in relation to the *Mietspiegel* ("rent mirror"), a benchmark based on yearly average rent in a neighbourhood unit. If a corporation like Deutsche Wohnen owns several hundred units in one neighbourhood, by increasing rents in its own stock it drives up the whole "rent mirror", thereby enabling it to secure further increases. Moreover, well-funded corporate legal departments specialize in finding loopholes in tenant protection laws (*Mieterrecht*). They also try to challenge it head-on. For example, in 2019 Deutsche Wohnen tried to invalidate the *Mietspiegel* through a lawsuit. While they did not succeed in this instance, their financial power allows them to keep exploring new legal strategies, keeping tenants ever on the defensive.

Precisely due to this financial-legal offensive from corporate landlords (*große Wohnkonzerne*), the housing crisis cannot be sustainably solved through the introduction of any new regulation in tenant law (*Mieterrecht*). It cannot even be achieved by the recently legislated five-year rent freeze (*Mietendeckel*). First, while the *Mietendeckel* has surely helped a good many tenants, it also allows for loopholes. Second, it will only postpone an escalation of the crisis by five years. Indeed, Akelius has been pushing for limited five-year contracts for new tenants to keep open the possibility of radically increasing rents as soon as the *Mietendeckel* ends.¹⁰ Even during the five-year period that the *Mietendeckel* is in force, housing corporations still have the obligation of securing profits for their shareholders. To do so they will have to keep cutting costs even more aggressively, further saving on maintenance and limiting construction activity.

As financial markets are driven by the logic of profit extraction, we can only stop the housing crisis by untying housing markets from financial markets. This can only be done sustainably, democratically, and lawfully by using the constitutionally prescribed tool of socialization.

(2) Socialization Builds Apartments

Another problem associated with the Berlin housing crisis is that too few apartments are being built to keep pace with the city's rapid population growth. This fact is often used to criticize the project of socialization, on the grounds that "it does not build new apartments". This, however, is equivalent to saying that the extraction of a dead tooth does not implant a new tooth. By cutting off the outflow of capital from housing to financial markets, socialization create the conditions for building affordable housing on a much bigger scale. But before explaining this in detail, it is worth asking the question about the current dynamic of the housing market that the real estate lobby is actually trying to deflect: why do corporate landlords build very little relative to their financial and organizational capacity?

Indeed, between 2014 and 2019, Deutsche Wohnen—a corporate giant that reaps rents from over 115,000 apartments every month—built fewer than 100 apartments in Berlin.¹¹ This should not come as a surprise. As mentioned above, our rent money is deliberately being taken from the housing market and turned into dividends for remotely located shareholders. Also, due to the career cycle of corporate managers, their temporal outlook is very short term. Housing construction takes many years and is always risky, as it is not possible to accurately predict the demand on the housing market five years down the road. It's much safer to cash in dividends and bonuses now and move on to a new job.

It is the structural logic of a corporation that prevents stock-listed landlords from investing much money in new housing. For this reason, too, Berlin's construction boom over the last ten years is actually much less impressive than we are told. Berlin's construction statistics, as the sociologist Andrej Holm has shown, clearly indicate that the free market does not actually generate much construction. Between 1999 and 2020, without any form of rent cap, Berlin's free market generated approximately 7,000 apartments per year. Holm compares this with the average of 20,000 apartments built per year in times when rents were legally capped (a total of 73 years from 1924 till today).¹² And the really impressive construction boom—with around 30,000 apartment per year built in the late 1920s—was achieved mostly through communal housing and non-profit cooperatives. This is logical, for only the latter can mobilize capital that targets society's needs and not quick returns on investment.

Once the apartments are socialized and placed under the management of a new public institution (AöR), the capacity for housing construction will by far outstrip that of all corporate landlords. This is first because such an institution enables income from our rents to be used in housing construction. Second, because if even more capital is needed, an AöR would have no problem obtaining cheap credit and paying it back with income from rents. Finally, a socially oriented AöR can easily adjust its building plans to the needs of urban planning and secure a construction permit; it has no reason to try and bend planning rules to drive up profits. Socialization actually creates optimal conditions for the building of new and affordable apartments on a big scale.

(3) Socialization Saves Money

What is the balance sheet of socialization likely to be? To understand the impact of socialization on the regional economy, both the savings and the expenses that would result from it need to be considered.

Savings would be made in several areas. In general, socialization would stop the outflow of money from the local economy that currently occurs through many channels. First, the rents paid to corporations—money that comes from local Berlin salaries—do not circulate back into the local economy and do not contribute to Berlin's GDP, but instead flow to remotely located shareholders.

After socialization, the money garnered from rents could only be spent locally and, in addition to administrative costs and employers' salaries, would be spent on maintenance, modernization, and the construction of new housing. This money would thus stay in the local economy, supporting local services and creating jobs. This, in turn, would entail that more money goes into the city budget in the form of taxes.

Second, as long as corporations own a large chunk of Berlin housing, the money spent on social subsidies relating to housing (including *Hartz IV*, *Grundsicherung*, and *Wohn-geld*) also escapes the local economy for good. In Berlin, the sums involved are quite large and could, were housing to be socialized, be returned to the public through an AöR.

Third, some corporate landlords effectively drain the city's budget by evading taxes. Companies like Pears International achieve this by creating so-called "mailbox companies" (*Briefkastenfirmen*), that is, hundreds of subsidiaries registered in tax heavens like Luxembourg or Cyprus. This strategy enables Pears International to shield at least 17 million euro from taxation every year,¹³ tax income that could be used, for example, to improve health services or build more nurseries.

As for the cost of socialization, it will be up to the Berlin Senate to legislate the rules for compensation. This is a largely political decision, so the more pressure that Berliners can exert on the politicians to counter the capital-fuelled pressure of the real-estate lobby, the lower the costs of socialization will be. Importantly, however, legal scholars suggest that any compensation ought to be below market price, otherwise the property transfer would not legally count as socialization.¹⁴ The law also stipulates that the general society's interests must be "justly weighed" against the interests of housing corporations.

In an ongoing discussion about how to calculate the sum of compensation, several figures have been thrown into the ring. The Berlin Senate has calculated the amount of compensation that would need to be paid out at 29 billion euro. Their calculation start from the market price and deducts from it all increases in land value that were not achieved through material investment, but only through the speculative dynamic of the market.¹⁵ Extending the same logic to the buildings, the sum total drops to 18 billion euro.¹⁶ Indeed, Berlin's finance senator Matthias Kollatz once suggested a similar amount of 20 billion euro.¹⁷

More than considerations of market price, any compensation derived from "justly weighing" the interests of society against those of housing corporations will also have to weigh up social criteria related to housing, such as rent affordability. Indeed, DWE proposes that the amount of compensation ought to equal the highest possible loan that Berlin could

take out and repay using income from rents, where rents are kept at affordable levels (i.e., where net rent does not exceed 30 percent of a household's income). On this model, socialization would cost 8 billion euro. It's also worth remembering that, legally speaking, socialization could also be as cheap as 1 euro, if we consider the *Treuhandanstalt's* decision to privatize East German companies for 1 Deutschmark to be an analogous situation.

Regardless of the final amount of compensation, it can be financed with a long-term loan. The rents from the socialized housing would guarantee stable and long-term income for the Berlin budget, while socialization would also enable substantial budget savings. A compensation figure of up to 18 billion euro is budget-neutral. And the more political pressure we are able to exercise on the political decision-makers, the more affordable socialization will be.

(4) Socialization Cares for People and the Planet

While corporate landlords are driven by financial profits, socialization promotes an economic model that cares for people. This care is enacted through rental affordability as well as reforms to work conditions in the housing sector. None of the big housing corporations are bound by union-negotiated loan agreements. In addition, the corporate drive to cut costs translates into jobs cuts and thus impacts the quality of service. Both Deutsche Wohnen and Vonovia have been progressively cutting administration and repair jobs. For tenants, this means hanging on the line for frustratingly long periods just to talk to someone at a call centre, and even longer waits to have, say, a broken heater fixed. For tradespeople, this means unstable employment, lower wages, and a lack of security.

On the street level, greater responsiveness to people's need is also about preserving local history and maintaining the city's social distinctiveness. By socializing corporate housing, small businesses—such as your favourite corner pub and small owner-run shops—are protected from the threat of bankruptcy represented by large chains.

Lastly, socialization enables a responsiveness to people's needs to be combined with a responsiveness to the planet. Currently, housing corporations often play social and ecological needs against each other by using the thermal modernization of buildings as a pretext to drive up rents and displace tenants. This does not need to be the case. Socializing nearly 250,000 apartments in Berlin would make it possible to ecologically transform Berlin's housing system and do so without burdening individual tenants. The example of current public housing companies that, together with the Berliner Stadtwerke, installed solar panels on roofs to produce "tenant power" is a foretaste of what is possible on much bigger scale.¹⁸ Indeed, the example of Vienna also shows that public housing companies are in a far better position to innovate through using sustainable building materials, green buildings, and renewable energy sources. Socialization can therefore bring us closer to ecological urban transformation.

(5) Socialization Is Democratic!

That Article 15 GG might be seen as radical today only proves how far the political debate in Germany has shifted to the right since the post-war years. At the time of this writing, even the bourgeois-conservative members of the Parliamentary Council happily accepted the outcome of negotiations

on the wording of Article 15, a watered-down version of one initially put forward by the Social Democrats and the Communist Party.¹⁹

The German Constitution was written at a historical moment when it was relatively clear that democracy could not be taken for granted, but was a lived ideal that required protection from nefarious power imbalances, be they political or economic. In 1949, with memories of the role played by big industry in the Nazi rise to power still fresh in the mind, even the Christian Democrats considered *Vergesellschaftung* a basic provision for helping to protect against what legal experts called the misuse of economic power against society. Viewed historically, Germany's current constitution can thus be seen as building on Art. 156 of the Weimar Constitution, which also allowed for socialization.

If socialization is "controversial", it is because it supposes that we take the German tradition of democracy more seriously than our political-economic system currently does. The founding purpose of the German constitution was to secure people's democratic rights and the procedures adequate to them, a goal that requires maintaining a delicate balance between political and economic power. Article 15 thus expresses an important principle that guided Germany's post-war renewal: the principle of the "economic neutrality of the constitution". Accordingly, as it is written in this constitution, no economic power is allowed to trump people's basic rights (*Grundrechte*). In this sense, the real estate lobby's accusations that Art. 15 marks a return to "authoritarianism" effectively inverts the truth. What goes against the democratic spirit of the constitution is the assumption that there is no alternative to the system that produced the housing crisis in the first place.

JOIN NOW!

Socialization is democratic, affordable and lawful. It is also politically attainable, but we urgently need to all work together to collect nearly 200,000 signatures and resist the power of the financial and real-estate lobby. We are therefore searching for people with all types of skills, both with and without political experience. Help Berlin to stay Berlin—and become the world's future. Join us now! More info at: www.dwenteignen.de

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