

The private rented sector in the new century – a comparative approach

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The role played by private renting in housing systems across Europe varies enormously. Many commentators argue that this is significantly about the differential extent of regulation. With increasing international interest in the private rented sector in the wake of affordability and financing problems in owner occupation and more limited funding for social housing there is a strong case for analysing how regulation affects the demand and supply of privately rented housing.

The research looked at seven European countries in depth and a further four as 'light touch' examples. It focused on different aspects of regulation, particularly its effect on the size of the sector.

Key points

- Deregulation has been the norm in most European countries at least since the 1980s. In a minority of countries the move has been more towards greater flexibility while leaving the fundamentals of regulation in place
- In the main, the size of the private rented sector has declined in proportional if not in absolute terms. The big exception is England where deregulation and easier access to debt finance has been associated with rapid growth of the sector since the turn of the century.
- Some of the countries with the most highly regulated private rented sectors, notably Germany and Switzerland, also have the largest sectors providing mainstream housing for families as well as for more mobile households.
- Countries with large private rented sectors tend to have fiscal benefits that reduce the costs of owning and managing a rental property – including depreciation allowances, mortgage interest tax relief and negative gearing.
- The nature of the tax system – including how capital gains are treated – can also provide incentives for investment in the private rented sector, but it is more usual to observe countries that favour owner-occupation.
- Further down market the role of private renting often depends on the scale of social housing provision.
- Some aspects of regulation aim to improve quality and reduce costs as well as ensure reasonable rental returns for landlords – so a well- designed regulatory framework can increase the size of the sector.
- Overall, the outcomes of regulatory regimes depend on the general context in which they operate as well as on finding a balance between too much interference which deters investment and too little protection for tenants.

Introduction

The project compares the regulatory regimes in eleven European countries covering the vast majority of private rented housing in Europe and looks at how these regimes have changed over the last thirty years. It then examines the extent to which regulation has helped determine the scale of private rental provision across Europe and how that scale has changed over time.

This is a topic on which politicians, academics and other commentators take very different views, often on the basis of anecdotal evidence and a priori reasoning. At one extreme, the argument, especially among economists, is that regulation constrains investment and excludes potential tenants, so reducing the size of the sector. At the other, regulation is seen as offsetting market failures and providing a more secure environment for investors and tenants, so enabling the sector to play a more mainstream role in the housing market.

The scale of private renting

National government statistics across Europe suggest that overall some 20% of stock is privately rented. It should be noted however that the sector is defined somewhat differently across countries and is not always effectively distinguished in the statistics from other types of rented housing.

The relative size of the sector varies from around 57% in Switzerland and 49% in Germany to under 2% in many Eastern European countries. The sector has grown or remained stable in a minority of countries but in most there has been decline. The countries studied in the research cover approximately 63% of the housing stock in Europe and about 80% of the private rented stock in the EU27 plus Norway and Switzerland. The trends in private renting over the last three decades in the case study countries are shown in Table 1 (below).

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.

Table 1: Trends in private renting in the case study countries

Country	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 Statistikbanken 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-Nov (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
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*

Private renting in the context of other tenures

Before concentrating on regulation it is important to note that the evidence strongly supports the view that the availability – and accessibility – of other housing options are just as influential in determining the scope of the private rented sector as the quality, availability and profitability of private rented housing itself. In countries such as Germany and Switzerland,

tax and subsidy systems tend to favour private renting and the scale of involvement in social housing is limited. Countries with smaller private rented sectors, on the other hand, usually have either strong social sectors or a strong policy emphasis on owner-occupation – or both. In countries with smaller private rented sectors, owner-occupation has traditionally been much easier to enter and favoured by policy, although this may have changed in recent years as a result of the economic climate. Large social rented sectors also play a role in reducing the incentives for individuals to choose private renting - and for governments to provide subsidies or fiscal incentives to private landlords.

Describing and assessing regulation

The complexity of regulatory systems and the ways that different regulatory elements interact make it inappropriate to use a single summary measure of the degree of regulation as has been done in some international comparisons e.g. by the OECD¹. Instead the research identified three main aspects of regulation, looking both at their direct impacts and how they interact with one another. These three aspects were:

- i. rent regulation including how initial rents and rent changes are determined (which is the core element addressed in the literature on regulatory constraint);
- ii. aspects 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 contracts are extended, 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 regulations relating to rents and security but also quality standards are effectively enforced.

Regulation in the private rented sector

- First generation regulation, introduced post World War II in most countries, sets rents for new tenancies, often in the form of a 'rent freeze' with no mechanism for change.
- What is known as second generation regulation replaced this approach in many countries after the post war housing shortages had mainly been addressed. The landlord is free to set the initial rent, but rent increases thereafter are generally in line with inflation.
- Tenant security has generally become more flexible over the years and varies from as little as six months in England to indefinite in many countries.
- The reality of security then depends on other aspects, such as the right to renegotiate the lease, the terms under which the contract can be terminated by landlord or tenant and in particular the landlord's rights to terminate if the tenant breaks the contract or if the landlord wants/needs to regain the property.
- Regulation of housing quality exists in some form in all countries, but in many enforcement is quite limited while in others it is accompanied by subsidies to help maintain standards.

¹ OECD (2011) Housing and the economy: policies for renovation, in *Economic Policy Reforms: Going for Growth 2011*, OECD, Paris http://www.oecd.org/document/15/0,3746,en_2649_37443_47448207,00.html

Extent of regulation

The key elements that can be measured in terms of the strength of the regulation are initial rent setting, rent increases during tenancy, length of lease, capacity for landlord to get property back during the lease, capacity to sell or transfer to another tenure, and ability to enforce or evict the tenant if the contract is broken. We developed a simplified typology based on these elements, which categorised the regulatory structure of each country at two time periods (1980s and 2000s). We used three categories to reflect our assessment of the overall degree of regulation: low, medium and strong.

On this basis 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) (Table 2).

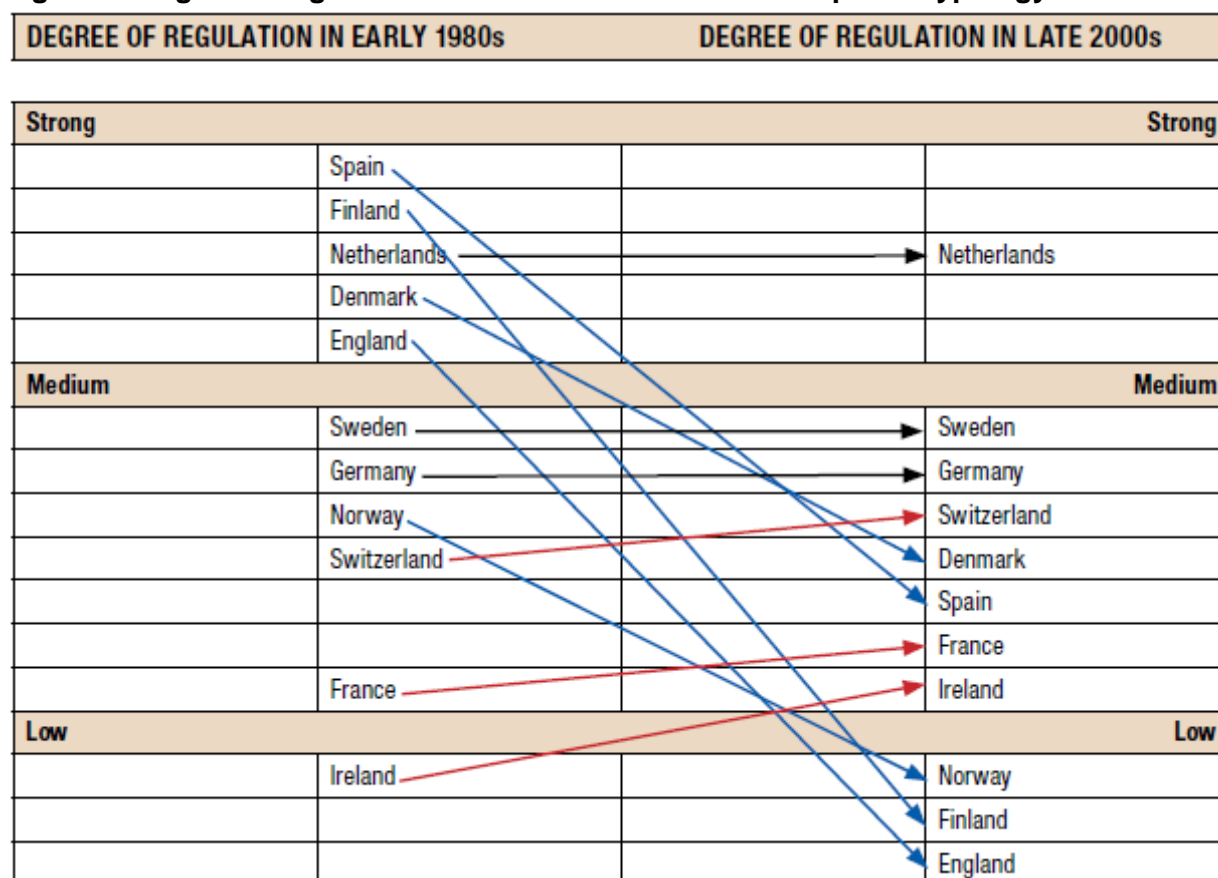
Table 2: Overview of regulation in the 1980s

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

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 (Figure 1), 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 entirely unregulated systems.

Figure 1: Degree of regulation in the 1980s and 2000s – simplified typology*



* 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.

Table 3: Overview of regulation in the 2000s (latest available information)

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

The current position is that 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. Only the Netherlands still has a strong regulatory regime, and even there rents on more expensive properties are now deregulated. Traditional rent control – nominal caps on rent levels – is hardly found today (Table 3). 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'.

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 (Figure 2). 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.

Figure 2: Change in regulation and change in size

CHANGE IN REGULATION (early 1980s – late 2000s)		CHANGE IN THE SIZE OF THE PRS (early 1980s – late 2000s)	
Decreasing regulation		Increasing size	
	Finland		England (11 to 17%)
	England		
	Denmark		
	Spain		
	Norway		
No radical change		Medium	
	Netherlands		Sweden (21 to 23%)
	Germany		Germany (45 to 45/49%)
	Sweden		France (23 to 21%)
	Switzerland		
Increasing regulation		Decreasing size	
	France		Switzerland (63 to 58%)
	Ireland		Ireland (13 to 9%)
			Norway (27 to 19%)
			Denmark (22 to 14%)
			Spain (21 to 13%)
			Netherlands (19 to 10%)
			Finland (33 to 16%)

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.

Conclusions

The main changes in regulation across countries can be categorised into two main groups: those where the objective was deregulation with the objective of letting the market determine the scale and role of the sector; and those where the intention was to improve the workings of the regulatory regime to enable reasonable returns for landlords and reasonable stability for tenants. The underlying reasons behind both minor amendments to regulatory frameworks and radical reform, usually taking the form of extensive deregulation, have been influenced by national political and economic developments – and particularly policy stance with respect to other tenures. The general trend has been towards deregulation, especially in the countries where the sector was most heavily regulated in the early 1980s. Over the period regulation in most countries has become both more flexible and more sophisticated – at its best taking account of market pressures while at the same time providing stability.

Regardless of whether regulatory reforms were implemented with an intention of creating a more vibrant private rented market or to improve the quality of the stock or fairness in the sector, the relative scale of private renting has declined in most of the case-study countries where deregulation has dominated. Only in England has there been a really significant increase in proportional terms, although by no means entirely as a result of deregulation. In countries where regulatory reforms have been relatively limited, the size of the sector has tended to remain fairly stable.

Overall, we observe a multiplicity of regulatory regimes different in both their basic approach and in detail. 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.

Finally, 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. 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.

About the study

The research, funded by the Danish Knowledge Centre for Housing Economics in Copenhagen, was conducted by a team from the University of Cambridge and the London School of Economics. It looked at the role of regulation in the PRS across Europe. Denmark, England, France, Germany, Netherlands, Spain and Sweden were explored in depth while Finland, Norway, Republic of Ireland and Switzerland were light touch case studies. Experts from each country informed the research and critiqued the findings at a seminar in Cambridge.