Locked out in Europe: A Comparative Analysis of Evictions Due to Rent Arrears in Germany, the Netherlands and Sweden

Sten-Åke Stenberg, Lia van Doorn and Susanne Gerull

Swedish Institute for Social Research, Stockholm University
HU University of Applied Sciences, Utrecht
Alice Salomon University of Applied Sciences, Berlin

› **Abstract**_ *Although evictions are a significant cause of homelessness they have received relatively little interest from social scientists. International data are scarce and there are few descriptions of the processes leading to evictions. This paper attempts to shed some light on this under-researched issue. First, an attempt is made to develop a theoretical framework placing evictions in the intersection between civil and social citizenship, and the importance of distinguishing between the macro- and micro- levels in the analysis of evictions is underlined. Secondly, three specific countries are studied: Germany, the Netherlands and Sweden. The legal basis for evictions, eviction procedures, and the possibilities for avoiding homelessness arising from rent arrears are presented and compared. Preliminary data on the numbers of evictions are also given. Some striking differences in the process of dealing with evictions between the three countries are brought to light, and the overall lack of data on evictions is emphasized.*

› **Key Words**_ *Evictions; Rent arrears; Social housing; Citizenship; Civil rights; Social rights*

ISSN 2030-2762 / ISSN 2030-3106 online

Introduction

By the mid 1990s, the number of households evicted per year in Europe was estimated to be 560000, involving approximately 1.3 million persons (Avramov, 1996). Evictions, despite contributing significantly to homelessness, have received very little attention in the literature on homelessness. Due to the relative lack of research in this area, our approach is mainly explorative. Initially, a theoretical framework is outlined where evictions are interpreted both in a macro- and micro-perspective. We then apply this framework to three countries: Germany, the Netherlands and Sweden. As information on a national level is often scant, we also use information from the cities of Amsterdam, Berlin and Stockholm. Results from this comparative analysis show that rent arrears are the most common cause of evictions, and rent arrears are therefore the focus of this paper. However, the legal basis for evictions, eviction processes and procedures, as well as the possibilities for avoiding homelessness that is due to rent arrears are very different in the three countries.

Evictions: Theoretical Perspectives

For the purposes of this paper, an eviction is the removal of a tenant from a landlord's premises. In most cases, both in Europe and North America, this is the result of conflicts arising from the non-payment of rent by the tenant (Stoner, 1995; Avramov, 1996; Eriksson *et al.*, 2010). In most countries, the procedures for evictions are regulated and so-called 'Self-Help Evictions' (where the landlord padlocks the entrance, disconnects the electricity etc.) are illegal almost everywhere.

Evictions have received very little interest in the social sciences generally (Hartman and Robinson, 2003; Beer *et al.*, 2006; Gottesman, 2007). There has, however, been some increased focus on this matter in recent years. In a European review of statistics on homelessness, Edgar (2009, p.39) connects strategies for combating homelessness with different modes of data collection, concluding that there is an increased reliance on register data "especially for eviction data from the courts" in a number of countries. This can be seen as a consequence of the shift away from emergency services towards "an overarching *aim of prevention"* (ibid). The purpose of our study is not to evaluate the importance of evictions in comparison with other causes of homelessness; rather, it seems clear that they represent one major cause of homelessness (Avramov, 1996; Edgar, 2009).

An eviction is the final step in a conflict between a landlord and a tenant. In Europe this conflict is strictly regulated. Evictions can also be analyzed from a macro- and a micro-perspective, while a longitudinal perspective is, of course, necessary in order to understand changes over time. We will, in this section, make an attempt to place the problem in a theoretical context. Although we try to include different

perspectives, our academic approach is essentially grounded in social work and sociology. It is also important to underline that our data sources are meagre and that the following theoretical context is difficult to test empirically. It should be interpreted, rather, as an attempt to understand a phenomenon that may later be tested if richer data becomes available. Accordingly, our presentation of national data later in the article is mainly explorative.

An eviction has both formal and informal causes. As mentioned, rent arrears seem to be the most common formal cause of evictions in many countries. Rent arrears can in turn be caused by structural factors such as unemployment, inadequate income, or the lack of eligibility for rent assistance, but they may also result from a range of individual level factors, such as relationship breakdown. One should also bear in mind that the landlord plays a crucial role once the tenant has formally broken the conditions of the lease. As late as the day of the eviction itself, there is often room for compromise, such as the use of instalment and repayment plans. Finally, it is important to note that factors explaining evictions also can be *effects* of evictions. It is, for example, not unreasonable to expect that evictions trigger relationship breakdowns or make it difficult to maintain employment. Problems that may be present before the eviction might also interact with, and be reinforced by evictions. This complicated context can be difficult to sort out in independent and dependent variables, but could be an important issue for further research.

Our first theoretical approach puts evictions in a macro-historical context, highlighting the basic conflict between the owner and the user of the property. In a famous lecture in 1949, the sociologist T. H. Marshall made a distinction between equality in the social class system and equality of citizenship, where citizenship or full membership of a community "… is not inconsistent with the inequalities which distinguish the various economic levels in the society" (Marshall, 1963, p.72). He divided citizenship into three categories: civil, political and social.

Rather than being strictly divided, the three forms of citizenship were supposed to be seen as a continuous historical process beginning with civil rights – most directly associated with the courts of justice, followed by political rights, and finally social rights. Although the extension of citizenship rights was substantial, there was little effect on social inequality until the beginning of the 20th century. Marshall's approach to social services was that they created equality of status rather than equality of income; it was equalization between individuals within a population rather than between social classes. Social rights might postulate that every member of a society has the right to higher education, health care or housing according to a basic standard recognized by the level of civilization at the time, but a right does not guarantee an equal distribution across social classes. Social services like housing and education are also, because of the qualitative element, more difficult

to define than social insurance, like pensions. What is in many countries codified as a 'right' to housing "…can only be understood in terms of how the relation between state, citizens, and housing provision is in fact perceived in a particular national housing discourse, something that can seldom be summarised in a brief and clear-cut definition" (Bengtsson, 2001). The ownership, quality and price of housing are differentiated, making it difficult to define a minimum standard in the 'right to housing'.

Developments in the 60 years since Marshall's lecture was published (e.g., the breakdown of colonialism, democratization of the former communist countries, globalization, the growth of feminism, and increasingly ethnically diverse populations in Western Europe) have, of course, problematized his theory and given rise to much criticism. It has, for example, been argued that his description of the historical development of citizenship is too Anglophile (Hirschman, 1991; Mann, 1996; Møller & Skaaning, 2010); that it does not take into account the development of women's rights (Walby, 1994); that the concept of nation is problematic (Anderson, 2006); and that his citizenship has a heterosexual bias (Richardson, 1998).

Although civil rights are most commonly associated with individuals, in our view the theoretical framework also applies to companies and organizations. Individuals form organizations, and civil rights, as formulated in the law, do not necessarily make a strict distinction between individuals and organizations. As a matter of fact, the right to create economic organizations can be interpreted as part of the development of civil rights. Political and social rights are, on the other hand, more closely connected to individuals.

This paper is focused on evictions that arise due to rent arrears. According to Marshall's concept of citizenship, one can interpret this as a conflict between civil and social rights. Property owned by an individual or by a company is protected by the same rules, i.e. civil rights. During the 20th century the absolute power of landlords was dissolved in favour of a more balanced relationship between landlords and tenants. The right to evict a tenant was, and is, based on the civil rights that are necessary for individual freedom – in this case the right to own property and the right to justice. A lease is a manifestation of this right. If, however, the lease is broken and the tenant is at risk of losing the housing, social rights are jeopardized. As the security of tenants, like security of tenure and the right to keep basic belongings, has increased with the development of modern European welfare states, one could argue that tenants in a conflict with landlords also have civil rights. These rights are, however, subordinated when it comes to the basic conflict concerning property, where the landlord has strong civil rights.

International research that compares the balance between civil and social rights on the housing market is very meagre. There are some studies in law, in which pre-eviction proceedings are compared (Djankov *et al.*, 2003). Our brief comparison of Germany, the Netherlands and Sweden will show significant variations in the regulation and extent of evictions. We argue that some explanations for these differences can be found in power relations, especially between landlords and tenants, where civil and social rights are in focus.

Evictions also have some important characteristics that make it essential to differentiate explanations on macro- and micro-levels. This is especially important in international comparisons and when changes over time are studied. As a lease is almost always a precondition for being registered for rent arrears and consequently also for evictions, people without leases are almost never evicted.[1] In addition, people living with a lease-holder are socially and psychologically affected by evictions, but mostly, they do not appear in the statistics.

This mechanism implies that the number of people without a secure position on the housing market may be large when the actual number of evictions is relatively low, and vice versa where, if the supply of dwellings increases heavily, more people at a comparably high risk of not being able to pay the rent will get their own lease, possibly leading, in turn, to a higher eviction rate. An expansive housing policy could thus, paradoxically, have unintended consequences (Boudon, 1982; Stenberg, 1990).[2] If the well-intended legislature makes it very difficult to evict tenants, landlords will most probably compensate for this by making increasing demands on potential tenants. One example of this is the long and expensive eviction process in Berlin that makes it very difficult for people on social benefits or with private debts to get a lease, because in order to avoid high costs in terminating a tenancy, landlords prefer solvent tenants. However, the relationship between supply, demand and legal regulations is complex and there are no 'natural laws' in this area. Although it is reasonable to believe that an efficient homelessness prevention policy, for example, could result in a decrease in both homelessness and evictions over time, these complex and sometimes paradoxical relationships are important to consider in analyses of social marginalization in the housing market.

---

1 There are some rare exceptions where people are evicted from properties they occupy without judicial grounds.

2 This effect might be modified by policy measures like housing benefits and social assistance. As such benefits are often means-tested one could, however, question their efficiency. An investigation of evicted households in Sweden in 1993 (Flyghed and Stenberg, 1993) showed that only 30% received housing benefits and that 75% of households without hosing benefits had not even applied for same.

The development of the Swedish housing market is an illustration of this reasoning. A decrease in homelessness (Heule *et al.*, 2010) was, during the 1960s and 1970s, accompanied by an increase in evictions due to a massive supply of new dwellings (Stenberg, 1991; Stenberg *et al.*, 1995)[3]. New apartments provided space for people without leases, but many of them could not meet their obligations as tenants and were later evicted. When Sweden experienced a severe economic crisis at the beginning of the 1990s, evictions increased in parallel with a shrinking housing market. As a result of the economic crisis, unemployment rose and many people had to give up their homes due to loss of income. At the same time there was a severe halt in the construction of new apartments. When the economy stabilized in the second half of the 1990s and the beginning of the twentieth century, though building remained slow, evictions decreased to a historically low level. Between 1999 and 2005 homelessness increased by about 3 000 people (Socialstyrelsen, 2006) and the secondary housing market (temporary accommodation for homeless households) grew from 8 500 to 13 500 apartments between 1989 and 2001 (Sahlin, 2007). According to the Swedish National Board of Housing, Building and Planning, this market increased from 11 000 to 13 400 in the period 2007–2010 (Boverket, 2008; 2010). As the supply of housing didn't change much in the same period, we speculate that a large share of those who had been evicted during the crisis didn't get new leases, which led, in turn, to a lower level of evictions and a larger share of homelessness (Eriksson *et al.*, 2010).

We do not think that this paradox necessarily works in every country and at all times. It illustrates, however, the complexity involved in analyses of change in housing markets. To conclude, the idea of a paradox in evictions is that although, on a micro-level, they represent a disaster as people are forced out of their homes, they might, on a macro-level and in some cases, be interpreted as an indicator of a market that actually provides housing to a larger part of the population. Thus, behind an increasing number of evictions we might find not only individual tragedies but also, perhaps, a housing market that offers more people decent dwellings. In the following sections we will present, respectively, the available statistics on, and the legal bases, processes, and procedures of evictions in Germany, the Netherlands and Sweden.

---

3 In the period 1965-1975 one million new dwellings were built in Sweden.

Germany, the Netherlands and Sweden: A Comparison

This section of the paper includes a comparison both of these three countries and of the cities Amsterdam, Berlin and Stockholm. The comparison is based on statistics that are far from comprehensive, especially in relation to rent arrears and evictions, and our results should therefore be interpreted with caution. The presentation commences with basic statistics on demography, housing markets, and marginalisation measured as rent arrears and evictions. This is followed by a presentation of the legal and administrative framework regulating evictions that arise due to rent arrears.

Population, housing markets and housing marginalization

Basic figures on population, housing markets, and marginalization in the housing markets are presented in Table 1.

Table 1: Population and Housing Indicators Germany/Berlin, The Netherlands/Amsterdam, Sweden/Stockholm (2009)

	DE	B	NL	A	SE	S
Demography (m)						
Population	82	3,4	16,5	0,75	9,0	0.9
Private Households	40	2,0	7,0	0,1	4,5	n/a
Housing market (m)						
Number of dwellings	39268	1,9	7107	0,37	4503	0.44
Proportions of all dwellings (%)						
Dwellings in apartment buildings	53[a]	89,7[b]	29,0	30	55,0	90
Rented dwellings (social & private)	54	86,0	42,0	84	44,0	53
Social rental dwellings[c]	5	8,5	32,0	55	17,0	24
Vacant dwellings	8	5,5	1,5	4	1,7	n/a
Marginalisation						
Rent arrears (households)	n/a	n/a	n/a	34000	38299[d]	n/a
Applications of eviction	n/a	9076[e]	n/a	6000	9714	2005[f]
Executed evictions	n/a	3700[g]	5022	1300	3040	627[f]

Sources:

Germany: www.destatis.de; www.statistik-berlin.de; Senate Department of Integration, Labour and Social Affairs (2011);

Netherlands: van Laere and de Wit (2005); Gemeente Amsterdam (2011);

Sweden: www.scb.se; www.kronofogden.se;

Dol and Haffner (2010); Stockholms läns landsting (2011).

[a] Two-dwelling buildings not included. Including two-dwelling buildings, the figure should be 71%.

[b] Two-dwelling buildings not included. Including two-dwelling buildings, the figure should be 92%.

[c] 2008 in Germany; 2010 in Sweden.

[d] Applications to the bailiff for summary proceedings.

[e] 10 out of 12 districts (84% of the population).

[f] County of Stockholm with 2 million inhabitants; 0.9 million dwellings; 0.7 million multi-family dwellings; 0.4 million rented dwellings; 0.2 million social rental dwellings.

[g] Estimation

In terms of population, Germany is by far the largest of the three countries, followed by the Netherlands and then Sweden. In both Germany and Sweden more than half of the dwellings are in apartment buildings. The corresponding rate in both Berlin and Stockholm is 90%. In the Netherlands and in Amsterdam almost one third of the dwellings are in apartment buildings. Rented dwellings are most common in Germany, especially in Berlin at almost 90%. They make up for slightly more than 40% of the housing markets in the Netherlands and Sweden, 84% in Amsterdam and 53% in Stockholm. One third of the dwellings in the Netherlands are social rental dwellings, but only 5% in Germany. In Sweden 17% of the total housing stock is used for social purposes. The Swedish social housing sector is different from the other two countries in the sense that there is no means-testing of new tenants.

As already mentioned, data on rent arrears and evictions are scant. We summarize the identified data in Table 2.

Table 2: Rent arrears, Applications for eviction and executed evictions Germany/Berlin, The Netherlands/Amsterdam, Sweden/Stockholm (2009)

%	DE	B[a]	NL	A	SE	S
Rent arrears[4]						
Population	n/a	n/a	n/a	n/a	0.4	n/a
Households	n/a	n/a	n/a	n/a	0.9	n/a
All dwellings	n/a	n/a	n/a	n/a	0.9	n/a
Rented dwellings	n/a	n/a	n/a	1.1	1.0	n/a
Social rental dwellings	n/a	n/a	n/a	n/a	5.0	n/a
Applications of evictions						
Population	n/a	n/a	n/a	n/a	0.1	0.1
Households	n/a	0.3	n/a	n/a	0.2	n/a
All dwellings	n/a	0.6	n/a	n/a	0.2	0.2
Rented dwellings	n/a	n/a	n/a	n/a	0.3	0.5
Social rental dwellings	n/a	n/a	n/a	1.7	1.3	0.9
Executed evictions						
Population	n/a	n/a	0.03	0.03	0.03	0.03
Households	n/a	0,004	0.07	0.06	0.07	n/a
All dwellings	n/a	0,002	0.07	n/a	0.07	0.06
Rented dwellings	n/a		n/a	n/a	0.1	0.2
Social rental dwellings	n/a	n/a	0.2	0.3	0.4	0.3

Source: Calculations are made from the numbers and percentages given in Table 1, except van Laere and de Wit (2005).

[a] 10 out of 12 districts

4 At least one month

Germany does not have any national statistics at all. There was an estimated €220-230 million of accumulated rent arrears in Berlin in 2009. Ten out of twelve districts in Berlin had more than 9 000 applications for evictions in 2009, and an estimated 3 700 out of 5 021 scheduled evictions were effectuated. Whilst rent arrears in euro seem to have decreased over the last number of years, applications to court for evictions, and evictions scheduled by the bailiffs, seem to have remained stable.[5] More data is available in the Netherlands, where about 5 000 evictions took place in 2009. In Amsterdam 34,000 households were in rent arrears in the same year, of which 6 000 got an eviction order and 1 300 were actually evicted.[6] In comparison with the other countries, Swedish data are the most complete. Almost 85% of evictions are the result of rent arrears, while only about 5% are due to disturbance (Flyghed and Stenberg, 1993; Flyghed, 2000). During 2009, bailiffs in Sweden received 38 299 applications for summary proceedings[7] connected to

---

5 In 2009, the Senate Department for Integration, Labour and Social Affairs was informed of 9 076 applications (numbers from social welfare offices in the 10 public districts; two public districts are missing). A total of 5 021 scheduled evictions are documented for the 10 public districts; this information was obtained via an e-mail request from Susanne Gerull, who sent another request for information on rent arrears and evictions to the 12 local courts in Berlin in July 2010. No statistics have been collected for the amount of rent arrears claimed by landlords or for court decisions about evictions. On another request in August 2010, 12 of about 280 bailiffs could give information on the numbers of scheduled and executed evictions in 2009. Therefore, the total numbers of executed evictions is not known, but it can be estimated that at least 75% of all scheduled evictions were executed (75-86% reported by the 12 bailiffs). The Verband Berlin-Brandenburgischer Wohnungsunternehmen e.V. (BBU), which is an association of building companies covering 40% of all rented flats in Berlin, has some data, although this is not comprehensive. Total rent arrears among BBU's companies amounted to €91 million in 2009 (Verband Berlin-Brandenburgischer Wohnungsunternehmen e.V. press release, July 16, 2010; email, October 20, 2010). If this were representative of the whole city, the rent arrears of tenants in Berlin would be €220-230 million in 2009.

6 The most common reason for termination of a lease and a consequent eviction is rent arrears (Aedes, 2010). Eviction data are only available for the Social Housing Sector in the Netherlands. The national alliance of housing corporations, Aedes, keeps a national record of the number of evictions issued by housing associations. In 2009, a total of 5 022 tenants were evicted because of rent arrears. That is 14% less than in 2008, when 5 865 people were evicted for defaulting on their rent. Aedes (2010) associates this reduced number of evictions with the responsive collection policies of housing associations; payment issues are brought to light earlier, which also enables payment arrangements to be made earlier. There is no available data on the number of evictions in the private sector in Amsterdam, but there is more documentation on evictions in the social sector. This data emphasises the fact that eviction plays a direct and indirect role in creating homelessness (van Laere and de Wit, 2005).

7 Landlords in Sweden can choose between three different strategies to force a tenant in debt to leave the premises; a court verdict, a decision in the Rent Tribunal, or summary proceedings. As summary proceedings are the absolutely most frequent and the fastest of the three options, the other two will be excluded from this paper.

evictions (Kronofogden, 2011a), and 9 714 applications for the execution of evictions, of which 3 040 were executed (Kronofogden, 2011b).[8] Data for the city of Stockholm are missing but are available for the county of Stockholm. These figures are used to calculate the relative numbers in Table 2.

Regulation of Evictions

The source of all information in Table 3, except months of rent arrears before applications to courts, are cited from Djankov *et al.* (2003), whose article is based on the World Bank-sponsored project *Lex Mundi*, to which member law firms in 109 countries contributed information. The methods used in the project have been criticized (Kern, 2007), and the figures should in any case be interpreted with care. Nevertheless, based on our own knowledge of the processes the data seem to be reasonable. It is only the duration of enforcement for Germany/Berlin that seems to be much too long. As the differences between the three countries are rather large we consider the World Bank figures to reflect real differences.

Table 3: Duration from Rent Arrears to Evictions Germany, The Netherlands and Sweden (2009)

Days	DE	NL	SE
Rent arrears before an application to court can be delivered	60[9]	150	6
Duration until completion of service of process	29	17	6
Duration of trial	191	7	135
Duration of enforcement	111	28	19
Total administrative duration (excluding the period before application)	331	52	160
Total duration	391	202	166

Sources:

Germany: Section 543 of the German Civil Code;

The Netherlands: Article 7: 201of the Civil Code (Burgerlijk Wetboek);

Sweden: Lag (1990: 746) om betalningsföreläggande och handräckning 13 §;

Djankov *et al.* (2003).

8 The total number of rent arrears in Stockholm or Sweden is not known. No figures are available for applications for summary proceedings in the county of Stockholm. Corresponding numbers for applications for executions of evictions and evictions are 2 005 and 627 (Kronofogden, 2011b); this equates to one application and 0.3 executed evictions per thousand of the population. This is an historically low level and represents a big decrease since the beginning of the 1990s when almost 8 000 evictions were executed yearly (Eriksson *et al.*, 2010).

9 Two months.

In Germany the process, from rent arrears to eviction, can take more than a year. New numbers show that the average duration from the first rent arrears until the eviction is 15.5 months (Artz and Jacoby, 2011). More differentiated but older information about the duration of the eviction process is shown in Table 3. In the Netherlands it can take slightly longer than half a year, and in Sweden the duration is about five months.

In Germany, arrears of two months' rent (or more than one month rent accumulated during two consecutive months) can lead to the instant dismissal of a tenant. If the rent arrears are not cleared in two weeks the landlord can apply to the civil court for eviction. Social services must be informed when the eviction application has gone to court. After approximately two months of rent arrears in the Netherlands, tenants are sent a written demand from the Housing Association's department for debt collection, and a request (usually in writing) to contact the department to make a payment arrangement. The Housing Association usually offers their tenant a repayment, after which, in most cases, the lease is met 'at the last minute'. If the tenant fails to comply during a period of approximately three months, the Housing Association hands the case over to the bailiff. Rents in Sweden are normally paid monthly, and seven days after the rent is due the tenant formally loses the right to the contract. The landlord may now notify the tenant that he wishes to terminate the tenancy; because of the potential social consequences of an eviction and according to a 1978 Act, the landlord is obliged to inform the local social service administration about the pending eviction.

In all three countries a tenant can regain the tenancy if the rent arrears are regulated within a certain period of time after the eviction application is served (Germany) or sent to court (Sweden). This period is included in the 'duration of trial' in Table 3. In Sweden the period is three weeks after the notice to quit, in the Netherlands two weeks and in Germany two months. Previous debts may, however, disqualify a tenant from this option. In Germany, the protection period does not apply if, during the previous two years, rent arrears have been paid after a notice to quit. The number of permitted earlier debts is not specified in the Swedish regulation. If rent arrears are not settled during the protection period the landlord can get a court decision on the debt and eviction.

When the court decision is legally binding, the bailiff in question may schedule the eviction; in Germany this is normally executed within the following four weeks. After the debt has been handed to the Dutch bailiff he tries to collect the rent arrears or make a payment arrangement. If that does not help, the tenant will receive a summons for a court hearing at which the judge will issue an eviction order. Based on this order, the landlord may terminate the lease. There is normally a month between the issuing of an eviction order and the actual eviction. After the three week period of protection

in Sweden the tenant does not have any legal power to regain the lease, and the landlord is in charge of every future step. Sweden has two forms of summary proceedings: debt collection proceedings (*betalningsföreläggande*) and assistance (*handräckning*) (Lindell, 2004). In most cases the landlord has two claims: recovering the tenant's debt and evicting the tenant from the apartment. There is a special rule making it possible for the landlord to assert both claims in the same action (Lindell, 2004), something that is the normal case in Germany. In most cases the bailiff makes a judgement of enforcement (execution title) which obliges a tenant to pay rent that is due and vacate the apartment after the right to possess it no longer exists. This execution title gives the landlord the right to apply to the bailiff for an execution of the eviction at the court. When the bailiff has set a date for the eviction a second message is sent to the local social services.

There are basically three eviction methods in Sweden. The most common is called 'the change of name- and lock method'. In this case the bailiff changes the family name on the door to the name of the landlord. The lock is also changed so that the tenant cannot re-enter the apartment. When this is done the status of the apartment is that of a place of storage. If the landlord has applied for both an eviction and payment of debt, the bailiff assesses the value of the tenant's belongings. It is the responsibility of the landlord to store the belongings in the apartment for three months. The tenant may collect his or her belongings during this period. After the three-month period the landlord can dispose of whatever may be left in the apartment. The second method is called 'stepwise eviction'. During the first visit to the apartment the bailiff changes the lock on the door before returning the next day to empty the apartment and store the property. In this case the bailiff is responsible for the belongings during the three-month period. The last option is an 'immediate eviction'.

In Germany the relevant bailiff will schedule the eviction when the landlord has paid the advance payment, and the bailiff must also inform the local authorities. A forwarding agency and a lock and key service are then booked and the flat is emptied at the scheduled time. If the former tenants are present they may take their personal belongings and they must hand over their keys. Usually, the tenants have already left the flat. After the eviction the tenant's belongings have to be stored for a period of time unless they are classified as waste, in which case they are disposed of. The belongings may be redeemed by the former tenant or sold to cover the debt and procedural costs. The total cost from the first month of rent arrears to the actual execution of the eviction can be very high. The average cost, including rent arrears and fees to attorneys, courts and bailiffs, was around €7 000 for a single tenant and €11 000 for a family of three in 2004 (Gerull, 2004).

In the Netherlands, evictions are carried out by a specially appointed team that consists of a bailiff, police officers and the staff of municipal services such as cleaning and estate management. Tenants are usually absent during the eviction and have left their furniture behind. The eviction team empties the house of all its contents, separating it into categories. Household effects considered devoid of value are thrown away, and other effects are taken to a municipal storage space where they are kept for a maximum of six months. The previous tenants may collect their household contents within this period, following payment of transport and storage costs. Contents that are not collected within six months are sold by auction or destroyed. Evictions in the Netherlands are also costly for housing associations; there are the rent arrears that cannot be recovered, bailiff and litigation costs, and the cost of repairs for any damage to the property. The total cost of an eviction has been estimated at an average of €3600 (van Laere and de Wit, 2005). Preventing evictions is therefore not only important for housing associations in terms of preserving social cohesion, but also from a financial point of view. Previously, housing associations often dealt with procedures lasting as long as a year. This meant that tenants accumulated huge debts that they were unable to repay. However, housing associations have now changed their approach, becoming more business-minded in their debt collecting policies. This means bringing the cases to court earlier and referring defaulters to the bailiff at an earlier stage.

Prevention

Prevention can be defined on a general level as social policy at large, anti-poverty measures etc. We focus more specifically on prevention directed at rent arrears and evictions. That does not mean that we are unaware of the importance of the total political and social context, but the scope of this article does not allow for a more comprehensive discussion in this regard.

Prevention in Germany/Berlin

In 2005 new regulations separated the administration of social benefits into two authorities: federal, for people able to work (Federal Employment Agency/job centres); and municipal, for people unable to work (social welfare offices). These authorities are also responsible for rent arrears benefits. The legal grounds are basically the same – that rent arrears *may* be paid when "necessary for the protection of the accommodation or for the rectification of a comparable emergency".[10] Entitlement *should* be assumed if this is"justified and necessary and there is a risk of otherwise becoming homeless." Households not receiving social benefits may also be entitled to debt relief through the social welfare office according to SGB XII

[10] That is energy arrears (electricity and gas).

regulations. Even before the 2005 reform, several different municipal departments were responsible for the organisation of support for people in urgent need of housing (the social welfare office; the office for security and order; the youth welfare office for households with children; the local health authority for people with psychiatric problems etc.). The new structure of social benefits for the long-term unemployed, contained in two separate laws, means that the coordination of advice and support has become even more difficult.

In the case of eviction actions resulting from rent arrears, the courts are obliged to inform the relevant agencies that provide social benefits or minimum allowances for jobseekers. Bailiffs are also required to inform social authorities of any scheduled evictions. The intention behind these regulations is to provide those tenants in default with advice and support. In practice they are not particularly effective, however. In spite of a national legal basis, preventive actions and approaches are not unified and they are somewhat restrictive. Additionally, in most cases decisions about rent arrears benefits are made by overworked administrative staff, and not social workers, in the new job centres. According to the law, people in rent arrears who are unable to clear their debt should receive help. In practice, a lot of applications are turned down – in the first instance at the job centres. This has increased the risk for the long-term unemployed in rent arrears of becoming homeless (Busch-Geertsema and Evers, 2007; FEANTSA and BAGW, 2008). Of course some debtors can pay their rent arrears in instalments – with or without help from the municipal authorities or NGO services – but the most common reason for the refusal of applications for rent arrears benefit is a lack of knowledge on the part of officials about the law, as well as informal instructions given on the basis of a need for cuts in public expenditure (Gerull, 2008). Paradoxically, this can result in higher costs for public authorities in accomodating people made homeless. For these reasons, a new regulation is planned for Berlin that will ensure denied applications are assessed and approved by social welfare offices. Approaches to getting in touch with tenants in default also differ widely. The approach taken by job centres is to inform the official in charge who, in turn, discusses the problem with the client. Where the social welfare office is responsible (and they often do not know the tenant in question), they usually send a letter to the household, though some of them file the court and bailiff information without trying to establish contact. When children are involved and there is a risk of their becoming homeless, the agency that is responsible might make a home visit, but this is unusual in other cases (ibid).

The 12 autonomous public districts in Berlin do not have a consistent strategy for preventing homelessness in cases of rent arrears. Guidelines formulated in 1998 by the Senate Department are obsolete. In contrast to most other municipalities, non-statutory service providers are sometimes involved in the support of households with rent arrears in Berlin. There is a specific ambulant assistance service

('assisted single living') that provides counselling by social workers, and supports needy persons so that they can keep their flats – sometimes in combination with an application for debt relief to the relevant social welfare office or job centre.

High eviction costs have also made housing companies aware of the importance of avoiding evictions, and some providers of non-statutory welfare have been cooperating for years with the public or private housing industry; in some cases these finance the social workers (Gerull, 2003). Another consequence of the long and expensive process of eviction is renting practice in Berlin. People on social benefits and/or with private debts experience significant problems getting a rent contract. The barriers blocking access to the housing market for needy persons seen as potentially 'risky tenants' could perhaps be interpreted as a result of the relatively strong legal protection in Germany for existing tenants as explained in the theoretical part of this paper. In 2009, 10 034 households (55% single-person households) in Berlin applied for a waiver of rent or energy arrears at job centres.[11] The number of applications to social welfare offices are not known, but are most likely smaller. Of the applications to job centres, 54% were approved. As most households with rent arrears in Berlin are poor and unable to pay rent arrears themselves (Gerull, 2003), the rate of approved applications is surprisingly low – but very few appeal the decision.

In relation to Marshall's theory of civil, social and political rights, it is evident that – referring to evictions resulting from rent arrears – social rights are very strong in Germany. Even if an application for eviction is being considered, the tenant in question can safeguard his/her flat by paying their debt within a certain period of time. The right to own property is not affected, but neither is the landlord's flat fully at their disposal, dependent on circumstances, even though the lease has been breached. On the other hand, however, the comprehensive set of options for indemnifying people against losing their flats is not sufficiently used by the administration.

Prevention in the Netherlands/Amsterdam

Rented housing in Amsterdam is controlled either by the private or the social rental sector. There is no information available on the extent to which the private rented sector tries to prevent evictions. Some information is available, however, on the precautions taken by housing associations. There are currently twelve active housing associations in Amsterdam. Three of these associations offer home visits to households that are on the verge of eviction. The other nine associations limit their efforts to trying to contact the households by phone or by letter. Van Laere and de Wit (2005) found that personal contact was established with just one third of all households at risk of eviction.

---

11 Email by the Senate Department for Integration, Labor and Social Affairs, August 18, 2010.

In Amsterdam a number of other initiatives have been undertaken to prevent evictions. In 1997, the workgroup 'The Flying Dutchman' – a cooperation of several government-funded social workers from the Salvation Army, and a shelter for homeless people in Amsterdam – adopted a pro-active approach to the eviction issue, and began providing services and shelter for those at risk (Rakers and de Jong, 2006). As soon as the social workers from 'The Flying Dutchman' received word that a tenant had defaulted on rent and was at risk of being evicted, they would pay an unsolicited visit to the tenant to offer him or her practical help to avert the eviction process. They offered an alternative to the administrative approach generally adopted by housing associations, where tenants were rarely visited or face-to-face contact sought, but rather, correspondence was conducted by post. This outreach approach managed to prevent dozens of evictions every year. After 2004 the outreach approach pioneered by 'The Flying Dutchman' was implemented city-wide under the new name 'Er-op-af' (let's do it) (Hogeschool van Amsterdam, 2006). In addition to this new strategy, housing associations are encouraged to give defaulters a second chance under what is referred to as the 'second chance' policy. This involves the association signing a new lease with the tenant that includes special conditions. The tenant must sign a letter of agreement in which he or she agrees to be supervised by the social services or a debt relief agency. Alternatively, additional rules of conduct can be included in the lease. If the tenant fails to comply with the special conditions, eviction will proceed (Lieveling and Renooy, 2002; Kloppenburg *et al.*, 2009).

Prevention in Sweden/Stockholm

Prevention of evictions, and in consequence homelessness, has occasionally been the objective of political reform in Sweden. As early as 1936 an act was passed that banned the use of eviction as a weapon in labour market conflicts. In 1978 an obligation was introduced for landlords to inform local social services when a tenant is served a notice to quit and when the bailiff has set a date for eviction. The law was passed as a preventative measure. Furthermore, the periods after which the tenant loses the right to the lease and during which it is possible to regain the lease was prolonged at the beginning of the 1990s. No Swedish authority has the immediate responsibility to help tenants with rent arrears, but according to the Swedish Social Services Act, households unable to support themselves or their families may be entitled to a means-tested welfare benefit. If a household applies for economic help in settling arrears, a social worker carries out an investigation to decide whether or not the household had the means to pay the rent at the time it should have been paid; if it is decided that they had been unable to pay at the time, or if special circumstances like illness prevented them from paying, they may be granted economic help to cover the rent arrears. If, on the other hand, it is decided that the household had sufficient means to pay the rent at the time, the application

is rejected. It is often, however, the severe consequences of not paying rent arrears – like the eviction of families with children – that leads to economic support and help with repayment being provided. If a family with children is evicted, the local social service will often get involved, but no regulations stipulate that they must. In 2005 a public investigation drew attention to the issue of evictions and homelessnes among Swedish children (Statens Offentliga Utredningar, 2005:88). The results started a debate, but no real changes were made to help decrease the number of children evicted. In the spring of 2010 the Swedish government initiated a new investigation on evictions of children (Stenberg *et al.*, 2011). The report is currently being prepared in the Department of Social Affairs, and is expected to lead to changes in Swedish law and regulations.

The social rights of tenants in Sweden do not seem to be as strong as in Germany and the Netherlands. The eviction process, from rent arrears to the eviction itself, is of the shortest duration in Sweden, where after only three weeks of rent arrears the tenant formally loses all rights to the lease. It is, of course, impossible to explain this difference at this stage, but it may be that Swedish eviction regulations and housing policy presupposes the presence of a comprehensive social security system to such a degree that people at the margin are overlooked (for a discussion of the organisation of the Swedish welfare state and homelessness see Olsson and Nordfeldt, 2008).

Comparison and Conclusions

Making international comparisons on evictions and housing marginalization is a very difficult task. Moreover, evictions as a contributory factor in the causation of homelessness has received relatively little interest from researchers and politicians. One reason may be a lack of data; currently data are largely non-existent and comparable indicators are rare. The intention behind this preliminary comparison of three European countries and cities has been to shed light on this largely hidden issue.

In most cases, evictions are the result of rent arrears, but none of the countries included in this study provide reliable data on the number of tenants in rent arrears. Comprehensive national statistics on evictions are only available in Sweden. In the Netherlands, data are only available for social housing, and in Germany there are no official data at all. The figures given in this paper should consequently be treated with caution. A thorough comparison of the level of evictions in the three countries does not only require reliable data, but the number of evictions must also be related to a proper denominator and at present there are no obvious measures for this purpose. Relating the number of evictions to population size only would be biased due to the composition of the housing market. The proportion living in rented

housing, a prerequisite for being at risk of eviction is different in each of the countries included. It is extraordinarily high in Germany, which could be a reason for the comparatively strong protection of tenants by tenancy law. Also, the stock of dwellings in the rented housing market is varied, and evictions are probably concentrated in the social housing sector.

Although the process from rent arrears to eviction is strictly regulated, the steps and the length of the process differ significantly between the countries. The duration from rent arrears to eviction ranges from 3 months in Sweden, to 6 months in the Netherlands, and to more than 15 months in Germany, but the process in Sweden is often shorter than three months. These differences in time periods have several consequences for the tenants at risk of being evicted. A long period between the first rent arrears and the executed eviction might be interpreted as something positive for the tenants. However, as seen in the Netherlands, for example, this might cause unnecessary problems both for the tenant and the landlord as the debt becomes insurmountable.

Evictions take place in the intersection between civil and social rights: the right for a property owner to safeguard their rental income and the citizen's right to decent housing. This challenge could be the reason that in all three countries, local social services have to be informed about evictions. However the legal options for protecting people in rent arrears from losing their flats are quite different in the countries compared; Germany seems to offer tenants and administration the most authority to prevent homelessness against the will of the landlords concerned. Because a lease is necessary for an eviction (as defined in this paper) to take place, homeless people cannot be evicted. Thus, an increasing number of evictions might in some cases be an indicator of fewer people being homeless, as described in the case of Sweden. This paradox is an example of the need for more research that includes evictions as an important factor in understanding social marginalization on the housing market.

› References

Aedes (2010) *Branche in beeld. Bedrijfstakinformatie* [Housing Corporations in Focus: Industry Information]. (Hilversum: Aedes).

Anderson, B. (2006) *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso).

Artz, M. and Jacoby, F. (2011) *Immobilienwirtschaftlicher Dialog*. *Sondergutachten "Mieterschutz und Investitionsbereitschaft im Wohnungsbau. Mietausfälle durch sog. Mietnomaden"*[Special Commercial Report on Real Estate: Protection of Tenants and Willingness to Invest in House-building. Loss of Rent due to so-called 'Rent Nomads']. (Bielefeld: University of Bielefeld).

Avramov, D. (1996) *The Invisible Hand of the Housing Market. A Study of Effects and Changes in the Housing Market on Homelessness in the European Union* (Brussels: FEANTSA).

Beer, A.P., Slatter, M.M., Baulderstone, J.M. and Habibis, D. (2006) *Final Report: Evictions and Housing Management* (Melbourne: Australian Housing and Urban Research Institute).

Bengtsson, B. (2001) Housing as a Social Right: Implications for Welfare State Theory, *Scandinavian Political Studies* 24(4) pp.255-275.

Boudon, R. (1982) *The Unintended Consequences of Social Action* (Basingstoke: Macmillan).

Boverket [Swedish National Board of Housing, Building and Planning] (2008) *Hyreskontrakt via kommunen* [Municipal Leases]. (Karlskrona: Boverket).

Boverket [Swedish National Board of Housing, Building and Planning] (2010) *Trösklar till bostadsmarknaden – Om hemlöshet som ett bostadsmarknad-sproblem* [Thresholds of the Housing Market: Homelessness as a Problem of the Housing Market]. (Karlskrona: Boverket).

Busch-Geertsema, V. and Evers, J. (2007) Auswirkungen von Hartz IV auf die Hilfen in Wohnungsnotfällen. Erste Zwischenergebnisse einer Untersuchung im Auftrag des Diakonischen Werkes Schleswig Holstein [The Impact of Hartz IV on the Support of Cases in Urgent Need of Housing: First Provisional Results of a Study on Behalf of the Diakonisches Werk of the Protestant Church in Schleswig-Holstein]. *Wohnungslos* 49(1) pp.15-25.

Djankov, S., La Porta, R., Lopez-De-Silanes, F. and Shleifer, A. (2003) Courts, *Quarterly Journal of Economics* 118(2) pp.453-517.

Dol, K. and Haffner, M. (2010) *Housing Statistics in the European Union* (The Hague: Ministry of the Interior and Kingdom Relations).

Edgar, B. (2009) *2009 European Review of Statistics on Homelessness* (Brussels: FEANTSA, European Observatory on Homelessness).

Eriksson, L., Stenberg, S-Å., Flyghed, J. and Nilsson, A. (2010) *Vräkt! Utkastad från hus och hem i Stockholm 1879-2009* [Evicted! Kicked out of Home in Stockholm 1879-2009]. (Stockholm: Premiss förlag).

FEANTSA and BAG W: Bundesarbeitsgemeinschaft Wohnungslosenhilfe e. V. (2008) *Germany – National Report. Housing Solutions for People who are Homeless* (Brussels: FEANTSA).

Flyghed, J. (2000) *Vräkning – orsak eller verkan? En studie i marginellt boende* [Eviction: Cause or Effect? A Study of Living on the Social Margins of the Housing Market], in: W. Runqvist and H. Swärd (Eds.) Om olika perspektiv och förklaringsmodeller (Stockholm: Carlssons).

Flyghed and S-Å. Stenberg (1993) *Vräkt i laga ordning* [Lawfully Evicted] (Stockholm: Konsumentverket och Socialdepartementet).

Gemeente Amsterdam (2011) *Notitie leegstand in Amsterdam* [Note Vacancy in Amsterdam]. (Amsterdam: Dienst Wonen, Zorg en Samenleven).

Gerull, S. (2003) *Behördliche Maßnahmen bei drohendem Wohnungsverlust durch Mietschulden* [Administrative Measures for the Prevention of Evictions due to Rent Arrears]. (Berlin: KBW Fachbuchverlag).

Gerull, S. (2004) *Etablierung einer Mietschuldnerberatung im Auftrag von VermieterInnen* [Establishing an Advice Agency for People in Rent Arrears on Behalf of Landlords]. (Berlin: Unpublished expertise commissioned by the 'Internationaler Bund').

Gerull, S. (2008) Präventive Hilfen zum Erhalt der Wohnung bei Mietschulden. Ergebnisse einer empirischen Studie in einem Berliner Sozialamt [Preventive Supports to Save Dwellings in Case of Rent Arrears: Results of an Empirical Study in a Social Welfare Office in Berlin], in: S.B. Gahleitner, S. Gerull, C. Lange, L. Schambach-Hardtle, B. Petuya Ituarte and C. Streblow (Eds.) *Sozialarbeitswissenschaftliche Forschung. Einblicke in aktuelle Themen,* pp.41-50 (Opladen and Farmington Hills: Budrich Unipress).

Gottesman, M.D. (2007) *End Game: Understanding the Bitter End of Evictions* (Yale Law School: Student Scholarship Papers).

Hartman, C. and Robinson, D. (2003) Evictions: The Hidden Housing Problem, *Housing Policy Debate* 14(4) pp.461-501.

Heule, C., Knutagård, M. and Swärd, H. (2010) Bostad först – ett innovativt försök [Housing First: An Innovation]. *Alkohol & Narkotika* 1 pp.9-12.

Hirschman, A.O. (1991) *The Rhetoric of Reaction: Perversity, Futility, Jeopardy* (Cambridge/London: The Belknap Press of Harvard University Press).

Hogeschool van Amsterdam (HvA) (2006) *Outreachend werken bij dreigende huisuitzetting. Een RAAK-onderzoek*. [Outreach Work related to Imminent Eviction: A RAAK-Research Project]. (Amsterdam: HvA Praktijk- en onderzoekscentrum de Karthuizer).

Kern, C. (2007) *Justice between Simplification and Formalism – A Discussion and Critique of the World Bank Sponsored Lex Mundi Project on Efficiency of Civil Procedure* (Tübingen: Mohr Siebeck).

Kloppenburg, R., Akkermans, C., de Graaf, W. and van Doorn, L. (2009) *Preventie en aanpak van dakloosheid van gezinnen bij vier centrumgemeenten* [Preventing and Tackling the Homelessness of Families in Four Municipalities]. (Utrecht: KSI, Hogeschool Utrecht).

Kronofogden (2011a) Direct infromation from the Swedish bailiff.

Kronofogden (2011b) http://kronofogden.se/nyheterpressrum/statistik/vrakningar/2010.4.58d555751259e4d661680006915.html

van Laere, I. and de Wit, M. (2005) *Dakloos na huisuitzetting* [Homeless after Eviction]. (Amsterdam: GG&GD).

Lieveling, D.L.M. and Renooy, P.H. (2002) *Huurschulden en preventie van huisuitzettingen in Utrecht* [Rent Arrears and Prevention of Evictions in Utrecht]. (Amsterdam: Regioplan onderzoek Advies en Informatie).

Lindell, B. (2004) *Civil Procedure in Sweden* (Uppsala: Lustus Förlag AB).

Mann, M. (1996) Ruling Class Strategies and Citizenship, in: M. Bulmer and A. Reeve (Eds.) *Citizenship Today*, ch. 7. (London: UCL Press).

Marshall, T. H. (1963) Citizenship and Social Class, in: T.H. Marshall (Ed.) *Sociology at the Crossroads and Other* Essays, pp.67-127. (London: Heinemann).

Møller, J. and Skaaning S-E. (2010) Marshall Revisited: The Sequence of Citizenship Rights in the Twenty-first Century, *Government and Opposition* 45(4) pp.457-483.

Olsson, L-E. and Nordfeldt, M. (2008) Homelessness and the Tertiary Welfare System in Sweden – The Role of the Welfare State and Non-profit Sector, *European Journal of Homelessness* 2 pp.157-173.

Rakers, M. and de Jong, C. (Eds.) (2006) *Eropaf! Outreachend samenwerken in welzijn en wonen* [Let's do it! Outreach Work in Welfare and Living]. (Amsterdam: Van Gennep/De Balie).

Richardson, D. (1998) Sexuality and Citizenship, *Sociology* 32(1) pp.83-100.

Sahlin, I. (2007) *Den sekundära bostadsmarknadens följder och förändring. En kvantitativ studie.* [Consequences of and Changes in the Secondary Housing Market. A Quantitative Study], in: C. Hansen Löfstrand and M. Nordfelt (Eds.) Bostadslös/Lokal politik och praktik (Malmö: Gleerups).

Senate Department of Integration, Labour and Social Affairs (2011) *Entwicklung der Mitteilungen über drohenden Wohnungsverlust* [Development of Notes on Threatened Loss of Dwellings]. (Unpublished).

Socialstyrelsen (2006) *Hemlöshet i Sverige 2005. Omfattning och karaktär* [Homelessness in Sweden in 2005: Magnitude and Characteristics]. (Stockholm: Socialstyrelsen).

Statens Offentliga Utredningar (2005) *Vräkning och hemlöshet drabbar också barn* [Children Affected by Evictions and Homelessness]. (Stockholm: Socialdepartementet).

Stenberg, S-Å. (1990) *Vräkt ur folkhemmet* [Evictions in the Welfare State]. (Stockholm: Carlssons).

Stenberg, S-Å. (1991) Evictions in the Welfare State: An Unintended Consequence of the Swedish Policy? *Acta Sociologica* 34(2) pp.103-114.

Stenberg, S-Å, Kåreholt, I. and Carroll, E. (1995) The Precariously Housed and the Risk of Homelessness: A Longitudinal Study of Evictions in Sweden in the 1980s, *Acta Sociologica* 38(2) pp.151-165.

Stenberg, S-Å, Kjellbom, P., Borg, I. and Sonmark, K. (2011) *Varför vräks barn fortfarande?* [Why are Children Evicted?]. (Stockholm: Socialdepartementet).

Stockholms läns landsting, Regionplane- och trafikkontoret [Office of Regional Planning, Stockholm County Council] (2011) Årsstatistik för Stockholms län och landsting [Statistical Year Book for Stockholm County]. (Stockholm: Stockholm County Council).

Stoner, M.R. (1995) *The Civil Rights of Homeless People* (New York: Aldine De Gruyter).

Walby, S. (1994) Is Citizenship Gendered? , *Sociology* 28(2) pp.379-395.

Laws:

Civil Code of the Netherlands (Burgerlijk Wetboek).

German Civil Code.

German Law for Social Assistance (“SGB XII”)

German Law Providing Minimum Benefits for Long-Term Unemployed (“SGB II”).

Lag (1990: 746) om betalningsföreläggande och handräckning [Swedish Law about Payment and Enforcement Assistance].

Land Code of Sweden.

Web pages:

www.destatis.de

www.kronofogden.se

www.scb.se

www.statistik-berlin.de