



Co-operative Housing International
A Sector of the International
Co-operative Alliance

GdW



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Legal Frameworks for Housing Co-Operatives

The German Experience
Quebec,
6th of October 2014

Guido Schwarzendahl, Germany



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Co-Operative Legislation in Germany

- The „constitution“ for co-operatives in Germany is the Co-operative act.
- It dates from the 1889th. Last amendments have been in 2006.
- Advantage: One law for all types of co-operatives.
- Every coop has the obligation to give itself its own statutes in accordance to the Co-operative act.



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Housing Co-operatives in Germany - facts and figures

- Number of Housing Co-operatives: 1.931
- Number of members: 2,8 Million
- Number of dwellings: 2,2 Million
- Number of employees: 24.000



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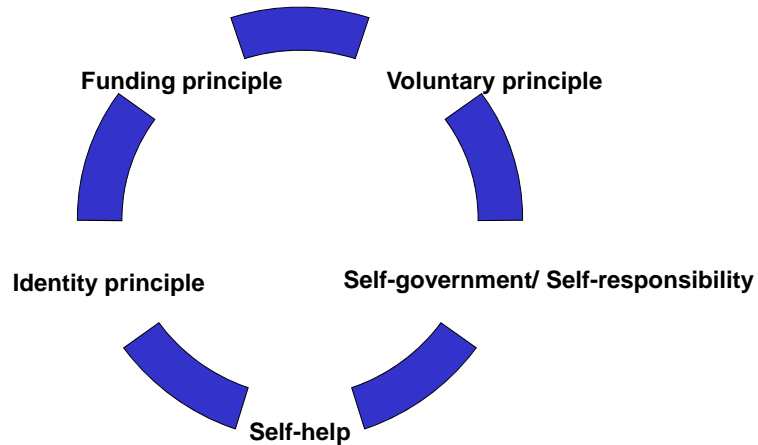
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Principles of German Housing Co-operatives



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General Assembly = top decision making body

- Housing Co-operatives with more than 1.500 Members have an „Assembly of the representatives“ (and no general assembly)!
- Amendments of the statutes
- Determination of financial statements
- Net income
- Coverage loss for the year
- Election/Dismissal Management Board (dispensable)
- Election/Dismissal Supervisory Board

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Management board

- Management (except: basic decisions), very strong legal position – much better than in the German AG (share companies or limited companies) or German GmbH (limited liability companies (Ltd)).
- Statutes allow, for example, purchase of land or residential buildings
- Representation of eG: Major-/Minor- or volunteering
- Advantage: Management Autonomy/ short reaction time,
- Disadvantage: control for the members is difficult

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Supervisory Board

- Supervision and control of co-operative management in terms of a long-term task.
- Consent powers and rights of appeal against the Executive to the limits of §27 GenG.
- Statutes allow, for example, to appoint members of the Board of Management – but only the General Assembly or the Assembly of representatives is able to remove members of the board.

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Auditing

- Every housing co-operative must be member of an auditing association and pay membership fees (e.g. 25.000 € /year for a housing co-operative in our size).
- For housing co-operatives there is nearly one specialized auditing association in every state.

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Legal Auditing

- Mandatory auditing by the auditing association
- Every two years for small coop's (Balance sheet total max. 2 Mio. €).
Every year for bigger coop's (Cost for example for our coop 85.000 €/year).
- Disadvantage of the traditional cooperative revision: expensive and extremely time-consuming,
- Advantage: Auditing means a consulting and supporting-auditing and is a well tested audit method, the successful legal auditing is a proof for good governance, insolvency-proof, in competition for funding.

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Tax Laws for Housing Co-operatives in Germany

- Co-operatives are able to obtain a tax-advantage with the status of a „rental co-operative“.
- With revenues of less than 10 % with non-members business, the remaining part of the revenues are exempt from corporation tax.

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Conclusion

- The conditions for housing co-operatives in general are good. Well established co-operatives are able to exist in a highly developed legal system.
- The mandatory auditing and especially the foundation audit through an audit association are expensive for new co-operatives. There is a need for specific promotion programmes for the foundation of new housing co-operatives.
- There is a lack of knowledge at the consultants, auditors and tax advisors about the foundation of new housing co-operatives. So the number of new housing co-operatives is very small.

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Thank you for listening!

Foto: Günter Bauer – Mitteldeutsche Zeitung