

Consumer market study on the functioning of the real estate services for consumers in the European Union

Country fiche – GERMANY

General information

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Main Sources Used	<p><u>Key legal instruments:</u></p> <p><u>General:</u></p> <ul style="list-style-type: none"> • German Civil Code (Bürgerliches Gesetzbuch, BGB) in the version published on 2 January 2002 (Federal Law Gazette (BGBl.) I p. 42, 2909; 2003 I p. 738), last modified by Article 1 of the Act of 28 April 2017 (Federal Law Gazette (BGBl.) I p. 969); <p>The German Civil Code is available in English translation at: https://www.gesetze-im-internet.de/englisch_bgb/</p> <ul style="list-style-type: none"> • Energy Saving Ordinance (Energieeinsparverordnung, EnEV 2007); • Trade Regulation Act (Gewerbeordnung, GewO). <p><u>Rent:</u></p> <ul style="list-style-type: none"> • German Civil Code (BGB), sections 353 et seq. <p><u>Real estate transactions:</u></p> <ul style="list-style-type: none"> • German Civil Code (BGB), sections 854 et seq.; section 873 et seq. (conveyancing); section 1113 et seq. (mortgages and land charge); • Federal Notarial Code (Bundesnotarordnung, BNotO); • Notarisation Act (Beurkundungsgesetz, BeurkG); • Court and Notarial Fees Act (Gerichts- und Notarkostengesetz, GNotKG);

- Transfer Tax Act (Grunderwerbsteuergesetzes, GrEStG);

Land Register:

- Land Registration Code (Grundbuchordnung, GBO) in the version published on 26 May 1994 (Federal Law Gazette (BGBl.) I p. 1114), last modified by Article 8 of the Act of 28 April 2017 (Federal Law Gazette (BGBl.) I p. 969);
- Land Registration Regulation (Grundbuchverordnung, GBV) in the version published on 24 January 1995 (Federal Law Gazette (BGBl.) I p. 114), last modified by Article 4 of the Act of 3 December 2015 (BGBl. I S. 2161).

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- Statistisches Bundesamt (2016b), Dienstleistungen: Strukturerhebung im Dienstleistungsbereich Erbringung von freiberuflichen, wissenschaftlichen und technischen Dienstleistungen 2014, Fachserie 9 Reihe 4.4;

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- Schmid, Christoph U./Pinkel, Tobias (2011), Grundfreiheitskonforme Reformierung der nationalen Notariatsverfassung, NJW 2928-2931

1. Regulatory background

1.1 Level of regulation in the country

Table 1: Level of regulation			
	Describe the level of regulation (e.g. strictly regulated, framework regulation, partly regulated, non-regulated, deregulated) and explain your assessment	Source of relevant legislation	Ongoing discussion on regulation/deregulation (if applicable): current state of affairs and main arguments in the debate
Real estate transactions¹	<ul style="list-style-type: none"> Strictly regulated Notarisation requirement for every real property transaction Registration requirements Numerus clausus for rights in real property 	<ul style="list-style-type: none"> German Civil Code (BGB), sections 854 et seq. (real estate transactions and rights in real estate) Land Registration Code (GBO) Land Registration Regulation (GBV) 	The system in Germany is generally accepted. Only a minority view criticises the mandatory involvement of notaries. This is largely discussed. ²
Notary system (or lawyer/conveyancer system)³	Notary system, strictly regulated	Professional Regulation: <ul style="list-style-type: none"> Federal Notarial Code (Bundesnotarordnung, BNotO) Notarisation: <ul style="list-style-type: none"> Notarisation Act (Beurkundungsgesetz, BeurkG) Fees:	Most academics defend the current notary system, which is considered as effective and of very high quality (good reputation in Germany). Moreover, prevention of disputes (by notaries) is supposed to be better and more efficient than dispute settlement at a later stage (by courts). ⁴ Only a large minority of commentators question whether some of the restrictions are in line with the EU treaties after the CJEU-decision C-54/08 (Commission/Germany). ⁵ Both, the Federal Court of Justice (BGH) ⁶ and the Federal

¹ E.g. limitations or prohibitions of certain transactions; specific formality requirements etc.

² Cf. with further references *Schmid/Pinkel* (2009), *Hanse Law Review*, 129-161.

³ Only in countries where notaries do not exist or do not have a monopoly on conveyancing.

⁴ Cf. e.g. *Roth* (2015), *EuZW* 734-739; *Ott* (2001).

⁵ Cf. e.g. *Pinkel/Schmid* (2011), *HanseLR*, 77-151, 124 et seq.; *Schmid/Pinkel* (2011), *NJW*, 2928-2931; *Hamacher* (2011), *AnwBI* 913-917; *Ritter* (2011), *EuZW* 707-710.

⁶ See BGH judgement of 4 March 2013, *BGHZ* 196, 271-284 and BGH judgement of 20 July 2015, *NJW* 2015, 3034-3039.

Table 1: Level of regulation

		<ul style="list-style-type: none"> • Court and Notarial Fees Act (GNotKG) 	<p>Constitutional Court (BVerfG),⁷ seem to see no problems and abstained from referring those questions to the CJEU. Also, the majority in the literature seems to follow the position of the German Courts.⁸</p> <p>Another view stemming from academia, argues that some limitations can be identified in relation to the system. This is due to the fact that the notary system is rather expensive and attracts the best lawyers (due to the high income) who would be needed more urgently in other legal professions.⁹</p>
<p>Profession of estate agents</p>	<p>Increasingly regulated (See below)</p>	<p>Regulating the profession:</p> <ul style="list-style-type: none"> • Section 34c Trade Regulation Act (GewO) <p>Regulating the real estate agent fees in the rental marked:</p>	<p>Now, a partly strict regulation for estate agents is being introduced on the federal level (the draft act by the federal government¹⁰ was presented in August 2016). The first hearing in the German Parliament (Deutsche Bundestag) was on 29 March 2017. It is supposed to become effective before the end of the year. Till now, according to § 34c GewO, estate agents only needed to register and be a reliable person. The draft legislation requires that the real estate agents obtain a permission. In order to receive that permission, they need to prove expertise in the field (Sachkundenachweis) and contract professional insurance. If the real estate agent has already been registered for six years, the additional permission is not required.</p> <p>In the hearing before the federal parliament¹¹ and in the literature, mainly two positions</p>

⁷ See BVerfG judgment of 19 June 2012, NJW 2012, 2639-2644.

⁸ Cf. e.g. *Roth* (2015), EuZW 734-739; *Geimer* (2013), NJW 2625-2828.

⁹ This argument was first presented by the German commission on deregulation in 1991 quoted quite often since. Cf. *Deregulierungskommission* (ed.) (1991), Marktöffnung und Wettbewerb, p. 113.

¹⁰ Draft Act of the Federal Government (Gesetzentwurf der Bundesregierung): Entwurf eines Gesetzes zur Einführung einer Berufszulassungsregelung für gewerbliche Immobilienmakler und Verwalter von Wohnungseigentum, BT-Drs 18/10190, online at: <http://dip21.bundestag.de/dip21/btd/18/101/1810190.pdf>.

¹¹ For the different positions cf. Federal Parliament of Germany (Deutscher Bundestag), Makler-Berufszulassung umstritten

Table 1: Level of regulation

			<p>concerning the reform are present. While the one side argues that in real estate transactions high values are at stake and, therefore, uninformed real estate agents could cause high damages, the other side highlights that the reform imposes a restriction on the constitutional right of freedom to choose one's profession and that there is no empirical evidence that this limitation is justified.</p> <p>Moreover, the fees of real estate agents in the rental market have only been regulated in 2016. Beforehand, both, the fees relating to real estate purchases and the rental market had not been regulated.</p>
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1.2 National legislation

Table 2: List of national legislation

List of national legislation	Classification of national legislation	Content of the national legislation
German Civil Code (Bürgerliches Gesetzbuch, BGB)	Applicable to everyone, including special provision for consumer protection	<i>Inter alia</i> including the tenancy law and the law on conveyancing
Notarisation Act (Beurkundungsgesetz, BeurkG)	Regulating the process of notarisation and its formalities irrespective of for whom (consumer, business etc.) this is undertaken	Rules on the notarization
Federal Notarial Code (Bundesnotarordnung, BNotO)	Professional regulation of the notaries	Professional regulation of the notaries
Court and Notarial Fees Act (Gerichts- und Notarkostengesetz, GNotKG)	Applicable to notaries and courts in Germany	Contains <i>inter alia</i> the rules on the fixed fees for notaries
Trade Regulation Act (Gewerbeordnung, GewO)	Applicable to every craftsperson	Contains <i>inter alia</i> the professional regulation for real estate agents
Transfer Tax Act (Grunderwerbsteuergesetzes, GrEStG)	Applicable to everyone	Contains the rules on the taxation of the transfer of property

1.3 Implementation of relevant EU legislation

Table 3: Implementation of relevant EU legislation						
EU legislation	Implementation achieved?	Implementation of EU legislation at the national level (e.g. the name of the law)	Source of the national implementation legislation	Content of the national legislation in keywords	Which parts of the EU legislation have been transposed?	Which parts of the EU legislation have <u>not</u> been transposed?
Directive 2005/29/EC on unfair commercial practices (UCPD)	Yes	Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG)	Federal Law Gazette (BGBl.) I p. 233 English translation available at: https://www.gesetze-im-internet.de/englisch_uwg/index.html	Protection of consumer and competitors from unfair competition	With the last amendments of 17.2.2016 the directive should be fully implemented	-
Directive 93/13/EEC on unfair terms in consumer contracts	Yes	Section 310, sections 305-310 German Civil Code (BGB)	German Civil Code (BGB)	General regulation of standard terms, including special rules for consumers	Fully implemented	-
Directive 2008/122/EC on the protection of consumers, in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts	Yes	Mainly implemented in sections 481 et seq. German Civil Code (BGB)	Gesetzes zur Modernisierung der Regelungen über Teilzeit-Wohnrechtverträge, Verträge über langfristige Urlaubsprodukte sowie Vermittlungsverträge und Tauschsystemverträge,	Regulation of time-sharing products	Fully implemented	-

Table 3: Implementation of relevant EU legislation

			Federal Law Gazette (BGBl.) 2011 I p. 34			
Directive 2010/31/EU of Energy Performance of Buildings Directive	Yes	Energy Consumption Reduction Act (Energieeinsparungsgesetz, EnEG)	Viertes Gesetz zur Änderung des Energieeinsparungsgesetzes, Federal Law Gazette (BGBl.) 2013 I p. 2197	Setting limits etc. as foreseen in the European directive	Fully implemented	-
Directive 2005/36/EC on Recognition of Professional Qualifications, as last amended by Directive 2013/55/EU	Yes	The directives have been transposed with the Act on the recognition of the equivalence of the professional qualifications (Gesetz über die Feststellung der Gleichwertigkeit von Berufsqualifikationen, Berufsqualifikationsfeststellungsgesetz - BQFG) and by inserting special provisions on the recognition in more than 30 different laws governing the different regulated professions	BQFG: Federal Law Gazette (BGBl.) 2011 I p. 2515 The most important acts that have implemented the new provisions in the professional regulation legislation are: <ul style="list-style-type: none"> • Gesetz zur Umsetzung der Richtlinie 2005/36/EG des Europäischen Parlaments und des Rates über die Anerkennung von Berufsqualifikationen der Heilberufe • Federal Law Gazette (BGBl.) 2007 I p. 2686; 	Special rules for the different regulated professions for the recognition	Fully implemented	-

Table 3: Implementation of relevant EU legislation

			<ul style="list-style-type: none"> • Gesetz zur Umsetzung der Richtlinie 2013/55/EU des Europäischen Parlaments und des Rates vom 20. November 2013 zur Änderung der Richtlinie 2005/36/EG über die Anerkennung von Berufsqualifikationen und der Verordnung (EU) Nr. 1024/2012 über die Verwaltungszusammenarbeit mit Hilfe des Binnenmarkt-Informationssystems ("IMI-Verordnung") für bundesrechtlich geregelte Heilberufe und andere Berufe; • Federal Law Gazette (BGBl.) 2016 I p. 886. 			
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Table 3: Implementation of relevant EU legislation

<p>Mortgage Credit Directive, 2014/17/EC</p>	<p>Yes</p>	<p>The most important parts have been implemented in Section 491 et seq. German Civil Code (BGB)</p>	<p>Gesetz zur Umsetzung der Wohnimmobilienkreditrichtlinie und zur Änderung handelsrechtlicher Vorschriften Federal Law Gazette (BGBl.) 2016 I p. 396</p>	<p>Regulating mortgage services and service providers as foreseen in directive</p>	<p>Fully implemented</p>	<p>-</p>
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1.4 Communications and strategy papers

Table 4: Communications and strategy papers

Communication or strategy paper	Have the following communications and strategy papers been referred to in national documents?	Name of document	Source	Content	Differences with respect to communications and strategy papers listed in the first column
COM(2015) 550 final Communication of the Commission Upgrading the Single Market: more opportunities for people and business	Yes	Decision of the Federal Council of Germany Beschluss des Bundesrates zur Mitteilung der Kommission an das Europäische Parlament, den Rat, den Europäischen Wirtschafts- und Sozialausschuss und den Ausschuss der Regionen: Den Binnenmarkt weiter ausbauen - mehr Chancen für die Menschen und die Unternehmen - KOM (2015) 550 final	Bundesrat Drucksache 509/15 (Beschluss) of 18.12.15 Online at: https://www.bundesrat.de/SharedDocs/drucksachen/2015/0501-0600/509-15(B).pdf?__blob=publicationFile&v=1	The Federal Council of Germany (Bundesrat) has taken a decision on the Commission communication and referred it to the Commission. In the decision, the Federal Council agrees with many positions of the Commission.	
COM(2013)676 Communication from the Commission on evaluating national	Yes	Federal Council of Germany Decision	Drucksache 717/13 (Beschluss) of 29.11.13.	The Federal Council of Germany (Bundesrat) has taken a decision on the Commission	

Table 4: Communications and strategy papers

<p>regulations on access to professions</p>		<p>Beschluss des Bundesrates zur Mitteilung der Kommission an das Europäische Parlament, den Rat und den Europäischen Wirtschafts- und Sozialausschuss: Bewertung der nationalen Reglementierungen des Berufszugangs COM(2014) 1437 final</p>	<p>Online at: http://www.bundesrat.de/SharedDocs/drucksachen/2013/0701-0800/717-13(B).pdf?__blob=publicationFile&v=3</p>	<p>communication and referred it to the Commission.</p> <p>In its decision, the Federal Council of Germany highlights the importance of the goals of the project undertaken by the Commission. In addition, the following aspects were viewed by policy makers as demanding a review:</p> <ul style="list-style-type: none"> - the time frame; • the amount of the data required; • the system of peer review; • the idea that liberalisation leads to growth; • overall macroeconomic consequences that may be considered, e.g. that more regulated professions tend to employ more trainees in in-firm education programmes (betriebliche Ausbildung); 	
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Table 4: Communications and strategy papers

				<ul style="list-style-type: none"> the idea that restrictions of access to a profession have negative macroeconomic effects; measures that might reduce the number of trainees in the dual system (duales System). 	
COM(2016)820 Communication from the Commission on reform recommendations for regulation in professional services	Yes	<p>Report of the Ministry of Economics (Ressortbericht BMWi) of 01.02.2017</p> <p>Will be discussed in the Federal Parliament of Germany (Deutscher Bundestag) and has been on the agenda of several chambers of the Federal Parliament of 17 May 2017</p>	Not published	Detailed content not yet known	
European Consumer Agenda	Yes	<p>Federal Council of Germany Decision</p> <p>Beschluss des Bundesrates zur Mitteilung der Kommission an das Europäische Parlament, den Rat,</p>	<p>Bundesrat Drucksache 298/12 (Beschluss) of 06.07.12</p> <p>Online at: http://www.bundesrat.de/</p>	The Federal Council of Germany acknowledges that it took note of the Commission's communication.	

Table 4: Communications and strategy papers

		den Europäischen Wirtschafts- und Sozialausschuss und den Ausschuss der Regionen: Eine Europäische Verbraucheragenda für mehr Vertrauen und mehr Wachstum COM(2012) 225 final	SharedDocs/drucksachen/2012/0201-0300/298-12(B).pdf?__blob=publicationFile&v=1		
Consumer Programme 2014-2020	Yes	Survey for the Federal Ministry of Environment (Umweltforschungsplan des Bundesministeriums für Umwelt, Naturschutz, Bau und Reaktorsicherheit), Stärkung eines nachhaltigen Konsums im Bereich Produktnutzung durch Anpassungen im Zivil- und öffentlichen Recht, Forschungskennzahl 3713 18 308	Online at: http://www.bmub.bund.de/fileadmin/Daten_BMU/Pool/Forschungsdatenbank/fkz_3713_18_308_nachhaltiger_konsum_produktnutzung_bf.pdf	The survey discusses the effect of the programme on sustainable consumption on p. 92	

2. General market information

2.1 Key market data

Table 5: Key market data

General market situation (e.g. trends in the market, recent developments in the market, price fluctuations, etc.)

Germany has a relatively stable market for residential property, although in the past 10 years the shortage of residential property increased in several cities.

Overall, the prices for residential property are relatively stable. The overall price increase in Germany in average for buying residential property between 2003 and 2016 is around 30%. However, the price increase has accelerated over the last five years. Moreover, in some major cities, mainly in university towns and/or cities with a booming industry, a very high price increase over the last five years could be recorded. Examples are (increase between 2010 and 2015 for existing 3-room-flats): Wolfsburg with 69,4 %, Munich with 61,3 %, Berlin with 55,2 %, Stuttgart with 54,8 % Bremen with 43,2 % and Cologne with 41,4 %.

This development seems to continue or even accelerate until now.¹²

The prices for building land within 127 larger cities in Germany increased even by 63% between 2009 and 2016.¹³

Concerning the level of rent, a similar development took place. While the rents overall in Germany increased steadily but slightly, in some cities the rents increased up to 34 % between 2010 and 2015.¹⁴

It is widely held that the shortage of residential property in many cities is linked to a reduction of municipal building programs. Very recently, several cities have become more engaged in this field again. However, the reasons for this development are several. Specifically, an increase in the involvement of international financial investors in the residential market took place over the last few years. It is argued that the behaviour of these investors focusing on short-term benefits differs strongly from the behaviour of traditional actors. This orientation is likely to contribute to a rent increase¹⁵. Additionally, residential property in major German cities has become an object of speculation in the last years, adding to the price increase as well¹⁶. Also the very low interest rates for mortgage loans increased the number of transactions in the market for residential property and, thereby, add to the price increase¹⁷. Lastly, it is argued that the high level on building regulations

¹² Based on the data from Statista (2017).

¹³ Kholodilin (2017).

¹⁴ Based on the data from Statista (2017).

¹⁵ Cf. e.g. Holm (2008).

¹⁶ Cf. e.g. Kholodilin (2017).

¹⁷ Cf. e.g. Kholodilin (2017).

Table 5: Key market data

	<p>(including standards for barrier-free access, safety regulation and environmental standards) make it more difficult to create affordable residential property.</p> <p>The issue of affordable housing in both the ownership and residential market, has, therefore, become a major political topic, widely discussed in the news media. The federal government tried to limit the rent increase in areas where the supply of housing is at risk by introducing a new rent regulation in 2015. The so-called “rent brake” (Mietpreisbremse) is applicable only in areas where the supply of housing is at risk. If the “rent brake” applies, the local rent for new letting cannot be exceeded by more than 10 per cent of the local usual comparison rent. In many cases, the usual comparison rents are shown in statistical surveys (“rent mirrors”). The areas in which the rent brake applies are determined by the federal states. This is an exception to the regular tenancy law, where the rent for newly rented out dwellings is not regulated at all and only rent increases are limited. However, there are many exceptions to the “rent brake”, e.g. for newly built dwellings and modernized dwellings.¹⁸ In fact the “rent brake” seems to be ineffective.¹⁹</p> <p>The federal government in the coalition agreement of 2018 (so far not ratified by two of the three coalition parties) has agreed to spend 4,00 billion Euros between 2018 and 2021 on programs to increase the number of residential buildings²⁰. This expenditure is divided into 2 billion Euros for social housing and 2 billion Euros for the support of private persons (mainly families) to buy owner-occupied dwellings.</p>
<p>Total value of residential transactions for buying and renting for the year 2015 (2014 or 2013 depending on the latest available data) expressed in EUR</p>	<p>N/A</p>
<p>Ratio house owners – tenants (i.e. the percentage of households that are owners resp. tenants of dwelling units)</p>	<p>43 % (2013) of the residents are property owners. The majority of citizens are living in rental property. The quote of property owners has slightly increased over the past 20 years from 38.7 % (1993) to 43 % (2013). However, there is no clear current tendency. In some years the percentage of property owners has also decreased.²¹</p> <p>Concerning the structure of landlords, most of them are smaller private actors. Only about 10 percent of the rental housing stock is owned by housing cooperatives; this number is however increasing lately. Municipal</p>

¹⁸ Cf. e.g. BBSR (2016), 22.

¹⁹ Cf. e.g. *Thadeus Parade*, Explodierende Mieten – Situation am Wohnungsmarkt immer dramatischer, “heute” news of 22 June 2017, online at: <http://www.heute.de/explodierende-mieten-situation-am-wohnungsmarkt-immer-dramatischer-47415920.html>.

²⁰ Coalition agreement between CDU, CSU and SPD of 7 February 2018, Ein neuer Aufbruch für Europa Eine neue Dynamik für Deutschland Ein neuer Zusammenhalt für unser Land, line 3068.

²¹ Based on the data from Statista (2017).

Table 5: Key market data

	housing companies without gain orientation are often found. However, around 92 % of the dwellings are rented at a market-oriented rent. ²²	
Usage of land (Quotas for built land, agricultural land, “wild land” (forests, lakes etc.))	<p>Data base on 2015 (357,409 km² in total):</p> <ul style="list-style-type: none"> • Built land: 13.7 % (49,066 km²: 25.077 km² buildings [incl. residential buildings: 13,333 km²], 1,050 km² used for commercial production, 4,455 km² for recreational purpose, 18,108 km² traffic infrastructure, 377 km² cemeteries); • Agricultural land: 51.6 % (184.332 km²: incl. 839 km² marsh and 601 km² heathland); • Woods: 30,6 % (109.515 km²); • Water (lakes, rivers, canal and coastal waters): 2,4 % (8.552 km²); • Other usage (including military use and historical buildings such as castles and castle): 1,7 % (5.944 km²)²³. 	
Average prices of residential property	<p><i>According to the type of property</i></p> <ul style="list-style-type: none"> • Average flat of ca. 70 sqm • Terrace house of ca. 100 sqm • Detached (one family house) of ca. 150 sqm 	<ul style="list-style-type: none"> • Flat of 70 m²: 2,510.03 €/m² (May 2017) (source: immowelt.de); • House of 100-140 m²: 247,887.05 € (May 2017) (source: immowelt.de); • House of 140-180 m²: 318,388.33 € (May 2017) (source: immowelt.de).
	<p><i>According to the type of location</i></p> <ul style="list-style-type: none"> • Capital city • Urban areas • Rural areas 	<ul style="list-style-type: none"> • Flat of 40-80 m² in Berlin (capital city): 3,576.71 €/m² (May 2017) (source: immowelt.de); • Flat of 40-80 m² in Munich (example for expensive urban area): 6,840.02 €/m² (May 2017) (source: immowelt.de); • Flat of 40-80 m² in Bremen (example for urban area, large city western Germany): 2,113.40 €/m² (May 2017) (source: immowelt.de); • Flat of 40-80 m² in Leipzig (example for urban area, large city eastern Germany): 1,652.68 €/m² (May 2017) (source: immowelt.de);

²² Cf. BBSR (2016), 19 et seq.²³ Cf. Statistisches Bundesamt (2016c).

Table 5: Key market data

		<ul style="list-style-type: none"> Flat of 40-80 m² in Saarland (example for rural area, western Germany): 1,814.61 €/m² (May 2017) (source: immowelt.de).
Price development of residential property	<p><i>According to the type of property</i></p> <ul style="list-style-type: none"> Average flat of ca. 70 sqm Terrace house of ca. 100 sqm Detached (one family house) of ca. 150 sqm 	<p>Prices in % compared to June 2014 (source: immowelt.de):</p> <ul style="list-style-type: none"> Flat of 70 m²: 130 %; House of 100-140 m²: 119 %; Hose of 140-180 m²: 123 %.
	<p><i>According to the type of location</i></p> <ul style="list-style-type: none"> Capital city Urban areas Rural areas 	<p>Prices in % compared to June 2014:</p> <ul style="list-style-type: none"> Flat of 40-80 m² in Berlin (capital city): 141 %; Flat of 40-80 m² in Munich (expensive urban area): 127 %; Flat of 40-80 m² in Bremen (urban area, large city western Germany): 157 %; Flat of 40-80 m² in Leipzig (urban area, large city eastern Germany): 141 %; Flat of 40-80 m² in Saarland (rural area, western Germany): 124 %;
Development of price index (Housing price index if existing, otherwise Consumer price index)	<p>There are several housing price indices in Germany. The price index for owner occupied residential property for personal use has developed as follow:</p> <p>Basis year 2003:100; 2008: 107,4; 2013: 117,2; 2014: 120,9; 2015: 126,3; 2016: 133,9²⁴</p>	

²⁴ Cf. Statista (2017), 30.

2.2 Service providers

Table 6: Service providers							
		Total number of firms	Total number of professionals	Total number of employees	Branch offices per firm	Market concentration in % of turnover	Average turnover per firm (expressed in EUR)
Estate agents²⁵		257,986	No data	614,919	1.02	N/A	511,639 ²⁶
Lawyer/Advocate/Solicitor		52,719 ²⁷	Lawyers (Rechtsanwalt): 163,772 Legal advisers (Rechtsbeistand): 249 ²⁸	241,136 ²⁹	1.09 ³⁰	N/A	345,297 ³¹
Notary	Only notary (Nurnotar)	1,387 ³²	1,479 ³³	13,568 ³⁴	1.04 ³⁵	N/A	1,101,288 ³⁶

²⁶ Cf. Statistisches Bundesamt (2016a), p. 7. The statistic is based on data of 2014.

²⁷ Cf. Statistisches Bundesamt (2016b), p. 11. The statistic is based on data of 2014.

²⁸ Cf. BRAK (2016).

²⁹ Cf. Statistisches Bundesamt (2016b), p. 11. The statistic is based on data of 2014.

³⁰ Cf. Statistisches Bundesamt (2016b), p. 24. The statistic is based on data of 2014.

³¹ Cf. Statistisches Bundesamt (2016b), p. 27. The statistic is based on data of 2014.

³² Cf. Statistisches Bundesamt (2016b), p. 11. The statistic is based on data of 2014.

³³ Cf. BNotK (2017), p. 1.

³⁴ Cf. Statistisches Bundesamt (2016b), p. 11. The statistic is based on data of 2014.

³⁵ Cf. Statistisches Bundesamt (2016b), p. 24. The statistic is based on data of 2014.

³⁶ Cf. Statistisches Bundesamt (2016b), p. 27. The statistic is based on data of 2014.

Table 6: Service providers

	Attorney-notary (Anwaltsnotar)	4,494 ³⁷	5,558 ³⁸	56,188 ³⁹	1.11 ⁴⁰		1,306,182 ⁴¹
Licenced conveyancers		Profession does not exist in Germany					
Architects		39,174 ⁴²	130,340 ⁴³	127,315 ⁴⁴	1,03 ⁴⁵	N/A	249,885 ⁴⁶
Surveyor		N/A	N/A	N/A	N/A	N/A	N/A
Engineers		79,816 ⁴⁷	N/A	426,968 ⁴⁸	1,05 ⁴⁹	N/A	664,162 ⁵⁰

³⁷ Cf. Statistisches Bundesamt (2016b), p. 11. The statistic is based on data of 2014.

³⁸ Cf. BNotK (2017), p. 1.

³⁹ Cf. Statistisches Bundesamt (2016b), p. 11. The statistic is based on data of 2014.

⁴⁰ Cf. Statistisches Bundesamt (2016b), p. 24. The statistic is based on data of 2014.

⁴¹ Cf. Statistisches Bundesamt (2016b), p. 27. The statistic is based on data of 2014.

⁴² Cf. Statistisches Bundesamt (2016b), p. 13. The statistic is based on data of 2014.

⁴³ Cf. BAK (2017), p. 1. Including architects employed in large companies (no architect offices) and at the government.

⁴⁴ Cf. Statistisches Bundesamt (2016b), p. 13. The statistic is based on data of 2014.

⁴⁵ Cf. Statistisches Bundesamt (2016b), p. 25. The statistic is based on data of 2014.

⁴⁶ Cf. Statistisches Bundesamt (2016b), p. 29. The statistic is based on data of 2014.

⁴⁷ Cf. Statistisches Bundesamt (2016b), p. 13. The statistic is based on data of 2014.

⁴⁸ Cf. Statistisches Bundesamt (2016b), p. 13. The statistic is based on data of 2014.

⁴⁹ Cf. Statistisches Bundesamt (2016b), p. 25. The statistic is based on data of 2014.

⁵⁰ Cf. Statistisches Bundesamt (2016b), p. 29. The statistic is based on data of 2014.

3. Roles of professionals and services in the real estate market

Table 7: Role of professionals in the real estate market

	Estate agent	Property valuator ⁵¹	Lawyer/ Advocate/ Solicitor	Notary	Bank	Licensed conveyancer	Technical expert (architect, engineer, surveyor)	Other relevant professional
Main function: does the professional typically work independently or as part of a firm or another organisation?	Most real estate agent work independently or in small firms. However, few large real estate agent firms exist.	Not applicable.	In consumer transaction in fact never involved.	Notaries work independently.	N/A	Profession does not exist in Germany.	They typically work in small offices.	Not relevant.
Extent of engagement (at which point(s) does each professional intervene in the process?)	Matching the parties.			The notary is coordinating/ guiding the process from the pre-checks in the land register until the title is registered in the land register and the ownership is, thereby, transferred.	Financing for the buyer.			
Mandatory involvement	No.			Yes.	N/A			

⁵¹ In some EU countries, the real estate property valuers are regulated as a profession that is separate from estate agents (e.g. Hungary, Lithuania, Latvia); their services might be obligatory, especially when taking mortgage loans.

Table 7: Role of professionals in the real estate market

<p>How are their fees/charges structured</p>	<p>This is not regulated at all.</p> <p>Typical fees exist but depend on the regions. For details see Table 10.</p>			<p>Fees fixed by law depending on the value of the transaction.</p>	<p>Extra fees for the procurement of the credit, counselling or services charge are not permitted if the buyer is a consumer.⁵² Only the legal interest needs to be paid.</p>			
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⁵² BGH judgement of 13 May 2014, BGHZ 201, 168-204.

4. Land registration

Table 8: Land registration	
Responsible authority(ies) dealing with land registration	The responsible authority dealing with the land registration is the land registry (Grundbuchamt). The land registry is divided into local areas. In all states but in the state of Baden-Württemberg the local land registries form part of the district courts (Amtsgericht). In Baden-Württemberg, different regional divisions are used.
Actors involved in the registration procedure and their main functions	Notaries shall submit the registration to the land registry. This is by now normally only possible via the electronic system called electronic court and administration mailbox (elektronische Gerichts- und Verwaltungspostfach, EGVP).
Intermediate steps of the registration procedure, if applicable	Only the notary and the land registry are involved.

5. The process to buy or sell a property

5.1 Main steps in the transaction process to buy or sell a property

Table 9: Main steps of the process to buy or sell a property			
Main steps	Main function	Applicable	National specificities/additional functions/main actors
Estate agent services	Matching the parties	Usual	
Alternative matching devices	Matching the parties	Usual	
Preliminary contract	Securing the transaction before the final contract is concluded	Unusual	Notarisation required to be valid
Preliminary checks (land register, administrative permits)	Ensuring that the buyer knows all legal obligations and relevant features related to the property	Yes	Professional duty of the notary
Drafting the sales contract and/or deed of conveyance	Summarising the agreement of the parties	Yes	Professional duty of the notary
Legal advice or counselling	Ensuring that the transaction is valid and that the parties know about their rights and duties	Yes	Professional duty of the notary
Certification of signatures	Ensuring the validity of the agreement	Yes	Notarisation required to be valid
Contract execution (transfer of payment)	Executing the contract (and securing that both parties perform their obligations)	Yes	Differed security mechanisms are available such as priority notices for conveyances (Auflassungsvormerkung) according to section 883 German Civil Code (BGB) in the Land Register (Grundbuch). This is widely used. Payment via a notary trust account (Notar-Anderkonto),

Table 9: Main steps of the process to buy or sell a property

			<p>may, however, only be used if a special need for protection exists according to section 54a para 2 Notarisation Act (BeurkG).</p> <p>In any event, it is part of the professional duty of the notary to ensure that payment does not take place without transfer of ownership.</p>
Contract execution (transfer of property)	Executing the contract (and securing that both parties perform their obligations)	Yes	<p>The notary registers the conveyancing deed at the land registry in the land register.</p> <p>This is normally only done after payment or after a security (e.g. bank guarantee) has been provided.</p>
Registration	Making the transaction visible to third parties and the public	Yes	Part of the contract execution
Taxation (esp. transfer tax)	Creating revenue for the state	Yes	<p>The transfer tax (Grunderwerbsteuer) is directly collected by the locally competent fiscal authority (Finanzamt). The tax is added to the price of the property. However, before the fiscal authority, sellers and buyers are joint debtors (section 13 Ziffer 1 Transfer Tax Act (GrEStG)).</p>
Post-transaction controls (if applicable)	Securing that the contract is duly executed	No	

5.2 Sale contract and transfer of ownership

Table 10: Contract of sale and transfer of ownership

Main steps	Actors involved per intermediate step	Payment details ⁵³		Typical risks associated to these steps, if relevant
		Payments expressed : • In EUR as % of total purchase price and • As a fixed amount if available (add if VAT applies)	When is the payment made	
Estate agent services or alternative matching devices	Real estate agents, if not privately done by the parties.	Not regulated; typically agreed payment depends on the state – mostly 7.14 % incl. VAT ⁵⁴ .	According to the standard terms of most real estate agents, the payment is due on the day of Notarisation of the deed of the sales contract. However, in practice payment is made 7 to 14 days after the Notarisation.	The agent is not paid for the mandate to find a house or for hours of work but for providing the client with the knowledge to conclude a specific contract (§ 652 Civil Code). Therefore, even after the mandate with the agent has been terminated, s/he may still have a right to the commission if his/her former activities enabled the conclusion of the contract.
Preliminary contract (usual)	Notary, if pre-contract (Vorvertrag) is concluded (formal requirement according to section 313b (1) German Civil Code (BGB)). This is, however, not very common in practice.	Pre-Contract: Fixed fees (Fees regulated by sections 3, 97 Court and Notarial Fees Act (GNotKG) depending on the value of the property sold, but the % decreases with the increase of the value.)	Pre-Contract: After the Notarisation of the contract, the notary issues a bill.	A preliminary contract, that is not notarized, is not enforceable. The same is true, in principle, for reservation agreements.

⁵³ Payment shall be considered as the 'discharge of an obligation by its settlement equal to the monetary value of the debtor's obligation' while fees can be defined as 'a charge for services rendered' (Retrieved from: <http://www.investorwords.com/3634/payment.html>, <http://www.investorwords.com/1922/fee.html>). Payment, therefore, includes both the cost of the service and the fees for the service in question.

⁵⁴ Details provided below.

Table 10: Contract of sale and transfer of ownership

	Real estate agent or notary if a reservation agreement (Reservierungsvereinbarung) is concluded.	Reservation agreement: not regulated.		
Preliminary checks (land register, administrative permits)	Professional duty of the notary.	Fixed fees, depending on the value of the property, which is to be transferred.	After the notary has provided his/her service, s/he issues a bill, normally within a brief period. By law, the payment would need to be made immediately. However, the notary typically allows a delay of two to four weeks.	
Drafting the sales contract and/or deed of conveyance	Professional duty of the notary.	Fixed fees, depending on the value of the property, which is to be transferred.		
Legal advice or counselling	Professional duty of the notary.	Fixed fees, depending on the value of the property, which is to be transferred.		
Certification of signatures	Mandatory involvement of notary.	Fixed fees, depending on the value of the property, which is to be transferred.		
Contract execution (transfer of payment and registration; transfer of property)	Typically, under the control of the notary.	Fixed fees, depending on the value of the property, which is to be transferred.		
Registration in land register or similar device	Submitting the registration request to the land registry must be done by the notary.	Fixed fees, depending on the value of the property, which is to be transferred.		
	The registration in the land register is done by the land registry.	Fixed fees, depending on the value of the property, which is to be transferred.		Bill is issued after the registration. The bill is normally to be paid within two weeks.

Table 10: Contract of sale and transfer of ownership

<p>Taxation (esp. transfer tax)</p>	<p>Notary: notification of the sales contract to the finance authorities is a professional duty of the notary (section 18 Transfer Tax Act (GrEStG)).</p> <p>Finance authority (Finanzamt): issuing the tax bill.</p> <p>If a notary trust account (Notar-Anderkonto) is used (in ca. 5-10% of the cases) the transfer tax is paid from the notary trust account of the notary, otherwise it is directly paid by the parties.</p>	<p>In per cent to the value, depending on the region (see table below).⁵⁵</p>	<p>The tax bill is normally issued six to eight weeks after the Notarisation of the sales contract. Payment is due within one month after the tax bill is issued.</p>	<p>Although the transfer tax is added to the sales price, sellers and buyers are joint debtors in relation to the finance authority.</p>
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▲ The legal position of a tenant occupying the dwelling to be sold. In particular: Does the rule *emptio non tollit locatum* apply?

Section 566 German Civil Code (BGB) states:

(1) If, after the lessee is given use of the leased residential space, it is disposed of by the lessor to a third party, then the acquirer, in place of the lessor, takes over the rights and duties that arise under the lease agreement during the period of his ownership.

(2) If the acquirer does not perform his/her duties, then the lessor is liable in the same way as a surety who has waived the defence of unexhausted remedies for the damage to be compensated for by the acquirer. If the lessee obtains knowledge of the passing of ownership by notification from the lessor, then the lessor is released from liability unless the lessee terminates the lease to the earliest date at which termination is allowed.

For the tenant, only the partner of his/her contract changes. Everything else will be left untouched.

⁵⁵ See below.

- Typical commission of real estate agents by states (Länder) in Germany:

State in Germany*	Commission in sum	Payment paid by seller	Payment paid by buyer
Baden-Württemberg	7,14 %	3,57 %	3,57 %
Bavaria	7,14 %	3,57 %	3,57 %
Berlin	7,14 %	0 %	7,14 %
Brandenburg	7,14 %	0 %	7,14 %
Bremen	5,95 %	0 %	5,95 %
Hamburg	6,25 %	0 %	6,25 %
Hesse	5,95 %	0 %	5,95 %
Mecklenburg-Western Pomerania	5,95 %	2,38 %	3,57 %
Lower Saxony Depending on the region, the typically agreed sum varies.	7,14 % or 4,76-5,95 %	3,57 % or 0 %	3,57 % or 4,76-5,95 %
North Rhine-Westphalia In Münster, the typically paid sum by the buyer is up to 4,75 %.	7,14 %	3,57 %	3,57 %
Rhineland-Palatinate In the district (Kreis) of Mainz-Bingen up to 5,95 % for the buyer.	7,14 %	3,57 %	3,57 %
Saarland	7,14 %	3,57 %	3,57 %
Saxony	7,14 %	3,57 %	3,57 %
Saxony-Anhalt	7,14 %	3,57 %	3,57 %
Schleswig-Holstein	7,14 %	3,57 %	3,57 %
Thuringia In Western part of Thuringia typically up to 5,95 % payment by the buyer.	7,14 %	3,57 %	3,57 %

* See below.

The transfer tax used to be set on federal level at 3,5 % in 1998. Since then, the states in Germany received the competence to increase the tax within their states. Transfer tax in the states in Germany:

Consumer market study on the functioning of the real estate services for consumers in the EU – Country Fiche Germany

State in Germany	Old tax rate	Changed on	New tax rate
Baden-Württemberg	3.5 %	05.11.2011	5.0 %
Bavaria	3.5 %		No changes
Berlin	4.5 %	01.01.2014	6.0 %
Brandenburg	5.0 %	01.07.2015	6.5 %
Bremen	4.5 %	01.01.2014	5.0 %
Hamburg	3.5 %	01.01.2009	4.5 %
Hessen	5.0 %	01.08.2014	6.0 %
Mecklenburg-Western Pomerania	3.5 %	01.07.2012	5.0 %
Lower Saxony	4.5 %	01.01.2014	5.0 %
North Rhine-Westphalia	5.0 %	01.01.2015	6.5 %
Rhineland-Palatinate	3.5 %	01.03.2012	5.0 %
Saarland	5.5 %	01.01.2015	6.5 %
Saxony	3.5 %		No changes
Saxony-Anhalt	3.5 %	01.03.2012	5.0 %
Schleswig-Holstein	5.0 %	01.01.2014	6.5 %
Thüringen	5.0 %	01.01.2017	6.5 %

Source: immoverkauf24, 01.05.2017

5.3 Professional services performed in the real estate market related to buying and selling a property

Table 11: Professional services performed in the real estate market related to buying and selling a property

Services in the real estate market	Minimum standards for information provided by law, if applicable	Service providers involved	Quality of involvement (mandatory, optional; if optional, indicate whether usual or not)	Fees expressed: • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)
Estate agent services or alternative matching devices	None	Real estate agent, if any.	Optional and used in ca. 50 % of the cases.	Fee not regulated and expressed as % of the total price (see explanation of table 10).
Provision of mandatory information before the start of the transaction, if applicable	<p>Section 17 para. 2a sentence 2 No 2 Notarisation Act (BeurkG) requires that the buyer receives a copy of the draft of the sales contract two weeks before the Notarisation if the buyer is a consumer and no special reasons are provided that justify a reduction of the period. If the notary fails to fulfil this requirement, s/he is liable.⁵⁶ Before Notarisation, any contract or pre-contract is not binding.</p> <p>The notary has to inform the parties about all legally relevant aspects of the contract of purchase before Notarisation.</p>	Notary	Mandatory	Included in the fixed fees for the notary, which depend on the value of the transaction but are not expressed in % according to the Court and Notarial Fees Act (GNotKG).

⁵⁶ BGH judgment of 07 February 2013, BGHZ 196, 166-179.

Table 11: Professional services performed in the real estate market related to buying and selling a property

Preliminary contract (usual)	Highly unusual.	Notary	Mandatory, if an enforceable preliminary contract is supposed to be concluded.	Additional fixed fees for the notary, which depends on the value of the transaction but is not expressed in % according to the Court and Notarial Fees Act (GNotKG).
Preliminary checks (land register, administrative permits)	The notary is obliged to check the land register and to provide information about any legal restriction to the land.	Notary/registry	Mandatory: Professional duty of notary (prior to drafting the sales contract)	Included in the fixed fees for the notary, which depends on the value of the transaction but is not expressed in % according to the Court and Notarial Fees Act (GNotKG).
Drafting the sales contract and/or deed of conveyance	The notary must inform the parties of the content of the sales contract and the legal consequences for the parties.	Notary	The contract must be concluded as an authentic act (section 311b para. 1 German Civil Code (BGB)), which can only be established by a notary. Therefore, notaries almost exclusively draft the sales contract.	Included in the fixed fees for the notary, which depends on the value of the transaction but is not expressed in % according to the Court and Notarial Fees Act (GNotKG).
Legal advice or counselling	The notary must inform the parties of the content of the sales contract and the legal consequences for the parties.	Notary, the involvement of further service providers is highly unusual but possible. In transactions between two companies' further lawyers may be involved, but in less than 5 % of the cases. ⁵⁷	Mandatory	Included in the fixed fees for the notary, which depends on the value of the transaction but is not expressed in % according to the Court and Notarial Fees Act (GNotKG).
Certification of signatures	-	Exclusive right of the notary.	Mandatory	Included in the fixed fees for the notary, which depends on the value of the transaction but it is not expressed in % according to the

⁵⁷ Cf. Hertel/Schmid in: Schmid (2007), 128.

Table 11: Professional services performed in the real estate market related to buying and selling a property

				Court and Notarial Fees Act (GNotKG).
Contract execution (transfer of payment; transfer of property)	-	Notary	Submission of the registration to the land registry must be done by the notary; the supervision of the transaction other than this one is usually done by the notary.	Included in the fixed fees for the notary, which depends on the value of the transaction but it is not expressed in % according to the Court and Notarial Fees Act (GNotKG).
Registration in land register or similar device	-	Notary/Land Registry	Mandatory	Fixed fees, depending on the value of the property, which is to be transferred but it is not expressed in % of the value of the transaction according to the Court and Notarial Fees Act (GNotKG).
Taxation (esp. transfer tax)	.	Notary: Has to inform the finance authorities of the sales contract Finance authority (Finanzamt): issuing the tax bill	Professional duty of the notary.	Expressed in % of the value of the transaction. Details see explanation to table 10.

5.4 Creating a Mortgage

Table 12: Mortgage requirements

Main steps to create a mortgage	Actors/institutions involved	Minimum standards for information	Additional requirements for consumer mortgages, if relevant	Fees expressed: • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)	Typical risks associated to these steps, if relevant
Conclusion of credit and mortgage agreement with lender (bank)	Bank	All relevant conditions	According to section 491a German Civil Code (BGB) the bank must provide a set of standard information. If no right to withdraw exists, the bank has to submit the draft of the contract before conclusion (section 491a lit. 2 German Civil Code (BGB)).	Normally no specific fee for the conclusion of the agreement.	None
Insertion of mortgage in the land register, usually at first rank	Mandatory involvement of a notary and registration in the land register by the land registry	Professional duty of the notary to give legal advice.	N/A	Both, the fees for the notary and the fees for the land registry are regulated by the Court and Notarial Fees Act (GNotKG) and depend on the value of the land charge, see table.	None

Credit sum paid to mortgagor (buyer) or seller	Subject to agreement	N/A	N/A	N/A	None
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6. The process to rent or let a property

6.1 Main steps in the transaction process to rent and let a property

Table 13: Main steps of the process to rent and let a property

Main steps	Process involved⁵⁸
Finding and matching landlords and tenants	In many cases, the landlord finds a tenant neither with the help of a professional service provider, nor by using advertisements in newspapers and/or the internet or by accepting a new tenant suggested by the former tenant (which is often the case, when the former tenant wants to leave the flat without respecting the notice period). Otherwise, real estate agents are involved.
Information search by landlords or tenants (e.g. about salary, outstanding debts)	<p>No standard exists, in particular because many landlords are private persons who only rent out less than 10 or even just one flat. Typically, the following information are required:</p> <ul style="list-style-type: none"> • The “SCHUFA Auskunft” about the personal creditworthiness is almost always required. Schufa Holding AG is an information bureau collecting information about failing credits and unpaid bills. It calculates an index of personal creditworthiness. Schufa issues an information sheet, which is designed to be given to a landlord by the tenant and which only contains the information necessary for that purpose. It costs 29,95 €, which must be paid by the tenant. • Moreover, the tenant normally has to submit some proof of his income. • Finally, the future tenant is almost always required to fill in a form on the disclosure of confidential information concerning his income and financial situation. • In addition, a declaration by the former landlord of the tenant is often required, stating that no rent debts are left (Mietschuldenfreiheitsbescheinigung). This declaration has become more important in the last years. By now, in some cities – such as Berlin – it is very difficult to find a new flat without this declaration, which the new landlord requests

⁵⁸ Explain more precisely to what extent each step is relevant and how the step is performed

	from the tenant. However, according to the Federal Court of Justice (BGH), the former landlord is not legally required to issue this declaration. ⁵⁹
Inspection of the property by tenants (in some cases with the help of professionals)	Inspection of the property by the future tenant with other professionals is uncommon.
Delivery of mandatory information to tenants prior to the conclusion of the contract (if relevant)	Besides the energy performance certificate (Energieausweis), which must be provided by the landlord on request of any potential tenant, no information duties exist.
Delivery of energy performance certificate to tenant	The energy performance certificate is regulated in the Energy Saving Ordinance (EnEV 2007) and must be provided to any potential tenant immediately upon request.
Provision of additional guarantees to landlord, if relevant	Not relevant.
Conclusion of the contract in the usual form (e.g. oral, written, preformulated)	No requirement exists in terms of the form of the contract, but typically the tenancy contract is concluded in writing by using preformulated default contracts. Non-professional landlords typically use standard forms provided by the landlord associations such as Haus & Grund.
Rent payment and deposit (e.g. bank account)	The rent is typically paid at the beginning of the month via bank transfer. A deposit is not required by law, but typically part of the tenancy contract. The deposit must not be higher than three months' rent (section 551 German Civil Code (BGB)). It is typically paid to the landlord, who has to deposit it on a separate bank account. The interests generated by the deposit belong to the tenant and have to be given to him after the termination of the tenancy contract together with the deposit. Other forms of deposit are possible, but only if both parties agree. These are not very common.
Registration of the contract in the land register (e.g. excluded, optional or mandatory)	No registration.

⁵⁹ BGH, judgment of 30 September 2009, NJW 2010, 1135-1138.

6.2 Rent contract

Table 14: Rent contract				
Main steps	Actors involved per intermediate step	Payment details ⁶⁰		Typical risks associated to these steps, if relevant
		Payments expressed : • In EUR as % of total purchase price <u>and</u> • As a fixed amount if available (add if VAT applies)	When is the payment made	
Finding and matching the parties	Either only the parties or a real estate agent – however, it is reported that the quote of the involvement of real estate agent has been reduced in the last years.	Fees used to be unregulated. Since 1 June 2015 the person who contacts the real estate agent and concludes a contract in writing (i.e. the landlord) must pay the real estate agent. The fee is limited to two monthly rents + 19 % VAT.	Directly after the conclusion of the contract.	
Information search by landlord on tenant (e.g. about salary, outstanding debts)	Almost always Schufa Holding AG (information bureau) Sometimes the former landlord	The information sheet form SCHUFA typically required from the future tenant costs 29,95 € The "Mietschulden-freiheits-bescheinigung" by the former landlord is	At the moment that the information sheet is issued by SCHUFA.	In the last years, a certificate from the former landlord of the tenant that no rent arrears are due is frequently required. However, according to the Federal Court of Justice (BGH), the former landlord is not required to issue such a declaration. ⁶¹ This makes the tenant subject to the good-will of the former landlord and makes it harder to enforce his/her rights at the end of the tenancy contract.

⁶⁰ Payment shall be considered as the 'discharge of an obligation by its settlement equal to the monetary value of the debtor's obligation' while fees can be defined as 'a charge for services rendered' (Retrieved from: <http://www.investorwords.com/3634/payment.html>, <http://www.investorwords.com/1922/fee.html>). Payment, therefore, includes both the cost of the service and the fees for the service in question.

⁶¹ BGH, judgment of 30 September 2009, NJW 2010, 1135-1138.

		usually free of charge but not always provided.		
Inspection of the property by tenant (in some cases with the help of professionals)	Involving professionals at that stage is very untypical.			
Delivery of mandatory information to tenant prior to the conclusion of the contract (if relevant)	Not relevant			
Delivery of energy performance certificate to tenant	See Table 13			
Conclusion of the contract in the usual form (e.g. oral, written; if written, indicate whether preformulated are usual)	No professionals involved, additionally see table 13.			
Rent payment and deposit (e.g. bank account)	No professionals involved, additionally see table 13.			
Registration of the contract in the land register or other device (excluded, optional or mandatory)	No registration.			

6.1 Professional services performed in the real estate market related to renting and letting a property

Table 15: Professional services performed in the real estate market related to renting and letting a property

Services in the real estate market	Minimum standards for information provided by law, if applicable	Service providers involved	Quality of involvement (e.g. mandatory; exclusive rights)	Fees expressed: <ul style="list-style-type: none"> • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)
Finding and matching landlords and tenants	None	Real estate agents or none	Voluntary	Maximum fee of two monthly rents.
Information search by landlords or tenants (e.g. about salary, outstanding debts)	None	SCHUFA	Voluntary	29,95 €
Inspection of the property by tenants (in some cases with the help of professionals)	None	Untypical	Voluntary	No fee applies.
Delivery of mandatory information to tenants prior to the conclusion of the contract (if relevant)	Only the energy performance certificate needs to be shown(see table 13)	(Duty of landlord)	(Mandatory)	No fee applies.

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<p>Conclusion of the contract in the usual form (e.g. oral, written, preformulated)</p>	<p>Price of the monthly rent, object rented out</p>	<p>Typically, none or real estate agent</p>	<p>Voluntary</p>	<p>If real estate agent included in the fees both</p>
<p>Rent payment and deposit (e.g. bank account)</p>	<p>If a deposit is required, this need to be stated in the contract</p>	<p>None</p>	<p>N/A</p>	<p>N/A</p>
<p>Registration of the contract in the land register (e.g. excluded, optional or mandatory)</p>	<p>No, legally not possible</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>

7. Professional services regulation: notaries

7.1 Market entry and structure regulation

Table 16: Market entry and structure regulation			
	Regulation		
Subjective requirements	<i>Qualifications (diplomas, exams, concours) required to become a notary in your country:</i>	<ul style="list-style-type: none"> • Second state exam (section 5 Federal Notarial Code (BNotO)); • Merit-based selection between the applicants (section 6 Federal Notarial Code (BNotO)). 	
		Additional requirements for single-profession notaries	Additional requirements for advocate notaries
		<ul style="list-style-type: none"> • 3 years practice as trainee notary (Notarassessor) under the supervision of a notary (section 7 Federal Notarial Code (BNotO)); • Trainee notaries are normally chosen from the top 5 % of graduates of the second state exam. 	<ul style="list-style-type: none"> • 5 years practice as an advocate, 3 of these in the local area, for which he applies to become a notary (section 6 para. 2 No 1 and 2 Federal Notarial Code (BNotO)); • Passing the notary examination (section 6 para. 2 No 3, section 7a Federal Notarial Code (BNotO)); • Participating at 15 hours/year further notarial training; • 160 hours practical training after passing the notary examination (section 6 para. 2 Federal Notarial Code (BNotO));
Objective requirements	<i>Do numerus clauses and other objective requirements exist?</i>	A numerus clausus (section 4 Federal Notarial Code (BNotO)):	

		The state ministries of justice usually base this on the number of notarial acts and, in some cases, also on the population. Minimum numbers for creating new notarial positions usually range between 250 and 400 acts per year for advocate-notaries and between 1,500 and 1,800 per year for single-profession notaries.
Citizenship requirements	<i>Are foreign candidates admitted de iure and also de facto under the same conditions as nationals?</i>	Yes
Inter-professional cooperation	<i>Are forms of collaboration between notaries and other professionals allowed and usual?</i>	For single-profession notaries not permitted, for advocate-notaries permitted with other advocate-notaries or other lawyers, with patent lawyers and with tax consultants and certified auditors and alike (section 9 Federal Notarial Code (BNotO)).
Business structure	<i>Are notary associations/corporations allowed?</i>	For single-profession notaries permitted only with other single profession notaries within the same local area (Amtssitz) according to section 9 para. 1 Federal Notarial Code (BNotO). In addition, state law may restrict the numbers of notaries who may enter into professional collaborations, the type of collaborations allowed; and may make adherence subject to permission by a competent state authority.
Geographical limitations	<i>Are there limitations with respect to the area in which the notary can exercise his/her activities (e.g. at the regional or municipal level)?</i>	The notary may only provide her/his service within the local area (Amtssitz) for which s/he has been appointed.
	<i>Are these limitation restricted to specific tasks?</i>	This applies for all notarial services.

7.1 Market conduct regulation

Table 17: Market conduct regulation

Table 17: Market conduct regulation		
	Regulation	
Exclusive rights	<i>Specify for which transactions or parts of them only notaries may act against payment.</i>	<p>Notaries have the exclusive right to establish authentic acts. According to section 311b para. 1 German Civil Code (BGB), an obligation to transfer ownership of land or to acquire ownership in land requires an authentic act. Such an act is also required for the act of transfer itself (section 925 German Civil Code (BGB)).</p> <p>The same is true for the establishment of limited rights, such as land charges.</p>
Duty to provide services	<i>Are notaries allowed to refuse a request to act?</i>	A notary has a duty to provide services in core functions such as authenticating documents, certifying signatures or taking the oath (section 15 para. 1 Federal Notarial Code (BNotO)).
Professional standards	<i>How are professional standards regulated? What are the tasks of the professional representation (e.g. Chamber of Notaries) in this context?</i>	<p>The professional standards are regulated at the federal level by:</p> <ul style="list-style-type: none"> • Federal Notarial Code (BNotO); • Notarisation Act (BeurkG); • Self-regulatory guidelines by the local chamber of notaries (Richtlinien der Notarkammer); • Regulation by the local ministry of justice (Dienstordnung für Notare) <p>The conduct is controlled by the president of the regional court (Landgericht) according to section 92 Federal Notarial Code (BNotO). Every notary is, inter alia, checked in his offices by a judge appointed by the president of the regional court in intervals of 3 up to 5 years (section 93 Federal Notarial Code (BNotO)).</p>
Mandatory intervention	<i>Is the intervention of a notary required for the registration procedure</i>	An authentic act (which can only be established by a notary) is the basis of the registration and therefore the participation of a notary is required.

Compulsory indemnity insurance	<i>Is indemnity insurance compulsory? If yes, what is the indicative amount of the insurance?</i>	<ul style="list-style-type: none"> • Yes (section 19a Federal Notarial Code (BNotO)); • 1,000,000 €.
Continuing education	<i>Do forms of continuing education exist? If yes, is continuing education mandatory?</i>	Continuing education is mandatory (section 14 para. 6 Federal Notarial Code (BNotO)).
Advertising restrictions	<i>Are there limitations on advertising?</i>	Any advertisement “contrary to the public office” is forbidden by section 29 para. 1 Federal Notarial Code (BNotO).
Fee regulation	<i>Are notarial fees fixed by statute and which party has to bear them.</i>	The fees of the notary are regulated by the Court and Notarial Fees Act (GNotKG). There is no scope for negotiation at all. The fee depends on the kind of action taken by the notary and the value of the transaction.

8. Professional services regulation: lawyers or other licensed conveyancers (only relevant if legally admitted to perform real estate transactions and/or to assist the conclusion of tenancy agreements)

8.1 Market entry and structure regulation

Table 18: Market entry and structure regulation		
	Regulation	
Subjective requirements	<i>Conditions (diplomas, exams, concours) required to become a lawyer in your country.</i>	Not relevant in Germany.
Objective requirements	<i>Do numerous clauses and other objective requirements exist?</i>	
Citizenship requirements	<i>Are foreign candidates admitted de iure and also de facto under the same conditions as nationals?</i>	
Inter-professional cooperation	<i>Are forms of collaboration between lawyers and other professionals allowed and usual?</i>	
Business structure	<i>Are lawyer associations/corporations allowed?</i>	
Geographical limitations	<i>Are there limitations with respect to the area in which the lawyer can exercise his/her activities (e.g. at the regional or municipal level)?</i>	
	<i>Are these limitation restricted to specific tasks?</i>	

8.1 Market conduct regulation

Table 19: Market conduct regulation

	Regulation	
Exclusive rights	<i>Transactions or parts of them only lawyers may act against payment</i>	Not relevant in Germany.
Neutrality	<i>Is the lawyer allowed to act on behalf of both parties involved in the transaction? In this case, what type of fees apply and which party has to bear them?</i>	
Duty to provide services	<i>Are lawyers allowed to refuse a request to act?</i>	
Professional standards	<i>How are professional standards regulated? What are the tasks of the professional representation (e.g. Chamber of Lawyers/Advocates) in this context?</i>	
Compulsory indemnity insurance	<i>Is indemnity insurance compulsory? If yes, what is the indicative amount of the insurance?</i>	
Continuing education	<i>Do forms of continuing education exist? If yes, is continuing education mandatory?</i>	
Advertising restrictions	<i>Are there limitations on advertising?</i>	
Fee regulation	<i>Are lawyer fees fixed by statute and which party has to bear them.</i>	

9. Professional services regulation: estate agents

9.1 Market entry and structure regulation

Table 20: Market entry and structure regulation

	Regulation	
Subjective requirements	<i>Qualifications (level and duration of education and training, diplomas, exams, traineeships or professional experience requirements, concourse) required to become an estate agent in your country. Other access requirements for a professional (such as compulsory membership in professional bodies/compulsory registration, minimum age requirements, clean criminal record, etc.)</i>	Real estate agents need a license under § 34c Trade Regulation Act (GewO). Until now, the standard to receive a license is restricted to being a reliable person. A specific education in real estate business is not a requirement. This is, however, in the process of being changed, and the envisaged legal change is likely to be successful. Draft legislation foresees that real estate agents may only obtain a permission if they prove knowledge in the field (Sachkundenachweis) and prove professional insurance. If a real estate agent has already been registered for six years, the additional permission is not required. ⁶²
Objective requirements	<i>Do numerus clauses and other objective requirements exist?</i>	No.
Licence requirements	<i>Are estate agents licenced or do they work as employees?</i>	Most real estate agent work independently, but both is possible.
Citizenship requirements	<i>Is unlimited access to the profession granted to foreign professionals de iure and de facto?</i>	Yes. The former nationality requirements has been waived following ECJ jurisprudence.
Inter-professional cooperation	<i>Are estate agents allowed to exercise another profession or business activity? Is inter-professional cooperation regulated?</i>	Yes. As the activities of agents are (yet) not regulated, there are no limitations on exercising other professions or inter-professional cooperation either.

⁶² Draft Act of the Federal Government (Gesetzentwurf der Bundesregierung): Entwurf eines Gesetzes zur Einführung einer Berufszulassungsregelung für gewerbliche Immobilienmakler und Verwalter von Wohnungseigentum, BT-Drs 18/10190, online at: <http://dip21.bundestag.de/dip21/btd/18/101/1810190.pdf>.

<p>Business structure</p>	<ul style="list-style-type: none"> • <i>Share of estate agent acting as sole practitioners and as companies (if data are available)?</i> • <i>Can the agent be employed by another agent or establish a partnership with other agents?</i> • <i>Are there any restrictions on the corporate structure of a real estate enterprise (such as voting rights reserved to qualified members of a profession, shareholding requirements etc.)?</i> 	<p>The business structure is not regulated. Most real estate agents work as sole practitioners or in small offices, but also very large real estate agencies exist.</p>
<p>Geographical limitations</p>	<ul style="list-style-type: none"> • <i>Are there limitations with respect to the area in which the estate agent can exercise his/her activities (e.g. at the regional or municipal level)?</i> • <i>Are these limitations restricted to specific tasks?</i> 	<p>No geographical limitations exist.</p>

9.2 Market conduct regulation

Table 21: Market conduct regulation

Table 21: Market conduct regulation		
	Regulation	
Neutrality	<i>Is neutrality regulated? Is the agent allowed to act on behalf of both parties involved in the transaction? In this case, what type of fees applies and which party bears these?</i>	Neutrality is not regulated. In case of tenancies, the person who requests the activity of the real estate agent and concludes the contract in writing (textual form) needs to pay. In the case of conveyancing, it depends on the state within Germany (for details see explanation to table 13).
Professional standards	<i>How are professional standards regulated? Are entities or associations ensuring the professional representation and respect of rules of good practice (e.g. association of real estate professionals)?</i>	According to the Regulation on Commercial Agents and on the Sale of new Immovables to be built (Makler- und Bauträgerverordnung, MaBV), real estate agents must keep records of their clients (section 10 MaBV). However, most of the duties of the MaBV apply only if the agent receives money or other valuables from his client in a fiduciary capacity – which is not normally the case for real estate agents.
Compulsory indemnity insurance	<i>Is indemnity insurance compulsory for estate agents? If yes, what is the indicative amount of the insurance?</i>	Not until now, but according to plans of the federal government, a compulsory indemnity insurance is supposed to be introduced before the end of 2017.
Continuing education	<i>Do forms of continuing education exist? If yes, is continuing education mandatory? What are the requirements related to the content and duration of continuing education? What are the consequences of non-compliance?</i>	This is not regulated at all. However, several private institutions offer educational programmes for real estate agents.
Advertising restrictions	<i>Are there limitations on advertising?</i>	No special limitation to advertisement exists.
Fee regulation	<i>Are fees limited by statute? Which party is responsible for their payment?</i>	In the case of tenancies, the fees are limited to two monthly rents + VAT. The fees in the context of the sales of property are not

		regulated at all; however, typical fees exist depending on the region. For details, see explanation to Table 10.
<p>Compulsory membership in professional bodies/compulsory registration</p>	<p><i>Is membership in professional bodies compulsory? If so, what are the membership conditions and the membership fees? Does the professional body have a supervisory or another important regulatory role?</i></p>	<p>Compulsory membership in a special professional organisation for real estate agents does not exist.</p>

10. The real estate market

10.1 Transaction costs for sample transactions

Table 22: Transaction costs VAT excluded

	Estate agent ⁶³	Technical services (if usual)	Legal services ⁶⁴	Land register fee ⁶⁵	Transfer tax/stamp duty	Total usual transfer costs
€100,000 sales price (no mortgage)	<ul style="list-style-type: none"> Used in ca. 50 % of the cases; Depending on the state:⁶⁶ ca. 7,140 € 	-	974.61 €	409.50 €	Depending on the state: ⁶⁷ ca. 5,000 €.	<ul style="list-style-type: none"> 13,524.11 € (with real estate agent); 6.384.11 € (without real estate agent).
€100,000 sales price + 100.000€ mortgage	<ul style="list-style-type: none"> Used in ca. 50 % of the cases; Depending on the state: ca. 7,140 € 	-	1,299.48 €	682.50 €	Depending on the state: ca. 5,000 €.	<ul style="list-style-type: none"> 14,121.98 € (with real estate agent); 6,981.98 € (without real estate agent).
€250,000 sales price (no mortgage)	<ul style="list-style-type: none"> Used in ca. 50 % of the cases; 	-	1,909.95 €	802.50 €	Depending on the state: ca. 12,500 €.	<ul style="list-style-type: none"> 33,062.45 € (with real estate agent);

⁶³ Prices are indicated including 19 % VAT.

An agent usually receives a percentage of the transaction value.

⁶⁴ Prices indicated already include 19 % VAT.

Prices calculated based on the assumption that a priority notice of conveyance is needed.

⁶⁵ Prices calculated based on the assumption that a priority notice of conveyance is needed.

⁶⁶ For details see explanation to table 10.

⁶⁷ For details see explanation to table 10.

	<ul style="list-style-type: none"> Depending on the state: ca. 17,850 € 					<ul style="list-style-type: none"> 15,212.45 € (without real estate agent).
€250,000 sales price + 250,000€ mortgage	<ul style="list-style-type: none"> Used in ca. 50 % of the cases; Depending on the state: ca. 17,850 € 	-	2,546.60 €	1,337.50 €	Depending on the state: ca. 12,500 €.	<ul style="list-style-type: none"> 34,234.10 € (with real estate agent); 16,383.50 € (without real estate agent).
€500,000 sales price (no mortgage)	<ul style="list-style-type: none"> Used in ca. 50 % of the cases; Depending on the state: 35,700 € 	-	3,337.95 €	1,402.50 €	Depending on the state: ca. 25,000 €.	<ul style="list-style-type: none"> 65,440.45 € (with real estate agent); 29,740.45 € (without real estate agent).
€500,000 sales price + €500,000 mortgage	<ul style="list-style-type: none"> Used in ca. 50 % of the cases; Depending on the state: 35,700 € 	-	4,450.60 €	2,337.50 €	Depending on the state: ca. 25,000 €.	<ul style="list-style-type: none"> 67,488.10 € (with real estate agent); 31,788.10 € (without real estate agent).
%VAT applicable	19 % included	-	19 % included	-	-	-

10.2 Transaction features

Table 23: Transaction features			
Transaction / service	Party bearing the costs of intermediation service (buyers or sellers, landlords or tenants) Costs expressed: • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)	Indicate fees as expressed in the contract: • In EUR as % of total purchase price <u>and</u> • As a fixed amount (if available)	Possible hidden costs faced by buyers or tenants, if applicable
Estate agents	<ul style="list-style-type: none"> Conveyancing: in % of the total purchase price; the rest depends on the state in Germany – for details see explanation to table 10. Tenancy: Landlords pay up to 2 monthly rents; tenants normally do not have to pay any more since June 2015. Beforehand, typically the tenant paid the real estate agent. 	See left column	No
Technical services	Not relevant		
Legal services	<ul style="list-style-type: none"> Conveyancing: Paid by the buyer, fixed fees, depending on the value of the transaction, see table 22. Tenancy: Normally no legal services required. 	See left column	No
Land register fees	Paid by the buyer. Fixed fees depending on the value of the transaction, see table 22.	See left column	No
Taxes on conveyancing	-	-	-
Transfer taxes	Paid by the buyer, expressed in % of the value of the transaction - % depends on the state (between 3,5 % and 6,5 %).	See left column	No

10.3 Taxes during the process of buying and selling a property

Table 24: Taxes related to buying and selling a property

	Relevance of the tax	When to pay the tax as part of the process of buying or selling	Tax amount (expressed in EUR as % of total purchase price <u>and</u> as a fixed amount if available)
Registration tax⁶⁸	No		
Mortgage tax	No		
Cadastral tax	No		
Stamp tax	No		
Transfer tax (tax on the acquisition of property)	Yes	After the notarisation of the contract.	As % of the total price (% depending on the state, see explanation table 10).
Archives tax	No		
Other taxes	No		

⁶⁸ Registration taxes are public levies associated with the registration act. They are not to be confused with registration fees, i.e. the payment required by the registration office to carry out the registration. Registration fees are contained in Table 10.

10.4 Taxes during the process of renting and letting a property

Table 25: Taxes related to renting or letting a property

	Relevance of the tax	When to pay the tax in the process of renting or letting	Tax amount (expressed in EUR as % of total purchase price <u>and</u> as a fixed amount if available)
Registration tax	No		
Stamp tax	No		
Other taxes concerning the use of the property, if applicable	Yes	If the flat is used as a secondary home (e.g. because the family is living in a different place than the working place of the tenant), some cities (especially touristic cities) have introduced a special "second home" tax (Zweitwohnsteuer).	

11. Consumer situation in the market

11.1 Consumer rights

Table 26: Consumer rights

<p>Are there specific consumer rights in the context of real estate transactions and residential tenancies in your country?</p> <p>In particular: are residential tenants treated as consumers?</p>	<p><i>With respect to buyers</i></p>	<p>In general, no special consumer contract law applies. The involvement of a public notary including the duty to give legal advice is supposed to offer the main protection. Only in rare situations such as selling of flats in “door step” situations, consumer law would be applicable.</p> <p>If a real estate agent is involved, the consumer buyer and the real estate agent consumer law apply, in particular the control of standard terms according to sections 305 et seq. German Civil Code (BGB). According to these provisions, clauses interpreted as unfair or surprising clauses by the court are forbidden.</p> <p>Concerning the establishment of the notarial deed, which is necessary for the validity of the contract of sales and for the conveyancing deed, section 17 lit. 2a Notarisation Act (BeurkG) contains a special provision if the buyer is a consumer. The notary is required to provide the draft of the deed ahead of time so that the consumer has time to examine it. Regularly, the draft must be available 14 days before notarisation. However, if it is in the objective interest of all parties involved, this period can be shorter. However, the parties cannot waive this period by mutual agreement.⁶⁹</p>
	<p><i>With respect to sellers</i></p>	<p>In general, no special consumer contract law applies.</p> <p>Concerning real estate agents and notarial deeds the same applies as for the buyer.</p>
	<p><i>With respect to tenants</i></p>	<p>In respect of the rent of residential dwellings, sections 549 et seq., the German Civil Code (BGB) introduce an elevated level of tenant protection. In this context, the tenant is typically a consumer. However, this is not legally required.</p>

⁶⁹ Cf. BGH judgement of 07 February 2013, BGHZ 196, 166-179.

		<p>In addition, the landlord typically uses standard terms for the tenancy contract. In business to consumer relations, the control of standard terms according to sections 305 et seq. German Civil Code (BGB) applies including the special rules for consumer protection, i.e. the grey and the black list of forbidden clauses based on directive 93/13/EEC.</p> <p>Moreover, the fees of a real estate agent are regulated, which is, however, again not restricted to consumer cases but part of the general protection of tenants.</p>
	<i>With respect to landlords</i>	No
If relevant, which existing marketing practices are non-compliant with national consumer legislation?	<p>Recently, in some areas rent control rules have been introduced also for new contracts (Mietpreisbremse). However, it has been reported by media and tenant associations that these are hardly ever enforced in practice.⁷⁰</p>	
If relevant, which existing marketing practices are non-compliant with EU consumer legislation?	No	
Are there existing marketing practices detrimental to consumers, even if not necessarily illegal, in both domestic and cross-border transactions?	No	

⁷⁰ Cf. e.g. *Thadeus Parade*, Explodierende Mieten – Situation am Wohnungsmarkt immer dramatischer, “heute” news of 22 June 2017, online at: <http://www.heute.de/explodierende-mieten-situation-am-wohnungsmarkt-immer-dramatischer-47415920.html>.

11.2 Consumer complaints

Table 27: Consumer complaints	
How often do buyers and sellers complain due to arising legal issues (e.g. invalid contract, missing information, hidden defects, missing building permit, delay in payment)?	There are no statistics on this question. Court disputes on real estate related matters are not very frequent.
How often do tenants and landlords complain due to arising legal issues (e.g. invalid contract, missing information, increase of rent, termination of the contract without proper notice)?	There is no central body for tenants to complain. Therefore, the statistical data available are partly unclear. However, the German tenant association (DMB) has published some figures that provide an overall impression. They show that complaints are quite common: According to the DMB, 1.1 million tenants have asked for legal advice at one of the offices of the DMB in 2015. 97 % of these disputes have been settled out of court. This number does not, of course, include those tenants who have directly approached a lawyer to seek legal advice. Amount to 16.8 % of all private law cases, tenancy law cases are the most common type of cases before civil law courts. In total 260,990 cases concerning tenancy law matters have been decided in 2015 before a court of law. ⁷¹
Are consumer complaints against a professional service provider frequent, in particular as regards the fees and quality or service?	Complaints against notaries are very rare. Complaints against real estate agents are somewhat more frequent. In particular, agents are often discovered to use unfair standard clauses (e.g. on exclusive mandates which according to standing case law do not prevent the seller to sell to friends or family). Moreover, the commission of agents is often considered as too high, in particular if the buyer has met the agent only for a short time.
To whom can consumers complain (e.g. local or national administration, consumer protection agencies)? And through which means (e.g. formal letter, online form)? Is the procedure effective (in particular: average time needed for reply, solutions available for redress)?	<p>In general, the only available complaint procedures are the legal proceedings before a court of law.</p> <p>In cases of conflicts with the landlord, the German Tenant Association (DMB) may moderate a conflict but without a formal legal mandate. Moreover, some landlord institutions, in particular those owned by the state, have introduced neutral persons (ombudsman) to solve conflicts to avoid legal proceedings.⁷²</p> <p>The regional notarial associations (Notarkammern) may moderate conflicts between notaries and their customers.</p>

⁷¹ DMB (2016).⁷² So e.g. the GEWOBA in Bremen. Cf. <http://www.gewoba.de/service/ombudsstelle-schlichtung/>.