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## TENLAW: Tenancy Law and Housing Policy in Multi-level Europe

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### **Intra-team Comparison Report for CROATIA, SERBIA, SLOVENIA**

Author: Maša Drofenik

Team Leader: Špelca Mežnar

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## 1. The current housing situation

### 1.1. General Features

#### 1.1.1. Historical evolution of the national housing situation and housing policy

Housing system and policy in Slovenia, Serbia and Croatia have their roots in the beginning of twentieth century. During the socialist era the development of the principal types of housing tenures was similar as in other former Yugoslav republics. The collective rights were set as major priority, while individual rights were neglected to a certain extent. The notion of “social ownership”<sup>1</sup> was developed and housing property was transferred into “the housing right”.<sup>2</sup> A category of “solidarity apartments” for low-income citizens existed. In general, the real property regime was marked by two tenure systems: (i) private ownership and (ii) social ownership. In the 1960s and 1970s, the housing rights were prevailing in urban areas, while rural areas remained privately owned.

When comparing Slovenia to other socialist republics one can note that there was an early formation of market actors. Supply was represented by building (state) enterprises, while demand was represented by other state enterprises and individuals. Enterprises were mainly buying the dwellings in order to allocate them to their employees based on the housing rights. There had been no institutionalized economic activity of gathering and renting during this period, but it was rather a part of collective consumption.<sup>3</sup>

After the process of dissolution of the former Yugoslavia in the early 1990s and after the independence of countries, the process of shifting the responsibility for housing issues from state to local authorities or to individuals began. The most important part of the housing reform was the sale of public housing with the housing rights. As a result of privatization and restitution of denationalized housing stock Slovenians, Croats and Serbs have become a nation of extremely high proportion of homeownership (with an extremely low share of households living in rented dwellings).

In Slovenia and Croatia housing building boom happened in the previous decade (around 2004-2007/2008) and has stopped because of the economic crises. In Serbia, however, the effect of the economic crisis on the housing sector was not as pervasive as in other two countries, since the general economic circumstances in Serbia were not promising even before the crisis.<sup>4</sup>

The Yugoslav war caused a number of housing problems in Croatia and Serbia (e.g. demolition of housing units). There was a mass influx of refugees and IDPs to both countries. They had been placed in poor housing conditions, for example

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<sup>1</sup> A “social ownership” was a specific kind of ownership right and a special legal institute in Yugoslavia. It was a dominant and basic type of ownership.

<sup>2</sup> “The housing right” was a specific tenure type in Yugoslavia. Comparing to civil law, the housing right holder could be described as “a beneficiary of rights, which go beyond those of a protected tenant but which do not include all those of a private owner.

<sup>3</sup> T. Petrović, National Report for Slovenia, p. 8.

<sup>4</sup> T. Petrović, National Report for Serbia, p. 4.

in collective centres or in illegal settlements lacking basic facilities. In Serbia, the living conditions of refugees gradually improved during the period 1996-2004 due to the construction of individual houses and multi-apartment buildings for refugees. However, some refugees (approximately 2,500 people) still reside in collective centres, in poor quality temporary housing or in illegal settlements lacking basic facilities.<sup>5</sup>

In Croatia the renovation of housing units and accommodations of the victims of war began in 1997 and lasted until 2006.<sup>6</sup> In addition to the demolished housing units, the non-acknowledgement of the former housing right impeded the return of Serb refugees to Croatia. For the most part, the restitution of the ownership of homes, land and other real estate to their legal owners was accomplished by 2005.

Slovenia, as opposed to the other two countries (Serbia and Croatia), did not have such a massive influx of individuals from the other republics of former Yugoslavia. While migrants from other EU countries have not influenced the housing situation, the working migrants from non-EU countries (particularly from ex-Yugoslav countries), who live in terrible conditions (in overcrowded single homes, unsuitable individual houses or sub-rented rooms), still present an important housing problem in Slovenia. With this regard the Rules on Setting Minimal Standards for Accommodation of Aliens, Who are Employed or Work in the Republic of Slovenia<sup>7</sup> was enacted in 2011. The act defines the duties of employers and organizations, which employ the workers.<sup>8</sup>

### 1.1.2. Current situation

As it is common in other post-socialistic countries, there is an extremely high preference of home-ownership over renting in all of three countries being compared. This is confirmed by the data in Table 1. The relationship between owner-occupied dwellings and rented dwellings is comparable among the three countries.

**Table 1. Number of dwellings and ownership<sup>9</sup>**

	<b>Number of dwellings/households</b>	<b>Owner-occupied dwellings</b>	<b>Rented dwellings</b>
<b>Slovenia</b>	849,825	77%	9%
<b>Croatia</b>	2,246,910	89,4%	5,6%
<b>Serbia</b>	3,243,587	87,5%	6,7%

The quality of housing in Slovenia can be evaluated as more well-developed amongst the newer members of EU and less well-developed than the older

<sup>5</sup> National Report for Serbia, p. 10.

<sup>6</sup> A. Jakopič/M. Žnidarec, National Report for Croatia, p. 21.

<sup>7</sup> Pravilnik o določitvi minimalnih standardov za nastavitev tujcev, ki so zaposleni ali delajo v Republiki Sloveniji, Official Gazette, No. 71/2011.

<sup>8</sup> National Report for Slovenia, p. 12.

<sup>9</sup> Based on the data from National Reports for countries under review. All numbers are from the year 2011.

ones.<sup>10</sup> Likewise, the standard of living in Croatia has been growing steadily in the second half of the twentieth century. Equipment of housing units in Croatia is also relatively satisfactory and has noted positive trends in the past decade.<sup>11</sup> On the contrary, the quality of dwellings in Serbia is very low compared to supply and quality of housing units in Slovenia and Croatia.

### 1.1.3. Types of housing tenures

In Slovenia, Croatia and Serbia, a condominium is defined as the ownership of a single unit in a building and co-ownership of common areas. However, this is a real property right, which is not an intermediate form of tenure.<sup>12</sup>

Company law schemes are not present in Slovenia and Serbia.<sup>13</sup> In Croatia, on the other hand, the tenure in the new Rent-to buy scheme (so called POS programme) can be classified as an intermediate form of tenancy. In these cases the tenants are the future potential buyers of the apartments they rent.<sup>14</sup>

As far as cooperatives are concerned, Slovenian legislation is familiar with the institute of cooperative<sup>15</sup> and Serbia also has several housing cooperatives. However, they all differ from the traditional meaning of the housing cooperatives.<sup>16</sup>

There is a distinction between rental tenures with and without a public task in all three countries under review. However, small differences in rental tenure types among countries exist. The comprehensive comparison between the three countries based on the share in the housing stock is impossible, since not all data on the shares is available.

In Slovenia, there are 70% of dwellings with non-profitable rent<sup>17</sup> and 3% of special purpose rental apartments. The two have a public task. The other two, which are employment based apartments (7%) and dwellings with market rents (20%), do not have a public task.<sup>18</sup>

In Croatia only private market rental housing as the rental tenure does not have a public task. Other categories, i.e. protected tenants rentals, social housing, public rental tenures and POS Programme Rent-to buy scheme, all have a public task.<sup>19</sup> 2.9% of households rented their dwelling in the private rental sector, 1.8% of households lived in housing with protected rent and 0.9% rented a part of a flat in

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<sup>10</sup> National Report for Slovenia, p. 19.

<sup>11</sup> National Report for Croatia, p. 41.

<sup>12</sup> National Report for Slovenia, p. 17, National Report for Serbia, p. 20, National Report for Croatia 37.

<sup>13</sup> National Report for Slovenia, p. 17 and National Report for Serbia, p. 20.

<sup>14</sup> National Report for Croatia 37.

<sup>15</sup> For more on the topic see National Report for Slovenia, p. 17.

<sup>16</sup> National Report for Serbia, p. 20.

<sup>17</sup> The Slovenian 2003 Housing Act (Stanovanjski zakon (SZ-1), Official Gazette of RS, No. 69/03 and later amendments) does not distinguish between social and non-profitable dwellings. For both categories there is only one rent, non-profitable one.

<sup>18</sup> National Report for Slovenia, p. 18.

<sup>19</sup> National Report for Croatia, p. 35.

2011. Official data on the share of public rental housing in Croatia are not available.<sup>20</sup>

Finally, in Serbia dwellings owned by the state and other state organs and institutions (municipalities, ministries, etc.) have public task. These encompass less than 2% of the entire housing stock in Serbia. Rentals without public task are market or private rentals. Employment based apartments, as the rental tenure without public task, are also present in Serbia, but they encompass only minuscule proportion of the public rental tenures.<sup>21</sup>

In Slovenia and Croatia the quality of housing is relatively satisfactory, even though the quality of newly built housing units is often questionable. In Serbia, on the other hand, the quality of dwellings in general is very low compared to supply and quality of housing units in Slovenia and Croatia.

The majority of dwellings in Slovenia possesses three rooms and is followed by houses with two rooms. An average usable area of a dwelling is 27,4 m<sup>2</sup>. Central heating is found in 80%, whereas bathrooms are found in 93% of homes in Slovenia.<sup>22</sup> Likewise, in Croatia three-bedroom housing units prevail (34,4%), followed by houses with two rooms (27,5%). The average size of inhabited apartment is 80.94m<sup>2</sup>. Merely 2,11% of housing units have neither toilet nor bathroom and 1,56% of housing units in Croatia have no bathroom.<sup>23</sup>

Serbian housing stock consists mostly of two-room dwellings. The average area of the dwelling is 72,3 m<sup>2</sup>, the communal infrastructure is imperfect, piped water and sewer are not provided in some parts of Serbia, whereas gas supply and central heating are also underdeveloped. More than one half of dwellings (around 54%) still use hard fuels as a source of heating. Quality of dwelling is especially low in the rural areas of Serbia, where 40% of rural housing lacks flush toilet or shower.<sup>24</sup>

Most of the dwellings are privately owned. This applies to all three countries being compared. In Slovenia as much as 90% of all dwellings are privately owned (mostly by natural persons), while public sector (municipal and other non-profit housing organizations) owns only 6% of all housing units.<sup>25</sup> Secondly, 97.3% of the total number of permanently occupied housing units in Croatia is in the ownership of natural persons, while legal persons own 2.7%.<sup>26</sup> Also data from Serbia shows that the largest proportion of dwellings is owned by private persons (natural and legal) – around 98.3% according to data from the 2011. Smaller proportion of dwellings in Serbia is state / publicly owned – 1.7%.<sup>27</sup>

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<sup>20</sup> National Report for Croatia, p. 35.

<sup>21</sup> National Report for Serbia, p. 21.

<sup>22</sup> National Report for Slovenia, p. 20-23.

<sup>23</sup> National Report for Croatia, p. 38-41.

<sup>24</sup> National Report for Serbia, p. 22-25.

<sup>25</sup> National Report for Slovenia, p. 25.

<sup>26</sup> National Report for Croatia, p. 45.

<sup>27</sup> National Report for Serbia, p. 25.

#### 1.1.4. Other general aspects of the current housing situation in comparative perspective

Associations of tenants operate in Slovenia, Croatia as well as in Serbia. There are several such associations in Serbia and Croatia, while in Slovenia only one group operates on behalf of the tenants. In general, associations act as lobby groups and mainly protect the rights of tenants by offering legal help and information about their rights. However, their actual role in the political and social sphere is insignificant.

In Slovenia and Croatia there is also an interest group working on behalf of the owners of property or landlords (see Table 2 below), whereas there is no data on the existence of such or similar group in Serbia.

**Table 2. Active Lobby Groups**

	<b>Slovenia</b>	<b>Croatia</b>	<b>Serbia</b>
<b>Associations of tenants</b>	<ul style="list-style-type: none"> <li>• Association of Tenants of Slovenia</li> </ul>	<ul style="list-style-type: none"> <li>• Alliance of Tenants' Associations of Croatia</li> <li>• Croatian Association of Tenants</li> <li>• Associations of Tenants – Co-owners of Apartment Buildings</li> <li>• Association Franc</li> </ul>	<ul style="list-style-type: none"> <li>• Association for the Protection of Rights and needs of Tenants in Serbia</li> <li>• Association of Users of Apartments in Private Ownership</li> </ul>
<b>Associations of owners</b>	<ul style="list-style-type: none"> <li>• Association of Owners of Real Properties in Slovenia</li> </ul>	<ul style="list-style-type: none"> <li>• Croatian Association of Owners of Property Confiscated During the Fascist and Communist Regimes</li> </ul>	

All three countries under review are facing the problem of vacant dwellings. In Slovenia there is approximately 100,000 vacant dwellings,<sup>28</sup> which are not (yet) available on the housing market. The number is even higher in Croatia - 416,343 or 21,8% in total (some are temporarily vacant, others are abandoned)<sup>29</sup> and in Serbia – 587,715 or 18%.<sup>30</sup>

<sup>28</sup> National Report for Slovenia, p. 27.

<sup>29</sup> National Report for Croatia, p. 46.

<sup>30</sup> National Report for Serbia, p. 26.



Furthermore, in all three countries the majority of the rental sector is executed through the unofficial (black) market, with very little officially registered contracts. Landlords do not opt to register the contract in order to avoid paying the tax. This can lead to disadvantages especially for the tenant (e.g. in Croatia tenants without the contract are not eligible for housing allowance).<sup>31</sup>

There are no other important black market or otherwise irregular phenomena and practices on the housing market in Slovenia.<sup>32</sup> However, this does not apply to Serbia and Croatia. The housing market in Croatia's larger cities is controlled by speculative interests of different stakeholders. Fighting for extra profit, developers misuse their position and use bribe to get permits with higher density. In addition, illegal construction of family houses, without building permits, on the edges of cities is also a problem.<sup>33</sup> Similarly, Serbia is also facing with illegal construction as a major problem in the housing sector.<sup>34</sup>

## 1.2. Economic factors in comparison

### 1.2.1. Comparative view of the housing market

In Slovenia, the rental price for the market as well as purpose and employment based apartments is determined freely on the market.<sup>35</sup> The rent for the non-profit apartments, on the other hand, is determined with a special methodology.<sup>36</sup> The base is calculated according to administratively determined value of the dwelling. Newer and more modern apartments have more value points, meaning also higher rent price.<sup>37</sup>

Similarly to Slovenia, in Croatia free housing market also exists, where the level of freely determined rent is left for contractual parties to determine.<sup>38</sup> On the other hand, the amount of protected rent (which is a form of social housing) is determined on the basis of conditions and measures set by government.<sup>39</sup>

In Serbia, all housing prices are usually determined freely on the market, since the rental-housing sector in Serbia is under-regulated.<sup>40</sup>

Since the crisis, there has been a larger supply of dwellings in all three countries under review, leading to a decrease in the prices of rentals. Even though the construction sector has been gravely affected due to economic crisis, there is a surplus of unsold apartments, especially in Slovenia and Croatia. In addition, in Slovenia the number of smaller households (i.e. households of one or three members) has been raising due to the ageing population. Therefore, more

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<sup>31</sup> National Report for Croatia, p. 47.

<sup>32</sup> National Report for Slovenia, p. 27.

<sup>33</sup> National Report for Croatia, p. 47.

<sup>34</sup> National Report for Serbia, p. 27.

<sup>35</sup> Pursuant to Article 115(2) of Slovenian 2003 Housing Act.

<sup>36</sup> Pursuant to Article 117 of Slovenian 2003 Housing Act.

<sup>37</sup> National Report for Slovenia, p. 32.

<sup>38</sup> National Report for Croatia, p. 49.

<sup>39</sup> In accordance to Article 7 of Croatian Lease of Flats Act (Zakon o Najmu Stanova, Official Gazette of RC, No. 91/96 and later amendments).

<sup>40</sup> National Report for Serbia, p. 32.

purpose apartments are going to be needed in the future, as well as smaller regular apartments.<sup>41</sup>

The demand for a rental dwelling is greater in bigger municipalities and towns, as well as in their inner parts (this applies to all three countries), due to better possibilities for employment, schooling and road networks. So far, one could say that none of the countries under this review has presented an efficient program in terms of demand and supply.

### **1.2.2. Comparative view on price and affordability**

The average cost of market rent in Slovenia is approximately 550 EUR per month for a two-room dwelling, while the rent-income ratio is 0.28 or 28%.<sup>42</sup> The average amount of rent in private sector in Croatia for an apartment from 20-40m<sup>2</sup> amounts to 289 EUR per month, for an apartment from 40-60m<sup>2</sup> to 410 EUR, for an apartment from 60-80m<sup>2</sup> to 499 EUR per month and for an apartment from 80-100m<sup>2</sup> to 633 EUR per month.<sup>43</sup> The calculation of rent-income ratio for the apartment of size up to 60m<sup>2</sup> in Croatia (Novi Jelkovec) shows that rent-income ratio for private renting in Croatia is 0.26% or 26%.<sup>44</sup> For Serbia there is no official information on the market rents. However, a study done for UN-Habitat indicates that rent-income ratio in Serbia exceeds 0.50 or 50%.<sup>45</sup>

According to these data the average rent for the apartments in Croatia is lower compared to the average rent for the apartments in Slovenia. Furthermore, the highest rent-income ratio is in Serbia and the lowest in Croatia.

There is an extremely high preference of home ownership over renting in Slovenia, Croatia and Serbia. Citizens of countries being compared are traditionally more inclined towards home ownership than to living as tenants in rental housing. Even though there is a relatively weak affordability of ownership of homes in Slovenia<sup>46</sup> and Croatia and a massive affordability problem exists also in Serbia,<sup>47</sup> renting is usually still just a temporary solution. Many households would rather opt for mortgage loan instead of a rent. But since the conditions for obtaining a housing loan are not very favourable (this apply to all three countries), renting is a temporary alternative to home ownership (and not the other way around).

### **1.2.3. Tenancy contracts and investment**

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<sup>41</sup> National Report for Slovenia, p. 32.

<sup>42</sup> According to the data from 2013. See National Report for Slovenia, p. 34.

<sup>43</sup> According to the data from the research for city of Zagreb in August 2012. See National Report for Croatia, p. 51.

<sup>44</sup> National Report for Croatia, p. 51.

<sup>45</sup> National Report for Serbia, p. 32.

<sup>46</sup> National Report for Slovenia, p. 35.

<sup>47</sup> National Report for Serbia, p. 33.

Return on investments for a rental dwelling is unattractive for landlords-investors in all three countries under review. Prevailing opinion in Croatia and Serbia is that this kind of investment is simply not profitable for investors.<sup>48</sup> The main reason in Croatia is too low and too slow return on investments. For the same reason (the rent usually does not cover the basic costs of the construction) investors in Slovenia are not interested in building rental apartments.<sup>49</sup>

#### 1.2.4. Other economic factors

Purchasing, selling or renting a dwelling with a help of an estate agent is not a common practice in any of the countries being compared. In Slovenia, many individuals decide to use services only when they themselves are not able to sell the dwelling or find the adequate one.<sup>50</sup> In Croatia the percentage of renting relationships concluded through real-estate agencies is small<sup>51</sup> and the services of estate agents are used mainly by foreigners, especially foreign companies.<sup>52</sup> Real estate agencies in Serbia enjoy very low reputation, probably because the sector is under-regulated, while the usually low financial status of potential renters and bad reputation of the real estate agents prevents them to engage such services. Only a small percentage (10%) of the agencies advertises in local newspapers, more than half of the agencies (77%) do not have their own web page. The agents are generally poorly educated. In addition, there have been numerous scams in the past. For all of those reasons individuals in Serbia are reluctant to hire an agency in search of the housing. Many of them are not prepared to pay the commission, since the services of the agencies do not guarantee for the higher protection.<sup>53</sup>

Fees of real estate agents for selling are comparable in all three countries. The value of the agent's commission in Slovenia is usually between 2% and 4% of the contractual price (maximum value of the agent's commission set by law is 4% of the selling price),<sup>54</sup> in Croatia agencies in practice usually take 2% of the buyer and 2% of the seller (maximum value of the agent's commission set by law is 6% of the selling price),<sup>55</sup> while in Serbia in case if a brokerage contract is concluded only a buyer must pay additional 3% of the selling price for the agency fee (in general the services of the agency are without charge).<sup>56</sup> There are no data on commission fees in case of renting.

The commissions are comparable with other countries, so they may be characterised as fair and just. However, since prices of real estates in Slovenia

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<sup>48</sup> National Report for Croatia, p. 56 and National Report for Serbia, p. 33.

<sup>49</sup> National Report for Slovenia, p. 36.

<sup>50</sup> National Report for Slovenia, p. 37.

<sup>51</sup> According to the Croatian survey on renting only 7% of the tenants came across the information on the property they are renting over the real estate agency and only 14% of landlords found the tenants through the real estate agency.

<sup>52</sup> National Report for Croatia, p. 61.

<sup>53</sup> National Report for Serbia, p. 35.

<sup>54</sup> National Report for Slovenia, p. 37.

<sup>55</sup> National Report for Croatia, p. 61.

<sup>56</sup> National Report for Serbia, p. 35.

are relatively high compared to other countries, the commission can be regarded as rather high. Likewise, the commission in Serbia could be regarded as unfair, since the work of the real estate agencies is of a very poor quality.

### **1.2.5. Effects of the current crisis in comparative perspective**

The crisis in Slovenia, Croatia and Serbia is mostly seen in the construction sector and has affected demand and supply of dwellings, especially due to the decreased possibilities of obtaining banking loans. This applies especially to Slovenia and Croatia, while in Serbia the economic crisis weakened the construction sector only to a certain extent. But the effects of the crisis on the housing sector (rental sector) directly were not as pervasive as in Slovenia and Croatia. This is because the general economic circumstances in Serbia were not promising even before the crisis.<sup>57</sup> The mortgage defaults in Serbia have also increased, but the situation is not as alarming when compared to other two countries.

In Croatia, the housing market started to decline in 2008 due to the economic recession, when the credit crunch appeared. The growth of the housing loans began to stagnate from the start of the year 2008. One of the reasons for the stagnation is a weak demand for loans due to unfavourable economic conditions (banks have raised lending rates and tightened other lending terms).<sup>58</sup> The non-payment of mortgage credit has also become a problem. Due to such mortgage default the number of real-estates that have been put to auction (mainly because of the non-payment of mortgage credit) have increased by 110% from September 2009 until September 2012.<sup>59</sup>

A similar credit crunch appeared in Slovenia. Firstly, banks were not willing to give loans for new property investments<sup>60</sup> and the number of approved housing loans dropped. According to the National Bank of Slovenia's data from 2012, the scale of new housing loans has dropped for the first time since the crisis started, while the number of construction permissions has been dropping four years in a row.<sup>61</sup> The trend of the decreased construction of new dwellings as well as decreased demand for housing loans continues<sup>62</sup>. Moreover, the stock of planned newly constructed unsold apartments in Slovenia was around 4000 at the beginning of 2011.<sup>63</sup> Considering the fact that there were around 6000 built dwellings all together in the period 2009-2010, the number (4000 newly built apartments after 2009) is enormous. As far as repossessions are concerned, the

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<sup>57</sup> In Slovenia and Croatia housing building boom happened in the previous decade (around 2004-2007/2008), while in Serbia this was not the case.

<sup>58</sup> National Report for Croatia, p. 61-62.

<sup>59</sup> National Report for Croatia, p. 62.

<sup>60</sup> Therefore, there are a lot of projects, which need to be finished or selling of which was stopped.

<sup>61</sup> National Report for Slovenia, p. 39.

<sup>62</sup> Reasons for this are the following: (i) there is no new capital available, (ii) almost all larger domestic construction business have failed, (iii) there is no interest from foreign investors, (iv) potential new investments are hamstrung due to the credit crunch of banks. See National Report for Slovenia, p. 39.

<sup>63</sup> National Report for Slovenia, p. 39.

actual number of repossessions is not publicly known in Slovenia. The impact on the rental sector has been insignificant so far. However, increased number of repossessions is expected in the future.<sup>64</sup>

There are about 934,000 dwellings under mortgage in Serbia. Many individuals are no longer able to cover the costs of instalments.<sup>65</sup> Also, there is a lower demand for the housing loans, since the crisis has affected the labour market and many individuals are unemployed.<sup>66</sup> There is no precise data on the number of repossessed dwellings in Serbia. In general, there is not much repossession from individuals.<sup>67</sup>

After the crisis a larger supply of dwellings (especially rental apartments) led to a decrease in the house prices. This effect of the decreased house prices appeared in all three countries under review to a certain extent,<sup>68</sup> which is indicated by the following data. In Slovenia, the market rent prices of dwellings have decreased by around 30%-40% since 2008.<sup>69</sup> In Serbia, the rents have decreased for 50% on average.<sup>70</sup> Hence, rentals in Serbia have never been more affordable.<sup>71</sup> Finally, in Croatia according to estimation from 2008, only in the capital city Zagreb there was 6000 to 7000 unsold housing units on the housing market, which illustrate housing market crisis and pressure for price decrease.<sup>72</sup> In the period from 2008 to 2010, the average selling price of newly built apartments has therefore decreased for 9.29%, while the prices of all housing units (old, new, apartments and houses) have decreased for 20%.<sup>73</sup> Surplus of unsold apartments and consequently the decrease in the prices of housing units has led to the decrease also in the level of rents in the private renting sector.<sup>74</sup> This makes renting more affordable.

In response to the crisis the governments of all three countries have already adopted different housing-related legislation.<sup>75</sup> In addition, certain measures, especially regarding the tax system are expected to be taken in the near future (this applies mostly to Slovenia and Croatia), while some of the newly enacted laws have already proved to be inefficient.

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<sup>64</sup> National Report for Slovenia, p. 41.

<sup>65</sup> National Report for Serbia, p. 29.

<sup>66</sup> National Report for Serbia, p. 36.

<sup>67</sup> There are around 4000 dwellings that are to be repossessed (according to article from 2012). These amount to around 1.6% of all individuals having a mortgage. National Report for Serbia, p. 36.

<sup>68</sup> Again, one should bear in mind that the decrease in the house prices in Slovenia and Croatia happened due to the economic crisis, while the effect of the crisis in Serbia on the housing sector was not as pervasive.

<sup>69</sup> National Report for Slovenia, p. 31.

<sup>70</sup> National Report for Serbia, p. 29.

<sup>71</sup> As far as the ownership market in Serbia is concerned, the purchase prices have also decreased. A luxurious apartment, which cost approximately 100,000 EUR in 2008, can now be purchased for 70,000 EUR.

<sup>72</sup> National Report for Croatia, p. 19. There was 10,000 unsold housing units, finished or in construction, worth about 5.2 billion HRK (around 700 million EUR) on the real estate market in 2011.

<sup>73</sup> National Report for Croatia, p. 54.

<sup>74</sup> There is no official data on the decrease of the renting prices in Croatia, only the data analysed and published by different real-estate agencies. See National Report for Croatia, p. 54.

<sup>75</sup> For a fully described new house-related legislation see National Report for Slovenia, p. 42, National Report for Croatia, p. 63 and National Report for Serbia, p. 37.

For example, the Croatian government's answer to unsold housing units was the enactment of the Promotion of the Sale of Housing Units Act in 2010.<sup>76</sup> However, its use did not produce expected results. Instead of the planned 1000 housing units, in reality only 68 were sold.<sup>77</sup> Due to its inefficiency, the government derogated this law in 2011 by passing the Subsidies and State Guarantees for Housing Loans Act.<sup>78</sup> The act introduced two measures.<sup>79</sup> The first measure consists of state paying half of the monthly instalment during the first four years of housing loan repayment. The second measure consists of state's obligation to pay interest on overdue instalments, starting from the first instalment repayable after onset of the reasons for inability of repayment to the termination of this reason, but no longer than one year after the start of the inability to repay the loan.<sup>80</sup> In the period from 2011-2012, a total number of 2253 subsidies were given, worth around 43 million HRK. One should bear in mind that the amount spent in one year should be ensured for the following three years, since the subsidy applies to the period of four years from the first year of loan repayment.<sup>81</sup> Data on the number of realized guarantees are not available.

The current crisis in Croatia has introduced innovations in the POS programme<sup>82</sup> as well. In the city of Varaždin, the non-profit organization conducting this program has started to rent the unsold apartment within the public rental program.<sup>83</sup> A new Rent-to buy scheme in the POS programme has also been launched. The new POS programme had a big success among the citizens so far, since all the offered apartments have been already taken.<sup>84</sup>

One of the statutes enacted in response to the crisis in Slovenia was the Act on the Natural Persons Guarantee Scheme of the Republic of Slovenia.<sup>85</sup> The act has enabled individuals to obtain state guaranteed loans.<sup>86</sup> The state obliged itself to provide for 300 million EUR of guarantees for those settling their houses issue for the first time. Such guarantees of the state were available until the end of 2010.<sup>87</sup>

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<sup>76</sup> Zakon o poticanju prodaje stanova, Official Gazette of RC, No. 38/10. Under the provisions of Promotion of the Sale of Housing Units Act a buyer could in the process of purchase of a new house obtain a government loan in the amount of 100-300 EUR per square meter. This subsidy was designed only for the newly built houses of the licensed contractors, who were also the investors.

<sup>77</sup> National Report for Croatia, p. 19.

<sup>78</sup> Zakon o subvencioniranju i državnom jamstvu stambenih kredita, Official Gazette of RC, No. 31/11.

<sup>79</sup> Two measures of the Subsidies and State Guarantees for Housing Loans Act are: (i) subsidies for housing loans from commercial banks and (ii) state guarantees for the repayment of interests on housing loans from commercial banks in case a person loses means for the repayment due to the loss of employment.

<sup>80</sup> National Report for Croatia, p. 32.

<sup>81</sup> National Report for Croatia, p. 33.

<sup>82</sup> Also called Publicly Subsidised Residential Construction Program.

<sup>83</sup> National Report for Croatia, p. 17.

<sup>84</sup> National Report for Croatia, p. 17.

<sup>85</sup> Zakon o jamstveni shemi Republike Slovenije za fizične osebe, Official Gazette of RS, No. 59/2009.

<sup>86</sup> According to the provisions of Act on the Natural Persons Guarantee Scheme of the Republic of Slovenia temporarily unemployed persons and young families can obtain loans ranging from 5,000 to 100,000 EUR for maximum twenty-five years instalment period. The loans are to be safeguarded with mortgage or land debt on an immovable property.

<sup>87</sup> National Report for Slovenia, p. 42.

In order to enable more lenient conditions of housing loaning, the government of Serbia also adopted new legislation. Regulation on Measures of Support to Construction Industry through Long-Term Housing Loans in 2012<sup>88</sup> first reduced the citizens' participation in housing loans from 10% to 5%, but the Regulation adopted for 2013<sup>89</sup> increased the participation again to 10%. According to the new Regulation, 10% of the loan is covered from the budgetary means, in form of a subsidy. The remaining 80% is given by the commercial bank, in form of a loan, with the National Corporation for Securing Housing Loans securing the loan. The user of the loan must first repay the instalments to the bank, in the period of no more than twenty-five years. Afterwards, the subsidy is to be repaid, within following five years without any interests. The interest rate for commercial banks' loans is maximum of 4.5% plus six-month EURIBOR.<sup>90</sup>

It seems that Serbia, where the economic circumstances were not promising even before the crisis, was the least affected by the crisis in terms of the housing sector. Slovenia and Croatia, on the other hand, did not overcome the crisis yet. It remains to be seen, which of the two countries will take proper or better measures to overcome the crisis. So far it looks like Croatia tried out more varied measures. Some of them were inefficient (i.e. Promotion of the Sale of Housing Units Act), while the others were successful (i.e. POS programme and Rent-to buy Scheme).

### **1.3. Urban and social aspects of the housing situation in comparison**

#### **1.3.1. Urban aspects in comparative perspective**

The distribution of housing types in the city scale vs. the region scale is the same in the three countries being compared. Rented units are mainly situated in the centres of bigger municipalities (e.g. Ljubljana, Maribor, Zagreb, Split, Rijeka, Osijek, Belgrade, Niš, Novi Sad), whereas owner occupied dwellings are mainly located in the suburbs and smaller municipalities.<sup>91</sup> There are several reasons for this. One is certainly the fact that the prices of dwellings are lower in the suburbs and smaller towns.<sup>92</sup> Secondly, there is a larger influx of students in university centres and towns hosting faculties and high schools. Consequently there is a larger demand for room and apartment rentals in town centres of these municipalities, since students usually do not possess a car or are reluctant to cover the costs of driving long distances from residence to the schooling area.

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<sup>88</sup> Uredba o mjerama podrške građevinskoj industriji kroz dugoročno stambeno kreditiranje u 2012. godini, Official Gazette of RS, No. 4/2012 and 77/2012.

<sup>89</sup> Uredba o mjerama podrške građevinskoj industriji kroz dugoročno stambeno kreditiranje u 2013. godini, Official Gazette of RS, No. 124/2012.

<sup>90</sup> National Report for Serbia, p. 37.

<sup>91</sup> National Report for Slovenia, p. 46, National Report for Croatia, p. 58, National Report for Serbia, p. 38.

<sup>92</sup> For example, a squared meter of a house in Ljubljana in the last quarter of 2011 was 2420 EUR, while in Kranj, which is relatively near Ljubljana, but has fewer inhabitants, it was 1804 EUR; a purchase price for a squared meter of a dwelling in Belgrade varies from 800 to 2000 EUR, while in Zrenjanin, which is relatively near Belgrade, but has fewer inhabitants, it is ranging from 450 to 900 EUR.

The demand for rental housing is also higher in bigger cities due to the bigger possibilities for employment.

In Slovenia, Croatia, as well as in Serbia the process of social segregation of population can be observed. This process has appeared as a consequence of the general social transformation in the transitional period and can be seen mostly in urban areas with multi-apartment buildings. However, the degree of social degradation in Slovenia is in general less obvious than in some other transitional countries (like Serbia and Croatia). The degraded areas in Slovenia are not as pronounced as they are for example in Serbia. In the degraded areas in Serbia crime rates are higher. Concentrations of marginal social groups and underprivileged are lowering the housing prices and making such parts less favourable.<sup>93</sup>

As far as gentrification is concerned, it is rather difficult to define parts of urban areas in Slovenia as being gentrified, even though they exhibit some typical signs of gentrification,<sup>94</sup> while in Serbia gentrification is not even present.<sup>95</sup> Croatia, on the other hand, is showing signs of gentrification, especially in bigger cities, since the beginning of 1990s.<sup>96</sup> However, compared to the gentrification processes in Western Europe and USA, the Croatian gentrification reflects some particularities.<sup>97</sup>

Genuine ghettos are not present in Slovenia. Some social groups (i.e. Roma population and immigrants from former Yugoslav republics) that are unable to obtain legal housing are indeed segregated on specific locations and are forced to construct shacks, illegal houses or other forms of dwellings, but such settlements do not correspond to the widely accepted definition of a ghetto.<sup>98</sup> The situation in Serbia is different. In Serbia, many of Roma population live in poor housing conditions due to the lack of financial means and many of them are without any documents and ineligible for social assistance.<sup>99</sup>

A phenomenon of squatting is not very common in Slovenia.<sup>100</sup> Nevertheless, it is worth mentioning that even if an individual is to unlawfully seize a dwelling, he is not able to prescript either the dwelling or the land, since the individual is not in a good faith regarding the ownership (he is aware that the dwelling was not handed over from the owner).<sup>101</sup> The good faith is necessary for obtaining the ownership right. Since squatters are aware of the fact that they are occupying property that is not theirs, they do not fulfil the legal conditions for prescription.

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<sup>93</sup> National Report for Slovenia, p. 48.

<sup>94</sup> For instance, some older residential districts with good accessibility and favourable living conditions are attractive for the population with higher incomes. This is particularly the case in some parts of Ljubljana. See National Report for Slovenia, p. 49.

<sup>95</sup> National Report for Serbia, p. 39.

<sup>96</sup> National Report for Croatia, p. 66.

<sup>97</sup> For more on the topic see National Report for Croatia, p. 67.

<sup>98</sup> According to notion of 'ghetto' forcibility of settlement in the segregated area is condition sine qua non. In Slovenia it is questionable whether the inhabitants are forced to live in these settlements or decide to inhabit them willingly. See National Report for Slovenia, p. 50.

<sup>99</sup> National Report for Serbia, p. 39.

<sup>100</sup> National Report for Slovenia, p. 50.

<sup>101</sup> According to Article 43 of Slovenian Code of Property.



Serbia and Croatia (particularly city of Zagreb), on the other hand, are more familiar with the phenomenon of squatting. In Zagreb, squatting is as an expression of alternative lifestyle, while in Serbia usually refers to Roma population occupying vacant factory warehouses or old houses.<sup>102</sup> Moreover, there are examples of squatting in Serbian's suburban areas, where citizens occupy a part of a land and build a shack or similar dwelling and use it as a second home.<sup>103</sup> The owner of the dwelling has a legal claim against the intruders.<sup>104</sup> This applies to Serbia, as well as to Croatia, where squatting as an act of autonomous disturbance of possession is prohibited.<sup>105</sup> The legal procedure initiated by such lawsuit is considered urgent (this applies to Serbia and Croatia).<sup>106</sup>

### 1.3.2. Social aspects

Slovenians, Croats and Serbs traditionally prefer home ownership to living in rental housing. In Croatia, for example, living in a rented dwelling is often seen as inferior, while home ownership implies financial success. This is why renting in general is regarded as temporary solution in Croatia.<sup>107</sup> The same fact applies to Slovenia, where ownership is preferable to rental to a great extent. Many of Slovenians see owning a home as the most valuable asset. They see homeownership as a secure investment after retirement. This is strongly preferred to renting a dwelling.<sup>108</sup> Renters, on the other hand, are often stigmatized and seen as "poor persons" in Slovenia.<sup>109</sup> That ownership of dwellings offers a higher standard of living is also a dominant public opinion in Serbia, where all types of renting are considered as inferior to ownership.<sup>110</sup>

One of the problems in all three countries under review, apart from the rental sector being neglected to a certain extent, is the maintenance and managing of the multi-apartment buildings. The maintenance costs are often not included in the feasibility test when planning the investment into home purchase, as this is the case in Croatia.<sup>111</sup> This attitude is due to the housing situation in the past, when the largest part of the rental housing stock was socially owned (i.e. by the state). After the privatization, the former holders of housing rights purchased the dwellings and became the owners of individual apartments, as well as co-owners of the common areas in the building. However, for many of them it was difficult to grasp what an owner of a housing unit in a multiunit building means. They did not invest in the renewals and maintenance. Furthermore, the purchased apartments

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<sup>102</sup> Squatting in Serbia has not developed into a social movement, but it is rather an individual phenomenon.

<sup>103</sup> For example, such dwellings are present in forest of Miljkovica.

<sup>104</sup> National Report for Serbia, p. 42.

<sup>105</sup> According to Article 20-27 of Croatian Ownership and other Proprietary Rights Act (Zakon o vlasništvu i drugim stvarnim pravima, Official Gazette of RC, No. 91/96 and later amendments).

<sup>106</sup> National Report for Serbia, p. 42 and National Report for Croatia, p. 68.

<sup>107</sup> National Report for Croatia, p. 69.

<sup>108</sup> As much as 96% of elderly in Slovenia are homeowners, whereas in non-profit rentals there is a mere 1%. See National Report for Slovenia, p. 52.

<sup>109</sup> National Report for Slovenia, p. 51.

<sup>110</sup> National Report for Serbia, p. 42.

<sup>111</sup> National Report for Croatia, p. 69.

were in some cases larger than the real needs of the households (this is the case mostly in Slovenia).<sup>112</sup> These owners are now relatively old, living in oversized apartments. Larger areas of units are linked to higher costs of residing, which are usually above income standards of the older owners. In addition, many of the owners residing in the housing unit still consider the state as the owner of the common parts of the buildings. A reason for the described situation in Serbia is legal instability in this sector,<sup>113</sup> because of which many multi-apartment buildings are neglected and ruined these days.

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<sup>112</sup> National Report for Slovenia, p. 52.

<sup>113</sup> For more on this topic see National Report for Serbia, p. 42-43.

## 2. Housing policies and related policies in comparison

### 2.1. Introduction

In Slovenia, only a few official documents regarding the social and housing policy were enacted so far or are at least under preparation.<sup>114</sup> Unfortunately they were more or less inadequate for various reasons. Likewise, the Slovenian tax policy in regard to housing and tenancy law is inadequate. The major critic is directed towards the support of homeownership instead of promoting rental sector. Apart from the inadequacy of official documents, the ongoing crisis has brought further implications for the housing policy and welfare. Due to the harsh austerity measures by the Slovenian government, many rights and benefits regarding housing have been restricted or cancelled.<sup>115</sup>

Unlike in Slovenia, housing policy in Croatia has been neglected, forgotten and reduced to dealing with individual housing issues of particular groups of population. Today housing strategy in Croatia does not exist and there is no national programme of social rental housing. It is fragmented to the point that it cannot be considered a policy, and is mainly left to local governments.<sup>116</sup>

In Serbia, situation is similar to Croatia, since Serbia does not have an official, comprehensive national housing policy. Only recently the National Housing Agency has been established, but it is still too early for an assessment of its work. As far as taxation policy is concerned, it is important to stress that it has a negative effect on the rental sector (same as in Slovenia but for different reasons). There is a 20% tax rate imposed on the value of the monthly rent, in the form of the income tax. Since the inspection is derisory, many Serbian landlords decide to evade payments, supporting the black market in the rental sector.<sup>117</sup>

The right to housing in Serbia is not enacted in the Constitution or in any of the relevant statutes.<sup>118</sup> Although Slovenian Constitution has no provision on the fundamental right to housing,<sup>119</sup> the Slovenian state is obliged to create possibilities for the citizens to obtain a suitable housing, i.e. to provide for appropriate conditions for the citizens regarding housing (Article 78 of the Constitution). Finally, the Constitution of the Republic of Croatia does not explicitly mention the responsibility of the state to help its citizens in meeting their housing needs.<sup>120</sup> At the same time, the Croatian Constitution does provide for quite some provisions in accordance with which it can be said, that such a legal obligation of Croatian state does in fact exist.<sup>121</sup>

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<sup>114</sup> Slovenian official documents regarding the social and housing policy: National Housing Programme (NHP), The National Housing Savings Scheme (NHSS), The National Program of Social Security for 2011-2020.

<sup>115</sup> National Report for Slovenia, p. 53-58.

<sup>116</sup> National Report for Croatia, p. 71.

<sup>117</sup> National Report for Serbia, p. 44-47.

<sup>118</sup> National Report for Serbia, p. 48.

<sup>119</sup> National Report for Slovenia, p. 53.

<sup>120</sup> National Report for Croatia, p. 72.

<sup>121</sup> Constitutional provisions of proving the above are detailed in National Report for Croatia, p. 72.

## **2.2. Policies and actors**

### **2.2.1. Governmental actors**

In Slovenia, housing policy is responsibility of both national and local government, while meso-level of government in Slovenia has not been introduced yet.<sup>122</sup> In Serbia and Croatia, on the other hand, all levels of government are involved in the housing policy: national, regional and local.<sup>123</sup>

### **2.2.2. Housing policies**

In Slovenia, the main objective of national housing policy is the general concern for the housing situation in the state.<sup>124</sup> Currently and unfortunately, there is no active or effective housing policy in Slovenia. Also, no special housing policies targeted at certain groups of the population are present in Slovenia.<sup>125</sup>

In Croatia, there is no general housing policy, which would aim at meeting the needs of entire population. Instead, the particular housing programmes are aimed at meeting the housing needs of particular groups of population. For example, the social rental housing is aimed at meeting the needs of most vulnerable groups of society. Secondly, there is a housing program for refugees and returnees as well as housing program for war veterans. In addition, there is a notable program aimed at housing accommodation of the elderly and disabled population. Besides these, particular programs the Action Plan for the Decade of Roma Inclusion 2005-2015 was introduced. One of the measures of this plan is the legalization of Roma settlements and the improvement of their housing conditions.<sup>126</sup>

In all three countries, housing policies in general prefer and promote homeownership over renting. The rental sector in Slovenia and Croatia is under-regulated and neglected to a certain extent, while in Serbia the situation is even worse.

## **2.3. Urban policies**

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<sup>122</sup> National Report for Slovenia, p. 59.

<sup>123</sup> National Report for Serbia, p. 48, National Report for Croatia, p. 73.

<sup>124</sup> National Report for Slovenia, p. 60.

<sup>125</sup> National Report for Slovenia, p. 61.

<sup>126</sup> National Report for Croatia, p. 74-76.

Furthermore, there is no control of the quality of privately rented housing in Slovenia, Croatia or in Serbia.<sup>127</sup> The quality is determined and governed only by free market mechanism. In practice, this results in devastating living conditions of tenants in market rental sector.

Since in Slovenia genuine ghettoization is not an issue and the phenomenon of gentrification is not widely spread, there are no corresponding measures to avoid it.<sup>128</sup> Similarly in Serbia and Croatia at this time there are no special measures to prevent these two phenomena, even though in Croatia (especially in Zagreb and Split) the trends in urban development are showing the increase of ghettoization and gentrification.<sup>129</sup>

## 2.4. Energy policies

In Slovenia, the primary legal document regarding the energy policy is the Energy Act.<sup>130</sup> According to the Energy Act, Slovenian Parliament will enact the National Energy Program (NEP),<sup>131</sup> prepared by the Government.<sup>132</sup> In addition, pursuant to Article 68b of Energy Act, the owners of buildings are obliged to show their potential buyers or tenants energy performance certificate of the building before concluding a sale contract or a lease. For this reason the Energy Act has a direct influence on the housing policy and tenancy relations. Other measures include financial incentives - tax reliefs for energy-friendly building and dwellings.<sup>133</sup> Furthermore, on the local level each municipality or several municipalities jointly are obliged to plan the energy consumption and the energy supply scheme in the development documents at least every ten years.<sup>134</sup>

The two capital Croatian acts that were enacted in the framework of the energy efficiency (Physical Planning and Construction Act<sup>135</sup> and Energy Efficiency in Final Consumption Act<sup>136</sup>) set minimum requirements in construction and renovation of residential units in order to achieve energy efficiency. Furthermore, the owners of the residential units must obtain an energy performance certificate – energy certificate. From 1 of January 2016, the rental apartments will have to have a valid energy performance certificate available for the tenant before

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<sup>127</sup> National Report for Slovenia, p. 62, National Report for Serbia, p. 54 and National Report for Croatia, p. 77.

<sup>128</sup> National Report for Slovenia, p. 61-62.

<sup>129</sup> National Report for Serbia, p. 53 and National Report for Croatia, p. 76.

<sup>130</sup> Energetski zakon, (EZ-1), Official Gazette of RS, No. 79/1999 and later amendments.

<sup>131</sup> In Slovenian: "Nacionalni energetski program".

<sup>132</sup> Slovenian National Energy Program (NEP) is yet to be passed. At the moment there is only a draft version, which is in the process of coordination among ministers and public. The main goal of the NEP until the year 2020 is that entire stock of newly-build and renovated buildings are energy friendly.

<sup>133</sup> National Report for Slovenia, p. 64.

<sup>134</sup> This document is called »local energetic concept«.

<sup>135</sup> Zakon o prostornom uređenju i gradnji, Official Gazette of RC, No. 76/07 and later amendments.

<sup>136</sup> Zakon o učinkovitom korištenju energije u neposrednoj potrošnji, Official Gazette of RC, No. 152/08 and later amendments.

entering into a lease agreement. This regulation will therefore have a direct impact on rental housing.<sup>137</sup>

Although there are certain endeavours on the national level in Serbia to address energy efficiency of buildings, there is no general energy policy. The adopted documents are non-binding, which in general results in no significant change in the energy or housing policies of Serbia. The only new measure, which offers insight into the energetic efficiency of the dwelling, is “energy passport”.<sup>138</sup> It is obligatory for all the newly built dwellings as from 2013. It is mandatory also for the older dwellings, which are intended for sale, renting or reconstruction.<sup>139</sup>

As the result of the implementation of *acquis communautaire*,<sup>140</sup> Croatia and Slovenia have a more active national energy policy in the field of housing. Serbia, on the other hand, does not have a national energy policy, nor do local self-government units deal with the issue accordingly.

## 2.5. Subsidization

The Slovenian and Croatian systems of subsidization are different but they are based on the same ideas. Serbia, on the other hand, stands out, because the system of subsidization is very underdeveloped.

The only type of housing subsidy available in Serbia is approval of housing loans from commercial banks to citizens.<sup>141</sup> The subsidy has been subject to certain criticism, since the scale of subsidies for housing loans have only been supporting homeownership and some households, who are actually able to solve their housing issue on their own. Other housing subsidies are not available in Serbia.<sup>142</sup>

In Croatia and Slovenia, where all types of housing are subsidized (owner-occupied and rental housing), system of subsidization is much more effective. The largest part of subsidies in Slovenia is intended for rental sector (both market and non-profit). Some are available for tenants,<sup>143</sup> whereas others are intended for landlords.<sup>144</sup> The eligibility for the subsidy depends on the income census of the claimant and number of individuals living in households. The assignment of the subsidy is in the discretion of the public administration and is paid directly to tenant or to landlord. Various groups of people (students, janitor's, elderly,

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<sup>137</sup> National Report for Croatia, p. 77.

<sup>138</sup> The initial energetic passports indicate only the heating consumption of the dwelling and not the other consumptions.

<sup>139</sup> National Report for Serbia, p. 54-56.

<sup>140</sup> Especially due to implementation of the Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings.

<sup>141</sup> The subsidy was introduced in September 2009 with the Program on Subsidies of Loans for Newly-constructed Dwellings. For more on the topic see National Report for Serbia, p. 56.

<sup>142</sup> National Report for Serbia, p. 56.

<sup>143</sup> Tenant's oriented subsidies are regulated in the Exercise of Rights to public Funds Act (*Zakon o uveljavljanju pravic iz javnih sredstev* (ZUPJS), Official Gazette of RS, No. 62/2010 and its later amendment).

<sup>144</sup> Such as subsidy for dwellings that have social purpose.

invalids etc.) are entitled to subsidies as tenants. Subsidies during tenancy mostly assist the less well-off households with housing costs.<sup>145</sup>

Other subsidies available in Slovenia include those for renewal and restoration of dwellings and for green houses. Slovenian Eco Fund offers nonreturnable grants for the intended renewal and reconstruction of dwellings, which contribute to more eco-friendly and green houses.<sup>146</sup>

A system of subsidization in Croatia is predominantly well-developed and more or less effective (compared to other two countries under review). All types of housing in Croatia are subsidized, owner-occupied, private rental housing, public rental housing and social housing, i.e. housing with protected rent by different types of subsidies. Within the POS programme<sup>147</sup> subsidies for construction or reconstruction are available. Furthermore, within the programme of governmental subsidies and guarantees for housing loans the state subsidizes repayment or guarantees for the repayment of housing loan granted by commercial banks and within the housing savings programme the state gives an incentive on the savings. Rents and housing costs of private rental housing, social housing with protected rent and owner occupied housing, on the other hand, are subsidized by the local and regional authorities within the housing allowance system.<sup>148</sup>

Subsidization within the POS Programme works in the form of lower-than market interest rate for investment loans. Within the programme of governmental subsidies and guarantees for housing loan the subsidy is awarded as direct payment to the commercial bank that granted the housing loan or as guarantee to pay interest on overdue instalments. Within the housing savings programme the state gives an incentive on the amount paid to the savings during the year in the maximum amount of 750 HRK (around 100 EUR).<sup>149</sup> Finally, within the housing allowance system subsidies can be granted in an amount of money that is directly paid to the beneficiary (home owner) or the local authorities pay the costs directly to the providers of services.<sup>150</sup>

## 2.6. Taxation

Homeownership is taxed in all three countries under review, while renting is taxed mostly in Slovenia and Croatia and not so much in Serbia. However, taxes are imposed only on landlords, since Slovenian and Croatian tenants do not pay any taxes on their rental tenancies.<sup>151</sup> In Serbia tenants in rental tenancies must pay the Property Tax, but only if the rental contract is concluded for more than one year or for indefinite period.<sup>152</sup> In practice tenants in Serbia do not pay any taxes

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<sup>145</sup> National Report for Slovenia, p. 67-70.

<sup>146</sup> National Report for Slovenia, p. 69.

<sup>147</sup> More on the POS Programme see p. 14 of this report.

<sup>148</sup> National Report for Croatia, p. 80.

<sup>149</sup> National Report for Croatia, p. 81.

<sup>150</sup> National Report for Croatia, p. 82.

<sup>151</sup> National Report for Slovenia, p. 71 and National Report for Croatia, p. 87.

<sup>152</sup> National Report for Serbia, p. 59.

on their rental tenancies, since there are no contracts for market rentals concluded for period longer than one year or for indefinite period.<sup>153</sup>

In Slovenia and Croatia the value of occupying a house is considered as a taxable income. Ownership in both countries is taxed with the Value Added Tax Act, while in Serbia such act is not enacted. The profit derived from the sale of a residential home is taxed only in Slovenia. Natural persons, who become owners of dwellings in Slovenia after 1 January 2002, must pay the Tax on Capital Income upon sale of their dwellings.<sup>154</sup>

All three tax systems contain several subsidies given in the form of tax reliefs and credits. For example, in Croatia and Serbia the amount of rent for private landlords is reduced by 30% (in Croatia) or 20% (in Serbia) on the name of expenses.<sup>155</sup> Up to mid-2010 the tenants in Croatia were also able to deduct rent from taxable income, but after that time tax deduction was derogated.<sup>156</sup> Furthermore, in Slovenia and Serbia homeowners are also being treated favourably via tax system.<sup>157</sup>

The tax subsidies have negative effect on rental markets in all three countries under comparison. Since there is a tax relief for the owner occupying his dwelling, many do not register rental contract, but rather register themselves as having residence on the address of the dwelling.

Tax evasion is a major problem in Serbia<sup>158</sup> and also a rather topical issue in Slovenia, where the Inspection Office is not too restrictive with the inspections of landlord. Therefore many rental contracts are not registered. Accordingly, the rental market in Slovenia is affected in the sense that renters and landlords are without legal protection in the case of a problem.<sup>159</sup> For Serbia, there is no information on tax evasion to affect the rental market.

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<sup>153</sup> Rather chain contracts are concluded, if any.

<sup>154</sup> National Report for Slovenia, p. 71.

<sup>155</sup> National Report for Croatia, p. 87 and National Report for Serbia, p. 60.

<sup>156</sup> National Report for Croatia, p. 87.

<sup>157</sup> National Report for Slovenia, p. 71-73 and National Report for Serbia, p. 59-60.

<sup>158</sup> National Report for Serbia, p. 61.

<sup>159</sup> National Report for Slovenia, p. 73.



### 3. Comparison of tenures without a public task

#### 3.1. Evaluative criteria for the landlord

##### 3.1.1 Profitability

In all three countries under review rent regulation does not impede a reasonable profit of the landlord, since freely contracted market rents are not subject to any legal (or other) control as long as the profit from renting is reasonable and the rent or contract is not usurious. Usurious rents, however, are regulated by the current legislation in countries being compared.<sup>160</sup>

Slovenian, Croatian and Serbian landlords being natural persons are obliged to pay income taxes from rent. In Serbia, the tax base is equal to the amount of rent minus 20% on the account of standardized costs.<sup>161</sup> Legal persons, whose primary activity is renting apartments, are not subject to the income tax, but to profit tax in accordance with the Tax on Profit of Legal Persons Act.<sup>162</sup>

In Croatia, private landlords are taxed according to the Income Tax Act.<sup>163</sup> Taxpayer is the landlord – natural person when renting is conducted as an additional activity. The taxable basis is the amount of rent reduced by 30% on the account of the expenses. The tax rate is 12%.<sup>164</sup> In addition, the so-called self-employed landlords (i.e. landlords, who gain more than 85.000 HRK from rents in the period of one year) must pay the special income tax – income from independent personal activities.<sup>165</sup> Commercial landlords (i.e. natural and legal persons when renting is conducted as business activity aimed at gaining profit) are subjected to the payment of Corporate Income Tax regulated by the Profit Tax Law.<sup>166</sup>

In Slovenia, taxation of landlords being natural persons is governed by the Income Tax Act<sup>167</sup> and the Tax Procedure Act.<sup>168</sup> The tax base is income in the form of rent minus the normalized cost of 10% of the rent. However, Slovenian government already drafted a new Real Property Tax Act,<sup>169</sup> which would also

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<sup>160</sup> In Slovenia, pursuant to Article 119 of the 2003 Housing Act any rent, which is 50% or more percent higher than the average market rent in the municipality for equal or similar category of dwellings (taking into account also the location and equipment of the dwelling), deems as usurious. Likewise in Serbia, the tenancy contract, which would impose a very high or a very low rent for a dwelling, would according to Article 141 of the 1978 Obligation Relations Act be deemed as usurious. Finally, in Croatia, the rent according to provisions of Lease of Flats Act may not exceed 120% of the average contractually agreed rent in the same village or county for a comparable apartment.

<sup>161</sup> Article 68 of the Citizens' Income Tax Act.

<sup>162</sup> Zakon o porezu na dobit pravih lica, Official Gazette of RS, No. 25/2001 and later amendments.

<sup>163</sup> Zakon o porezu na dohodak, Official Gazette of RC, No. 177/04 and later amendments.

<sup>164</sup> National Report for Croatia, p. 86.

<sup>165</sup> The tax is calculated as if the renting is conducted as an independent personal activity and the income is determined on the basis of business books as the difference between business revenues and expenditures. The tax rate is 12%, 25% and 40% depending on the level of tax base.

<sup>166</sup> Zakon o porezu na dobit, Official Gazette of RC, No. 177/04 and later amendments.

<sup>167</sup> Zakon o dohodnini (ZDoh-2), Official Gazette of RS, No. 13/11 and later amendments.

<sup>168</sup> Zakon o davčnem postopku (ZDavP-2), Official Gazette of RS, No. 13/11 and later amendments.

<sup>169</sup> Zakon o davku na nepremičnine, Official Gazette of RS, No. 10/13.

cover the taxation of rents. But the Slovenian Constitutional Court unanimously annulled the real estate tax act after finding key parts of the law, including the way property has been valued for the purpose of levying the tax, unconstitutional.<sup>170</sup>

The idea regarding the costs of repairs, for which the landlord is responsible, is the same in the three laws under review. The primary concern of the landlord is to maintain the normal use of the dwelling and the building. In practice this means that landlords are obliged to conduct repairs not deriving from the tenants' normal use of the dwelling, but from the dwelling itself (such as changes of windows). Costs of small repairs and costs of regular use of the rented dwelling (such as repair of a broken chair that got broken during the tenancy), on the other hand, are borne by the tenants. However, taking into account principle of freedom of contract, the question of who is responsible for repairs can be also agreed upon differently between the parties. Hence, it is even possible that all repair works are charged from the tenant or from the landlord.

Costs of utilities are mainly in the domain of the tenant and not landlord, unless agreed otherwise in the contract. However, landlords in Slovenia must also secure payment into the reserve fund (in case of a multi-apartment building),<sup>171</sup> similar as landlords in Croatia must cover fee for mandatory maintenance.<sup>172</sup>

### **3.1.2. Property rights respected de iure and de facto**

In case of failure by the tenant to pay the rent the landlord is protected by law. Not paying the rent within the deadline set by the tenancy contract may result in termination of the contract. However, the landlord is obliged to warn the tenant about the breach of the contract first. If the tenant does not pay the rent even after (s)he was required to, the landlord may terminate the contract.

This regulation is common to all three laws. However, deadlines for the payment after receiving the notice from landlord differ to some extent. In Serbia and Slovenia, the tenant is obliged to pay the rent in fifteen days after receiving the notice. In Slovenia, additional deadline for rent payment may be also longer but not shorter. In Croatia, the landlord may terminate the contract, if the tenant fails to pay the rent within thirty days from receiving the notice.

Moreover, landlord is entitled to terminate the tenancy contract also in case of abuse or deterioration of the dwelling by the tenant. Such protection of landlord is guaranteed in all three laws.

If, upon the termination of a tenancy contract and expiration of termination period the apartment is not vacated and returned to the owner, the landlord is legally

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<sup>170</sup> Constitutional Court decision no. U-I-313/13 dated 21 March 2014.

<sup>171</sup> Reserve fund are compulsory monthly payments by condominium owners. The fund is intended for possible maintenance work on the building and cannot be used for other purposes. The manager of the building is in charge of the fund. He must open a special banking account only for storage of these payments.

<sup>172</sup> The fee of mandatory maintenance is a fee paid to a common »housing budget« of every dwelling owned by more than one owner. It is intended to be used for repairs and maintenance of the building itself and of the common spaces.

entitled to demand eviction of the tenant. In Slovenia and Croatia these disputes are handled by the court with a priority.<sup>173</sup>

In Serbia, landlord may request the eviction from the municipal authority, competent for housing matters.<sup>174</sup> The reason for putting in charge the municipal authority and not courts lies in the assumption that the municipal authority would settle the situation more promptly than courts. However, the municipal authority limits its administrative procedure exclusively to the indisputable facts of the case, when it is clear that the occupation of the dwelling is illegal. If the authority assesses that there is a dispute regarding the legality of the occupation, it refers the parties to the litigation in front of the competent court.<sup>175</sup> The eviction procedures, in front of the municipal organs, are also deemed as prioritized.

Deposit is the main form of landlord's security in all three countries under review. The legal concept is the same in Slovenia, Croatia and Serbia. Deposit is mainly a guarantee to cover potential claims of the landlord after termination of the contract on the account of possible damages.

The deposit is not legally regulated in any of the three countries. In practice, the usual value of deposit in Slovenia is between one to three monthly rents,<sup>176</sup> in Croatia between one to two monthly rents,<sup>177</sup> while in Serbia the amount of deposit is usually one (sometimes two) monthly rent(s).<sup>178</sup> However, deposits can be also higher, since it is usual for market tenancy contracts that the parties agree on the deposit.

The parties may agree that the deposit is returned after the termination of the contract or that it be offset with one or more last rents. There are no special provisions regulating the storage of the deposit. Interest rates are not anticipated. Landlord is allowed to use the deposit to restore the dwelling to the condition, in which it was before the tenant started his residence.<sup>179</sup>

In Serbia, other types of security are also legal (e.g. liens, guarantors etc.), but in practice only deposit is used.<sup>180</sup> In Slovenia, while the landlord does not have a statutory lien on the tenant's (movable) property, the landlord and the tenant may establish a contractual lien.<sup>181</sup> In Croatia, on the other hand, a statutory lien on the tenant's assets is provided for the unpaid rent as well as the damages claims. The landlord has the right to retain the movable property until the tenant pays the due rent or damages. In accordance with rules on retention right, landlord may sell the tenant's assets only if (s)he informed the tenant of such an intent.<sup>182</sup>

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<sup>173</sup> National Report for Slovenia, p. 164 and National Report for Croatia, p. 169.

<sup>174</sup> The request is filed with the municipal authority in the municipality, in which the dwelling is located. This is usually the Housing Department of the municipal authority.

<sup>175</sup> National Report for Serbia, p. 138.

<sup>176</sup> National Report for Slovenia, p. 131.

<sup>177</sup> National Report for Croatia, p. 144.

<sup>178</sup> National Report for Serbia, p. 109.

<sup>179</sup> National Report for Slovenia, p. 130-131, National Report for Croatia, p. 144-145, National Report for Serbia, p. 108-109.

<sup>180</sup> National Report for Serbia, p. 108.

<sup>181</sup> Provisions of the 2002 Law of Property Code (Stavarnopravni zakonik (SPZ), Official Gazette of RS, No. 87/02 and later amendment) apply.

<sup>182</sup> Article 75 of Civil Obligations Law (Zakon o obveznim odnosima, Official Gazette of RC, No. 35/05 and later amendments).

The possibility to terminate tenancy contract if house is needed for own use or close relatives is given under Croatian law, according to which a six months move-out period for the tenant applies,<sup>183</sup> as well as under Slovenian law.<sup>184</sup> In such case Slovenian landlord is obliged to provide other suitable apartment for the tenant and to pay for moving costs.

As already mentioned eviction procedure in Slovenia and Croatia is in the jurisdiction of the court, while in Serbia a municipal authority competent for housing matters is competent. The possibility of alternative dispute resolution is available as well, but no special procedures are developed precisely for these procedures (this applies mostly to Slovenia and Serbia).

The disputes are handled with priority in all three legal systems. However, in Croatia the legal procedures for termination and eviction take almost a year at the first instance and few years to be finally resolved.<sup>185</sup> For Slovenia and Serbia no official data are available in respect to the average length of procedure.

According to Article 93(2) of the 2003 Housing Act, the rent payment in Slovenia may be replaced by performance in kind according to the agreement between the parties. This Article regulates the situation when the landlord does not provide the normal use of the dwelling. In such case, the tenant has a right to propose to the Housing Inspection to issue an order, setting the deadline for the provision of proper conditions for use. If the landlord fails to execute the order within the set deadline, the tenant shall provide the needed repairs himself. The costs of the execution, alongside the interests, can be offset with active debts of the tenant to the landlord on the account of the rent.<sup>186</sup>

In Serbia, such practice is extremely rare but not impossible, although none of the statutes contains a provision which would enforce the performance in kind.<sup>187</sup>

## **3.2. Important evaluative criteria for the tenant**

### **3.2.1. Affordability**

The affordability of the tenant depends on different elements, such as initial rent, deposit, expenses, responsibility on repairs etc. Initial rent is of course the most important among them and therefore it needs to be the evaluated first.

The rent for market rentals in Slovenia, Serbia and Croatia is determined freely on the market, depending solely on the supply and demand. Its value is usually the result of the negotiation between landlord and future tenant, according to the location, size and equipment of the dwelling. No maximum amount of a freely

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<sup>183</sup> National Report for Croatia, p. 161.

<sup>184</sup> Article 106 of 2003 Housing Act.

<sup>185</sup> National Report for Croatia, p. 175.

<sup>186</sup> Article 93(2) of the 2003 Housing Act.

<sup>187</sup> National Report for Serbia, p. 105.

contracted rent is set, since rents for market rentals are not subject to any control in any of the three laws.<sup>188</sup>

In Slovenia and Serbia there is also no regulation of clauses on rent increase. Hence, a possible rent increase is left solely to the discretion of the parties. In Croatia, on the other hand, changes of rent in the open-ended tenancy contract are not allowed before the expiration of one year.<sup>189</sup> After the first year any party may propose the change of the rent in writing. The new rent amount is then maximized to 120% of the average contractual rent paid in the similar apartment in the area. If the new proposed rent exceeds the legally set amount, the tenant has the right to ask the Court to determine the rent in a 30 days period.<sup>190</sup> As far as automatic increase clauses or index-oriented increase clauses are concerned, all three law systems are unfamiliar with both of them.<sup>191</sup>

The next element influencing the affordability of the tenant is the regulation of deposit. At the moment of the conclusion of the tenancy contract the tenant usually pays the deposit. This type of guarantee to cover potential claims of the landlord after termination of the contract on the account of possible damages made by the tenant is common in all three countries under review.

As the deposits are predominantly agreed upon in private rentals, where written contracts can be a rare practice, it is advisable for the tenant to ask for the signed receipt. If a written contract is concluded, the amount of the deposit is usually determined in the contract.

The deposit is not regulated by Law in any of the three countries. In practice the usual value of deposit in Slovenia is between one to three monthly rents,<sup>192</sup> in Croatia between one to two monthly rents,<sup>193</sup> while in Serbia the amount of deposit is usually one (sometimes two) monthly rent(s).<sup>194</sup> However, deposits can be also higher upon agreement between the parties.

The parties have also the possibility to agree upon the rules of use of the deposit as well as on its interest rates. In practice, however, such provisions are rare. When the tenant is normally using the apartment, the landlord is obliged to return the deposit upon the cessation of the contract. Usually this will take place after the landlord checks that the apartment is in proper state and the keys to the apartment are returned. If the apartment is not in a proper state upon return, the deposit may be used for repairs. In practice, deposit is frequently used instead of payment of the last (one or two) rents.

One of the essential provisions of the tenancy agreement is who will pay the apartment utilities. Unless agreed otherwise, the utilities such as water, electricity, garbage removal, gas supply etc. are paid by the tenant. The running costs are usually not included in the rent price and are paid separately (on top of the rent).

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<sup>188</sup> National Report for Slovenia, p. 117, National Report for Croatia, p. 139 and National Report for Serbia, p. 101.

<sup>189</sup> Pursuant to Article 10 of the Lease of Flats Act.

<sup>190</sup> National Report for Croatia, p. 141.

<sup>191</sup> National Report for Slovenia, p. 126, National Report for Croatia, p. 141 and National Report for Serbia, p. 106.

<sup>192</sup> National Report for Slovenia, p. 131.

<sup>193</sup> National Report for Croatia, p. 144.

<sup>194</sup> National Report for Serbia, p. 109.

However, the parties may agree that the tenant is obliged to pay a lump-sum, covering both rent price and running costs. In this case, the tenant has no other costs, unless otherwise agreed.

Increase of prices of utilities normally has to be borne by the tenant. Usually it does not influence rents, since the tenant is paying the costs separately based on the invoice. Only in case of fixed rent clause (lump-sum) the increase of prices is borne by the landlord. It is important to note that in such case the rent does not increase automatically. The landlord is entitled to higher amount, but only if the increase is significant and (s)he manages to negotiate with the tenant a higher amount of rent. Consequently, this type of rent (lump-sum) is rare in practice.

The described arrangement regarding the expenses is applicable in all of the three countries. No significant differences among the countries under review were noticed.

Costs of repairs are mainly in the domain of the landlord and not tenant, unless agreed otherwise in the tenancy contract. This applies to Slovenia, Croatia as well as Serbia. The tenant will usually be responsible only for the costs of small repairs and costs of regular use of the rented dwelling, such as repair of a broken chair that got broken during the tenancy, repair of a broken glass window or change of broken siphons, wires and fuse etc.

According to all three legal systems, major repairs (such as changes of old windows) not derived from the tenants' normal use of the dwelling, but from the dwelling itself are the landlord's responsibility. However, taking into account principle of freedom of contract, the question of who is responsible for repairs may be also regulated otherwise. Hence, it is even possible that all repair works are paid by either party.

Tenants in Slovenia and Croatia do not pay taxes, since taxes are imposed only on landlords.<sup>195</sup> In Serbia tenants in rental tenancies must pay the Property Tax, but only if the rental contract is concluded for the period longer than one year or for indefinite period.<sup>196</sup> In practice this means that also tenants in Serbia do not pay any taxes on their rental tenancies, since there are no contracts for market rentals concluded for period longer than one year or for indefinite period.<sup>197</sup>

Finally, tenants in Slovenia and Croatia are entitled to subsidies, which during tenancy mostly assist the less well-off households with housing costs. As a proof of their status tenants must have a valid tenancy contract. This represents a problem especially in Croatia, where landlords are reluctant to conclude written tenancy contracts. Thus, tenants in Croatia rarely exercise their right to subsidy.<sup>198</sup>

In Slovenia, on the other hand, where a various groups of people (students, janitor's, elderly, invalids etc.) are entitled to subsidies as tenants, the subsidization of students, who reside in market rented dwellings, is quite common. In order to receive the subsidy, the student must fulfil certain conditions.<sup>199</sup> The subvention is

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<sup>195</sup> National Report for Slovenia, p. 71 and National Report for Croatia, p. 87.

<sup>196</sup> National Report for Serbia, p. 59.

<sup>197</sup> Rather chain contracts are concluded, if any.

<sup>198</sup> National Report for Croatia, p. 82.

<sup>199</sup> The student must fulfil following conditions: (i) Slovenian citizenship, (ii) status of student (regular or irregular) that is not employed, (iii) average gross income of the individuals in the household must not

awarded for the period of ten months, i.e. for the duration of the schooling semester, and it is paid out directly to the landlord.<sup>200</sup> Additionally, subsidy of market rent can be awarded also to tenants, who fall into the income census for subsidies in non-profit apartments and have applied for obtaining the non-profit apartment in the municipality of their residence, but failed to obtain it. The subsidy is paid out to the tenant, while (s)he pays full value of the rent to the landlord.<sup>201</sup> On the contrary, subsidization of tenants in Serbia is not even available. Hence, it is reasonable to argue that the position of tenants in Serbia is the least beneficial when comparing the possibilities to obtain a subsidy to tenants in the three legal systems.

### 3.2.2. Stability

Tenancy contract has to be made in writing. This legal requirement, which should bring some stability to the position of the tenant, is common to all three laws. The effect of the lack of a written agreement is, however, not always the same. According to Slovenian law, the absence of a written contract results in a null and void contract.<sup>202</sup> Similarly, oral contracts in Serbia do not have a legal effect,<sup>203</sup> since the written form is a condition for the existence of the contract and not merely a proof of it.<sup>204</sup> Pursuant to Croatian legislation tenancy contracts are valid if concluded in writing.<sup>205</sup> However, according to case-law, the “rule of consolidation”<sup>206</sup> may apply. Therefore, if the contract has been fulfilled in its whole or in its important part, it is validly concluded regardless of its (written or oral) form. The rule of consolidation only applies when both parties have fulfilled their obligations. Fulfilment of contractual obligations by one party only will therefore not suffice.<sup>207</sup>

Slovenian and Croatian law are also familiar with the landlord’s duty to register a tenancy contract, while in Serbian legislation no such obligation exists.<sup>208</sup> However, none of the first two systems is effective in case of the omitted registration. Provisions of the Croatian law do not have a desired impact in practice,<sup>209</sup> although a fine is imposed in case of omitting the obligation of

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exceed 150% of average gross salary per individual in Slovenia, (iv) has permanent residence more than twenty-five kilometres away from the institution and (v) has not been excluded from the residence hall.

<sup>200</sup> National Report for Slovenia, p. 69.

<sup>201</sup> National Report for Slovenia, p. 68.

<sup>202</sup> J. Šinkovec and B. Tratar, *Komentar stanovanjskega zakona* (2003), p. 102.

<sup>203</sup> S.R. Vukovič, *Komentar Zakona o stanovanju (sa Sudskim Praksom, Obrascima i Registrom Pojmova)* (2004), p. 41.

<sup>204</sup> National Report for Serbia, p. 86.

<sup>205</sup> Article 4 of Lease of Flats Act.

<sup>206</sup> Article 249 of Civil Obligations Law.

<sup>207</sup> Gorenc and others: *Komentar Zakona o obveznim odnosima* (2005), p. 883.

<sup>208</sup> According to the 2011 Residence and Domicile of the Citizens Act the landlords are obliged only to allow their tenants to register temporary and permanent residence.

<sup>209</sup> Article 26 of Lease of Flats Act provides the obligation to register a tenancy contract, which can be registered with the Local authority unit as well as the nearest Tax office. The contract has to be registered by the owner of the dwelling within eight days after the tenancy contract was signed. In practice many tenants are registered as “family members”, since the payment of taxes in such cases is not determined.

registration. As far as Slovenia is concerned, there was no special duty or requirement to register a tenancy contract prior to 1 July 2013. As of this date every new rental contract, as well as any change of the parties or the rent price, must be registered with the Geodetic Office of RS by the fifteenth of the following month. Due to the relatively new practice in Slovenian regime the possible effects of omitted registration will be seen in the future.

Among the incentives for the landlord to conclude an unofficial “black market” contract giving less stability to the tenant are the tax subsidies. They have major negative effect on rental markets in all three countries under comparison. Since there is a tax relief for the owner occupying his dwelling, many do not register rental contract, but rather register themselves as having residence on the address of the dwelling. Accordingly, the rental market is affected in the sense that renters and landlords are without legal protection in the case of a dispute.<sup>210</sup>

In Slovenia, Croatia and Serbia open-ended contracts for market rentals are not very common, although market rentals may be concluded for either limited period or as open-ended. In case of open-ended tenancies, tenants in Slovenia and Croatia are given adequate protection against unilateral termination by the landlord.

According to Slovenian legislation the landlord is able to terminate the contract if the so-called culpable reasons for termination exist<sup>211</sup> or for other reasons, as long as they are clearly governed by the rental contract.<sup>212</sup> In addition, even in such cases the tenant may prove before the court that the reason was incurred due to circumstances beyond his control or that he was unable to resolve them without fault at his part in due time.<sup>213</sup> Similarly, pursuant to Croatian legislation the landlord is able to terminate the tenancy contract for culpable reasons determined by law, i.e. if the tenant breaches some of his contractual or legal obligations.<sup>214</sup> The position of the Serbian tenant is, however, not as protected as in other two countries. In general, the landlord in Serbia does not need to state any reason for terminating open-ended market tenancy contract.<sup>215</sup>

As already indicated, market tenancy contracts are usually concluded as limited in time in practice.<sup>216</sup> In Slovenia and Croatia landlords are not given the chance to circumvent the protection of the tenant guaranteed in case of open-ended leases by concluding the fixed term lease. The above-described regulation regarding the possible unilateral termination by landlord also applies for cases of fixed term leases.

The protection or/and stability of the tenant in case of limited in time tenancy contract is also ensured in Serbia. Pursuant to Serbian regulation the premature

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<sup>210</sup> National Report for Slovenia, p. 73.

<sup>211</sup> According to Article 103 of the 2003 Housing Act there are twelve culpable reasons for termination.

<sup>212</sup> Article 105 of the 2003 Housing Act.

<sup>213</sup> Vlahek, 'Odpoved stanovanjske najemne pogodbe', *Podjetje in Delo*, no. 7 (2006), p. 1235-1236.

<sup>214</sup> Article 19 of the Lease of Flats Act.

<sup>215</sup> National Report for Serbia, p. 132.

<sup>216</sup> National Report for Slovenia, p. 116, National Report for Croatia, p. 137 and National Report for Serbia, p. 100.



termination of the limited in time contracts by the landlord is allowed only due to certain special reasons that are contained in 1978 Obligation Relations Act.<sup>217</sup>

In Slovenia, the prolongation of the contract is left to the explicit demand of the tenant. The tenant, who wishes to prolong the duration of the tenancy, is obliged to ask for the permission of the landlord within thirty days before the termination of the contract.<sup>218</sup> Otherwise the tenant is obliged to vacate the premises within the period determined in the contract. This is different in Croatia and Serbia, where it is possible to tacitly renew a tenancy contract.

In Croatia a tenancy contract for definite period may be tacitly renewed for the same duration if none of the parties gives notice in writing to the other party to enter into a fixed-term contract for a further period, 30 days prior the expiry of the contract.

According to Serbian legislation a tacit renewal of tenancy contract may apply if the tenant continues to use the dwelling after the termination of the agreed period, while the landlord does not object. In such case it is considered that the new open-ended contract was concluded under the same conditions as the previous contract.<sup>219</sup>

In case of a market rental the tenant and landlord are free to agree upon the duration of the contract. In practice most of the tenancy contracts in Slovenia, Croatia and Serbia are concluded for a limited time period (rather than open-ended contracts). In such case the contractual term of definite time period is regarded as essential.

For tenants in private rental market no general protection or social defences are available in the eviction procedure. This applies to all three countries under review. However, tenants in Slovenia, who are (in theory) protected from being unjustifiably evicted by the landlord, may be considered as only exception to the general rule.<sup>220</sup>

### **3.2.3. Flexibility**

Non-abusive subletting is allowed in all three systems, although there are some differences in the regulation (especially when comparing Serbia to Slovenia).

The landlord's approval of subletting is always required. However, according to Serbian legislation, the landlord is entitled to refuse the subletting only for justified reasons.<sup>221</sup> These reasons could refer to the leased asset in question, the personal characteristics of the sub-tenant or some other.<sup>222</sup> The Slovenian Code of Obligations (hereinafter also: CO) includes the same provision, according to

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<sup>217</sup> See Arts 582, 584 and 588 of the 1978 Obligation Relations Act .

<sup>218</sup> National Report for Slovenia, p. 116.

<sup>219</sup> Article 596 of the 1978 Obligation Relations Act.

<sup>220</sup> Pursuant to Article 106 of the 2003 Housing Act, if the landlord terminates the contract from a reason other than culpable reason from Article 103 or reasons contained in the tenancy contract, (s)he is obliged to provide another adequate dwelling for the tenant. Nevertheless, the tenant's rental position must not deteriorate.

<sup>221</sup> Article 587 of the 1987 Obligation Relations Act.

<sup>222</sup> Article 586(2) of the 1987 Obligation Relations Act.

which the landlord may oppose the sublease only on justified grounds.<sup>223</sup> In addition, subletting in Slovenia is also a subject to 2003 Housing Act, which is in relation to previously mentioned CO lex specialis. It is important to note that this act does not require justified grounds as a condition for refusing the subletting.<sup>224</sup>

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<sup>223</sup> Article 606 CO.

<sup>224</sup> National Report for Slovenia, p. 115.

## 4. Comparison of tenures with a public task

### 4.1. Generalities

Rental tenures with public task exist in all three countries under review. However, there are some differences among them.

In Slovenia the majority of rented housing represents dwellings with non-profitable rent, i.e. 70% of all rented units. These dwellings are awarded by municipality, state, public housing fund or other non-profit housing organization. They are intended for individuals with very low incomes, limited property and poor housing conditions.<sup>225</sup> Secondly, there are special purpose rental apartments designed to sooth the needs of elderly citizens, who are no longer able to supply themselves or to care for themselves. Nevertheless, they are capable of living a relatively autonomous life with rare help of the professional stuff. The apartments are constructed to serve the functional needs of elderly (for instance the dwelling do not have doorsteps, have wider halls, larger bathrooms, adjusted equipment etc.). The largest investor in these apartments is the Real Estate Fund of Pension and Invalidity Institution (hereinafter: Fund), whose owner is the Institution for Pension and Invalidity Security of Republic of Slovenia. The Fund is the owner of 170 apartments in nine municipalities across Slovenia, which represents 3% of all rented units.<sup>226</sup>

In Croatia there are three types of tenures with a public task. Social housing, which is intended for households of low income, is renting with protected rent. In most cases these housing units are owned by local authorities (cities) and the smaller part is in private ownership. Secondly, a latest program of public rental housing is an innovation in the housing program of two cities, Zagreb and Varaždin. This program has been proven as effective. Although the freely determined rent is prescribed by the by-laws regulating this program, it is classified under regular types in the rental sector with a public task. This is mainly for the purpose of this program, which aims are younger families with more children and without proper housing. In addition, the indirect goal of this program is to decrease the level of rent of the market rental housing. Next to these two groups, a special form of housing with public task was formed in Croatia. This is the so-called protected tenants' renting for former housing right holders.<sup>227</sup>

Non-profit rentals in Serbia also have a public task, although their share is rather modest. They encompass less than 2% of the entire housing stock in Serbia. These dwellings are awarded by local self-governed units or non-profit housing agencies, if such agency is established in the particular municipality. The situation has improved since the execution of the 2009 program Social Housing in the Supportive Environment, which introduced a new model of social housing. The main object of the project is to offer an adequate housing for socially underprivileged persons, as well as IDPs and refugees. Hence, a chosen

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<sup>225</sup> National Report for Slovenia, p. 78-80.

<sup>226</sup> National Report for Slovenia, p. 81-82.

<sup>227</sup> National Report for Croatia, p. 94-97.

individual is regarded as a host, whose responsibility is to help others in the building.<sup>228</sup>

From the above it is apparent that regulatory types of rental with public task are intended for different groups of people in each country. Social cases (individuals and/or households with lower income) are taken care of in all three countries to a certain extent. Slovenia has additional provisions for the elderly, while Croatian system is targeted also in protecting younger families in need. In Serbia system of tenures with a public task seems, however, the least effective among the three. Nevertheless, Serbians are looking for improvements.

#### **4.2. Evaluative criteria for public/social/private subsidized landlords**

Subsidization of landlords in tenures with a public task is underdeveloped in all three countries under review. In Serbia, such subsidies are not even available, while in Slovenia and Croatia landlords are merely encouraged to rent public/social/non-profit dwellings. In Croatia the subsidy for local authorities and other legal persons when acting as buyers of housing units for the purpose of social and public rental housing is prescribed. Similarly, landlords in Slovenia are entitled to subsidy for dwellings that have social purpose.

#### **4.3. Evaluative criteria for the tenant**

##### **4.3.1. Access**

In general, there is the lack of adequate supply in all three countries under review.

Non-profit and social housing in Serbia has been neglected since the dissolution of former Yugoslavia. Some improvements have been seen recently, with around 1.500 dwellings built in 2010 in various cities across Serbia. However, this is far from satisfactory supply due to emerging economic state in the country.<sup>229</sup>

The supply of dwellings with a public task is also insufficient in Slovenia. Taking into account the ageing population more purpose apartments are going to be needed in the future. Apart from that there is also a large demand for non-profit rentals, which has been somewhat reduced by introducing subventions for market rents in 2009. In spite of this, according to municipal data, there are around 8.300 households in need of non-profit dwellings.<sup>230</sup>

The number of households in need for social housing in Croatia increased in recent years according to the research that was made. This indicates that the problem of lack of adequate supply of dwellings with a public task is also present in Croatia.

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<sup>228</sup> National Report for Serbia, p. 67.

<sup>229</sup> National Report for Serbia, p. 30.

<sup>230</sup> National Report for Slovenia, p. 29.

The selection procedure of awarding non-profit apartments in Slovenia is based on a public notice, which is published in the media stating all necessary documentation that is to be submitted by the applicants.<sup>231</sup> For this reason alone it can be argued that the selection procedure is fair. In addition, incomplete applications may be completed in additional time limit. The right to appeal against the decision of the committee, which is entitled for forming the lists of eligible applicants, is also guaranteed.

General conditions of eligibility are: (i) Slovenian or EU citizenship, (ii) permanent residence in the municipality or the territory on which the landlord is operating, (iii) that the applicant and his family members have not already rented a non-profit apartment for indefinite period of time or (co)own a dwelling, (iv) that the applicant and his family members do not own a property in the value of 40% of an adequate dwelling and (v) the value of determined income census of the household. Every notice sets out particular target group, which is more prone to obtain an apartment. The fulfilment of conditions is assessed with points, whereas landlords are able to determine additional conditions. However, landlord must be careful to set conditions in a manner that the apartments are available for all social groups. Landlords have a right to request from the tenants to submit evidence on eligibility for non-profit rental every five years. If the tenant is no longer eligible, the contract can be change to market rental contract.<sup>232</sup> If the social circumstances of the tenant deteriorate again in the future, he has a right to request a non-profit rent again.<sup>233</sup>

The residents of special purpose rental housing in Slovenia can be elderly, who are psychophysically capable of autonomous life, but require some assistance with everyday work. Additionally, eligible are individuals, whose present residence is inadequate in some manner (too far from the urban area, inadequately equipped regarding their invalidity), then partners of eligible residents and individuals younger than sixty-five years, who fulfil other conditions.<sup>234</sup>

The application is available on special form. The selection procedure is in the jurisdiction of the special committee,<sup>235</sup> which is responsible to elect rightful claimants. The non-elected applicants have a right to appeal to the Fund.<sup>236</sup> Apart from the fulfilment of general conditions of eligibility, the applicants must have enough finance to cover the expenses of the rent and other costs. This provision can be characterized as relatively unfair, since it eliminates those, who might be most in need of assistance from the selection procedure.

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<sup>231</sup> Selection procedure of non-profit apartments in Slovenia is in the jurisdiction of special committees established by landlords. The committees are entitled for forming the lists of eligible applicants.

<sup>232</sup> National Report for Slovenia, p. 78-79.

<sup>233</sup> Article 90 of the 2003 Housing Act.

<sup>234</sup> The advantage is given to the Slovenian elderly (although Slovenian citizenship is not required), who need assistance from a professional, rather than to those, who reside in inadequate dwellings or areas, and to those, who have a permanent residence in the municipal, in which the rented dwelling is located. In addition, the advantage is given to the individuals without relatives, who would be able to take care of them.

<sup>235</sup> The special committee is formed on behalf of the Fund and legal person, who is responsible for the care in the dwelling.

<sup>236</sup> Deadline for the appeal is eight days from the notice.

In Croatia protected rent is paid by various groups of people, why this program should be quite effective. Firstly, the protected tenants, i.e. former holders of the housing rights, are entitled to it.<sup>237</sup> They acquired *ex lege* a status of a tenant with the right to conclude open-ended tenancy contract with protected rent.<sup>238</sup> Secondly, tenants eligible for social housing program, war veterans, victims of war, refugees and returnees are all entitled to protected rent. On the basis of the individual applications for tender of social housing a priority list is drawn up. The rank of the applicant on the priority list depends of the evaluation of the prescribed criteria. They are prescribed on the local level, usually in by-laws and decisions, so its town has its own criteria.<sup>239</sup> For this reason the fairness of the selection procedure may be questionable, although in practice these criteria are very similar and mostly refer to different social conditions of the applicant.

Regarding the public rental housing, both cities (Zagreb and Varaždin) conducted tenders for the allocation of public rental housing. The priority list was drawn up on the basis of the individual applications. The selection procedure and eligible criteria as prescribed by the by-laws were applicable.<sup>240</sup> The important part of selection of the appropriate applicant held also tenants' social and health status apart from the basic criteria based on their housing situation and income level. The tenancy contracts were conducted for the period of five years with the possibility of prolongation.<sup>241</sup>

The general conditions of eligibility for non-profit rentals in Serbia are given to individuals based on their housing situation, income level, health conditions, invalidity, number of household members and property situation. The priority is given to more vulnerable groups, such as youth, families with children, elderly over sixty-five years, single parents, invalids, IDPs and refugees, Roma and others.<sup>242</sup>

#### **4.3.2. Affordability**

A short overview of regulation of the initial rent in the three laws is required, before the comparison regarding its effectiveness can be made.

In Croatia, the level of protected rent is determined on the basis of conditions and measures set by the government,<sup>243</sup> but at the same time it cannot be lower than

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<sup>237</sup> More precisely this refers to: (i) tenants former holders of the housing rights on the former public (socially owned) housing or nationalized housing who did not exercise their right to buy dwellings they were living in, (ii) tenants former holders of the housing rights on the private housing who were not entitled by the law to buy housing they were living in and (iii) tenants former holders of the housing rights on the confiscated housing which were resulted to their previous owners.

<sup>238</sup> For this group of tenants Arts 30-50 of the Lease of Flats Act apply.

<sup>239</sup> National Report for Croatia, p. 95.

<sup>240</sup> Decision on renting of Public Rental Housing.

<sup>241</sup> National Report for Croatia, p. 99.

<sup>242</sup> National Report for Slovenia, p. 67.

<sup>243</sup> This controlled rent is paid by different groups of people, such as persons in social or public houses (social cases, war veterans) and former housing right holders.

the amount necessary to cover the costs of the maintenance of the building, as determined by a special regulation.<sup>244</sup> If the level of maintenance of the building is higher than the level of protected rent, protected tenant is obliged to pay the protected rent in the amount of the maintenance costs.<sup>245</sup>

In Slovenia, the rent for non-profit apartments is determined in accordance with a special methodology.<sup>246</sup> The basis is calculated according to administratively determined value of the dwelling. Newer and more modern apartments have more value points, therefore also higher rent price.<sup>247</sup> The rental prices of purpose apartments, on the other hand, are to be determined freely on the market.

The rent of social housing in Serbia is based on social and other criteria, such as area of the dwelling, quality of the dwelling and the building, in which the dwelling is situated. It does not include actual costs. The manner of calculations is set in Directions on the Manner of Determining the Rent.<sup>248</sup>

Based on the above it can be argued, that rental prices of dwellings with a public task are generally controlled in a certain manner, i.e. they are regulated with a specific methodology or based on certain criteria. This makes them more affordable compared to the private market rentals. Hence, the aim of achieving housing affordability, which is one of the aspects of the tenure with the public task, is reached. However, since people in need of these dwellings usually have lower income, the rental prices are merely more affordable.

Furthermore, tenants are protected by the legal regulation of rent increase. The increase of non-profit rents in Slovenia, the increase of protected rents in Croatia<sup>249</sup> and the increase of non-profit rents in Serbia<sup>250</sup> are all controlled by the law. In Slovenia, for example, if a landlord of a non-profit unit wants to increase the rent, the government must first amend the relevant Decree,<sup>251</sup> setting different value of elements of non-profit rent. The rent in non-profit rentals in Serbia is determined every six months by the government, which means the landlord cannot unilaterally increase the rent. In cases of protected and public rentals in Croatia, the rent is automatically increased when the relevant legal documents are changed.<sup>252</sup>

The next element influencing the affordability of the tenant is the regulation of deposit. Slovenia has the most unified and precise regulation of deposit for non-profit rentals among the countries under comparison. According to its legislation,<sup>253</sup> the landlord and the tenant must determine the mutual obligations regarding the deposit in tenancy contract. Contractual terms must define the payment, reimbursement and revaluation of the deposit. In certain cases the

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<sup>244</sup> Pursuant to Article 7(3) of the Lease of Flats Act.

<sup>245</sup> National Report for Croatia, p. 50.

<sup>246</sup> Article 117 of the 2003 Housing Act.

<sup>247</sup> National Report for Slovenia, p. 32.

<sup>248</sup> National Report for Serbia, p. 124.

<sup>249</sup> National Report for Croatia, p. 140.

<sup>250</sup> National Report for Serbia, p. 123.

<sup>251</sup> The Decree on the Methodology of Determination of Rents for Non-profit Housing and the Criteria and Procedure for the Implementation of Subsidised Rents.

<sup>252</sup> The Government of Decree or local Rules on the amount of protected or public rent.

<sup>253</sup> Article 13 of the Rules on Renting the Non-Profit Apartments (Pravilnik o dodeljevanju neprofitnih stanovanj v najem, Official Gazette of RS, No. 14/04 and later amendments).

landlord may approve the payment of the deposit in instalments. The level of the deposit for non-profit rentals is also regulated. Its value is limited with the level of maximum three monthly rent prices.<sup>254</sup>

In Croatia, the regulation of deposit for social and public tenants selected by tender procedure is also regulated, but only to a certain extent.<sup>255</sup> Therefore, the level of deposit is not regulated the same in all parts of the Croatia. For example, according to tender for public housing in Zagreb, 2 monthly rents have to be paid at the conclusion of a tenancy contract, while in case of tenders for social and public housing in City of Vinkovci no deposit is required.<sup>256</sup>

In Serbia, there are no relevant provisions on the amount of the deposit for the non-profit rentals.<sup>257</sup>

#### **4.3.3. Stability**

In order to ensure a proper stability for the tenant, contracts for non-profit rentals in Slovenia are always concluded for the indefinite period of time.<sup>258</sup> Same applies to protected tenants (former housing rights holders) in Croatia. The lease concluded between the landlord and the protected tenant is open-ended (until the death of the tenant), while tenders for social and public tenancy contract provide for different solutions depends on the municipal regulation.<sup>259</sup> Serbian tenants of non-profit rentals do not have such a protection as, for example, Slovenians tenants of non-profit rentals or protected tenants (former housing rights holders) in Croatia. According to Serbian legislation, if the tenancy contact does not determine the period for which it is concluded, the period is deemed as open-ended.<sup>260</sup> This means that tenancy contracts may be concluded for either limited period or for indefinite.

Tenants of tenures with a public task, however, do not have any an option to buy the dwelling. No such pre-emption right is provided in any of the three laws.

#### **4.3.4. Flexibility**

Non-abusive subletting is allowed in all three systems, although there is some differences in the regulation (especially when comparing Serbia to Slovenia) that need to be pointed out.

The landlord's approval of subletting the apartment is always required. However, according to Serbian legislation, the landlord is entitled to refuse the subletting only from the justified reasons.<sup>261</sup> These reasons could refer to the leased asset

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<sup>254</sup> Article 13(2) of the Rules on Renting the Non-Profit Apartments.

<sup>255</sup> National Report for Croatia, p. 144.

<sup>256</sup> Likewise in Zadar and Rijaka no deposit is required in case of tender of social housing.

<sup>257</sup> National Report for Serbia, p. 108.

<sup>258</sup> Article 90(1) of the 2003 Housing Act.

<sup>259</sup> National Report for Croatia, p. 138.

<sup>260</sup> Article 7(3) of the 1992 Housing Act.

<sup>261</sup> Article 587 of the 1987 Obligation Relations Act.



in question, the personal characteristics of the sub-tenant or some other.<sup>262</sup> The Slovenian Code of Obligations includes the same provision, according to which the landlord may oppose the sublease only on justified grounds.<sup>263</sup> In addition, subletting in Slovenia is also a subject to 2003 Housing Act. It is important to note that this act does not require justified grounds as a condition for refusing the subletting.<sup>264</sup>

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<sup>262</sup> Article 586(2) of the 1987 Obligation Relations Act.

<sup>263</sup> Article 606 CO.

<sup>264</sup> National Report for Slovenia, p. 115.

## 5. Conclusion

It may be generally noticed that Serbian tenancy law, as well as housing system in general, is underdeveloped compared to Slovenia and Croatia. Serbian legislation is obsolete and governmental control of rental sector is insufficient. There is also a lack of affordable housing. In Slovenia and Croatia, on the other hand, the situation in rental sector is more promising, although not without weaknesses. Slovenia and Croatia enacted more or less appropriate legislation, but tenancy law in both countries still does not function efficiently in practice.

Although the three tenancy law systems are quite different, they are faced with similar problems due to the same socialistic history. One of their crucial characteristics is an extremely high preference of home-ownership over renting. Tenancy as a tenure type is not preferred by the inhabitants and the rentals are seen as a measure of last resort. In addition, the long-term tenancy agreements in private market are so rare in practice that they are almost non-existent. In such circumstances both parties are unaware of their rights and obligations. To make tenancy more attractive, both legislative and financial reforms should be adopted. For example, in order to acquaint the citizens with their rights, a greater role should be given to associations of landlords and tenants.

Furthermore, from the legal perspective a lack of rental standards (especially in the market rental sector) is a problem. None of the valid statutes in Slovenia, Croatia or Serbia governs the (minimum) quality of rental dwellings. As a result, there is a prevalent opinion that rental dwellings are usually of lower quality, which adds to the stigmatization of renting in general. The truth is that some rented apartments are indeed inadequately furnished and maintain (especially those rented to less well-off individuals and migrants). Another reason is inefficient inspection authority in Slovenia and Croatia or even non-existing inspection authority or similar body controlling housing standards in Serbia.

A lack of written tenancy contracts in the market rental sector is a further problem. Written tenancy contracts are not only important as a proof of a tenancy relation, but also serve to inform the parties about their rights and obligations. As a result of the lack of written agreements the parties remain without legal protection in case of a dispute. This is especially disadvantageous for the tenant as the weaker party, who is in need of efficient legal protection. The most likely reason for not concluding a written tenancy agreement is the avoidance of taxes on renting by the landlords. As noted in section 2.6. (Taxation) of this report, the taxation policies of all the three countries under comparison have negative effect on the rental sector, however, for different reasons.

As far as housing with a public task is concerned, there is a lack of adequate supply in all three countries under review. Non-profit and social housing in Serbia has been neglected and is far from satisfactory. Similarly, the supply of dwellings with a public task in Slovenia and Croatia is insufficient. An increased supply could be encouraged by proper subsidies. Unfortunately, currently subsidization of landlords of tenures with a public task is underdeveloped in all three countries under review.

Finally, the most topical issue regarding tenancy at this moment (at least in Slovenia and Croatia) is not legal. It is rather the economic challenge of looking for possible

countermeasures for the consequences of economic crisis.<sup>265</sup> Among the effects of the economic crisis, the most pressing problem is a surplus of unsold apartments and deterioration of newly built apartments in Slovenia and Croatia. Countries have reacted differently to this problem.

In Croatia, the innovations in the POS programme and Rent-to buy Scheme have already been proven as very successful measures.<sup>266</sup> Meanwhile in Slovenia a different transitory solution for the banking crisis has been adopted. A bad bank (BAMC),<sup>267</sup> which has become the owner of many unsold apartments - either as a mortgagee or as a direct buyer - has been founded. Its aim is to return as much money as possible to the state budget. BAMC will start to sell the first apartments in the beginning of the year 2015, either selling them directly or applying a rent-to buy scheme. It is expected that after the entry of the BAMC in the real estate market the prices of other housing supply will decrease. Thus BAMC will surely have a decisive influence on the housing stock and housing conditions in Slovenia in the future.

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<sup>265</sup> For more on the crises see section 1.2.5. Effects of the current crisis in comparative perspective.

<sup>266</sup> For more on the POS Programme see p. 14 of this report.

<sup>267</sup> “Družba za upravljanje terjatev (DUTB)” is not a permanent and real bank, but a temporary financial solution for the economic crisis. Bad loans and credits have been transferred from the state owned banks to BAMC.

## 6. Tables

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