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

Tenant's Rights Brochure for BELGIUM

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Tenant's Rights Brochure

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1. Introductory information

- Give a very brief introduction on the national rental market
 - Current supply and demand situation

The special and complicating feature of Belgium is the fact that it has become a federal state quite recently, while responsibilities for housing were at different levels of government. Belgium consists of the Flemish Region, the Brussels Region and the Walloon Region. Since 1980 the Regions are responsible for social housing. The private rental sector falls within the scope of the federal state.

Since 1889, the central government's policy aim was to stimulate owner-occupation. Consequently, that sector has become the largest sector on the housing market, as Table 1.1 shows. Of the almost four million Belgian occupied dwellings in 2001, up from more than 3.5 million dwellings in 1991, the majority of dwellings are owner-occupied: almost 2.75 million in 2001, up from almost 2.5 million in 1991. Owner-occupation thus increased from circa 65% to almost 70% in ten years' time, while renting decreased from 35% to 31%). Country averages always conceal regional differences. In this case, the Brussels Region is "lagging behind" the national trend. It may be considered a well-known fact that rental dwellings generally are overrepresented in urban areas. The fact that the size of the Brussels rental sector decreased between 1991 (61%) and 2009 (55%) most likely must be ascribed to the emphasis in housing policy on home ownership.

More recent data than 2001 for all the categories of Table 1.1 and based on household data will be available in due course from the 2011 Census. Data from other sources than the Census report show slightly lower rates of home ownership than in 2001: 68% in 2007¹, 65% in 2009², and 68% in 2009³. Based on the share of population living in the different tenures. The most recent available data is for 2009, as Table 1.1 shows. The difference between the Flemish and the Walloon Region is five percentage points. As it is up from two percentage points in 1991 (but based on households), it may indicate that the rate of home ownership in Flanders is growing faster than in the Walloon Region.

¹ Based on calculations with EU-SILC 2008 database reported on in: Marietta Haffner, Christian Lennartz & Kees Dol, 'Housing', in *Countries compared on public performance. A study of public sector performance in 28 countries. Appendices*, ed. Jedid-Jah Jonker (The Hague: The Netherlands Institute for Social Research, 2012a), 91.

² Based on OECD Housing Market questionnaire reported on in: Dan Andrews, Aida Caldera Sánchez & Åsa Johansson, *Housing Markets and Structural Policies in OECD Countries*, *OECD Economics Department Working Papers*, No. 836 (no place of publication: OECD Publishing, 2011), 16.

³ Dol & Haffner, *Housing Statistics*, 64.

Table 1.1 Tenure structure: share of occupied owner-occupied and rented dwellings, in Belgium and the Administrative Regions (%), 1991 and 2001 (based on occupied dwellings population)⁴

	1991		2001		2009	
	Owner-occupation	Renting	Owner-occupation	Renting	Owner-occupation	Renting
Flemish Region	69	31	74	26	77	23
Walloon Region	67	33	70	30	72	28
Brussels Region	39	61	43	57	45	55
Belgium	65	35	70	31	72	28
Belgium, dwelling total	1,270,000*	2,400,000*	2,709,868	1,188,255	NA	NA

* Estimated from graph.

N/A = data not available

Based on number of households, it is the outright owners (households without a mortgage) that make up the largest tenure in Belgium (36%). The Walloon Region can be found exactly on the country-average, while it is higher for Flanders (39%) and much lower for Brussels (22%). With a Belgian average of 30% the group of home owners with a mortgage comes second (30%); again following a similar distribution across the regions: highest for Flanders (32%), closely followed by the Walloon Region (31%) and the Region of Brussels (17%).

Furthermore, given the urban context (see above), Brussels with 12% is the region with the largest share of renting with a public task (here called the rental tenure with a below-market rent; with 47% it is also the region with the largest share of private renting (the sector without a public task). Thus the growth of home ownership has cause the rental sector to decline.

Table 1.2 shows data on the housing stock for both government levels for the years 1991 and 2001 because of the national survey which was held. In this period the stock of occupied private dwellings increased 9%, more in the Flemish Region (9.6%) and the Walloon Region (9.5%), and less in the Brussels Region (3.7%). In the period 1981-2009 the total housing stock is estimated to have increased with about 40%.

Table 1.2 (Occupied) housing stock, in Belgium and the Administrative Regions, 1981, 1991, 2001, 2009

	Housing stock	Occupied private stock				Housing stock
	1981, 31 March ⁵	1991 ⁶	2001	2001 (%)	Development (%) 1991-2001	2009 ⁷
Region of Flanders	1,961,481	2,141,557	2,348,025	58	9.6	NA*
Walloon Region	1,184,822	1,212,139	1,327,084	33	9.5	NA*
Region of Brussels	453,674	394,468	408,882	10.0	3.7	NA*
Belgium	3,599,977	3,748,164	4,083,991	100.0	9.0	5,043,000

*NA: Data not available

The normal tenure structure of renting versus owning is described in Section 1.2 (see also Summary table 1).

⁴ Calculation with EU-SILC database from: Sien Winters & Kristof Heylen, *Kwaliteit en betaalbaarheid van wonen: een vergelijking tussen de drie Belgische gewesten als case voor het testen van de samenhang tussen huisvestingssystemen en woonsituatie van huishoudens met een laag inkomen* (Leuven: Steunpunt Wonen, 2012), 4.

⁵ Boelhouwer & Van der Heijden, *Housing Systems in Europe: Part I. A Comparative Study of Housing Policy*, 85.

⁶ 1991 and 2001 from Vanneste, Thomas & Goosens, *Woning en woonomgeving*, 38. The statistics on occupied stock do not allow for determining the number of vacant dwellings, as can be observed in: Kees Dol & Marietta Haffner, *Housing Statistics in the European Union 2010* (The Hague: Ministry of the Interior and Kingdom Relations, 2010), 63.

⁷ K. Dol, Kees & M. Haffner, *Housing Statistics in the European Union 2010*, The Hague: Ministry of the Interior and Kingdom Relations, 2010, 60.

- Main current problems of the national rental market from the perspective of tenants
 - Finding an affordable rental dwelling in the private rental sector is difficult.
 - Shortage of social dwellings.
 - Potential tenants have to join a social housing waiting list, without getting the guarantee that a dwelling will be allocated.
- Significance of different forms of rental tenure

In Belgium it is the landlord's nature that largely determines whether one can speak of social or private renting. If private persons or companies let dwellings, they belong to the private rental sector. If a registered or accredited social housing association lets dwellings, they are considered as social rental dwellings. The regional housing societies are responsible for the accreditation of the social landlords.

- Private renting

In the Flemish Region, private landlords with small portfolios dominate the rental market sector. On average, each private person or individual landlord let 2.2 dwellings in 2005, while 60% of them owned no more than one dwelling for renting. The self-employed with 46% are the biggest group of private person landlords.

Most private individual landlords (more than 70%) manage their dwellings themselves. The remainder make use of one of two types of agent or intermediary organisation which operate on this market: the commercial real estate agents with a share of almost 29% and the social rental agencies that manage the remainder of the dwellings (about one percent). The latter dwellings are officially regarded as social rental dwellings and are discussed in the next section.

- "Housing with a public task" (e.g. dwellings offered by housing associations, public bodies etc.)

The regulatory tenure with a public task has been called social renting in Belgium. The main landlords will be the registered or accredited social housing associations. As explained in Section 1.4, they are called different names in the Administrative Regions:

- In the Flemish Region, they are called *sociale huisvestingsmaatschappij* (SHM). In total there are 102 housing associations active.
- In the Walloon Region the social landlords are called *Sociétés de Logement de Service Public* (SLSP). Sixty-eight (or 70) of this type of social landlords are active. They manage 103,000 dwellings, which is about one quarter of the housing stock in the Walloon Region. They house about 214,000 people, about six percent of the Walloon population. There are 32,000 tenants on the waiting list. New constructions amount to about 620 units per year.
- In Brussels the social landlords may also be called SHM or *Openbare Vastgoedmaatschappij* (OVM). Thirty-three OVMs are active in the Brussels Region. In total they owned 38,000 dwellings in 2009; the biggest one renting out almost 3,600 dwellings; the smallest one owning 276 dwellings.

- Some general recommendations to foreigners on how to find a rental home (including any specificities with respect to the position of foreigners on the national rental market)

It is advisable for tenants to be assisted by a real estate agent. Only registered agents are permitted to act as intermediate between tenants and landlords. Also, a prospective tenant should be aware that contracts may differ in period of time. Besides this, generally speaking, a tenancy contract can only be set aside by the landlord.

- Main problems and “traps” in tenancy law from the perspective of tenants
 - Written contracts: Tenancy contracts with a duration of no longer than 9 years concerning dwellings used as the tenants’ primary residence must be registered at the registration office where the dwelling is located.
 - Parties must attach an inventory of dwelling. This prevents legal discussion.
 - The right to attach a parabolic antenna to the dwelling is still a discussion.
 - Potential tenants paying a deposit without getting access to the rented dwelling.
 - It is advisable to place the deposit on an interest-bearing bank account in the tenant’s name. This is a blocked account and the tenant’s authorization is required to withdraw the money.

- Important legal terms related to tenancy law (see Table 1.3)

Table 1.3 Important legal terms related to tenancy law

<i>Brusselse Gewestelijke Huisvestingsmaatschappij</i>	Brussels Regional Housing Association
<i>Identificatie nummer Rijksregister</i>	National Register’s identification number
<i>Kaderbesluit sociale huur</i>	Frame work Social Rent
<i>Openbaar Centrum voor Maatschappelijk Welzijn</i>	The Public Centre for Social Welfare
<i>Plaatsbeschrijving</i>	Inventory
<i>Sociale huisvestingsmaatschappij</i>	Housing association
<i>Sociale verhuurkantoor</i>	Social Rental Agency
<i>Soci�t� Wallonne du Logement</i>	Walloon Society of Housing
<i>Woningkwaliteitsnormen</i>	Housing quality standards

2. Looking for a place to live

2.1. Rights of the prospective tenant

- What bases for discrimination in the selection of tenants are allowed/prohibited? What about, for example, status as a foreigner, student, unmarried partner, or person with a short-term work contract?

The federal state has implemented two Acts to prevent discrimination: the Antidiscrimination Act and the Antiracism Act. These acts are only applicable for dwellings in the private tenancy sector which are made available to the general public. The Antidiscrimination Act prohibits discrimination based on age, sexual orientation, disability, religion or belief, marital status, birth, wealth, political opinion, trade union beliefs, language, current or future state of health, physical or genetic property, and social origin. The Antiracism Act prohibits discrimination based on nationality, a so called race, skin colour, heritage or national of ethnic origin.

The holder of a uniform European Blue Card enjoys equal treatment with nationals of the Member State issuing the Blue Card, regarding access to goods and services and the supply of goods and services made available to the public, including procedures for obtaining housing.

EU citizens who reside more than three months in Belgium do no longer have to make an application for establishment and need no longer to be in possession of a Belgian residence permit (purple or blue card). Consequently, EU citizens and their family members have to be treated equally as Belgian citizens.

With respect to the regions it can be said that Flemish Housing Code and the Framework Social Rent (*Kaderbesluit Sociale huur*) include the obligation for the social landlord to implement an objective allocation system. In the Brussels Region, the Brussels Housing Code was amended in March 2009, which prohibits racism and discrimination. The Walloon Region has amended the 6 November 2008 *Decreet ter bestrijding van bepaalde vormen van discriminatie*, which abandons racism and discrimination.

- What kinds of questions by the landlord are allowed (e.g. on sexual orientation, intention to have children etc.)? If a prohibited question is asked, does the tenant have the right to lie?

Information concerning the name, surname the number of persons who will live in the dwelling can be gathered lawfully. Questions about the tenant's insolvency (e.g. payslips and other income documents are allowed as long as the information is used only to check whether the prospective tenant is solvent. The handover of the document is not allowed, as the landlords check is merely to conclude whether the prospective tenant is solvable. Questions concerning tenant's handicap or health status are not allowed, unless the prospective tenant has given his permission in writing (which always is revocable) and the permission is necessary in order to be granted a dwelling which is adjusted for handicaps or tenants with health issues. Collecting data about ethnic decent, place of birth, date of birth and nationality is a

priori discrimination according to the Antidiscrimination Act. The tenant does not have to answer these questions.

- Is a “reservation fee” usual and legal (i.e. money charged by the landlord to allow the prospective tenant to participate in the selection process)?

The costs for the provided services may not be charged to the tenant, unless the tenant has assigned the agent to act as an intermediary. Moreover, the agent may only receive fees from his client, unless stipulated otherwise.

- What kinds of checks on the personal and financial status of the tenant are usual and legal (e.g. the landlord requiring an independent credit report)?

Checks on payslips and other income documents are allowed as long as the information is used only to check whether the prospective tenant is solvent. The handover of the document is not justified, as the landlords check is merely to conclude whether the prospective tenant is solvable. A tenant does not have to provide a certificate of good conduct. Furthermore, a check on the tenant’s National Register’s identification number is prohibited.

With respect to the social tenancy sector, it can be said that each region has its own regulations and conditions concerning the registration and allocation of social dwellings. A candidate-tenant must meet additional requirements in order to get registered and to get a dwelling allocated, e.g., an age and income check. Therefore, these checks are allowed.

- What is the role of estate agents in assisting the tenant in the search for housing? Are there other bodies or institutions assisting the tenant in the search for housing?

Rental agencies can find rental property according to the client’s wishes by doing a so-called ‘sign hunting’. The agency checks advertisements in newspapers, magazines, internet and other available recourses and draws up an inventory of the available housing stock. Furthermore, it will provide their clients a list of available dwellings and contact details. The client has to contact the landowner and do all the negotiations by himself.

Registered agents provide other types of services, such as the managing the property and collecting the rent for the landlord. In order to do so, parties must conclude a contract.

Besides the above mentioned options, a tenant can also apply to a social rental agency.

Social Rental Agencies aim to create an alternative to market rent for vulnerable tenants who are unable to find a social rental dwelling. They do not act as intermediaries or as rental agents or real estate agents. The prospective tenant must meet several conditions in order to be entitled to a dwelling and has to take a vesting into consideration.

- Are there any accessible “blacklists” (or equivalent mechanisms) of bad landlords/tenants? Is there a system for rating and labelling preferred landlords/tenants?

Blacklists fall under the Privacy Act’s scope and must comply with this Act. Such lists harm tenant’s interests. The constitutional right to a decent dwelling could be damaged by this list. A blacklist may only be drawn up, if it meets the Privacy Act’s conditions.

2.2. The rental agreement

- What are the requirements for a valid conclusion of a rental contract (is written form necessary; is registration necessary and if yes, what kinds of fees apply lawfully)?

Only those who are legal competent may conclude contracts. To conclude a valid tenancy contract both parties’ declaration of intention concerning the dwelling and the rent payment is required. The contract must be in writing. However, it should be noted that oral contracts are also valid. There is no fee for the conclusion of tenancy contracts. It should be noted that written contracts must be registered by the landlord within two months at the local office of the Receiver of Registrations, Ministry of Finance by submitting a signed contract or a copy of it. Within these two months, registration is free of charge. The contract can be submitted via internet, e-mail or ordinary post.

- What is the mandatory content of a contract?
 - Which data and information must be contained in a contract?

The following data must be included in the contract:

- the landlord’s and tenant’s identity;
- the starting date;
- description of the spaces in the rented dwelling;
- the rent.

- Duration: open-ended vs. time limited contracts (if legal, under what conditions?)

Four types of private tenancy contracts can be concluded.

Firstly, standard contracts can be concluded for a period of nine years. Oral agreements are also considered to be concluded for a period nine years. The same applies for contracts with a duration between three and nine years or which do not state a duration and for contracts concluded after 31 May 1997 for an indefinite period. Oral agreements concluded before 28 February 1991 follow the same regime as the aforementioned contracts.

Secondly, parties can conclude a contract for a period of three years or less.

Thirdly, tenancy contracts can also be concluded for a period longer than nine years, however, no longer than 99 years. These contracts must be in writing.

The fourth exception to the general rule is that, as of 1 June 1997, contracts can be concluded for the duration of the tenant's life. The contract ends by law, when the tenant dies. The applicable provisions are mandatory.

- Which indications regarding the rent payment must be contained in the contract?

The contract should state the rent, when it is due and how it should be paid.

- Repairs, furnishings, and other usual content of importance to tenant
 - Is it legal for the landlord to shift the costs for certain kinds of repairs (if yes, which?) to the tenant?

The tenant must, by nature of the contract and without need of any particular stipulation, maintain the dwelling in order so that it can serve the use for which it has been let.

What is the landlord's responsibility?

The basic rule is that the landlord must deliver the dwelling in good repair or whatever character. During the contract, he is responsible for the damages as a result of normal wear and tear, normal use, old age, major repairs, major maintenance, force majeure and hidden defects. Furthermore, he must, make all the repairs, which may become necessary, other than those incumbent upon the tenant. Finally, keeping the wells and cesspools clean is also the landlord's responsibility.

What is the tenant's responsibility?

The tenant is responsible for repairs and day-to-day and routine maintenance, which are not major repairs or major maintenance. Furthermore, he is not responsible for the damages as a result of normal wear and tear, normal use, old age. Damages caused by the tenant, his family members or visitors must also be repaired by him. The same applies for damages as result of a fire, unless it is force majeure.

Furthermore, the tenant is responsible for the repairs regarding:

- fireplaces, back-plates, mantelpieces and mantelshelves;
- the plastering of the bottom of walls of flats and other places of dwelling, to the height of one metre;
- pavements and tiles of rooms, where only a few are broken; panes of glass, unless they are broken by hail, or other accidents, extraordinary and by force majeure, for which a tenant may not be made responsible; and
- doors, windows, boards for partitioning or closing shops, hinges, bolts and locks.

- Is the landlord or the tenant expected to provide furnishings and/or major appliances?

It is not expected from the landlord to provide furnishing and/or major appliances, unless otherwise stipulated. However, the landlord must provide his tenant a suitable dwelling, which means that the dwelling must meet the basic quality requirements of

safety, health and habitability.

The tenant is obliged to sufficiently furnish the rented dwelling. It serves as a security for the rent payment. This obligation lapses, if the tenant pays the full rent or the entire rental period in advance or pays it over the course of the lease. The landlord may also seize the furniture in the dwelling to ensure the rent's payment. The seizing is allowed without a court's leave.

- Is the tenant advised to have an inventory made so as to avoid future liability for losses and deteriorations (especially in the case of a furnished dwelling)?

The description of the dwelling is detailed in the tenancy contract itself. In case wrong data is provided by the landlord, he can be held liable for the consequences. Parties must make a detailed inventory to avoid future liability for losses and deterioration.

- Any other usual contractual clauses of relevance to the tenant

The following usual contractual clauses are relevant to the tenant:

- the clause concerning which states that the dwelling is used by the tenant as his primary resident;
- the clause on the payment of rent when it is due;
- the clause concerning the deposits;
- the clause describing under what circumstances the landlord may enter the dwelling;
- the clause concerning the responsibility of repairs;
- the clause concerning keeping animals.

- Parties to the contract

- Which persons, though not mentioned in the contract, are allowed to move into the apartment together with the tenant (partner, children etc.)?

The landlord must respect the tenant's family and private life and may not interfere. Therefore, unless parties have contracted otherwise, he is free to decide with whom he will share his dwelling. However, the tenant is restricted, as his landlord may object if objective conditions justify so, e.g., overcrowding or subletting.

- Is the tenant obligated to occupy the dwelling (i.e. to use as tenant's primary home)?

The tenant must use the lease property as his main residence for himself and his family. If the tenant does not comply with the obligation to reside in the dwelling himself, he will be in default. The landlord may demand from the justice of peace that the contract will be set aside.

- Is a change of parties legal in the following cases

- divorce (and equivalents such as separation of non-married and same sex couples)

Consequences if spouses divorce

Both spouses have signed the tenancy contract

In case both spouses have signed the tenancy contract, they are both tenants. If it is their family dwelling, both spouses are, even after a divorce, still jointly and separately liable. A notice to terminate the contract, given by one spouse, is null and invalid. Both parties jointly must give notice to terminate the contract.

The departing spouse has signed the tenancy contract

Also in this case, the same principle applies as describes above. Both spouses are tenants. They can only jointly give notice to terminate the contract.

Legal consequences if legal co-habitees separate

Legal co-habitees and married couples are by law treated equally.

Legal consequences if the spouses actual separate

Both spouses have signed the tenancy contract

If one spouse leaves the dwelling, he still remains contract party and, therefore, still is jointly and severally liable with his the spouse who stays behind. This means that only both spouses can give notice to terminate the contract. There are authors claiming that it is possible to give notice without the other spouse's cooperation.

The actual departing spouse has signed the tenancy contract

Another scenario is that the departing spouse has signed the tenancy contract and leaves the dwelling. In that case, the dwelling can no longer be considered as the principal residence. The spouse who remains behind may only reside in the dwelling, if the landlord explicitly agrees in writing that the tenancy contract is transferred to him.

Legal consequences for unmarried couples living together

The protective provisions do not apply to unmarried couples living together. If there are two tenants and one has left the dwelling, he still is jointly and severally liable.

- apartments shared among students (in particular: may a student moving out be replaced without permission of the landlord);

If a landlord rents out a separate apartment in a building to a student, the other students do not have the right to decide who will replace the student who moves out of his apartment. However, if a student rents a room and he is allowed to sublet or transfer a part of the tenancy contract, he is entitled to decide who replaces the student who moves out. It is not unlikely that parties have agreed that sharing the dwelling is not allowed without the landlord's permission. Such a stipulation is valid and the landlord may refuse the new student.

- death of tenant;

Tenancy contracts are not terminated by the landlord's death. The landlord is considered to have stipulated for himself and for his heirs and assigns, unless the parties have agreed otherwise or it results from the nature of the contract. It should be noted that Flemish and Brussels social tenancy contracts will be terminated by operation of law when the last tenant dies.

- bankruptcy of the landlord;

Generally, a landlord's bankruptcy does not terminate the tenancy agreement by law. However, it will terminate by law, if one of the bankruptcy is a condition subsequent or the contract has a intuited personae-character. This means that the identity of one of the parties is of overriding importance. In case of a bankruptcy, the bankruptcy trustee is, under conditions, entitled to terminate contracts which were concluded before the adjudication order was issued.

- Subletting: Under what conditions is subletting allowed? How can an abuse of subletting (when the tenant is offered not an ordinary lease contract but only a sublease contract) be counteracted?

In case a private tenancy contract is concluded and the tenant uses the dwelling as his principle residence is not allowed to sublet the dwelling completely. The tenant may sublet a part of it under the conditions that the remainder part of the dwelling remains assigned as his principal residence. The landlord has to grant him permission, which can be also given tacitly or afterwards. The tenant may in no case sublet the dwelling or a part of it in case a social tenancy contract is concluded.

- Does the contract bind the new owner in the case of sale of the premises?

Whether the change of landlord though sale also changes the tenant's position, depends on the questions whether the tenancy contract is registered and therefore has a 'fixed date'.

The position of the tenant, who has a contract with a fixed date, does not change, if the dwelling is transferred to the buyer. The buyer cannot evict the tenant, even if this right is reserved in the tenancy contract.

The consequences for a tenant with a contract without a fixed date depends on whether he resides longer or shorter than 6 months in the rented dwelling. If the tenant resides longer than 6 months, the buyer should respect the tenancy contract. Nevertheless, he has the right to terminate it, if (a) he takes a notice of three months into consideration and (b) he will reside in the dwelling himself. The three months' notice must be served to the tenant within three months after the execution of the authentic deed of sale. The result of non-compliance with this deadline is that the buyer must respect the tenancy contract.

If the tenant resides less than 6 months in his dwelling, he is less fortunate. The buyer can terminate the contract without a reason and without owing him compensation.

- Costs and Utility Charges

- What is the relevant legal regulation of utilities (i.e. the supply of water, heating and electricity)? Must the landlord or the tenant conclude the contracts for provision of utilities?

If no agreement has been made, the tenant should only bear the costs and expenses associated with a service or performance which the tenant takes advantage of, such as heating, electricity and gas. He may conclude an individual contract with the suppliers.

- Which utilities may be charged from the tenant by the landlord? What is the standard practice?

The landlord may charge the tenant the heating, electricity and gas. Parties may decide that the tenant concludes an individual contract with the suppliers.

The landlord may also provide this service by concluding a contract and having the tenant pay him. In this case, the tenant should only pay the actually incurred expenses. Parties may agree a payment of an irrevocable fixed amount and this may differ from the actually incurred expenses. If that is the case, parties should take into account that unilateral adjustment is not allowed. They may request the justice of peace revision of the fixed amount or conversion in the actually incurred expenses. Furthermore, each year the landlord must provide the tenant detailed annual settlement.

- Is the tenant responsible for taxes levied by local municipalities for the provision of public services (e.g. for waste collection or road repair)?

Only the taxes concerning the use of property, such as waste collection, antipollution tax may be charged from the tenant.

- Is it lawful to shift condominium costs, and if yes, which ones, onto the tenant (e.g. housekeeping costs)?

There is a separate regulation for apartment buildings, in case the landlord provides the heating, electricity and gas. If the management is in one hand and the apartment building has more than one apartment, it is sufficient that the cost calculations are presented and that the individually invoices are deposited for inspection. This includes providing a copy, if requested.

- Deposits and additional guarantees
 - What is the usual and lawful amount of a deposit?

If the tenant guarantees a deposit in cash, a maximum deposit two months' rent is allowed, provided that it is paid once in full. He may also have his bank issue a bank guarantee, which may not exceed an amount of three months' rent.

- How does the landlord have to manage the deposit (e.g. special account; interests owed to the tenant)?

There are three possibilities for the landlord to manage the deposit.

- *Deposit in cash*

A payment in cash can be placed in an interest-bearing bank account in the tenant's name. This is a blocked account and the tenant's authorization is required in order to withdraw the money. If the landlord receives the deposit in cash and he refuses to deposit it in to the account, he owes the tenant an average market rate of interest. Moreover, if he remains in default after receiving notice, he must pay the tenant the statutory interest as of the notice date.

- *Issuance of a bank guarantee*

The tenant must pay the bank instalments for a maximum of three years. In return, the bank provides the landlord a guarantee letter. On the one hand, the bank will not receive any interest from the tenant. And on the other, the bank will only have to pay the tenant the interest from the day the deposit is fully paid.

- *Issuance of a bank guarantee with the assistance of OCMW*

Tenants who have access to social assistance can be assisted by the local OCMW i.e. the Public Centre for Social Welfare. The bank can issue a bank guarantee through the intermediary of the OCMW and it will stand surety for the tenant. Also in this case, the deposit may equal a maximum of three months' rent.

These deposits can only be resealed after the contract has ended under condition that both parties agree or by a court verdict.

- Are additional guarantees or a personal guarantor usual and lawful?

A deposit in kind may also be agreed upon by parties. The above described legal limitations will then not be applicable. This means that even jewelry, shares, gold, etc. can be handed over to the landlord. Moreover, there is no maximum deposit amount to take into consideration.

- What kinds of expenses are covered by the guarantee/ the guarantor?

The general rule of contractual freedom applies here and parties may decide which expenses are covered.

3. During the tenancy

3.1. Tenant's rights

Defects and disturbances

- Which defects and disturbances are legally relevant (e.g. mould and humidity in the dwelling; exposure to noise e.g. from a building site in front of the dwelling; noisy neighbours; occupation by third parties)?

If it is clear that it the landlord is responsible for the defects, he is obliged to repair it or pay the costs involved.

The landlord has the obligation to warrant his tenant against third parties' legal acts. He is not obliged to warrant the tenant against defects which third parties cause to his quiet enjoyment under a tenancy contract. Nevertheless, the tenant may proceed against them in his own name. This means that noise from a building site in front of the dwelling, noisy neighbours or damages caused by third parties are not qualified as defects.

With respect to occupation of third parties and squatters, the landlord has to warrant his tenant only in case the third party claims to have a real right or a personal right with respect to the dwelling. If this is not the case, the landlord is not required to guarantee the tenant against disturbance which third persons cause by acts of violence against his enjoyment.

- What are the tenant's remedies against the landlord and/or third parties in such situations (e.g. unilateral rent reduction vs. rent reduction to be allowed by court; damages; "right to cure" = the landlord's right to repair the defect; the tenant first repairs the defect and then claims the costs from the landlord)

In case of a defect, the tenant must immediately notify the landlord. As of that moment, the tenant has several legal options:

- a) he may claim that the contract will be set aside including compensation,
- b) he can claim rent reduction,
- c) he can claim the repair of the dwelling at the expense of the landlord, or
- d) he can claim other compensation.

- Repairs of the dwelling
 - Which kinds of repairs is the landlord obliged to carry out?

The basic rule is that the landlord must deliver the dwelling in good repair or whatever character. During the contract, he is responsible for the damages as a result of normal wear and tear, normal use, old age, major repairs, major maintenance, force majeure and hidden defects. Furthermore, he must, make all the repairs, which may become necessary, other than those incumbent upon the tenant. Finally, keeping the wells and cesspools clean is also the landlord's responsibility.

- Does a tenant have the right to make repairs at his own expense and then deduct the repair costs from the rent payment?

The tenant can claim the repair of the dwelling at the expense of the landlord, or make the repairs himself and claim rent reduction.

- Alterations of the dwelling
 - Is the tenant allowed to make other changes to the dwelling?

Alterations, not leading to a change in the dwelling structure, such as decorative embellishment, may be executed by the tenant.

- In particular, adaptations for disability (e.g. building an elevator, ensuring access for wheelchairs etc.)

A landlord cannot forbid the tenant to make reasonable adjustments to the dwelling which are needed to accommodate a handicap. The landlord's refusal to make reasonable adjustments is considered to be discrimination of persons with disabilities. However, there is no discrimination if the adjustment to make the dwelling accessible for wheelchair users is an unreasonable burden for the landlord.

- Affixing antennas and dishes

Contractual clauses may prohibit that tenants erect a (parabolic) antenna. However, under European law, it is doubtful that landlords can invoke these clauses.

The European Court of Human Rights ruled that a country may breach an individual's right to freedom of information, if they are constrained from having a satellite dish on their property. A contractual clause, which prohibits erecting satellite antennas, may be an unlawful breach of the tenant's right of freedom to receive information. The right to have a satellite dish to receive free information may be limited, but only on very serious grounds of public interest. The interests of the tenant and landlord will have to be weighed up. Furthermore, the landlord's restriction should be proportionate in relation to the tenant's interests.

- Repainting and drilling the walls (to hang pictures etc.)

Repainting the walls is allowed, unless parties have agreed otherwise. Furthermore, the tenant is allowed to drill the walls, as long as this does not lead to a change in the dwelling structure.

- Uses of the dwelling
 - Are the following uses allowed or prohibited?
 - keeping domestic animals

A prohibition to keep too many or dangerous pets or pets which cause damage or inconvenience is allowed.

Parties may stipulate otherwise. Nevertheless, landlords have to make sure that the tenancy contract does not violate the tenant's private and family life. It can be said that a general prohibition to keep pets is disproportionate. However, a limited prohibition is allowed. The justice of peace decides on a case-by-case basis whether a contract can be terminated, if a tenant violates the ban on keeping pets (e.g., a dog or a cat).

- producing smells

A use clause can be found in nearly every standard tenancy contract. It states the permitted and prohibited uses of the dwelling in a general or more specific ways. Tenants who do not abide by the agreement are in breach of contract. Tenants who cause odour nuisance can be held liable to those who suffer from the nuisance. The landlord cannot be added as a third party in a legal action.

- receiving guests over night

The right to receive guests is a part of the tenant's private and family life. He may receive as many guests as he wishes, also over-night.

- fixing pamphlets outside

Right to freedom of expression falls under the scope of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Belgian Constitution. Nevertheless, it is subject to certain restrictions, such as the interests of national security and discrimination regulations.

- small-scale commercial activity

The tenant must use the dwelling with due care and according to the purposes intended by the lease, or according to the circumstances failing an agreement. The tenant may not, without the landlord's consent, change the intended purpose. The landlord's consent can be given tacitly, but the mere fact that the landlord does not respond, does not imply that he has given his consent. An explicit stipulation of the

purpose should be applied strictly. If the tenant uses the dwelling in another way than it was intended for, the landlord may, according to the circumstances, have the lease terminated by the justice of peace. It is not required that the landlord has suffered damage.

3.2. Landlord's rights

- Is there any form of rent control (restrictions of the rent a landlord may charge)?

If a contract is governed by private tenancy law, the rent, with respect to short-term (maximum duration of three years) contracts, is controlled. This restriction is to prevent that new short-term tenancy contracts are concluded systematically between the same parties or with another tenant, each time at a higher rent.

Parties are allowed to extend a short-term contract once under the same conditions. The rent may only be increased with the statutory rent indexation, unless:

- the rental value of the dwelling has increased or decreased with at least 20% due to new circumstances, or
- the rental value has increased with at least 10% due to performed work, such as a renovation. The Court of Cassation ruled that this is mandatory law.

If parties do not respect these limitations, the tenancy contract is considered not to be extended under the same conditions. Consequently, by law, the short-term contract will be converted into a standard contract (nine years contract). The commencement date equals the commencement date of the first short-term contract. The aforementioned consequence also applies in the following situations:

- if the contract is extended for the second time;
- if the same parties conclude a different contract;
- if the same parties conclude a second contract under different conditions;
- if parties have not given a notice in time to terminate the first or second contract;
- if the contract duration is more than three years;
- despite a valid notice, the tenant continues to live in the dwelling, without the landlord opposing;
- if the second contract is concluded under (more or less the same conditions), but with another tenant.

In all the aforementioned situations, the rent is blocked for nine years.

Statutory rent indexation is allowed, even if parties have not concluded this. After the nine years period, parties are free to conclude a new rent. This has to be done in writing.

If a social tenancy contract is concluded, it is advisable to contact the social landlord as the rent control regulations on regional levels differ from the private tenancy law. Each region has its own complex regulation concerning rent control.

- Rent and the implementation of rent increases
 - When is a rent increase legal? In particular:
 - Are there restrictions on how many times the rent may be increased in a certain period?

There is no distinction between open-ended contracts and contracts limited in time. The rent may be indexed every year by the landlord. The contract does not have to include an explicit provision. An automatic indexation is not allowed. There is no automatic rent increase.

In case a social tenancy contract is concluded, it is advisable to contact the social landlord, as each region has its own system for increasing or decreasing the rent.

- Is there a possible cap or ceiling (fixed by statute or jurisprudence) which determines the maximum rent that may be charged lawfully?

Landlord and tenant may freely decide what the rent will be and there is no orientation with respect to the market rent. The Flemish Region has developed a tool to help the landlord and tenant determine a rent price for dwellings in the Flanders Region. This tool can be found on <https://www.woninghuurprijzen.be/>

- What is the procedure to be followed for rent increases? To what extent can the tenant object to a rent increase?

The possibility to index the rent should be requested in writing by the landlord and it has a retroactive effect limited to three months. This means that the landlord's request may be done after the date on which the rent can be indexed, but it will only have effect for the last three months. Rent will be time-barred after one year. The time limit will begin on the day on which the request has been sent to the tenant.

The new rent can be calculated as follows:

$$\text{New rent} = \frac{(\text{initial price of the contract} \times \text{consumer price index})}{\text{beginning consumer price index}}$$

A website maintained by the Belgium government offers a calculator in order to determine the new rent in an easy way.

http://statbel.fgov.be/en/statistics/figures/economy/consumer_price_index/rent_calculator/

It should be noted that the initial rent is the rent which was agreed on in the first contract and it may not include other costs and charges.

- Entering the premises and related issues
 - Under what conditions may the landlord enter the premises?

The landlord is obliged to provide the tenant the peaceful enjoyment of the dwelling for the duration of the contract. Therefore, the landlord is not allowed to enter the dwelling at any moment without the tenant's permission to, e.g., check whether urgent work has to be carried out or whether the tenant complies with the designated use of the dwelling. This right elaborates on the tenant's fundamental right to privacy and the fundamental right of inviolability of the home.

In some situations, the landlord has the right to enter the rented dwelling, for example to draw up a detailed inventory. If, during the lease, the dwelling needs repairs and these cannot be delayed, the tenant must tolerate them. Even if they cause inconvenience to him and they deprive him of the use of a part of the dwelling while the repairs are carried out. However, if such repairs last more than forty days, the rent will be diminished in proportion to the time and to the part of the dwelling of which he was deprived. Furthermore, the landlord may enter the dwelling with a prospective tenant or buyer, but only if the contract provides this option. If this matter is not arranged, it is the justice of peace who decides.

Obviously, in all these cases, the landlord has to inform his tenant about the intended visits. This also applies in cases the landlord has reserved this right in the tenancy contracts (although this is called into question in the literature).

- Is the landlord allowed to keep a set of keys to the rented apartment?

There are several opinions concerning the question whether a landlord is allowed to keep a set of keys of the rented dwelling. On the one hand, it is said that he may not keep a set of keys without the tenant's permission. On the other, if he may keep a set of keys, he may not enter the dwelling without the tenant's permission. The tenant may not refuse his permission on unreasonable grounds.

- Can the landlord legally lock a tenant out of the rented premises, e.g. for not paying rent?

Locking a tenant out of the rented dwelling is not allowed.

- Can the landlord legally take or seize a tenant's personal property in the rented dwelling, in particular in the case of rent arrears?

A landlord may seize the furniture in the dwelling to ensure the rent payment. The seizing is allowed without a court's leave.

4. Ending the tenancy

4.1. Termination by the tenant

- Open ended contract (if existing): under what conditions and in what form may the tenant terminate the tenancy?

Tenancy contracts are fixed-term contracts and these type of contract are in principle non-terminable, unless it is regulated by law or parties have agreed otherwise. The term and deadlines which must be respected are described below.

- Under what circumstances may a tenant terminate a tenancy before the end of the rental term (e.g. unbearable neighbours; bad state of dwelling; moving for professional reasons)?

The party towards whom the engagement has not been executed has the choice either to force the other to execute the engagement, if this is possible, or to claim damages. Rescission must be sought at law, and the defendant may be granted a delay according to the circumstances. An express resolutely clause is considered not written. Nevertheless, parties are allowed to agree that the tenant, the landlord or both, may resolute the contract in certain events, (e.g., a diplomat clause meaning that in case the tenant will be reassigned, a shorter notice period applies).

In case the dwelling is in a bad state the tenant may request to court to terminate the contract or claim damages.

If, during the period of the contract, the dwelling is completely destroyed by a fortuitous event, the contract is terminated as a matter of law. If it is destroyed partly, the tenant may, according to the circumstances, demand either a diminution of the rent or the termination of the contract itself. Neither cases give rise to indemnification. The same rules apply if the government decides to expropriation for public use.

- May the tenant leave before the end of the rental term, if he or she finds a suitable replacement tenant?

The law describes if and under which conditions a private tenancy contract can be terminated or early terminated.

There are four types of tenancy contracts under private tenancy law. Each has its own regime when it comes to termination or early termination.

1. Early termination of a standard contract (nine years)

The tenant can terminate the contract at any time during the contract period with a notice period of three months. The tenant must pay the landlord a fixed compensation, if he ends the contract during the first three years period. The following fixed compensations are applicable:

- three months' rent, if the contract ends during the first year of the contract;
- two months' rent, if the contract ends during the second year of the contract;

- one months' rent, if the contract ends during the third year of the contract.

However, if the tenancy contract is still not registered within two months after closing the contract, the tenant can terminate the contract at any moment, without a notice period or paying a fixed compensation.

Furthermore, the landlord has no right to a fixed compensation, if the notice period ends on the last day of the third year of the tenancy contract. The same is applicable in case the tenant terminates the contract after the third year. Moreover, no compensation has to be paid in the case parties mutually agree to terminate the contract.

The tenant's statutory notice options are mandatory. Stipulations which are in conflict with mandatory provisions have no effect.

2. Early termination of a short-term contract

Parties do not have a unilateral right to early terminate a short term contract. However, the case law accepts a contractual stipulation concerning early termination in favor of the tenant. Stipulations, which are in the landlord's favour, are void.

3. Early termination of a long-term contract (longer than nine years)

The tenant can terminate the contract at any time during the contract period with a notice period of three months. But he must pay the landlord a fixed compensation, if he ends the contract during the first three years period. The fixed compensations are:

- three months' rent, if the contract ends during the first year of the contract
- two months' rent, if the contract ends during the second year of the contract
- one months' rent, if the contract ends during the third year of the contract.

Generally speaking, a contract for the duration of the tenant's life terminates when the tenant dies. The tenant may always terminate this contract at any moment, even if it is not stipulated in the contract itself. The termination is subject to three months' notice.

4. Social tenancy contract

The regulation concerning termination and early termination in social tenancy law differs from private tenancy law regulations. Each region has its own regulation. Therefore it is recommended to contact the social landlord for the specific rules on this subject.

4.2. Termination by the landlord

- Open ended contract (if existing): under what conditions and in what form may the landlord terminate the tenancy (= eviction) (e.g. the landlord needs the house for himself or wants to renovate and use it differently in the future)?

The (early) termination of a private tenancy contract for the duration of the tenant's life by the landlord is only possible if it is stipulated in the contract.

- Must the landlord resort to court?

The landlord does not have to resort to court.

- Are there any defences available for the tenant against an eviction?

Private tenancy contracts

The tenant has, in exceptional and difficult circumstances, a certain statutory prolongation right to extend the tenancy contract for an additional period of time. This is called the "social clause". Examples of such circumstances are serious illness, old age, the death of a next of kin, and pregnancy. He can claim this right in any case the landlord has given notice to (early) terminate the tenancy contract.

The tenant must request the landlord, by registered letter, to renew the contract not later than one month before the expiry of the contract. Non-compliance with the aforementioned term entails nullity. The tenant may also request a contract extension, if he has given notice to terminate the tenancy contract. Moreover, the tenant's request can also be done in case the dwelling has been transferred to a new owner or the landlords' heirs or beneficiaries.

In case the landlord grants his permission, parties can agree upon the duration of the extended contract. In case the landlord refuses, the justice of peace has to decide. Both parties' interests and their age have to be taken into consideration. Renewal for an indefinite period is not allowed.

If the judge extends the existing contract, it will be done under the same contractual conditions, except for the conditions which are altered by court judgement. The judge may grant the landlord compensation, in case the contract will be extended. The contract terminates without prior notice and a short-term contract (*three years or less*) will not be converted into a standard contract (*nine years*). The landlord has to take into account that, if at the expiration of a written tenancy contract, the tenant remains in the dwelling and is left in possession, a new tenancy contract arises whose effect is regulated by the same conditions as the previous contract.

Social tenancy contracts

The regulation in social tenancy law differs from private tenancy law. Therefore it is recommended to contact the social landlord for the specific rules on this subject.

- Under what circumstances may the landlord terminate a tenancy before the end of the rental term?

Private tenancy contracts

Termination by landlord: early termination of a standard privacy contract (nine years)

The landlord has three options to early terminate a standard contract. These are further detailed below.

Early termination by landlord: for one's own or his family's use

The landlord may terminate the contract early, if he wishes to reside in the dwelling or have it occupied by his family. This includes:

- The landlord's children, (great-)grandchildren, adopted children, parents, (great-)grandparents, brothers, sisters, uncles, aunts, cousins, nephews and nieces.
- The landlord's spouse, his/hers spouse's children, (great-)grandchildren, adopted children, parents, (great-)grandparents, brothers, sisters, uncles, aunts, cousins, nephews and nieces.

Early termination by landlord: building activities

The second possibility to early terminate a private tenancy contract is, if the landlord wishes to refurbish, rebuild and/or reconstruct (a part of) the dwelling.

The early termination is possible at the end of the first and second three-year period and is subject to 6 months' notice and has to be in writing.

Early termination by landlord: without stating reasons

The third and last option for the landlord to early terminate a private tenancy contract can be done without stating reasons. This is allowed at the end of the first and second three-year period. The landlord has to give a 6 months' notice.

Unlike the above two options to early terminate a contract without paying a compensation, the landlord must compensate the tenant:

- nine months' rent if the contract period ends at three years, and
- six months' rent if the contract period ends at six years.

For the sake of clarity, no compensation is due if the contract ends after the nine-year period.

It should be noted that parties may agree to exclude or restrict the right to early termination.

Short-term private tenancy contract

Early termination of a short-term private tenancy contract is excluded by law.

Long-term private tenancy contract (longer than nine years)

The options to early terminate a long-term private tenancy contract are the same as the termination options for standard private tenancy contracts (nine years contracts).

Private tenancy contract for the duration of the tenant's life

The (early) termination of a private tenancy contract for the duration of the tenant's life by the landlord is only possible if it is stipulated in the contract.

- Are there any defences available for the tenant in that case?

For this question reference is made to “*Are there any defences available for the tenant against an eviction?*”

- What happens if the tenant does not leave after the regular end of the tenancy or does not hand in (all) the keys of the dwelling?

In such cases, the landlord can start an eviction procedure with the court of justice.

4.3. Return of the deposit

- Within what timeframe and under what conditions does the landlord have to return the tenant's security deposit?

Parties may agree themselves on this subject. If not, the landlord must return the deposit within a reasonable time. The tenant has to send a default notice, after which the landlord will be in default. The deposit, which is placed in an interest-bearing bank account, can only be paid to the tenant, if both parties agree.

- What deductions can the landlord make from the security deposit?

The deposit may be used to repair damage beyond normal tear and wear or to restore personal property other than because of normal wear and tear, such as a broken key. It may also be used in case the tenant is in breach of contract.

- In the case of a furnished dwelling: may the landlord make a deduction for damages due to the ordinary use of furniture?

The deposit may be used to restore personal property other than because of normal wear and tear

4.4. Adjudicating a dispute

- In what forum are tenancy cases typically adjudicated?
 - Are there specialized courts for adjudication of tenancy disputes?

The forum for tenancy cases is the justice of peace court is a judicial sub district; it is the justice of peace who has competence, regardless the amount, to tenancy disputes.

- Is an accelerated form of procedure used for the adjudication of tenancy cases?

All claims in matters of tenancy law fall within the jurisdiction of the justice of peace court of the place where the dwelling is located, regardless of the amount of the claim. The justice of peace court is a judicial sub district; the justice of peace has competence, regardless the amount, to tenancy disputes.

- Is conciliation, mediation or some other form of alternative dispute resolution available or even compulsory?

Although out-of-court settlements are encouraged , as of 1 January 2003 there is no compulsory mechanism of conciliation or alternative dispute resolution. Parties may even well decide to have their dispute settled by means of mediation or arbitration. The same procedure applies for private and social tenancy contracts.

Social tenancy contracts

Flemish Region: Internal complaint handling

Besides bringing an action before the justice of peace, tenants in the Flemish Region can also file a formal complaint against their social landlord. The social landlord must handle the complaint within 45 calendar days. It has to notify the social tenant in writing about the findings of the complaint's investigation and its reasons for its findings. The social tenant has to be notified, in case the complaint can be lodged with the Flemish Ombudsman Service or with another agency.

Flemish Region: External complaint handling

The Flemish Ombudsman Service examines the functioning of the administrative authorities of the Flemish Region.

Social Housing Supervisor

The Flemish housing code described in which cases social tenants can make objections with the *Social Housing Supervisor against* social landlord's decisions. For example, the decisions concerning the allocation of a dwelling and the decision to refuse a candidate-tenant.

Brussels Region

In Brussels social tenants can make objections to the allocation of housing. But it has no *Ombudsman Service*, such as the *Flemish Ombudsman Service*, where citizens can submit their complaints.

Walloon Region

In 2011 the Walloon Region introduced the "service de mediation" for anyone who has a dispute with a Walloon authority. This institution can be compared with the *Flemish Ombudsman Service*.

5. Additional information

- How does a prospective tenant proceed in order to get social or subsidized housing (e.g. dwellings offered by housing associations, municipalities, public bodies etc.) or housing allowances?

In order to rent a social dwelling, the tenant must subscribe himself to an accredited social housing landlord. A dwelling can be allocated, if the tenant meets certain conditions with respect to e.g., his age, income, composition of the family and assets. In Flanders, a tenant can also subscribe himself to a Social Rental Agency. Social Rental Agencies aim to create an alternative to market rent for vulnerable tenants who are unable to find a social rental dwelling. They do not act as intermediaries or as rental agents or real estate agents. The prospective tenant must meet several conditions in order to be entitled to a dwelling and has to take a vesting into consideration.

On the one hand, a social rental agency act as tenant, if a contract is concluded with a landlord. On the other hand, the agency itself acts as a landlord, if the dwelling is thereafter rented out to a tenant. This tenancy contract is governed by social tenancy law.

People living in rented accommodation in Flanders can apply for housing benefit. The application must be sent to 'Wonen-Vlaanderen' Agency.

- Is any kind of insurance recommendable to a tenant?

It is advisable to conclude an insurance that covers legal expenses. This insurance covers the judicial and extrajudicial litigation costs, the cost of lawyers, bailiffs, experts, mediators, and implementation. The premium is limited to € 144 per year with a tax benefit (exemption from tax which the government normally raises from insurance contracts).

The Minister of Justice and Minister of Consumer Affairs introduced the 'Insurance legal aid contract'. This guarantees the free choice of a lawyer in case a judicial or administrative proceeding is initiated or if a conflict arises between insurer and insured. Furthermore, it guarantees that the insured has the right to choose a lawyer in case of disagreement between the insurer and the insured.

- Are legal aid services available in the area of tenancy law?

In Belgium, the right to legal aid is a constitutional right and laid down in the Belgian Constitution. It is the legislators aim to enable citizens to defend their legitimate interests. To guarantee this right, the Belgian Constitution expressly instructed the legislature to take the necessary measures to meet this aim.

Nevertheless, this does not imply that the legislature itself should provide for help. It also does not imply that the assistance should be free of charge. However, for those who have insufficient income, the government must bear the costs associated with the conduct of legal proceedings.

To ensure that the social right of legal aid has a broad range, the legislator has developed several options, which are described below.

1. First inquiry

The main task of the 'first inquiry' is to inform citizens concerning legal questions and if necessary refer them to a specialized body or organization. The first inquiry is organized in all houses of justice by legal assistance. It is free of charge and anonymous.

2. Primary assistance: first legal advice

Lawyers provide primary legal assistance in the form of practical and legal information. They can initiate legal opinion or refer to a specialized body or organization. This assistance is free of charge.

3. Secondary legal assistance: advocate's assistance

Secondary legal assistance is provided to an individual in the form of a detailed legal advice or assistance, which can also be in the context of a procedure, or assistance in proceedings including the representation. The secondary legal assistance is free or partially free for people who meet certain conditions.

4. Legal aid by the government: exception of payment of legal costs

The government provides legal aid to those who do not have the necessary income. It exempts the persons seeking for assistance from the costs of judicial or extrajudicial proceedings, e.g., registration costs and costs concerning bailiffs and experts.

www.rechtenverkenner.be provides an online overview of the social rights of the people living in the Flemish Region. It shows a distinction between social rights on federal, regional, provincial and municipal level.

5. Legal expenses insurance

The legal expenses insurance enables access to law and justice for all strata of the population. This insurance covers the judicial and extrajudicial litigation costs, the cost of lawyers, bailiffs, experts, mediators, and implementation. The premium is limited to € 144 per year with a tax benefit (exemption from tax which the government normally raises from insurance contracts).

The Minister of Justice and Minister of Consumer Affairs introduced the 'Insurance legal aid contract'. This guarantees the free choice of a lawyer in case a judicial or administrative proceeding is initiated or if a conflict arises between insurer and insured. Furthermore, it guarantees that the insured has the right to choose a lawyer in case of disagreement between the insurer and the insured.

- To which organizations, institutions etc. may a tenant turn to have his/her rights protected?

There are several in situations for a tenant to turn to in order to have his rights protected.

Flemish Region

- De Huurdersbond (Tenants Union, which represents the tenants' interests)
There are several locations which can be found via

<http://www.vob->

[vzw.be/HB/AdressenenSpreekuren/Routebeschrijving/tabid/500/Default.aspx](http://www.vob-vzw.be/HB/AdressenenSpreekuren/Routebeschrijving/tabid/500/Default.aspx)

- First inquiry offices (they advise tenants on their issues and help them with other practical issues)
The addresses can be found via
https://www.wonenvlaanderen.be/over_wonen_vlaanderen/wie_help_t_u_waarmee_item_1693
- Decentrale dienst van Wonen (helps tenants with questions with respect to allocations rules)
There are several addresses which can be found via
https://www.wonenvlaanderen.be/over_wonen_vlaanderen/wie_help_t_u_waarmee_item_1693
- Wonen Vlaanderen (helps tenants with questions concerning housing benefit, local housing policy, quality of dwelling etc.)
Phoenixgebouw Koning Albert-II laan 19 bus 40 1210 Brussel
Tel: 02 553 82 98 Fax: 02 553 17 50
e-mail: wonenvlaanderen@rwo.vlaanderen.be
website: www.wonenvlaanderen.be
- Federale overheidsdienst financiën (helps tenants with questions concerning registration of tenancy contracts and the content of contracts)
Contactcenter FOD Financiën
Tel: 0257/257 57
website: www.myrent.be

Brussels Region

- Accredited social housing landlords (the Brussels Region has more than 30 accredited social housing landlords). The addresses can be found via
<http://www.slr.be/huisvestingsmaatschappijen/contacts>
- Huurdersbond (Tenants Union, which represents the tenants' interests)
There are several locations which can be found via
<http://syndicat-des-locataires.skynetblogs.be/archive/2009/09/21/presentatie-van-de-huurdersbond.html>

Walloon Region

- Service public de Wallonie (service point for information concerning dwellings)
Permanence Info-Conseils Logement : +32 (0) 81-33.23.10.