



Rent plus

Just rent: the tenant's status according to the civil code

- **Residential tenancies excluded from rent plus: luxurious residences and those with historical, artistic and archaeological value, temporary housing needs, touristic rentals**
- Maximum duration: cannot exceed the tenant's life plus two years after his or her death (art. 1607 Civ. Cod.)
- Where no deadline is stipulated, the law itself fixes it presumptively (for example, one year if the lease concerns a house without furniture: art. 1574 Civ. Cod.)
- No withdrawal rights, unless the tenant is a public employee who is moved to another place of work, provided that this has not been arranged at their request (art. 1613 Civ. Cod.)
- Automatic renewal at the end of the term, if the tenant remains and is left in possession of the rented property or if the notice of termination has not been given, as the lease is for an indefinite period (art. 1597 Civ. Cod.).

Rent plus: 1. Stability + market rent

- Four-year minimal duration for residential tenancy contracts
- Renewal for a further four years unless the landlord gives notice to quit for legitimate grounds listed by art. 3. These include, for example, the landlord's need to use the dwelling for residential or professional purposes or to sell it, but not simply to increase the rent, as then the tenant has the right of pre-emption.
- No ground for termination is required if the notice to quit is served after eight years.
- Tenants' right to withdraw at any time in serious circumstances (for instance, a change of family status or work conditions), provided that the landlord is given **six months' notice**
 - **This provision has been challenged by corona-virus cases**

Rent plus: 2. Assisted tenancies: Less stability + fair rent

- Benefits for tenants
 - The rent is determined according to an “Agreement” stipulated by the most representative landlords' and tenants' associations at the national level, or by more specific agreements at the local level--> RENT below the market level
 - Fiscal deductions according to Law 28 December 2015, no. 208
- Incentives for landlords:
 - Higher degree of flexibility (the contract may have a shorter duration: three years instead of four, renewable for a further two)
 - Tax benefits. These consist of a reduction in the property tax (art. 2 subs. 4), which according to the Stability Law of 2016, is reduced to 75%. For the tax to be paid on the rental incomes, landlords are entitled to deduct 30% in addition to the ordinary deduction of 5% and pay a lower annual registration tax (the 2% of the annual rent is reduced by 30%).

Assisted tenancies: from Cinderella to princess

- Although performance in terms of assisted tenancies rates was initially poor, the figures have significantly increased since the flat tax on rented dwellings (*cedolare secca*) entered into force and made “assisted tenancies” more worthwhile and desirable (Art. 3, Leg. Decree no. 23/2011). Landlords who opt for this fiscal regime initially benefited from a fixed income tax of 19% (in the case of “assisted tenancies” stipulated in most densely populated cities) instead of 21% (in the case of ‘free-market tenancies’). To further promote ‘assisted tenancies’, in 2013 the rate was lowered by 15% (Art. 4, par. 1, Decree-Law no. 102/2013, converted into Law no. 124/2013) and in 2014 by 10% (Art. 9, par. 1, Decree-Law no. 47/2014 converted into Law no. 80/2014).
- The 2014 Decree-Law originally conceived the 10% fixed rate as a temporary measure for the period between 2014 and 2017. In 2017, the effectiveness of rule was delayed until 2019 by the Law no. 205/2017. From 2020, the tax rate has been definitively confirmed by the Art. 1, par. 6, Law of 27 December 2019, no. 160.
- General market conditions are a variable that may influence the success of this measure. After the spread of the COVID-19 pandemic hit the private rental market, the “assisted” tenancy formula, which grants more affordable rents, has become more attractive for landlords.



Ownership minus

Public tenancies with right of redemption

Most suitable types of tenure for no- and very low-income individuals

Requirements to obtain and remain in a public or social dwelling and the amount of the rent are established by local agreements between regions and municipal public entities (so-called “rent agreements of social dwelling”)

Tenants’ right to redeem the dwellings generally granted after a minimum number of years plus additional requirements (ex., if the tenant has no alternative properties suitable for meeting his or her family housing needs)

Critical issues

- Regular monitoring of tenants' actual needs and tackling of rental arrears issue
- Basic shortage
- Tenants' right of redemption, which allows for the indiscriminate dismissal of the public stock at low prices, should be revoked or reconsidered
- New investments are required to renew existing buildings



Tenure diversification
and potential legal
transplants

Assisted tenancies as recommended tenure type

- To ensure the respect of the right to home and prevent socially undesirable evictions, the housing needs of low- and medium-income households cannot be merely left to the free market
- Rental arrears due to loss of job and reduced incomes as social issue
- Successful formula in counteracting the **initial and supervening** unaffordability of residential dwellings
- Successful formula in counteracting the black market in housing
- More efficient than rental allowances to tenants.
 - First, empirical data shows that landlords are inclined to increase rents when subsidies are enacted at a local level, with the result of doping the rental market.
 - Second, as access to rent subsidies is given on the basis of the tenants' incomes declarations, there may be a risk of benefitting households whose actual income is higher than the legislative threshold.

Synergy between contract law and public law

- Tax incentives (flat tax, reduction of property taxes) as essential means to induce landlords to accept fair rents
- Tax benefits can be targeted – for instance, Law 2021 Budget Law grants landlords who are willing to renegotiate the rent a tax credit, provided that the property is located in a densely populated municipality and is the tenant's main residence



Thank you very much
for your attention