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

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**National Report for**

# BULGARIA

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# National Report for Bulgaria
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# 1. Current housing situation

## 1.1. General features

Since 1989 Bulgaria has undergone a challenging period of economic, social and political transition. The impediments caused by a totalitarian heritage and the slow process of reforms combined with the ambiguous results of privatization and liberalization influenced negatively the overall development of the economy and quality of life. Over the past three decades the country has lost more than 1.7 million inhabitants due to serious demographic challenges, such as low birth rate, high level of death rate, and labor migration.

Despite the fact that the EU membership of the country brought about positive changes in economy, Bulgaria is still among the tail-enders of the EU-27 in terms of key economic indicators, for example GDP per capita, productivity rate and severity of poverty.

Construction industry and housing sector were among the first to be hit by the last economic crisis. The quickly increasing number of non-performing and restructured loans on mortgages made banks extremely cautious, and discouraged both housing developers and their clients.

Among the major factors for constrained housing demand and decline of property prices are (1) that Bulgaria is among the countries with the highest percentage of home owners in the EU, (2) relatively low incomes, (3) growing level of living and utility costs, as well as (4) the higher interest costs on mortgages by comparison with most of the other EU Member States.

These challenges are combined with the inherited problems from the past – like old, dilapidated houses, and a huge part of the housing stock consisting of prefabricated panel buildings that need significant investments to improve the homes' energy efficiency.

One of the major weaknesses typical of the last two decades is the continuous uncertainty resulting from the lack of political and economic stability, with negative implications for the business sector, foreign investments, and the overall economic development including the construction sector and the real estate market.

In this context, poor and vulnerable groups are at risk regarding the rights of shelter and decent housing. Privatization and restitution dramatically decreased the social housing stock, and have revived the phenomena of homelessness and squatting[1]. Recent National Statistical Institute (NSI) data show that 43.6% of the population lives in

[1] While squatting and homelessness did already exist in the former communist countries as well, but they usually remained unrecorded and unpublished, it hardy existed in Bulgaria. As the social housing stock was large and available, even when these problems occurred, in the majority of cases they were only temporary.

material deprivation[2]. Furthermore, economic and social inequalities broadened and deepened the gap in housing and living conditions between a well-off minority living in gated communities (relatively closed renovated neighbourhoods) and growing number of marginalized people living in poverty and ghettos. Between 2005 and 2011 the share of people at risk of poverty after social transfers rose by 60%, from 14% – to 22.2%[3].

Over the last 20 years, the government's housing policy may be characterized by the principle of *'laissez-faire'*. Strategic documents outlining public policy are rarely put in practice, with only a small part of the planned regulatory changes, programs and projects being implemented and assured with the necessary financial resources.

The combination of low birth rate since the transition[4], modest economic growth, low living standards, broader opportunities for free movement and access to jobs in EU Member States led to a deepening demographic crisis and drastic reduction of the working age population. Uneven economic development contributed to a further reduction of the population, and to a growing number of vacant housing in 'unattractive' areas, as well as to continued outflows from villages and small towns to the capital and several major cities. Compared to the period 1986-1992, in the decade from 2001 to 2011 the number of out-migrants increased significantly, from 40.7 to 69.3 per 1,000 inhabitants. Internal migration only slightly increased the population in major cities. Even prospering cities have been affected by intensive labor market migration to other EU Member States.

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

- Please describe the historic evolution of the national housing situation and housing policies briefly.
    - In particular: Please describe briefly the evolution of the principal types of housing tenures from the 1990s on. Explain the growth and decline of the different tenures and the reasons why that happened (e.g. privatization or other policies).
    - In particular: What is the role of migration within the country, immigration or emigration from/towards other countries inside and outside the EU (including war migration as in Ex-Yugoslavia)

Since 1989 the general condition of the housing sector can be characterized by rapidly increasing share of private homes at the expense of state and municipality owned housing stock. These processes were significantly enhanced by the development of market economy and privatization.

Poverty has deepened during the crisis and access to finance for buying or renting a home at market prices became even more limited for a significant portion of the population. In mid-2010 the declared households' intent of buying or building their own

[2] National Statistical Institute, Poverty and Social Inclusion Indicators, http://www.nsi.bg, December 2013.
[3] Ibid.
[4] The term 'transition' denotes the period after 1989 when the former communist regime was dismantled and gradually replaced by democracy.

home dropped by 3 times compared to mid-2007 – from 12.4% in April 2010 to 4.5% in October 2010, the lowest rate of households intended to purchase or construct home for the whole previous decade[5].

The poorly managed and maintained public housing sector shrunk to only 2.6% of the whole housing stock after transition. This was used as an argument to boost privatization, rather than a reason to rethink social housing models, and to trigger public debates on the negative tendencies that endanger the quality of life of large groups of citizens in vulnerable communities.

The economic crisis after 2009 ended the construction boom, and generated increase in the supply of properties for sale. The restricted access to housing loans and the weaker financial situation of households slowed down purchases. The lower demand also decreased prices in private rental. Moreover, many private owners that had built houses with investment purposes (with the intention to sell them at higher price) need to wait for the end of the crisis, so that prices rise back to pre-2008 levels. These currently unmarketable dwellings further raise available private rental housing, and additionally decrease rental prices.

The existence of a huge private and a restricted public housing stock substantially limits the ability of the state and local governments to influence the market at the benefit of low-income households. Existing social assistance policy in the area of housing is minimal. Very limited housing benefits are available, which provide restricted resources for only a small number of beneficiaries. Housing policy is focusing on the exploitation of existing housing stock, without investment in expansion and improvement. Lack of social housing is exacerbated by state 'absenteeism' with regards to illegal constructions, particularly in areas with segregated communities of vulnerable groups.[6] Furthermore, failure to comply with building codes and sanitary conditions, and the lack of adequate infrastructure significantly lowers the quality of life in these homes and areas, and raises risks for their residents.

Housing policy primarily focuses on improving the depreciated private housing stock, which is characterized by very high energy consumption and poor insulation of buildings. However, even these measures are inaccessible to the majority of homeowners, who lack sufficient funds for own financial contribution and are unable to participate in housing rehabilitation programs.
The partnership between the state and municipalities, developers, NGOs, financial institutions and foreign donors is not sufficiently developed to ensure effective policy, and to improve access to decent housing conditions for most vulnerable groups – young families and ethnic minorities.

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[5] National Statistical Institute, http://www.nsi.bg/, 2013.
[6] For example, according to the National Program for Improving the Living Conditions of Roma in Bulgaria for the period 2005-2015, one in four dwellings in Roma settlements across the country are built illegally. (National Program for Improving the Living Conditions of Roma in Bulgaria is available at the Ministry of Regional Development and Public Works web-site: http://www.mrrb.government.bg/index.php?lang=bg&do=law&type= 4&id=262, (Ministry of Regional Development and Public Works, June 2013) 9). However, a large part of similar phenomena are not very well documented, and part of the data presented here is based on the authors' assessments.

Over the past decade significant number of foreign investors and buyers of vacation properties in sea and ski resorts appeared in Bulgaria. In addition, in recent years many UK citizens have bought rural properties in Bulgaria, some of which are used seasonally, whereas others are permanently utilized. The reasons for the interest in Bulgaria used to be the lower property prices and costs, as well as the attractive surroundings. Part of the vacant dwellings in the resort areas were bought for subletting or to resell at a profit. (See the questions related to social and urban aspects.)

However, when the housing boom was over and Global Financial Crisis (GFC) hit in, the interest in such purchases gradually decreased.[7] Currently foreign buyers on the real estate market are interested in holiday homes mainly from countries where the economic crisis did not significantly affect purchasing power of the middle class population (e.g. Russia and some former Soviet republics)[8]. Since part of the property bought by foreign investors is closely situated to major coastal cities (such as Varna and Burgas), those purchases keep on maintaining relatively high prices and rent levels of homes in these settlements. In general, however, the demand for residential properties in sea and ski resort areas does not affect the main segment of the property market, which is the housing for permanent habitation.

*Influence of internal migration*

The demographic crisis started around the end of the communist regime, and continued in the last 20 years when Bulgaria lost over 1.1 million of its citizens, which is more than 15% of its current population. Only between the last two Censuses in 2001 and 2011, the Bulgarian population has decreased by more than half a million people[9]. According to the NSI more than two thirds of this decline can be explained by the negative natural growth rate. Emigration – mainly due to economic reasons – contributed with another third of the population (about 175 thousand persons) that left the country between 2001 and 2011.

Between the last two censuses (in 2001 and 2011), only four district centres registered positive growth: Sofia, Varna, Burgas and Veliko Tarnovo. The population stagnated or

[7] Because of the decline in income during the crisis the owners of homes in Bulgaria from the UK and Ireland started to sell them. As the purchasing power of the local population is relatively low, the majority of sales are back to foreign nationals – mainly from Russia and Poland. Currently there is a tendency of withdrawal of British buyers, many of them selling purchased properties even at a loss.

[8] Чуждестранните купувачи търсят в България имоти от типа 'втори дом', Строителство Градът, брой 40, http://stroitelstvo.info/show.php?storyid=1930061, 22 October 2012 (Foreign buyers search for Bulgarian second home real estate property, Stroitelstvo Gradat (Construction City Magazine, 2012); Poor Russians buy real estate in Bulgaria and the wealthy - in London, http://dariknews.bg/view_article.php?article_id=1019794, 5 January 2013; 110,000 Russians with real estate property in Bulgaria – http://fakti.bg/imoti/57762-110-000-rusnaci-s-imoti-v-balgaria, 24 January 2013.

[9] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 1. Население/Книга 2. Демографски и социални характеристики, НСИ, 2012, 143 (Housing and population census in Bulgaria, Volume 1. Population/Book 2. Demographic and social characteristics, NSI, 2012, 143).

decreased in the rest of the country, by up to 15-17% in some regions.[10] In many of these areas, emigrating populations flowed both to larger towns (e.g. Sofia and Varna) and abroad.

In recent years, mobility increased both within the country and internationally. Its main cause is labor migration, especially among young Bulgarians looking for greater financial opportunities in the cities or abroad. Mobility has a significant impact on the real estate market. It leads to a reconsideration of the need to purchase property, and stimulates orientation towards solutions that can facilitate a possible change of residence and work place. In practice, the increased mobility encourages a shift towards rent at the expense of acquisition.[11]

### 1.3. Current situation

- Give an overview of the current situation.
  - In particular: What is the number of dwellings? How many of them are rented vs. owner-occupied? What would be the normal tenure structure (see summary table 1)? What is the most recent year of information on this?

According to the last Census data (as of 1 February 2011) Bulgaria registers 2,060,745 residential buildings, 1,294,307 (62.8%) of which are located in rural areas. In the last decade the residential stock in rural areas decreased by 6.5%, while the share of residential buildings in urban areas increased by, 3.5% (25,988 units).

**Table 1. Number, share, and growth of housing units 1975-2011**

| Year | **1975** | **1985** | **2001** | **2011** |
|---|---|---|---|---|
| Number | | | | |
| Total | **1,846,747** | **1,963,511** | **2,124,533** | **2,060,745** |
| Urban | 679,340 | 701,583 | 740,450 | 766,438 |
| Rural | 1,167,407 | 1,261,928 | 1,384,083 | 1,294,307 |
| | | | | |
| Share | | | | |
| Total | 100.0% | 100.0% | 100.0% | 100.0% |
| Urban | 36.8% | 35.7% | 34.9% | 37.2% |
| Rural | 63.2% | 64.3% | 65.1% | 62.8% |
| | | | | |
| Growth between Census Years | | | | |
| Total | | 6.3% | 8.2% | -3.0% |
| Urban | | 3.3% | 5.5% | 3.5% |
| Rural | | 8.1% | 9.7% | -6.5% |

[10] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 1. Население/Книга 6. Миграция, НСИ, 2012 г. (Housing and population census in Bulgaria – Volume 1. Population/Book 6. Migration, NSI, 2011).

[11] No surveys on this were conducted recently; this claim is based on the overall experience of the authors.

Source: National Statistical Institute, Census, 2011[12], authors own calculations of the growth

One of the biggest housing policy challenges the country will face in the next decades is the growing number of old housing stock. Numerous buildings will need to be renovated, especially the pre-fab constructions built in the 1960s and 1970s that will need either full refurbishment, or demolishing and replacement.

After an intensive process of residential construction in the mid-20th century, the building of new housing units is currently significantly reduced, and dropped to about 25% of the level of the construction peak in 1960-1969.

**Table 2. Number of housing buildings by the periods of construction**

| Period | Total | up to 1949 | 1950-1959 | 1960-1969 | 1970-1979 | 1980-1989 | 1990-1999 | after 2000 | not shown |
|---|---|---|---|---|---|---|---|---|---|
| Number of housing buildings | 2,060,745 | 453,831 | 367,280 | 421,267 | 303,263 | 275,328 | 132,400 | 107,359 | 17 |
| Share of housing buildings | | 22.0% | 17.8% | 20.4% | 14.7% | 13.4% | 6.4% | 5.2% | 0.0% |

Source: National Statistical Institute, Census, 2011[13], authors own calculations of the shares of housing buildings

The total number of inhabited residential buildings has decreased slightly in the last decade, however this shrinkage by 0.3% masks a growth of the number of inhabited residential buildings in urban areas by 9.3%, and a decline in rural areas by 6.3%.

**Table 3. Inhabited residential buildings by Census year**

| Year | 2001 | 2011 |
|---|---|---|
| Number | | |
| Total | 1,509,819 | 1,505,945 |
| Urban | 586,814 | 641,250 |
| Rural | 923,005 | 864,695 |
| Share | | |
| Total | 100.0% | 100.0% |
| Urban | 38.9% | 42.6% |
| Rural | 61.1% | 57.4% |
| Growth (2001-2011) | | |
| Total | | -0.3% |
| Urban | | 9.3% |
| Rural | | -6.3% |

Source: National Statistical Institute, Census, 2011[14], authors own calculations of the grow

[12] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 1. Жилищни сгради, НСИ, 2012, 22 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 1. Residential buildings, NSI, 2012, 22).
[13] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 1. Жилищни сгради, НСИ, 2012, 28 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 1. Residential buildings, NSI, 2012, 28).
[14] Ibid., 43.

Between the last two Censuses, the share of vacant buildings clearly decreased. The rate of inhabited buildings grew by more than 4 percentage points in urban areas, and slightly increased in rural areas. However the continued depopulation of villages keeps the level of inhabited residential buildings very low, at 66.8% of the total number of housing units in these settlements (incl. 4.8% inhabited holiday houses/second homes).

**Table 4. Share of inhabited buildings from all residential buildings**

| Year | 2001 | 2011 |
|---|---|---|
| Total | 71.1% | 73.1% |
| Urban | 79.3% | 83.7% |
| Rural | 66.7% | 66.8% |

Source: authors own calculations based on the National Statistical Institute, Census data, 2011[15]

In 2011 the whole Bulgarian housing stock consists of 3,887,149 units. More than two thirds (67.94%) of them are situated in residential buildings, and are inhabited. In addition, beyond the dwellings in residential buildings there are 21,338 homes in non-residential buildings, 3,547 non-conventional (sub-standard) and mobile dwellings, and 792 institutional dwellings. The overall number of the inhabited dwellings is 2,666,733, representing 68.6% of the national housing stock (incl. 141,244 or 3.6% inhabited holiday houses/second homes). 7,068,967 residents lived in the inhabited dwellings according to the Census 2011, so the average Bulgarian home is inhabited by 2.65 persons.

**Table 6. Dwellings by type**

| | Dwelling by type | | | | |
|---|---|---|---|---|---|
| | **In residential building** | | | | |
| Total | Inhabited | Uninhabited | In non-residential building | Institutional | Primitive and mobile |
| 3,887,149 | 2,641,056 | 1,220,416 | 21,338 | 792 | 3,547 |

Source: National Statistical Institute, Census, 2011[16]

Bulgaria is among the EU Member States with highest rate of homeownership: 87% of the population consist of owners. Tenants account for 18.5% of the population. Approximately 6% of the population lives shared abodes (cohabitation of tenants and owners).

[15] Ibid.

[16] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 20 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 20).

**Table 5. Inhabited dwellings by tenancy types**

| Inhabited dwellings by tenancy types (thousand inhabitants and dwellings) | | | | | | |
|---|---|---|---|---|---|---|
| Total | Total | Owner | Tenant, rent free | Tenant | Owner/Tenant, rent free and Tenant | Persons in collective dwellings |
| | Total | | | | | |
| Dwellings | 2,666.7 | 2,178.4 | 188.4 | 171.5 | 127.7 | 0.8 |
| Residents | 7,069.0 | 5,732.1 | 436.7 | 438.3 | 430.5 | 31.4 |
| **Inhabited dwellings and residents by tenancy types (%)** | | | | | | |
| Total | Total | Owner | Tenant, rent free | Tenant | Owner/Tenant, rent free and Tenant | Persons in collective dwellings |
| | Total | | | | | |
| Dwellings | 100.0% | 81.7% | 7.1% | 6.4% | 4.8% | 0.0% |
| Residents | 100.0% | 81.1% | 6.2% | 6.2% | 6.1% | 0.4% |

Source: National Statistical Institute, Census, 2011[17]

### 1.4. Types of housing tenures

- Describe the various types of housing tenures.
  - Home ownership
    - How is the financing for the building of homes typically arranged (e.g. own equity, mortgage based loan, personal loan, mix, other)
    - Restituted and privatized ownership in Eastern Europe
  - Intermediate tenures:
    - Are there intermediate forms of tenure classified between ownership and renting? e.g.
      - Condominiums (if existing: different regulatory types of condominiums)
      - Company law schemes: tenants buying shares of housing companies
      - Cooperatives

The bulk of the Bulgarian dwellings are inherited or acquired through the sale of existing homes, lands of other types of property. Alternatively, financing for housing construction is typically arranged through mortgages.

Since the first quarter of 2008 to the housing lending peak in December 2010, the amount of mortgage loans has grown from EUR 3,204 million to EUR 4,514 million

[17] Ibid., 24.

(more than 40%)[18]. Nevertheless, it was following the GDP growth rate, and the share of housing loans in the annual GDP has grown from 9% in April 2008 to 12.4% at the end of 2010, then it went down to 11.8% in December 2011. In the period of the housing construction boom in 2008-2009, households (prospective home-owners, and current home-owners looking for a second home) rushed to get bank loans. However, after 2010 the economic and financial crises have restored the normal level of lending for owners (around 2%).

Compared to EU27 average, Bulgaria currently registers 18.5 times less share of owners with mortgage or loan, and it seems that there is no other Member State where home owners were more affected by the GFC in terms of decrease of the share of owners with mortgage or loan.

**Table 5. Share of owners with mortgage or loan**

| Countries | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|---|---|
| EU - 27 | 26.9 | : | 25.8 | 26.6 | 27.1 | 27.9 | 27.8 |
| Hungary | 10.6 | 9.0 | 14.9 | 18.4 | 18.5 | 23.9 | 23.1 |
| Romania | : | : | 0.5 | 1.0 | 1.2 | 0.6 | 0.6 |
| Bulgaria | 2.3 | 2.3 | 2.5 | 9.9 | 9.3 | 1.8 | 1.5 |

Source: Eurostat, 2012[19]

In Bulgaria there is another specific way of financing a dwelling, which meets the current housing policy, and is a legacy of the previous regime. According to the law, individuals possessing housing deposits in the State Savings Fund at 31 December 1990[20] are entitled to compensation, if the depositors meet certain criteria among which:

(1) do not have residential properties or holiday homes fitting for permanent dwelling in the country or abroad, or if they have such, their value (as per Attachment No. 2 of the Law) for the local taxes and fees together with the value of the owned property does not exceed BGN 60,000 (app. EUR 31,000)[21];

(2) they are filed in the municipalities by the order of the Law of the Tenancy Relations with Residential Needs under art. 11, para 1, items 1 – 5 of the Ordinance for Distribution and Sale of Abodes and in the Ministry of Interior – under the departmental ordinance for distribution and sale of abodes;

[18] Bulgarian National Bank, http://www.bnb.bg/, December 2012.

[19] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012, Data to be treated with caution. Here and below all data on tenancy status form Eurostat should be used with caution. The results are based on a sampling survey, the Survey on Income and Living Conditions (SILC). The sample of this survey is designed on four-year rotating panel of ordinary households. The sample consists of four rotation groups. Each year one rotational group is removed from the sample and replaced with another. Due to the small number of households in and the sampling nature of the survey there are probabilities of large differences between years on the quoted indicator. (Table based on Eurostat/SILC source; interpretation based on interview of the research team with NSI experts.)

[20] Law of Arranging the Rights of Citizens with Long Term Housing Saving Deposits (Title amended, SG No. 100/2008, effective 21.11.2008), promulgated in State Gazette issue 82 of 4 October 1991, last amended, Judgment No 10 of the Constitutional Court of the Republic of Bulgaria of 3 December 2009, State Gazette issue 97 of 8 December 2009, supplemented, State Gazette issue 99 of 15 December 2009.

[21] Declared anticonstitutional regarding the part "together with the value of the property of item 4" in Decision of the Constitutional Court No 10 of 03.12.2009 – State Gazette issue 97 of 8 December 2009.

(3) they have not transferred residential properties to other persons after January 1, 1981 except liberating or liquidation of co-ownership;
(4) they have no property with total value bigger than BGN 60,000 (app. EUR 31,000) in cash in deposits, sticks, dividends, works of art, numismatics, philately, motor vehicles, farm lands, factories, shops, studios and other basic and turnover funds according to prices, defined by order and conditions, established with the regulation for implementation of the law[22].

Until mid-2011, compensations have been received for 92,861 deposits. As of autumn 2011, the lists of beneficiaries included nearly 64,000 deposits and the necessary resources for them amounted to BGN 383.8 million (EUR 196,2 million). The full payment of the remaining approximately BGN 372 million (about EUR 190 million) to all depositors will foreseeably continue for the next 25 years.

The third biggest form of getting house property in Bulgaria is related to the restoring of the right of property (restitution). A Law on restitution[23] was passed in 1992 in Bulgaria, ensuring right to ownership for owners deprived form their properties in the period after 1944, meant to restore social justice for the former owners that had been expropriated during the previous (communist) regime.

Bulgarian restitution is characterized by some peculiarities: it differs from other Eastern and Central European countries such as Hungary, where the restitution was based on compensation tools; or the Czech Republic and Poland, where restitution did not restore the rights of major population groups (such as the Sudeten Germans in the Czech Republic and the land of the Jews, Ukrainians and Germans in Poland).[24]

As regards the restitution of urban property, it was settled in four laws adopted in 1991-1992 and 1998. The existing legal framework allows shares of state assets to be allocated for restitution claims. Citizens whose property had been expropriated under the expropriation of big urban covered property (in 1948) shall receive compensation as owners of nationalized property. They got the advantage to buy state or municipal property with housing vouchers at their nominal value. According to some experts' assessments the initial nominal value of compensations was EUR 766 million, however it depended on the types of the denationalized property and only in rare cases the compensations went above 20% of the nominal value.[25]

Restitution laws have created numerous problems: many citizens have acquired a land that gained a huge value over time – because they became part of the city boundaries

[22] Declared anticonstitutional in Decision of the Constitutional Court No 10 of 03.12.2009 – State Gazette issue of 8 December 2009.
[23] Law for Reinstatement of the Ownership of Nationalised Real Estates, promulgated in State Gazette issue 15 of 21 February 1992, last amended State Gazette issue 53 of 30 June 2006.
[24] Krassen Stanchev, Политическа икономия на раздържавяването в България, 2003 г., 3 (Political Economy of Denationalization in Bulgaria).
[25] Krassen Stanchev, Политическа икономия на раздържавяването в България, в. 'Капитал', http://www.capital.bg/politika_i_ikonomika/bulgaria/2003/11/15/223896_politicheska_ikonomiia_na_razdurjaviavaneto_v_bulgariia/, 15 November 2003 (Political Economy of Denationalization in Bulgaria, Capital Weekly).

or due to the infrastructure and technical equipment built on them etc. A sense of unfair gain at the expense of other owners or the general public has been created. With returning the ownership of public housing estates to their former owners, the present owners were expelled although they had acquired this property legally. The evicted owners also became subject of compensation of former owners.[26]

With the development of privatization policy in 1997, a law was passed to compensate the owners of nationalized property. According to this law, the right to compensation for seized property was ensured through the issuance of state compensatory vouchers [27].

In mid-1992 the Law on the "Ownership of Real Estate of Bulgarian Citizens of Turkish Origin Who Have Taken Steps To Leave for the Republic of Turkey and Other Countries in the Period Between May and September 1989"[28] was passed. This law was aimed at compensation of hundreds of thousands of Bulgarian citizens expelled from the country during the so called 'Renaissance process' ('Възродителен процес') occurred in the last 6 years of the former communist regime (between 1984-1989). The enforcement of this law is not clear enough though.[29]

Housing cooperatives in Bulgaria exist as associations of households on a voluntary basis. Municipal councils assist housing cooperatives by determining annual sites for co-operative housing and by granting to housing cooperatives the right to build on state or municipal land. However, the resulting dwellings are individually owned and the common parts are shared property of the owners.

Under current law, individuals and legal persons of the EU may acquire ownership of land in the Republic of Bulgaria in accordance with the conditions specified in the law and in accordance with the provisions of the Treaty of Accession of Bulgaria to the European Union[30]. The Treaty of Accession provides that Bulgaria has discretion whether to retain restrictions on the acquisition of land by citizens and legal persons of the Member States: a) for a period of five years (as of 1 January 2007) – for real estate for second homes, and b) seven years (as of 1 January 2007) – for agricultural land, forests and woodlands.

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[26] Estimate of the Bulgarian research team.

[27] The law allows the state to compensate the former owners without having to provide money or property to the compensated individuals. The State recognized the vouchers as a legal means of payment to the amount of compensation reflected in them only in very limited circumstances – for tenders for state property and privatization.

[28] Law of the of the Ownership of Real Estate of Bulgarian Citizens of Turkish Origin Who Have Taken Steps To Leave for the Republic of Turkey and Other Countries in the Period Between May and September 1989, promulgated in State Gazette issue 66 of 14 August 1992, last amended State Gazette issue 30 of 11 April 2006.

[29] According to the estimates of some MPs from Movement for Rights and Freedom at the end of 1995 ownership was restored only to around 280 families. There is not clear forecast how many of the forcibly expelled Turks could prove their rights – the fact that they left the country by coercion and released their ownership not 'voluntarily'.

[30] Documents concerning the accession of the Republic of Bulgaria and Romania to the European Union, Annex VI: List referred to in Article 20 of the Protocol: transitional measures, Bulgaria, 3. Free Movement of Capital, EN Official Journal of the European Union, L 157, ISSN 1725-2555, Volume 48, 2005, 21 June 2005, 108.

For the real estate, the five-year transitional period ended on 31 December 2011. Therefore, citizens and legal persons of the EU Member States may become owners of public property in Bulgaria in accordance with the requirements of the law.
Natural and legal persons from countries that are not members of the EU and the European Economic Area can acquire ownership right of real estate under international treaties ratified, promulgated and enacted pursuant to the Bulgarian Constitution.
Indirectly, foreign legal entities and citizens may acquire any type of real estate, including land, by registering a Bulgarian legal entity to act as acquirer. It is possible for such a Bulgarian legal entity to be 100% owned by the foreign investor.
Another possibility for the indirect acquisition of real estate in Bulgaria by foreign legal or natural person is buying shares of the capital of an existing Bulgarian legal entity which can then act as acquirer.
Foreign entities or individuals may also acquire shares of existing Bulgarian legal persons who already hold ownership of real estate in Bulgaria.

The condominium in Bulgaria is not conceivable as an intermediate form of tenure of dwellings classified between ownership and renting. The Law on the Condominium Ownership Management[31] regulates the public relations, related to the management of the common areas of the condominium ownership, as well as the rights and duties of the owners, users and occupants of separate premises or parts of them.

- Rental tenures
  - Are rental tenures with and without a public task distinguished? If so, how are they called and what is their share in the housing stock?
  - How is the financing for the building of rental housing typically arranged?

*(Please be brief here as the questionnaire returns to this question under 3)*

- What is the market share (% of stock) of each type of tenure and what can be said in general on the quality of housing provided?
  Please consider the following criteria: type of building (single family versus multifamily versus high-rise; plus definition); construction period; number of rooms, number of square metres or average number of rooms or average useful floor area per dwelling and per person; availability of bath/shower, hot running water and/or central heating, etc.)
  - For EU-countries, Housing Statistics in the European Union would be a possible source, although more updated data would be preferred, if available
- Which actors own these dwellings (private persons, profit or non-profit organizations, etc.)?

The overall number of dwellings with either private or public rental tenants in Bulgaria is approximately half a million: 487,564 residents, representing 18.3% of all inhabited

[31] Law on the Condominium Ownership Management, promulgated in State Gazette issue 6 of 23 January 2009, in force from 01 May 2009, last amended State Gazette issue 66 of 26 July 2013.

dwellings. Every fifth dwelling in cities (21.8%) is inhabited by tenants, while in the villages the share of dwellings with tenants is only 9.3%.

Tenants that pay rent are equal in number to the various types of rent free tenants (6.2% of all residents). The share of tenants paying rent in villages (1.7%) is much smaller than the share of tenants that do not pay rent (5.1%) or tenants sharing the dwelling with owners and other rent free residents (3.1%).

Tenancy is typical city phenomenon: 93% of rented dwellings and 92% of tenants are situated in the cities. Tenants living rent free also prevail in the cities – 77% of them live in cities and 23% in villages. The same goes for tenants living in cohabitation with owners: 86% of them live in cities and only 14% in villages.

**Table 6. Inhabited dwellings by tenancy types**

| **Inhabited dwellings by tenancy types (thousand inhabitants and dwellings)** | | | | | | |
|---|---|---|---|---|---|---|
| Total | Total | Owner | Tenant, rent free | Tenant | Owner/Tenant, rent free and Tenant | Persons in collective dwellings |
| | **Cities** | | | | | |
| Total | | | | | | |
| Dwellings | 1,913.5 | 1,495.5 | 146.5 | 160.2 | 110.8 | 0.5 |
| Residents | 5,087.2 | 3,955.8 | 335.7 | 404.2 | 369.1 | 22.4 |
| | **Villages** | | | | | |
| Total | | | | | | |
| Dwellings | 753.2 | 682.9 | 41.9 | 11.2 | 16.9 | 0.3 |
| Residents | 1,981.8 | 1,776.2 | 101.0 | 34.0 | 61.5 | 9.0 |
| | | | | | | |
| **Inhabited dwellings by tenancy types (%)** | | | | | | |
| Total | Total | Owner | Tenant, rent free | Tenant | Owner/Tenant, rent free and Tenant | Persons in collective dwellings |
| | **Cities** | | | | | |
| Total | | | | | | |
| Dwellings | 100.0% | 78.2% | 7.7% | 8.4% | 5.8% | 0.0% |
| Residents | 100.0% | 77.8% | 6.6% | 7.9% | 7.3% | 0.4% |
| | **Villages** | | | | | |
| Total | | | | | | |
| Dwellings | 100.0% | 90.7% | 5.6% | 1.5% | 2.2% | 0.0% |
| Residents | 100.0% | 89.6% | 5.1% | 1.7% | 3.1% | 0.5% |

Source: National Statistical Institute, Census, 2011[32]

The overall share of tenants that pay rent at market price is very low: about 120,000 (1.7% of all residents), and 785,000 tenants (11.1% of all residents) rent at reduced price or for free.

[32] Ibid., 24.

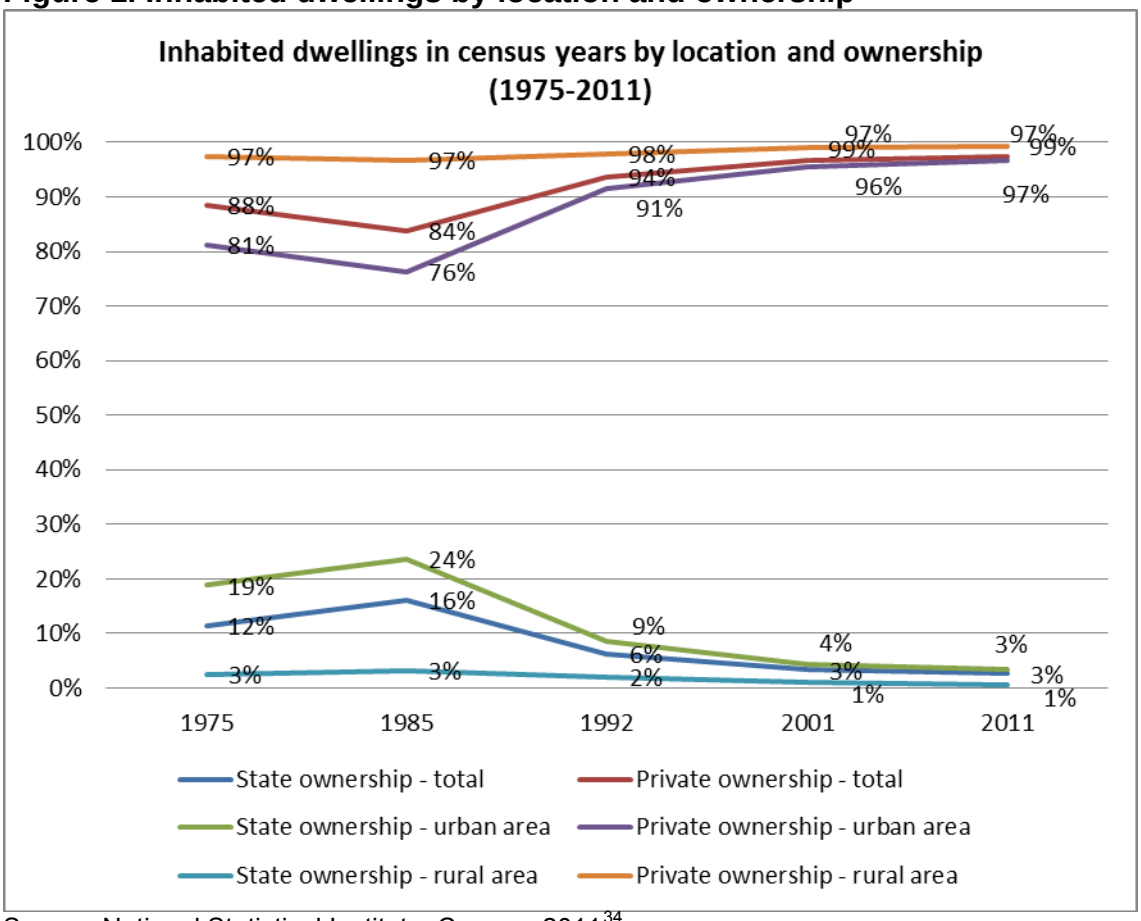
**Table 8. Distribution of population by tenure status in 2011 (%)**

| Tenure types | EU27 | Hungary | Romania | Bulgaria |
|---|---|---|---|---|
| Owner | 70.7 | 89.8 | 96.6 | 87.2 |
| Tenant | 29.3 | 10.2 | 3.4 | 12.8 |
| Owner, with mortgage or loan | 27.8 | 23.1 | 0.6 | 1.5 |
| Owner, no outstanding mortgage or housing loan | 42.9 | 66.7 | 96.0 | 85.7 |
| Tenant, rent at market price | 18.1 | 2.9 | 1.0 | 1.7 |
| Tenant, rent at reduced price or free | 11.2 | 7.3 | 2.4 | 11.1 |

Source: Eurostat, 2012[33]

The data from the last Census show that as of 1 February 2011, 96.9% of the inhabited dwellings are owned by individuals, 2.6% belong to the state or municipalities and 0.5% are properties of legal entities.

**Figure 1. Inhabited dwellings by location and ownership**




Source: National Statistical Institute, Census, 2011[34]

[33] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012.

[34] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 37 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 37).

The dynamics of property ownership over the past four decades shows that after the collapse of the socialist regime (between 1985 and 1992) the state and municipal property shrank to almost one-third.

This trend continued in the next decades, although with a more moderate increase of the share of privately owned dwellings. In 2011 the state owned housing stock comprised of 92,314 units, of which 24.3% was not inhabited[35]. The remaining 69,878 dwellings were inhabited, which is only about 15% of all state owned housing units in 1985 (441,493)[36]. In reality, the whole state owned housing stock that is currently in use in all towns is 64,723[37]. In the rural areas, the inhabited state-owned dwellings have never reached more than 3.2% of the state owned rental stock,[38] it can be concluded that the decrease in number and share of state and municipal dwellings has affected primarily the larger urban areas. All in all between 1985 and 2011 the number of state-owned dwellings in Bulgaria was reduced more than 6 times from 441,493 (of which 409,692 in the towns) to 69,878 (of which 64,723 in the towns).

This phenomenon can be explained to a great extent with the lack of a long-term social housing policy, and the unfair privatization practices (publicly known as 'plundering of public property'[39]) in the early years of transition to democracy. As a consequence, state and municipalities lost opportunities to influence the free rental market, and to provide affordable rental housing at least for the most vulnerable groups. These processes were also influenced by the policy of restoration designed and implemented in the past two decades.
The financing for the building of rental housing in the private sector is typically arranged by two sources: the private owners usually use bank loans or money from sold property to build new houses.

As stipulated in the Municipal Property Act[40] 'The municipality shall acquire right of ownership and limited real rights by legal transaction, by prescription or in another way, determined in a law.'
The publicly owned rental housing construction is funded mainly through the following schemes:

- Joint ventures between municipalities and construction industry – the construction companies build new housing blocks on the land owned by the municipality and part of the newly constructed dwellings becomes municipal property.

[35] Ibid., 23.
[36] Ibid.
[37] Ibid.
[38] Ibid.
[39] Only in municipal company 'Sofia real estate" the estimated abuses related to investigated over 500 real estate transactions (50% of which with municipality owned dwellings) in the beginning of 2011 amount damages over BGN 100 million (EUR 50 million). (Красен Николов, Процесът 'Софийски имоти': Скандалът расте и старее, сп. 'Тема' - http://www.temanews.com/index.php?p=tema&iid=648&aid=15041), 2011 (Krassen Nikolov, The litigation 'Sofia Properties': The scandal grows and ages, Tema Magazine).
[40] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 34, para. 1.

- Exchange of municipal land/property for privately owned housing.
- According to the State Property Act[41] 'The state may acquire properties by purchase, exchange, grant, partition, against payment or gratuitously establishing of real rights, will or by other techniques, defined by law.'
- Public-private partnership form of building social housing is stipulated in the newly adopted Act on Public – Private Partnership[42] (in force from 01.01.2013), Art. 4, paragraph 2e, according to which PPP arrangement can be established for construction and/or management and/or maintenance of sites if the social infrastructure is intended for social assistance, social houses and hostels.

However, public investments in social housing in the last few years were very limited. Even in the rich municipalities like Sofia the newly acquired social housing fund was about twenty five dwellings per year in the last two decades: Only 10% of houses are relatively new-built (after 1990)[43].'

## 1.5. Other general aspects of the current national housing situation

- Are there lobby groups or umbrella groups active in any of the tenure types? If so, what are they called, how many members, etc.?
- What is the number (and percentage) of vacant dwellings?
- Are there important black market or otherwise irregular phenomena and practices on the housing market (especially the rental market)?

***Emerging lobby and umbrella groups***

The National Real Estate Association (NREA) is a professional organization estimated to represent some 10% of all real estate operators throughout the country. It has been established in 1992 as NGO. The major goal of the association is development of professional and regulated real estate business. It aims to introduce international standards in Bulgarian real estate business, promoting ethical partnerships and support professional development in the sector. Currently, the NREA is lobbying for the adoption of the Law on Brokers of Real Estate. The association members created a draft law, and organized several events to promote it. The focus of the activities of NREA is the damages caused by the fiscal evasion of incorrect brokers and suggestion of emergency measures to regulate trade in the industry.

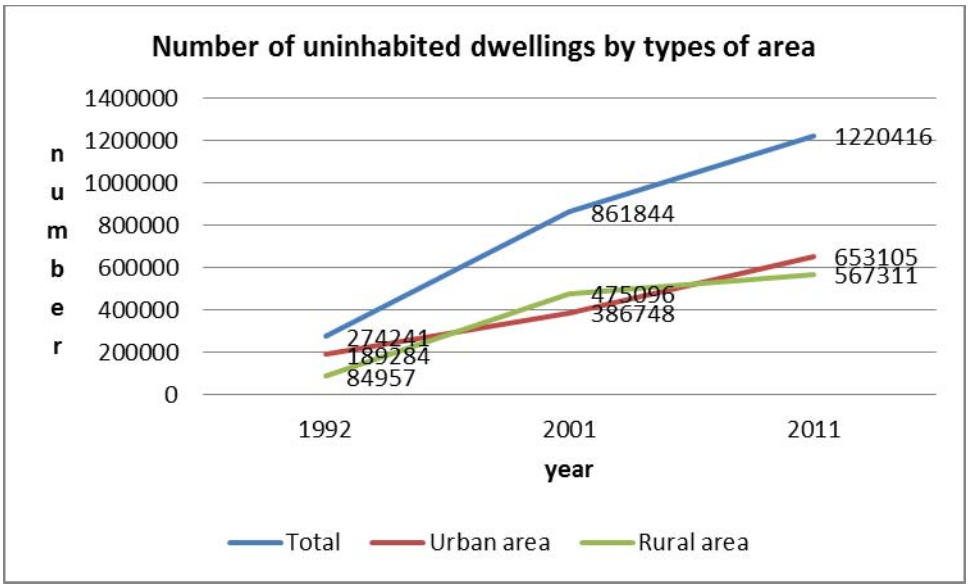
[41] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 43.para. 1.
[42] Act on Public – Private Partnership, promulgated in State Gazette issue 45 of 15 June 2012, in force from 1 January 2013, last amended State Gazette issue 15 of 15 February 2013, Art. 4, para. 2e.
[43] Доклад и проект за решение от Юлия Ненкова - зам.-кмет на СО, и Ралица Стоянова - секретар на СО, относно проект за Наредба за изменение на Наредбата за реда и условията за управление и разпореждане с общински жилища на територията на Столична община, Municipality of Sofia(http://sofiacouncil.bg/index.php?page=news&id=253), 19 May 2010 (Report and draft decision by Yulia Nenkova – Deputy Mayor of the Municipality of Sofia and Ralitza Stoyanova – Secretary of the Municipality of Sofia on a draft Ordinance amending the Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality).

In 2009 a National Association of House Managers in Bulgaria (NADRB) was established as an organization to operate for public interest through provision of information on activities supporting the development and promotion of investment in condominiums. The activity of NADRB consists of technical, informational and organizational support initiatives related to the development of condominiums, expert participation in drafting strategies and programs for condominiums' development projects, and assistance for their implementation. In addition, the association develops and implements training programs to familiarize condominium managers with current legislation. At present, the association is not very active, and mainly focuses on business initiatives related to the management of residential buildings by providing the service 'paid condominium manager and treasurer.'

Compared to housing professionals' associations, the organized movements of consumers is much weaker. There are no registered or informal organizations representing tenants' interests, and sometimes their rights are protected by the mainstream consumer protection associations like the Bulgarian National Association 'Active Consumers'.

***Vacant Dwellings***

As for the number of uninhabited dwellings, there is a clear growth tendency in both rural and urban areas. However, censuses data[44] show that while the number of vacant dwellings is growing significantly in urban areas, the case of rural areas is even more serious. In the past 20 years, the number of vacant dwellings grew by almost one million units.




***Important black market phenomena***

[44] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 20-21 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 20-21).

There are different forms of black market or other irregular practices related to the rental market.

A typical case is the deceit by false-hearted tenants. In accordance with the Art 9. (Amended, SG No. 12/1993) of the Obligations and Contracts Act, 'the parties may determine the content of the contract in a form that it should not contravene the mandatory provisions of the law and good morals'[45]. There is no explicit requirement for written or notarized form of lease. However, the lack of written lease can generate several problems in the internal relations between landlord and lessee – including falseness over rent, length of contract etc. It also creates preconditions for easy tax-fraud. There are many cases when due to the lack of a written lease the landlord runs the risk of deceit. Economic Police officials suggest that there are several organized criminal gangs which specialize in such frauds. According to the President of the Notary Chamber of Bulgaria, Dimitar Tanev, notaries disclose twenty fake IDs a year while authenticating a deal[46].

**Table 9. Summary table 4 Tenure structure in Bulgaria, up to 2011 (Census data)**

| Tenure structure | Home ownership | Renting | | | Intermediate tenure (Owner/ Tenant, rent free, and Tenant) | Other (collective dwellings) | Total |
|---|---|---|---|---|---|---|---|
| | | | Renting with a public task (if distinguished) | Renting without a public task, if distinguished | | | |
| Number of inhabited dwellings (thousand) | 2,178.4 | 359.8 | n/a | n/a | 127.7 | 0.8 | 2,666.7 |
| Share of all inhabited dwellings | 81.69% | 13.49% | n/a | n/a | 4.79% | 0.03% | 100% |
| Number of residents (thousand) | 5,732.1 | 874.9 | n/a | n/a | 430.5 | 31.4 | 7,068.9 |
| Share of all residents | 81.09% | 12.38% | n/a | n/a | 6.09% | 0.44% | 100.00% |

[45] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 9.

[46] Николай Христов, Жертвите на жилищната мафия, http://forum.imoti.net/read.php?14,90789,90789#msg-90789, 5 December 2007 (Nikolay Hristov, The Housing Mafia Victims).

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Estimations* if any (estimated number of dwellings) (thousand) | | 359.8 | 69.8 | 290.0 | | | |
| Estimations* if any (% of rented dwellings) | | 100% | 19.42% | 80.58% | | | |
| Estimations* if any (% of dwellings) | | 100% | 2.60% | 99.97% | | | |

* Estimations done on the basis of the NSI data on state and municipality owned dwellings. There is no reliable data or estimations on the number of non-public owned rented dwellings at a national level. However, analyses in this report shows that the publicly-owned housing stock is a small share of all dwellings. Therefore, the assumption is that the share of the housing stock with public tasks is quite limited. The second assumption is that all state and municipality owned dwellings are rented, although it is not always the case, since some of those units are not used, and some are not rented but used for different purposes (e.g. as municipal guest houses).

Note: The assumption is that the overall tenure structure is based on the stock of non-vacant principal dwellings. If this is not the case in your country, please specify what type of accommodation the numbers include (think of holiday dwellings, second homes, collective homes, hotels, caravans, ships, vacant dwellings, non-permanent habitation). Moreover, please mention if the numbers are not based on dwelling stock, but on households.

For EU-countries Housing Statistics in the European Union would be a possible source, although more updated data would be preferred, if available.

If there are no separate data on condominiums, these should be ranked among home ownership.

# 2 Economic, urban and social factors

## 2.1. Current Situation of the housing market

- What is the current situation of the housing market? Is the supply of housing sufficient/ insufficient and where is this the case (possibly in terms of areas of scarcity of dwellings in growth areas versus shrinkage areas)? What have been the effects of the current crisis since 2007?
- How is the demand for housing expected to develop? What is the expectation about the growth and decline in number of households in the future in a scenario of average economic development? Is there a year forecasted where growth in number of households will stabilize or will start declining?
- What is the number/percentage of families/households depending on rental housing (vs. owner-occupancy and other forms of tenure)? What is the number/percentage of immigrants among them?

In response to the GFC, the Bulgarian government adopted measures for minimizing government deficit. Besides the strengths of this financial policy, it can be further narrowing available opportunities for state intervention in social and economic development.

**Table 10. Government deficit/surplus and debt in the EU (in national currencies) as % of GDP**

| | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| EU-27 | -2.4 | -6.9 | -6.5 | -4.4 |
| Hungary | -3.7 | -4.6 | -4.4 | 4.3 |
| Romania | -5.7 | -9 | -6.8 | -5.5 |
| Bulgaria | 1.7 | -4.3 | -3.1 | -2 |

Source: Eurostat, 2012[47]

The unstable economic situation also restrained consumer spending. Only in the last sixteen months, the households' deposits in Bulgaria have grown by 16.2%, from EUR 14,274 million (in March 2012) to EUR 16,582.1 million (in June 2012).

**Table 11. Financial assets of households (in million EUR)**

| | 2011 | | | | 2012 | |
|---|---|---|---|---|---|---|
| | Mar | Jun | Sep | Dec | Mar | Jun |
| 1 Currency | 872.2 | 891.4 | 943.2 | 996.1 | 952.5 | 981.2 |
| 2 Deposits | 14,274.0 | 14,531.7 | 15,063.0 | 15,792.4 | 16,167.9 | 16,582.1 |
| 2a LC deposits | 6,794.7 | 6,936.6 | 7,287.2 | 7,950.4 | 8,375.1 | 8,690.3 |
| 2b FX deposits | 7,479.3 | 7,595.1 | 7,775.8 | 7,842.0 | 7,792.8 | 7,891.8 |

Source, Uni-Credit Bulbank, Financial assets of households 2012[48]

The intentions of home-purchase not only reflect the trends on the real estate market, but also influence its development in terms of demand and supply. Access to loans, as well as willingness to build new dwellings, fell back significantly after 2008. The NSI survey shows that the households' intentions of home-purchase are nowadays even lower compared to the dwelling buying attitudes before the construction boom. While in April 2007 the share of households declaring intention to build or purchase a home reached its peak (12.4%), in October 2010 it fell back to its third (4.5%)[49].

For Bulgaria, the period of a steady 5 percent GDP growth was over in 2009[50]. A period of sharp decline began in all industries, including construction. The current period is characterized by a dramatic drop of production within several sectors. However, construction is first in terms of negative growth. For the period 2008-2011 the production value went down by 40.6%, and value added at factor costs performed even worse, with a 46.7% decrease. The total number of jobs lost is more than 100 thousand.

[47] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012.
[48] Uni-Credit Bulbank, http://www.unicreditbulbank.bg/bg/index.htm, 2012.
[49] National Statistical Institute, http://www.nsi.bg/, 2013.
[50] National Statistical Institute, http://www.nsi.bg/, 2012.

The real estate boom of the early 2000s was over and its artificial 'bubble' growth was replaced by a sharp decline of property and tenancy prices, several bailouts of construction companies, huge losses of employment in construction and real estate, and tightened access to finance both for doing business and for buying property. As construction influences many other sectors, the crisis in the construction industry has contributed to a downturn in the overall level of employment, and had a direct impact in curbing consumption of a whole range of products related to construction, like building materials, furniture, electronics, textile, loans etc. For example, according to the NSI the production of windows and their frames, doors and their frames and thresholds has dropped by 2.2 times between 2008 and 2011 and the decrease of marble and other ornamental or building calcareous materials has been even higher – 3.5 times[51].

Both the period of the boom and the years after GFC were characterized by several social and demographic issues with long-lasting and sizeable impact on the overall social and economic development of the country, including the area of housing. Despite some positive changes in the economic development both in the first and second period Bulgaria continued performing worst among the EU Member States in terms of key economic indicators. Currently, the major traits of the real estate market are the falling property prices and the low level of rents due to the prevailing higher supply of properties over the generated demand.

One of the major weaknesses of the last decade is the high level of uncertainty due to the lack of political and economic stability, which affected the attitude towards doing business, attraction of foreign investments, and the overall economic performance, including the construction sector.

Precise estimations on the size of the private housing rental sector are missing due to lack of specific statistical data. Nevertheless, according to the Eurostat data, in 2011 1.7% (approximately 125,000 citizens) of Bulgarian population represents tenants at market price. According to the Eurostat[52] data in 2011, 11.1% (817,000 citizens) of Bulgarian population are tenants at reduced price or free.

Until 2012 Bulgaria used to be among the EU countries less affected by the process of immigration. However, the conflict is Syria and the growing number of migrating population from North Africa led to increasing numbers of immigrants. Only in 2012 the number of immigrants rose by 3 times reaching 14,103 people.

Immigrants in Bulgaria by sex *

| Year | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|---|
| **Total number** | **1,561** | **1,236** | **3,310** | **3,518** | **4,722** | **14,103** |
| Annual growth | | -20.82% | 167.80% | 6.28% | 34.22% | 198.67% |
| **Male** | **877** | **674** | **1,921** | **1,910** | **2,402** | **8,182** |
| **Female** | **684** | **562** | **1,389** | **1,608** | **2,320** | **5,921** |

[51] National Statistical Institute,http://www.nsi.bg/otrasal.php?otr=3, 2012.
[52] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012.

Source: National Statistical Institute, 2013[53], own calculations of the annual growth. * Data on external migration include only persons who have declared to the administrative authorities change of their address outside the country with a new one in the country.

According to the UNHCR estimations Bulgaria is currently hosting some 8,800 asylum-seekers and refugees, around two-thirds of them Syrians[54].
Many of them are accommodated in overcrowded asylum-seekers camps with poor living conditions. However, the Law for the Asylum and the Refugees, Art. 29, para. 6, stipulates that 'Where the foreigner has got available resources for satisfying his/her basic living requirements, within the proceedings by the general order he/she may obtain a permit to be accommodated at his/her expense at an address at his/her choice without getting a financial and material support from the State Agency of Refugees.'[55]

Part of Syrian citizens take advantage of this opportunity and rent houses in some of the poorer districts of the capital where supply of rental housing is greatest.
For example, according to the State Agency for Refugees with the Council of Ministers at 13 December, 2013 the number of persons allowed for accommodation at his/her expense at an address at his/her choice without getting a financial and material support from the Agency, is 4,649 people, and placed in the number of refugees housed in the seven territorial agency divisions' shelters is almost similar – 4,681 people.

Over 75% of those residents accommodated outside of the asylum seekers camps are registered in Sofia. This entails rental price growth in certain districts of the capital city. According to real estate agencies in the Sofia District 'Krasna Polyana 2' as of November the average rent has increased by 12% compared with a month earlier – from EUR 174 to EUR 195[56].

Nevertheless, this trend seems to have temporary nature since according to the State agency officials 85% of Syrian refugees in Bulgaria aim to leave the country and settle down in Western European countries such as Germany, France, Sweden and Italy[57].

### 2.2. Issues of price and affordability

- Prices and affordability:
  - What is the typical cost of rents and its relation to average disposable income (rent-income ratio per household)?

[53] National Statistical Institute, External migration by age and sex, http://www.nsi.bg/en/content/6697/external-migration-age-and-sex, 2013.
[54] UNHCR launches emergency operation to improve conditions for refugees and asylum-seekers in Bulgaria, UNHCR, http://www.unhcr-centraleurope.org/en/news/2013/unhcr-launches-emergency-operation-to-improve-conditions-for-refugees-and-asylum-seekers-in-bulgaria.html, Sofia, December 6, 2013.
[55] Law for the Asylum and the Refugees, promulgated in State Gazette issue 54 of 31 May 2002, last amended State Gazette issue 66 of 26 July 2013, Art. 29, para. 6.
[56] Бежанците вдигнаха наемите в София, Trud National Daily Newspaper, http://www.trud.bg/Article.asp?ArticleId=2508958, 1 December 2013 (The refugees raised the rental rates in Sofia).
[57] Агенцията за бежанците: 85% от сирийските бежанци у нас имат за цел страни от Западна Европа, Bulgarian National Radio, http://bnr.bg/sites/horizont/Society/Bulgaria/Pages/2410%20bejanci.aspx, 24 October 2013 (Agency for Refugees: 85% of Syrian refugees in our country aim at countries of Western Europe).

(Explanation: If rent is 300€ per month and disposable household income 1000€ per month, the rent-to-income ratio is 30%).

- To what extent is home ownership attractive as an alternative to rental housing
- What were the effects of the crisis since 2007?

Between 2004 and 2008, property prices grew by 272%. After 2008 the prices started to drop, and although this drop was less steep, it is still significant: between 2008 and 2012 the dwelling prices went down by 35%. In-depth analysis of the quarterly data indicates minor signals of a tendency of stabilization since 2012.

**Figure 2: Quarterly growth of market prices of dwellings 2005-2012**


Source: National Statistical Institute, Prices of Dwellings, 2013[58]

In terms of demand for housing, there are two major factors that can influence the real estate market. The first is the significant population decrease due to the high level of emigration and high death rate, with low levels of immigration and a low birth rate. The decrease of the average number of residents per dwelling is steady, and is mainly influenced by the negative population growth. While in 1985, 100 dwellings were inhabited by approximately 325 residents, currently the number of residents per 100 units is around 265.[59] According to the convergence scenario of the National Statistical Institute, Bulgaria's population will continue to shrink in the next half century by its third, to about 5.5 million people.

[58] National Statistical Institute, http://www.nsi.bg/, 2013.
[59] This means an average household size of 2.65; in EU27, the 2011 average was 2.4. (SILC data, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_lvph01&lang=en, 6 February 2013.

**Table 12. Inhabited dwellings by number of residents and year of Census**

| | Year of Census | | | |
|---|---|---|---|---|
| | 1985 | 1992 | 2001 | 2011 |
| Dwellings | 2,700,039 | 2,773,833 | 2,818,282 | 2,666,733 |
| Residents | 8,788,596 | 8,390,245 | 7,827,231 | 7,068,967 |
| Residents per dwellings | 3.255 | 3.025 | 2.778 | 2.651 |

Source: National Statistical Institute, Census, 2011[60]

The second factor that can have a strongly positive impact on the construction sector is the state initiative to fund energy efficiency and housing rehabilitation programs. However, it strongly depends on the government's housing policy. There are about 1.8 million people living in 695,431 prefabricated panel buildings. In the past fifty years, living conditions in these buildings depreciated significantly, while in recent years the technical and operational requirements for housing have greatly improved. Government funded energy efficiency programs have been scarce in the past; currently they are limited to a pilot at the value of about BGN 50 million (or EUR 25 million), but a growth in their funding could give the necessary boost to the market.

The housing cost overburden rate – where the total housing costs represent more than 40% of disposable income – also indicates significant decrease of households dependent on credits or loans after 2007. The percentage of households suffering from housing cost overburden in 2010 is almost 3.5 times less than it used to be in 2007 according to Eurostat data (see Table  below). Although the change presented in Eurostat source seems so radical that it might put its reliability into question, the tendencies shown are definitely in line with reality. This decrease can partially be easily explained with the limited provision of loans to households from the bank system.

**Table 13. Housing cost overburden rate by age, sex and poverty status**

| Countries | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|---|
| European Union (27 countries) | 11.5 | 10.5 | 10.2 | 9.8 | 10.0 | 11.0 |
| Bulgaria | 15.4 | 21.2 | 13.3 | 7.0 | 5.9 | 9.0 |

Source: Eurostat, 2012[61]

Housing cost overburden rate is the highest for the tenants in the private rental sector (at market rent levels). Nevertheless, it slightly decreased in the last three years due to the oversupply that occurred with the crisis of the construction sector.

**Table 7: Housing cost overburden rate by tenure status**

| Tenure types | Countries | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|---|
| Owner, with mortgage or loan | EU27 | 9.0 | 8.9 | 8.7 | 8.2 | 8.3 |

[60] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 24 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 24).

[61] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database ilc_lvho07a, 2012

| | | | | | | |
|---|---|---|---|---|---|---|
| Owner, with mortgage or loan | Bulgaria | 26.6 | 18.9 | 3.6 | 3.0 | 23.1 |
| | | | | | | |
| Owner, no outstanding mortgage or housing loan | EU27 | 7.1 | 6.6 | 5.6 | 6.0 | 6.8 |
| Owner, no outstanding mortgage or housing loan | Bulgaria | 19.8 | 11.2 | 6.1 | 5.0 | 7.4 |
| | | | | | | |
| Tenant, rent at market price | EU27 | 25.3 | 25.4 | 25.7 | 26.3 | 28.2 |
| Tenant, rent at market price | Bulgaria | 42.1 | 36.6 | 38.1 | 30.8 | 32.8 |
| | | | | | | |
| Tenant, rent at reduced price or free | EU27 | 12.0 | 11.9 | 11.7 | 12.5 | 14.7 |
| Tenant, rent at reduced price or free | Bulgaria | 28.6 | 19.5 | 10.7 | 9.2 | 15.4 |

Source: Eurostat, 2012[62]

The analyses of the prices trends in the period 2008-2012 show comparable decline in rental and housing prices. However, other factors such as limited incomes of the households, a sense of insecurity on the labor market combined with growing unemployment rate, the increased mobility, and the high amount of mortgage interest rates etc. tilt the balance rather in favor of rent before buying homes.

### 2.3. Tenancy contracts and investment

- Is the return (or Return on Investment (RoI)) for rental dwellings attractive for landlords-investors?
  - In particular: What were the effects of the crisis since 2007?
- To what extent are tenancy contracts relevant to professional and institutional investors?
  - In particular: may a bundle of tenancy contracts be included in Real Estate Investment Trusts (REITS) or similar instruments?
  - Is the securitization system related to tenancies in your country? Are commercial (or other) landlords allowed to securitize their rental incomes? If yes: Is this usual and frequent?

In the period of 1998 to 2008, the average nominal house price rose 4.5 times. A significant factor in the growth of housing prices was Bulgaria's EU accession, and the consequent expectations of future income growth, as well as the relatively high levels of return of investments in real estate.[63]

Over the last four years the average price per square meter of living space has decreased by 37.9%. In the third quarter of 2012 it was BGN 881.21 (EUR 450) per $m^2$ – close to the price level at the end of 2006.[64] In the same period, the average annual

[62] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database – ilc_lvho07c, 2012.
[63] National Statistical Institute, Quarterly average market prices of dwellings, http://www.nsi.bg/ 2012.
[64] Ibid.

household income grew by 3.6%, from BGN 9,297 (EUR 4,754) in 2008 to BGN 9,629 (EUR 4,923) in 2011[65]. The cost of an average size (75 $m^2$) home in 2012 would amount to 6.7 average annual household incomes. For comparison, the same size home in 2008 could be bought with an average household income of 11.4 years, that is, in about a 40% longer period. This data show that buying a property has become cheaper in 2012.

However, the improved income-to-purchase ratio shows a skewed image of housing affordability. There are counteracting forces that hinder the development of the real estate market. Among the important factors that constrain housing demand are relatively low incomes, high food costs and overheads payments for water, electricity, heating and maintenance of the house) (consisting almost half of the household spending), and the higher interest costs on potential mortgage.

Another factor for the decline of property prices is that Bulgaria is among the countries with the highest percentage of home owners in the EU 27[66], as well as significant reduction of the foreign investment in real estate in Bulgaria after 2008. When the construction boom came to an end, and foreign investors withdrew due to the economic crisis, the supply of properties for sale and rent increased significantly. However, the economic crisis has also affected the demand side of the market: rising unemployment and falling incomes have considerably reduced opportunities to purchase a home, pay a mortgage loan, or rent on the private market.

Many property owners who expected to profit from investments made before the crisis now wait for economic recovery, and for prices to return to their pre-GFC levels. In anticipation of higher sale prices, owners would have to write off losses on interest, property taxes, etc. unless they rent out their property, which helps them cover their mortgage payments. Accordingly, the tougher competition among lenders leads to a significant decrease in rent levels. To sum it up, the crisis-balance between supply and demand led to a significant reduction of prices for both buying and renting property.

Job insecurity and diminishing incomes in the crisis predetermine the reluctance of many of those in need of housing to be bound with long-term commitment on mortgage payments. Moreover, the larger supply of rental housing, affordable rents, and higher mortgage rates lead to growing interest in rental housing, at the expense of purchasing own residential property.[67]

The review of price trends at the biggest rental market in Bulgaria – Sofia – shows improvement in rent-to-income ratio by approximately 40% in January 2011 compared to

[65] National Statistical Institute, Household budgets, 1999-2011, http://www.nsi.bg/ 2012.
[66] According to Eurostat data in 2011, Bulgaria is among the leading three countries in EU 27 (after Romania and Lithuania) on percentage of home owners: 87.2% of the population are home owners. (Eurostat, SILC, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database - ilc_lvho02, 2012).
[67] There is no official statistical data available; these trends are based on expert estimates. Following the outbreak of the financial crisis, people have been less interested to make a long term financial commitment, and prefer to rent as long as their future becomes clearer.

January 2008[68]. For comparison, in the last four years the average price per square meter of useful floor area decreased by 37.9%, and average household income in 2012 allows payment of purchased dwelling in about a 40% shorter period compared to 2008[69]. In other words, in the period 2008-2012 the decline in rental and housing prices had a similar pace, and the development of attitudes towards purchasing or renting were influenced by factors other than price, such as increased mobility, a sense of insecurity on the labor market, high amount of mortgage interest rates etc.

Real Estate Investment Trusts (REITS) or similar instruments do not exist in Bulgaria. There is no securitization system related to tenancies in the country. Although the commercial (or other) landlords are allowed to securitize their rental incomes there is no such practice identified (even less – usual or frequent) within this research.

### 2.4. Other economic factors

- ~~To what extent do local market divergences play a role? Are there areas of growth and decline?~~ Deleted as contained in A
- What kind of insurances play a role in respect to the dwelling (e.g. insurance of the building, the furniture by the landlord; third party liability insurance of the tenant?)?
- What is the role of estate agents? Are their performance and fees regarded as fair and efficient?

The 'domino effect' of the financial and economic crisis affected the insurance industry as well. In 2011, for a second consecutive year, the housing insurance market is dropping down in both major insurance operations directly related to housing – the fire and natural disasters insurance and other property damages. In 2012 the drop continued and other property damages and fire and natural disasters insurance market shrank additionally.

[68] Investor BG, http://www.podnaem.bg/prices for the rent prices in Sofia, 2012; NSI - Total monthly household income, http://www.nsi.bg/, 2012; authors' own calculations for households' income in Sofia (28% higher than country average in 2009).
[69] National Statistical Institute, Quarterly average market prices of dwellings, http://www.nsi.bg/, 2012.

**Table 8: Fire and natural disasters other property damages insurance market dynamics**

| Year | 2007 | 2008 | 2009 | 2010 | 2011 | Sept. 2012 |
|---|---|---|---|---|---|---|
| Fire and natural disasters | 181,878,593 | 200.473,384 | 214,410,784 | 202,530,138 | 202,254,555 | 133,420,262 |
| Other property damages | 59,520,214 | 59,119,934 | 63,519,384 | 58,879,645 | 56,327,009 | 43,284,299 |
| Annual growth - fire and natural disasters (%) | | 10.22% | 6.95% | -5.54% | -0.14% | |
| Annual growth - other property damages (%) | | -0.67% | 7.44% | -7.30% | -4.34% | |

Source: Financial Supervision Commission, 2012[70]

According to data from the joint study of NREA and the National Revenue Agency published in December 2012, 80% of real estate operators do not declare correct income, and evade taxes. In 2011, the share of unregistered brokers reached almost one third of all brokers. Sofia, Varna and Burgas lead in the rankings for tax evasion.

'As for the illegal brokerage also need to consider that checks are missing, the overall system is flawed.' (interview with a real estate agent, quoted material is translated by the authors)

The study found that the share of hidden tax revenue and share of potential damages to the hidden revenue remained relatively constant regardless of the triple decline of the revenues of the real estate agencies after 2007.

Generally the desire for direct negotiation between tenants and landlords and avoidance of real estate mediation can be explained by the fact that the majority of landlords and tenants belong to low-income groups for which the amount of commission charged for the brokerage services is high, especially given the fact that often rental contracts are for a period less than one year.

There are voices for the introduction of a licensing regime for the real estate agencies.

'The law could regulate the introduction of a licensing system for the brokers.' (interview with a lawyer, quoted material is translated by the authors)

Along with this, however, real estate agencies should meet the expectations of providing a wide range of services in the interests of tenants and landlords to justify the received fees:

> There is no law protecting the real estate agencies and thus a lot of problems come associated with rental relationships... A brokerage firm may be licensed. By analogy with the granting of bank loans real estate agencies should interview the tenant and landlord to clarify what is the income of the tenant and if he or she is able to pay the rent, if the tenant works on a permanent basis or not, whether he or she is a student or temporary resident worker, etc.
>
> (Interview with a real estate agent, quoted material is translated by the authors)

[70] Financial Supervision Commission, http://www.fsc.bg/Home-en-1, 2012.

As of 2013 both state and municipal properties shall obligatorily be insured. In accordance with the Art. 9, para. 1 of the Municipal Property Act[71] 'the built-up real estates - public municipal property, shall obligatorily be insured, including against natural disasters and earthquakes'. Para 2 of the same article provides that 'the municipal council shall determine the properties of municipality ownership, which shall be subject to obligatory insurance, including against the insured risks referred to in Para 1'[72].
According to the State Property Act[73] 'the built-up real estates - public state property, shall be obligatorily insured.' Since the new legislation has been in force from 2013 there are not clear evidences on what the impact of these provisions might be over the rent of social housing. However, the necessary funds for payment of the insurance instalments will lead to higher expenses on the public rental stock.

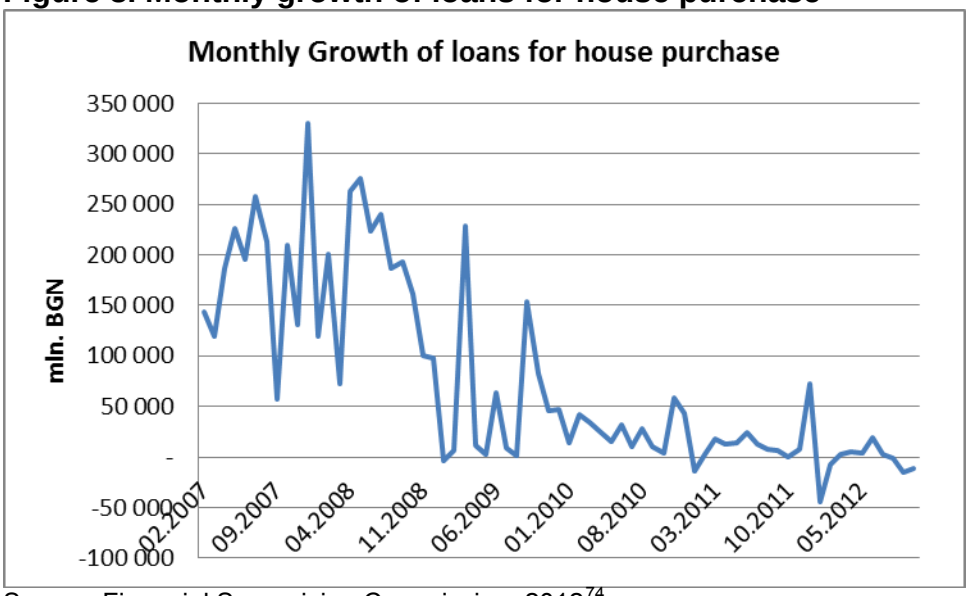
### 2.5. Effects of the current crisis

- Has mortgage credit been restricted? What are the effects for renting?
- Indicate the current figures on repossession (seizures of houses in case of mortgage credit default of the buyer)? Have repossessions affected the rental market?
- Has new housing or housing related legislation been introduced in response to the crisis?

One of the major macroeconomic effects of the crisis over the real estate market was the limited access to credit resources. The positive trend of the previous four years came to an end in 2012, and the present mortgage credits monthly growth is significantly lower, even negative. (see Figure 3)

[71] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 9, para. 1.
[72] Ibid., para 2.
[73] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 12, para. 1.

**Figure 3. Monthly growth of loans for house purchase**




Source: Financial Supervision Commission, 2012[74]

In 2012 there are thousands of households that took on mortgages during the construction boom between 2005 - 2008. Many of them currently face difficulties in covering their housing loans, due to lowered wages or unemployment. After 2008 the unemployment rate doubled, and it reached 11.6% at the end of the third quarter of 2012.

**Table 16: Unemployment rates of population of 15 - 64 years of age (2003-2011) in %**

| Year | 2007 | 2008 | 2009 | 2010 | 2011 | 2012, Q3 |
|---|---|---|---|---|---|---|
| Unemployment rate (%) | **6.9** | **5.7** | **6.9** | **10.3** | **11.3** | **11.6** |

Source: National Statistical Institute, Unemployment Rates, 2012[75]

The low demand for credit led to the gradual decrease of the annual percentage of costs on housing loans both for the banks and borrowers.[76]

**Table 17. Annual percentage of costs on housing loans[77]**

| Annual percentage of costs | Dec. 2007 | Dec. 2008 | Dec. 2009 | Dec. 2010 | Nov. 2011 | Nov. 2012 |
|---|---|---|---|---|---|---|
| In BGN | 8.62 | 10.74 | 10.68 | 8.97 | 8.48 | 7.99 |
| In EUR | 8.25 | 9.24 | 9.56 | 8.71 | 8.62 | 8.04 |

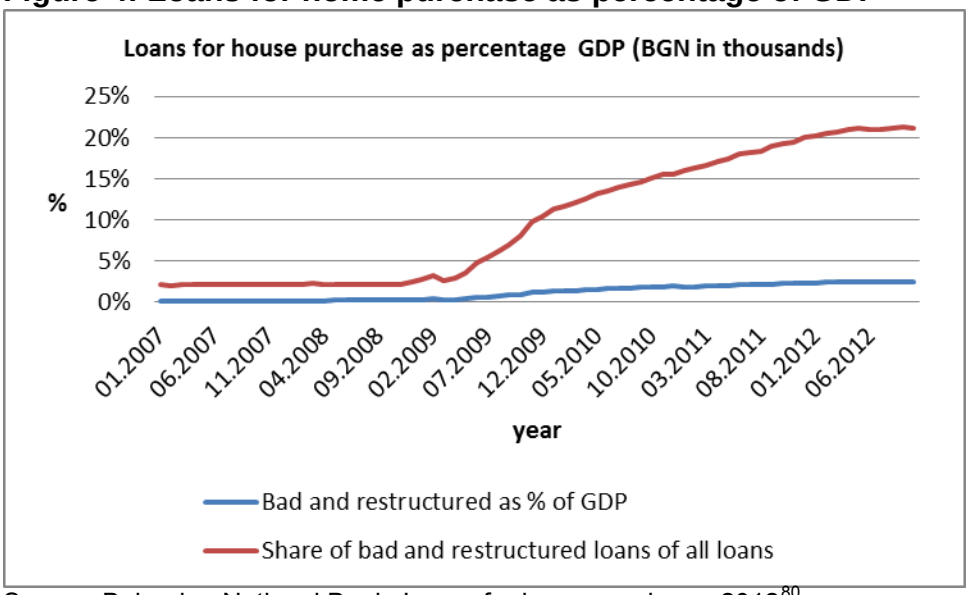
Source: BNB, January, 2013[78]

[74] Financial Supervision Commission, http://www.fsc.bg/Home-en-1, 2012.
[75] National Statistical Institute, http://www.nsi.bg/, 2012.
[76] Annual percentage of costs on housing loans cover all interest payments on the loan and all fees, commissions and other expenses of the client, which are conditions of the loan.
[77] Higher interest rates due to expected higher risks on BGN currency exchange rate.
[78] Bulgarian National Bank, http://www.bnb.bg/, January, 2013.

According to the recently published analysis of the UniCredit Bulbank,[79] the amount of the average mortgage loans declined significantly after the construction boom, and its drop continued in 2012. In 2011 the average housing loan amounted to BGN 75 thousand (or EUR 38.4 thousand) and fell by 10% to EUR 34.8 thousand in 2012. The reason for this was lower property prices, the ongoing high unemployment, low incomes, and households' concerns about their financial stability that made them more cautious. All these factors resulted in a lower level of spending.

The value of non-performing mortgage loans still represents less than 2.5% of the GDP; it does not jeopardize the stability of the state budget and the national financial system, and is not expected to do so in the foreseeable future.

**Figure 4: Loans for home purchase as percentage of GDP**




Source: Bulgarian National Bank, Loans for home purchase, 2012[80]

However since 2009 the share of bad and restructured loans of all loans for home purchase has grown up to 21.21% and affects thousands of owners with delayed repayment or defaulted mortgages.

In 2006, the creditors have brought 37,000 cases to the private bailiffs. In 2011 there were 5 times as many cases – over 180,000. In 2006 there were completed cases 5,500; while in 2011 there were over 40,000. In 2006, the total amount collected by private bailiffs was BGN 95 million (EUR 48.6 million), in 2011 it was over BGN 700 million (EUR 358 million).

[79] UniCredit Bulbank, http://www.unicreditbulbank.bg/en/Media_Centre/News/2013/EN_NEWS_02_01_2012, 2012.
[80] Bulgarian National Bank, http://www.bnb.bg/, 2012.

**Table 18. Number of cases of private bailiffs**

| Year | Initiated cases | Closed cases | Total amount collected by private bailiffs in thousand EUR |
|---|---|---|---|
| 2006 | 189.2 | 28.1 | 485,727.3 |
| 2007 | 327.2 | 87.9 | 1,278,229.7 |
| 2008 | 357.9 | 153.4 | 2,045,167.5 |
| 2009 | 562.4 | 148.3 | 1,866,215.4 |
| 2010 | 715.8 | 163.6 | 2,965,492.9 |
| 2011 | 920.3 | 204.5 | 3,579,043.2 |

Source: Bulgarian Chamber of Private Enforcement Agents, Annual Report (2011)[81]

Indirectly the growing number of the repossessions affected the rental market by contributing for additional supply of dwellings to the real estate market and further decrease of housing and rental prices.

No housing or housing related legislation has been introduced in response to the last economic crisis. However, in March 2014 the National Assembly adopted at first hearing amendments in the Law on the Consumer Credit[82] according to which a penalty interest will not be imposed in case of preliminary payment off the credit.

Additional burden on thousands of households are the outstanding utility payments – especially as regards the heating arrears. In 2011 only the metropolitan heating company had more than EUR 200 million debts for gas supplies and the bulk of it is due to uncollected arrears from consumers.[83] The Sofia heating company was saved several times in the last five years through state funding recovering the accumulated debts however there are cases of closed heating companies. This occurred especially in the country-side, where public utilities were unable to provide services due to the decreasing number of solvent clients.

**Table 19. Summary table 1 Private Sector (please complete the cells with +)**

| | Landlord | Tenant |
|---|---|---|

[81] Bulgarian Chamber of Private Enforcement Agents, Annual Report (2011), http://www.bcpea.org/english/articles.php?cat_id=1, 2011, 7.

[82] Law on the Consumer Credit, promulgated in State Gazette issue 18 of 5 March 2010, last amended State Gazette issue 30 of 26 March 2013.

[83] Държавата се връща в 'Топлофикация - София', в. 'Капитал', http://www.capital.bg/politika_i_ikonomika/bulgaria/2013/01/02/1977653_durjavata_se_vrushta_v_toplofikaciia_-_sofiia/, 3 January 2013 (The state come back to Toplofikatsiya – Sofia (metropolitan heating company), Capital Weekly).

| | Landlord | Tenant |
|---|---|---|
| Crisis effects | Increased supply of rental housing (while expecting better prices to sell dwellings). | Lower real income. Higher cautiousness in buying dwellings by mortgages. Increased willingness to rent. Move to 'periphery' or towards neighbourhoods with more affordable rental prices. Diminished requirements to the quality of housing (e.g. new vs. old housing, availability of (new) furniture, access to central heating etc.) |
| Return on investment | Decreasing rental incomes during the economic crisis. Low incomes from rented houses. | All factors considered, the balance between mortgages and rental expenses is in favor of the latter. |
| Affordability | | Similar pace of decrease of rental and selling prices. Restricted access to credits. |
| Local differences (in need, RoI and affordability) | Worse supply/demand ratio in rural areas and smaller cities Growing stock of uninhabited houses in rural areas and smaller cities | The growing stock of uninhabited houses in rural areas and smaller cities makes the access to housing much easier. But employment issues and low incomes stimulate migration towards big cities and abroad. |
| Insurance | Less mortgages and less insurance. (The mortgages and insurance are connected: the banks requirements for mortgages include obligatory insurance) | Insurance in the time of crisis is considered less priority than saving money for more difficult times |

**Table 20. Summary table 2 Public Sector (please complete the cells with +)**

| | Landlord | Tenant |
|---|---|---|
| Crisis effects | Limited funding and even indebtedness of some small municipalities leading to:<br>- Low level of social expenses.<br>- Policy of accumulation of funds through privatization (incl. selling of social housing). | Growing demand for different forms of social housing incl. crisis centers and homes for temporary accommodation. |

| | Landlord | Tenant |
|---|---|---|
| Return on investment | Low level of return on investment and increasing losses from social housing.<br>Lack of incentives for public sector to invest in social housing. | |
| Affordability | | For the extremely poor tenants even the social housing is not affordable since they are not able to cover maintenance costs. |
| Local differences (in need, RoI and affordability) | Much higher pressure for social housing in big cities | |
| Insurance | Since 2012 introduced new obligation for insurance of public properties. This can trigger further municipality's strive to get rid of social housing (besides unprofitable) and its incurring expenses. | |

## 2.6. Urban aspects of the housing situation

- What is the distribution of housing types in the city scale (e.g.: are rented houses mainly in the city centres and owner occupied in the suburbs?) vs. the region scale (e.g.: more rented houses in the big cities, less in the villages?)
- Are the different types of housing regarded as contributing to specific, mostly critical, 'socio-urban' phenomena, in particular ghettoization and gentrification
- Do phenomena of squatting exist? What are their – legal and real world – consequences?

In 2011 Bulgaria's housing stock consists of 2,060,745 units, 63,788 units less than in 2001. The regions with the steepest decrease are North-West and North Central Bulgaria, which are among the poorest EU regions. Vratsa district registered a decline by 18.2% within the last decade. There are only six regions that have increased the number of residential buildings between the last two censuses, five of them include the five biggest cities in Bulgaria: Sofia (4.9%), Burgas (3.2%), Varna (2.7%), Plovdiv (1.1%) and Pleven (0.3)[84]. These figures confirm the trend of in-country migration flows to the largest cities at the expense of smaller settlements.

[84] Statistical Reference Book/Population Census 2011, National Statistical Institute, Sofia, 2012, 107.

Smolyan district's population increased by 1.2% from 2001 to 2011.[85] The region is inhabited by a population mainly living in small towns and villages in the Rhodopa Mountain, where the two and three-storey residential buildings are the most widespread in Bulgaria. Due to livelihoods problems in the last 20 years, many people from the region had to find employment abroad, in larger cities such as Plovdiv and Sofia, and some Black Sea and mountain resorts. The increase in the number of residential buildings in Smolyan can be explained by the mountainous terrain that does not allow the construction of high-rise buildings, as well as with the local cultural traditions of investing savings in one's own house in one's native settlement as a sign of prosperity[86].

**Table 21. Dwellings by Census year, place and type (Since 2001 dwellings in buildings for temporary housing (holiday houses) are included) in thousands**

| | | Dwelling by type | | | | |
|---|---|---|---|---|---|---|
| | | **In residential building** | | | | |
| | Total | Inhabited | Uninhabited | In non-residential building | Institutional | Non-conventional and mobile |
| 1992 | | | | | | |
| **Total** | 3,074.1 | 2,770.8 | 274.2 | 3.1 | 15.1 | 10.9 |
| Urban area | 2,039.5 | 1,828.9 | 189.3 | 1.2 | 10.7 | 9.5 |
| Rural area | 1,034.5 | 941.9 | 85.0 | 1.8 | 4.4 | 1.5 |
| 2001 | | | | | | |
| **Total** | 3,688.8 | 2,815.8 | 861.8 | 2.5 | 0.8 | 7,851 |
| Urban area | 2,299.0 | 1,904.1 | 386.7 | 1.0 | 0.5 | 6,660 |
| Rural area | 1,389.8 | 911.6 | 475.1 | 1.5 | 0.3 | 1,191 |
| 2011 | | | | | | |
| **Total** | 3,887.1 | 2,641.1 | 1,220.4 | 21.3 | 0.8 | 3,547 |
| Urban area | 2,566.6 | 1,899.6 | 653.1 | 11.1 | 0.5 | 2,272 |
| Rural area | 1,320.5 | 741.5 | 567.3 | 10.2 | 0.3 | 1,275 |
| Growth (2001-2011) | | | | | | |
| **Total growth (2001-2011)** | 5.4% | -6.2% | 41.6% | 750.8% | -4.0% | -54.8% |
| Urban area (2001-2011) | 11.6% | -0.2% | 68.9% | 1,057.6% | 10.3% | -65.9% |
| Rural area (2001-2011) | -5.0% | -18.7% | 19.4% | 559.9% | -23.5% | 7.1% |

Source: National Statistical Institute, Census, 2011[87], authors own calculations of the growth

As of 1 February 2011, the number of dwellings in rural areas is 1,320,548, about one-third of the whole housing stock. Since 2001 the number of inhabited residential dwellings has shrank by 18.7%, and in 2011 the share of rural areas' in all inhabited

[85] Ibid.

[86] Field work interviews with school principals in Municipality of Satovcha (situated in West Rodhopa Mountain) carried out by the authors.

[87] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012 г., 20 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 20).

dwellings is 28%, more than 4 percentage points less than it was in 2001 and almost 17 percentage points less comparing to 1975.

It is noteworthy that the number of dwellings in non-residential buildings in the last 20 years increased by 7 times while in the urban area the increase is even more than 9 times[88]. This demonstrates the negative implications of internal migration from the small settlements[89] to the bigger cities. After all, the lack of opportunities for some social groups to afford homes in residential buildings. leads to squatting, or living in non-residential premises.

*Squatting*

The presence of the huge vacant housing stock (1.22 million units in 2011) results in a relatively significant level of squatting.

There are two major types of squatting. The most typical one is the squat in uninhabited dwellings or other (non-residential) buildings (e.g. former factories, warehouses etc.). Due to the quicker depopulation of smaller villages and towns, there are many cases where abandoned houses in deserted settlements are occupied by households from vulnerable groups[90].

The second typical case of squatting starts as provision of rent free housing between relatives, but the tenant keeps occupying the dwelling after the agreed timeframe. The lack of a written contract can further complicate the situation, especially when the owner wants to rent, sell or use the dwelling, but the squatters do not leave.

As a whole, the squatting is not a criminal offense. It is treated by the civil law. In some (rare) cases, squatting abandoned properties in small and unattractive neighbourhoods ended up with agreement between the owner and the occupying families (e.g. in the case of Kalipetrovo village). In Silistra, some municipal housing tenants left their dwellings without informing the authorities, and later squatters moved into the empty housing units. In 2008 the municipality admitted the new status quo, and undertook steps to recognize squatters as the legal inhabitants of the municipal homes.

## 2.7. Social aspects of the housing situation

- What is (are) the dominant public opinion(s) towards certain forms of rental types or tenure forms? (e.g. is renting considered as socially

[88] Ibid.
[89] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 1. Население/Книга 6. Миграция, НСИ, 2012, 17 (Housing and population census in Bulgaria – Volume 1. Population/Book 6. Migration, NSI, 2011, 17).
[90] Самонастанили се в къща в с. Градинарово разпродавали чуждото имущество, http://www.dnesplus.bg/News.aspx?n=599077, 1 February 2013 (Squatters in a house in the village of Gradinarovo sell foreign assets); Самонастанили се обръщат общински жилища в гето, http://btvnews.bg/1670042561-Samonastanili_se_obrashtat_obshtinski_jilishta_v_geto.html, 30 April 2010 (Squatters turn municipal housing into a ghetto).

inferior or economically unsound in the sense of a 'rental trap'?) In particular: Is only home ownership regarded as a safe protection after retirement?

- What is the typical attitude of tenants towards different forms of tenure (e.g. owners of privatized apartments in former Eastern Europe not feeling and behaving as full owners) table

*Households in need*

According to Census data, the size of median inhabited dwelling in Bulgaria is between 45 and 59 $m^2$. Almost four million people (56% of residents) live in dwellings with less than 60 square meters.[91] There are 1,052,196 persons (about 15% of residents) living in dwellings shared by more than one family and other persons[92]. More than 51% of the population lives in less than 18 $m^2$ useful space. One in four lives in a living space area of a person under 12 square meters[93]. The issue of overcrowding is more prevalent in Bulgaria than in the EU 27 average. In 2011 47.4% of Bulgarian population lives in overcrowded homes compared to only 17.3 European average (Eurostat estimates)[94].

Behind the relatively higher rate of home ownership, there are hidden lower standards of the quality of homes and living conditions, in terms of living space per person. After 2010 the share of tenants living in overcrowded homes rented at the free market fell by 11%, which can be explained by the lower rental costs and the greater supply of bigger dwellings at lower prices after the burst of the construction balloon. Nevertheless, the risk of overcrowding remains higher for households accommodated in rental homes, the case being the worst in the private rental sector.[95]. Eurostat data show that the overcrowding rate among Bulgarian tenants renting at market price in 2011 is approximately 68%, 23 percentage higher than the overcrowding rate for the owners, who do not have outstanding mortgage or housing loan, and more than 3 times higher than the EU – 27 average[96].

There is no reliable information on the number of needy households at national level. Also, since the provision of social housing is decentralized, different criteria are applied

[91] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 32 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 32).
[92] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 3. Жилищни условия на населението, НСИ, 2012, 27 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 3. Housing conditions of the population, NSI, 2012, 27).
[93] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 32 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 32).
[94] Eurostat, http://epp.eurostat.ec.europa.eu - Overcrowding rate - total population (source: SILC) - ilc_lvho05a, 2013.
[95] This indicator is defined as the percentage of the population living in an overcrowded household. It is presented by accommodation tenure status. (Eurostat, definition used by the National Statistical Institute, Census, http://epp.eurostat.ec.europa. eu/tgm/table.do?tab=table&init=1&language=en &pcode=tessi173&plugin=1, tessi173, 2012).
[96] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012.

and implemented by different local self-governments. Furthermore, there is no legal obligation on local authorities to publicly announce information on the existing social housing stock and its distribution. This lack of transparency is part of the broader issue of planning and management of the social housing stock at local level, which could easily lead to corruption and unfair distribution of tasks of public authority. Distorted distribution often happens to the expense of the most of vulnerable groups, since they are less informed about their rights, and their access to public administration meets various barriers (people are often unaware of their rights and how they can assert them).

Limited availability of housing and the existing arrangements for selling social dwellings to the sitting tenants after a rental period (usually five years) at lower prices further decreases the number of rented social housing. In this context it is particularly difficult to meet the housing needs of many of the needy households that are enrolled in the social housing registers.

### *Poverty and access to housing*

The private rental stock in Bulgaria prevails, while public housing is melting quickly. This narrows significantly the residential mobility opportunities of vulnerable groups searching better living and working conditions. They cannot afford renting dwellings at market prices, and they cannot access public housing either.

The low income social layers face substantial challenges in addressing their housing needs. In 2011 the share of the poor in Bulgaria was the highest among the EU-27. The people at risk of poverty after social transfers represent 22.3% of total population, as opposed to the 16,9 percent of the EU – 27 average[97].

Due to the limited financial resources and low purchasing power associated with low incomes and unemployment, many families of low income groups cannot buy or rent a separate dwelling. The share of people who do not own a dwelling is 18.9% of the total population in Bulgaria. Over two-thirds of these people live in cohabitation, or rent through a rent free arrangement reduced payment.

The Eurostat data on the relationship between poverty and tenure status show that renting at market price is much less affordable for the poor population. A significant share of poor population relies on rent at reduced price or free of rent tenancy.

[97] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, tsdsc280, 2012.

**Table 22. Inhabited dwellings by tenancy types (%)**

| Total | Total | Owner | Tenant, rent free | Tenant | Owner/Tenant, rent free and tenant | Institutional dwellings* |
|---|---|---|---|---|---|---|
| Dwellings | 100.0% | 81.7% | 7.1% | 6.4% | 4.8% | 0.03% |
| Residents | 100.0% | 81.1% | 6.2% | 6.2% | 6.1% | 0.4% |

* Collective housing (boarding houses, specialized homes and monasteries, prisons, etc.). The inhabitants of those types of homes live in collective households, i.e. group of persons living in have a common budget and regime.
Source: National Statistical Institute, Census, 2011[98]

Many families from vulnerable groups rent at reduced price or in a rent-free arrangement. In 2011 every sixth person living with income below 60% of median equalized income is a tenant renting a house at reduced price or free[99].

**Table 23. Distribution of population by tenure status with income below 60% of median equalized income, 2011**

| Tenure status | EU27 | Hungary | Romania | Bulgaria |
|---|---|---|---|---|
| Owner, with mortgage or loan | 13.0 | 20.2 | 0.2 | 0.3 |
| Owner, no outstanding mortgage or housing loan | 40.6 | 61.4 | 95.9 | 81.2 |
| Tenant, rent at market price | 27.8 | 3.2 | 0.9 | 0.4 |
| Tenant, rent at reduced price or free | 18.6 | 15.3 | 3.0 | 18.1 |

Source: Eurostat, 2012[100]

At the same time, the tenants renting dwellings at reduced price or free are most affected by severe housing deprivation. In 2011 about 29% of them live in low quality dwellings: overcrowded with a leaking roof, no bath/shower and no indoor toilet, or a dwelling considered too dark[101].

[98] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 3. Жилищни условия на населението, НСИ, 2012, 36 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 3. Housing conditions of the population, NSI, 2012, 36).
[99] Eurostat, http://epp.eurostat.ec.europa.eu, ilc_lvho02, 2012.
[100] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, ilc_lvho02, 2012.
[101] Eurostat, http://epp.eurostat.ec.europa.eu, ilc_mdho06c, 2012.

**Table 24. Severe housing deprivation rate by tenure status, 2011[102]**

| Countries | Owner, with mortgage or loan | Owner, no outstanding mortgage or housing loan | Tenant, rent at market price | Tenant, rent at reduced price or free |
|---|---|---|---|---|
| EU27 | 1,7 | 6,1 | 6,0 | 9,3 |
| Hungary | 12,7 | 14,6 | 23,1 | 36,7 |
| Romania | 13,7 | 25,5 | 18,2 | 47,8 |
| Bulgaria | 14,4 | 12,5 | 11,4 | 28,5 |

Source: Eurostat, 2012[103]

In practice, access to rental housing on the free market is extremely limited for households with severe material deprivation. Only one in ten households with a status of severe housing deprivation could afford rent at market price (most likely in smaller settlements where market rents are low). In 2011 over 56% of households renting houses at reduced price or free lived in severe material deprivation; this is above 15% above the country average.[104] The situation is particularly grave in segregated neighbourhoods inhabited predominantly by Roma population.

The lack of financial opportunities for mobility and higher birth rate among Roma in rural areas, combined with the rapid aging of the majority population, led to significant growth of the share of Roma in rural settlements. According to the NSI in 2011 the share of Roma in rural population is app. 8% (2.6 percentage points higher than it used to be in 1992 – 5.4%). The share of Roma in urban areas also increased, however with lower pace – by 1.2 percentage points between 1992 and 2011[105]. Rural areas also become more attractive for the poor Roma who are not able to cover the higher (housing) costs of living in big cities. The availability of huge uninhabited housing stock in rural areas and small cities is prerequisite for either much cheaper renting or even squatting in those settlements[106].

According to the National Program for improving the living conditions of Roma in Bulgaria for the period 2005-2015, about 25% of dwellings in Roma settlements were

[102] Severe housing deprivation rate is defined as the percentage of population living in the dwelling which is considered as overcrowded, while also exhibiting at least one of the housing deprivation measures. Housing deprivation is a measure of poor amenities and is calculated by referring to those households with a leaking roof, no bath/shower and no indoor toilet, or a dwelling considered too dark. (Embedded links point to Eurostat definitions.)

[103] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, ilc_mdho06c, 2012.

[104] Eurostat, ilc_mddd11, 2012.

[105] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 1. Население/Книга 2. Демографски и социални характеристики, НСИ, 2012 г., 31, 179 (Housing and population census in Bulgaria, Volume 1. Population/Book 2. Demographic and social characteristics, NSI, 2012, 31, 179).

[106] Between 1992 and 2011 in rural areas the share of uninhabited dwellings in residential buildings grew up more than 5 times from 8% (app. 85 thousands) to 43% (about 600 thousands dwellings). (Data from Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 20-21 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 20-21).

constructed illegally.[107] Actual cadastral maps for Roma neighbourhoods with precise registration of properties are mostly missing. In many cases there are no detailed territorial regulatory plans of these neighbourhoods. The quality of much of the housing in these areas differs significantly from the quality of housing in the country as a whole. According to OSI data in 2007[108], one of six homes in Roma settlements is built of sun-dried bricks; this is particularly typical of Roma households with the lowest socio-economic status. In every second home inhabited by Roma, there is no sewage system and indoor bathroom. These areas are characterized by overcrowding; the average member of a Roma household has 0.76 rooms (the national average is 1.58)[109]. According to the OSI surveys at the end of 2007, a Roma household consists of 4.6 people in an average[110], while the average country household in 2011 is made of 2.4 persons[111].

Due to uncontrolled growth of illegally built houses, often at the expense of the road infrastructure, the opportunities to provide the necessary and sufficient road, energy and water infrastructure are quite limited. In certain neighbourhoods the illegal buildings complicate the access to emergency services. There are cases when an entire neighbourhood is cut from electricity supply due to the arrears of some users, and 33% are affected by intermittently provision of water ('regime of water delivery').

Public support for measures to improve the living conditions of the Roma is still weak. Negative prejudices towards Roma further restrict public support for integration measures in the field of housing.

Another (smaller but quickly growing) vulnerable group is that of the homeless people in big cities. The last census held in 2011 was the first case when the NSI set a separate question and instruction in order to identify and interview the people affected by homelessness. According to the published data the number of homeless people throughout the whole country is 368, incl. 46 children[112]. However, the data gathered seem not reliable enough[113].

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[107] National Program for improving the living conditions of Roma in Bulgaria for the period 2005 – 2015, 9.

[108] Илко Йорданов 'Ромите в България', Институт 'Отворено общество', 1.3.6. Жилищни условия, София, 2008 г., 44.

[109] Data from UNDP Survey held in 2005, 'Faces of Poverty, Faces of Hope: Vulnerability Profiles for Decade of Roma Inclusion Countries". Quoted in Annex 2 of the National Program for improving the living conditions of Roma in Bulgaria for the period 2005 – 2015, 117. The average number of rooms in inhabited dwellings by Census of population and housing in 2011 was 1.13.

[110] Ilko Yordanov, Ромите в България *(Roma in Bulgaria)*, Open Society Institute, 1.3.6. Housing, Sofia, 2008.

[111] National Statistical Institute, Census of population and housing fund, http://censusresults.nsi.bg/Census/Reports/1/2/R5.aspx, 2011.

[112] Преброиха само 368 бездомници, Standard Newspaper, http://paper.standartnews.com/bg/article.php?article=377898, 12 August 2011 (Only 368 homeless people counted).

[113] For example, only in municipality of Sofia there are three homes for temporary residence of homeless with total capacity of 470 places and wintertime they are almost all the time fully occupied. (data by Minka Vladimirova, head of 'Social Policy" Directorate at the Municipality of Sofia, Близо 400 бездомници ще посрещнат Коледа в центрове за временно настаняване, at http://dariknews.bg/view_article.php?article_id=1015986, 24 December 2011 (About 400 homeless people will celebrate Christmas in centers for temporary accommodation).

The extremely higher share of home owners proves the dominant public opinion in favor of home ownership.
Traditionally, there is dominance of a traditional concept of social success: the lack of own dwelling is perceived as a sign of failure.
Renting with a public task is considered as last resort for the households. It is associated mostly with people with low income and social status.
For example, according to a municipal expert working in social housing department the people with established social housing need are mainly people with poor social and economic status 'single parents (mothers) with children, Roma and households with jobless family members aged eighteen years and more' (interview with an expert in municipal administration, quoted material is translated by the authors).
The higher 'turnover' in social housing and lack of investments in dwelling maintenance significantly depreciate the quality of life in those abodes.
Perceptions of renting without public tasks are much more positive compared to renting public housing.

**Table 25. Summary table 3**

| | Home ownership | Renting | |
|---|---|---|---|
| | | **with a public task** | **without a public task** |
| Dominant public opinion | The extremely higher share of home owners proves the dominant public opinion in favor of home ownership. Traditionally, there is dominance of a traditional concept of social success: the lack of own dwelling is perceived as a sign of failure. | Renting with a public task is considered as last resort for the households. It is associated mostly with people with low income and social status. The higher 'turnover' in social housing and lack of investments in dwelling maintenance significantly depreciate the quality of life in those abodes. | Perceptions of renting without public tasks are much positive compared to renting public housing. |
| Contribution to gentrification? | The growing social and economic gap culminated in building separate 'closed complexes' for wealthier owners. | | |
| Contribution to ghettoization? | The internal inequalities among vulnerable groups also become deeper and result in further segmentation among the segregated poor communities | | |
| Squatting? | The increasing number of abandoned buildings and | | |

| | | | |
|---|---|---|---|
| | discontinued constructions during the crisis (semi-constructed or half-demolished buildings in big cities) provides opportunity for temporary or permanent squatting. These buildings are also used by the poorest migrants from smaller settlements. | | |

# 3 Housing policies and related policies

## 3.1 Introduction

- How is housing policy related to the structure and concept of the (national) welfare state, to other welfare policies and the tax system?
- What is the role of the constitutional framework of housing? (in particular: does a fundamental right to housing exist?)

The Bulgarian constitutional framework does not contain the right to housing as it is recognized in the Universal Declaration of Human Rights. Nevertheless, the Constitution of the Republic of Bulgaria[114] proclaims several basic principles related to housing in general, stipulating that: (1) the right to property shall be guaranteed and protected by law; (2) forcible expropriation of property for state or municipal needs shall be effected only by virtue of law, provided these needs cannot be otherwise met, and after fair compensation has been ensured in advance; (3) the home shall be inviolable and no one shall enter or stay inside a home without its occupant's consent, except in the cases expressly stipulated by law.

By the late 1950s, Bulgaria's new housing stock encompassed mainly low-rise buildings (2-4 stories); the construction of more than seven floor buildings was rather the exception. A construction boom began in the 1960s, which led to an intensified process of new constructions in the next few decades, reaching more than two million homes by 1989.[115] This was to a huge extent a result of a state policy aimed at promoting industrialization and relocation of large parts of the population from the rural areas to the quickly growing cities. New technologies and new types of construction management were introduced in order to meet the growing housing need of the fast-growing urban population, mainly through the construction of pre-fabricated housing estates. This is the period when the distribution of population underwent a dramatic shift from 33% urban population in 1956 to 58% in 1975.

**Table 9. Number and share of Bulgarian population (in thousand people) by area and censuses**

| | | number | | share | |
|---|---|---|---|---|---|
| **Census Year** | **Total** | **Urban area** | **Rural area** | **Urban area** | **Rural area** |
| **1956** | 7,613.7 | 2,556.0 | 5,057.6 | 33.6% | 66.4% |
| **1975** | 8,727.7 | 5,061.1 | 3,666.7 | 58.0% | 42.0% |
| **1992** | 8,487.3 | 5,704.5 | 2,782.7 | 67.2% | 32.8% |
| **2011** | 7,364.6 | 5,338.3 | 2,026.3 | 72.5% | 27.5% |

Source: National Statistical Institute, Census, 2011

[114] Constitution of the Republic of Bulgaria, promulgated in State Gazette issue 56 of 13 July 1991.
[115] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 1. Жилищни сгради, НСИ, 2012 г., 12 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 1. Residential buildings, NSI, 2012, 12).

The country created 30 state construction enterprises for building pre-fab (panel) housing – such a company was set up in virtually every district center. As a result of the active policy of building new pre-fab dwellings in the mid-1990s, Bulgaria had 120 housing estates. The pre-fabricated residential buildings were usually three to eight floors, and those built with large-area and sliding shuttering construction method were even higher, twelve to sixteen floors.

Consequently, in 2011 there were 11,004 panel blocks, and another 70,000 residential buildings built by panels or reinforced concrete, with 707,873 inhabited dwellings in panel buildings. The estimated number of their inhabitants is about 1.8 million people.

During the communist regime, the state party controlled the housing construction policy (including investments), the rental market, and to a great extent the property prices. In accordance with the Law of Ownership of the Citizens[116], in one family (regardless of the number of household members) was allowed to possess no more than one main residential property and one villa (holiday home). The state-regulated housing market was characterized by strict determination of the relationship between the dwelling size and the number of household members. The state tried to encourage the urbanization, but at the same time the district authorities tried to regulate this process through the introduction of different barriers, like a system of privileges for communist party members, waiting lists for purchasing of apartments (in the big cities such a waiting list to buy a dwelling may have taken decades), restriction of free movement (through the introduction of a system of internal citizenship[117]) etc.

It should be underlined that in this period the state housing stock allowed for development of housing rent policy, through which the rental expenses of households (including electricity, heating etc.) were easily affordable for almost every household, and homelessness was a barely known phenomenon. Nevertheless, the state-controlled market of the so-called 'planned economy' maintained artificial prices of property and rents, leading to several flexible 'corrective' instruments, like corruption, black market, and 'unofficial' parts of rental and purchase contracts.

Property sales and rental prices were estimated by the State and presented as fixed values. People needed to wait for their turn in long waiting lists in order to become eligible to purchase a property. Usually, the properties that were purchased were apartments in prefabricated panel constructions, which are presently the main group of properties in the big cities. This explains the lack of a property market and the inadequate pricing of housing in Bulgaria until the early 1990s, which resulted in an excessive demand, insufficient supply, very low and undervalued residential properties in this country.

[116] Law of Ownership of the Citizens, promulgated in State Gazette issue 26 of 30 March 1973, repealed State Gazette issue 19 of 1 March 2005.
[117] The issue of citizenship in capital during this period was nominated in the top 10 phenomena of the twentieth century – in the category 'Revolution of the life" of the 'Bulgarian Events of the Century" http://mstoyanov.net/portfolio/vek.bnt.bg/revolyucii-v-bita/c190,5-sofiyskoto-jitelstvo.html, 2010.

## 3.2 Governmental actors

- Which levels of government are involved in housing policy (national, regional, local); what are they called; how many are there of each?
- Which level(s) of government is/are responsible for designing which housing policy (instruments)?
- Which level(s) of government is/are responsible for which housing laws and policies?

The housing policy in Bulgaria is carried out by respective public institutions at three levels – national, regional and local – as stipulated in the general Provision Chapter of the Spatial Development Act[118].
Despite the distribution of functions and responsibilities, all actors involved shall guarantee sustainable development and favourable conditions for living, work and recreation of the population.
At **national level**, according to the Art. 2. of the Spatial Development Act[119], the Council of Ministers shall define the basic directions and principles of the policy for spatial development and approve decisions for financing the activities for spatial development.
Art. 3, paragraph 1 stipulates that:

> 'The Minister of Regional Development shall manage the implementation of the state policy in the spatial development, co-ordinate the activity of the central and the regional bodies of the executive power, of the bodies of local government and the local administration, implement methodical guidance and exercise control over the overall activity for the spatial development.'[120]

Recently the National Parliament adopted amendments (amend. – SG 66/13, in force from 26.07.2013) in Art. 3[121] saying that the newly appointed Minister of Investment Project Development shall provide methodological guidance and monitoring of the activity of the participants in the investment process, and also of the activities for licensing of construction, acceptance and commissioning of accomplished projects.
The Minister of Regional Development shall appoint National Expert Council for Spatial Development and Regional Policy and organize its work. The Minister of Investment Project Development shall appoint National Expert Council for Investment Project Development and shall organize its work.
There is also shared responsibility between the Minister of Regional Development, Minister of Defence, the Minister of Interior and the Chairman of State Agency 'National Security' as regards the appointment of specialized expert councils on development of the territories, which shall consider the investment designs for the special sites, connected with the defence and the security of the country. The Minister of Defence, the Minister of Interior and the Chairman of State Agency 'National Security' shall organize the work of these councils.

[118] Spatial Development Act, promulgated in State Gazette issue 1 of 2 January 2001, last amended State Gazette issue 66 of 26 July 2013.
[119] Ibid., Art. 2.
[120] Ibid., Art. 3, para. 1.
[121] Ibid., Art. 3.

The National expert council for investment project development is responsible for:

- o carry out due diligence of investment projects, the coordination and approval of which is within the competency of the Minister of investment project development;
- o adopt investment projects and designs of general land development plans of municipalities, submitted for consideration subject to compliance with the provision of Art. 127, para. 5 of the Spatial Development Act;
- o carry out other activities, assigned to him/her by the Minister of investment project development.

The specialized expert councils for development of the territories, connected with the development and the security of the country shall:

- o expertize investment designs;
- o approve the investment designs;
- o fulfil other activities, assigned by the Minister of Defence, by the Minister of Interior or the Chairman of State Agency 'National Security'.

The National council for spatial development and regional policy, the National Expert Council for investment project development the regional and the municipal (the district) expert councils for spatial development implement consultative and expert activity.

As stated in the Art. 4 of the Spatial Development Act[122], at the **level of the regional authorities,** the regional governor shall conduct the state policy for spatial development in the corresponding region. Depending on the development objectives and tasks of regional and inter-municipal importance the regional governor can appoint regional expert council for spatial development and organize its activity for implementation of the functions delegated to him with this act. The members of the regional expert council shall be defined according to the character of the project.

At **local level**, as Art. 5, paragraph 1[123] of the Spatial Development Act postulates, the municipal councils and the mayors of the municipalities shall, within the framework of the conceded competence, determine the policy and implement activities for the spatial development of the corresponding municipality. In the municipalities and in the regions of Sofia municipality and of the towns with division in districts (e.g. Varna and Plovdiv) chief architects shall be appointed. The chief architect of the municipality shall: (1) manage, coordinate and control the activities for spatial development, engineering and construction in the respective territory, (2) coordinate and control the activity of the operational units in the municipalities and (3) issue administrative acts according to the powers conceded to him under this act. The chief architect of the municipality shall coordinate and control the activity of districts chief architects.
The mayor of the municipality (the district) is obliged to: (1) appoint Municipal (District) Expert Council for Spatial Development and to (2) manage the archiving of the: (a) approved development plans and (b) their amendments and also (c) the issued construction papers, (d) register of all decisions for working out of detailed development

[122] Ibid., Art. 4.
[123] Ibid., Art. Art. 5, para. 1.

plans and of their amendments, (e) register of the issued permissions for construction and (f) register of the constructions, entered into exploitation.

### 3.3. Housing policies

- What are the main functions and objectives of housing policies pursued at different levels of governance?
  - In particular: Does the national policy favour certain types of tenure (e.g. rented housing or home ownership (owner-occupation)?
  - Are there measures against vacancies (e.g. fines or forced assignments of vacant houses)?
  - Are there special housing policies targeted at certain groups of the population (e.g. elderly people, migrants, Sinti and Roma etc)?

The newest history of the national housing policy can be divided in two major periods. The first period began with the transition to market economy after 1989, and comprises the introduction and first years of implementation housing market deregulation, and ceases with the end of the construction boom, and the GFC. The second period started with the sharp economic downturn and significant decline in the construction sector after 2009[124].

The first period is characterized by continuous changes of the institutional framework in the area of housing, by the creation of an updated or completely new normative basis, and the adoption of strategic documents. Through a series of newly adopted laws, the State gradually withdrew from controlling the housing construction and the real estate and rental markets.

In this period the following major legal acts have been adopted: Law for the Ownership[125], State Property Act[126], Municipal Property Act[127], Code of Civil Procedure[128]. One of the most important consequences of the newly adopted laws was the restored right of ownership to private possessors whose properties had been nationalized by the previous regime. Combined with intense privatization this led to tremendous decline of state and municipality owned housing stock[129].

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[124] According to the National Statistical Institute, Censes 2011, only 5.2% of the national housing buildings fund is built after 2000, which is app. 4 times less than the share of housing buildings constructed between 1960-1969. (Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 1. Жилищни сгради, НСИ, 2012 г., 28) (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 1. Residential buildings, NSI, 2012, 28).

[125] Law for the Ownership, promulgated in State Gazette issue 92 of 16 November 1951, last amended State Gazette issue 105 of 29 December 2011.

[126] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.

[127] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.

[128] Code of Civil Procedure, promulgated in State Gazette issue 59 of 20 July 2007, in force from 01.03. 2008, last amended State Gazette issue 66 of 26 July 2013.

[129] The share of state-owned dwellings drop by 6 times from 16.2% in 1985 to 2.6% in 2011. (Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2.

Regarding the access to housing, the gap broadened between a smaller minority of wealthier people and a growing group of the deprived. The main reasons for the widening disparities were the growing economic inequalities on one hand, and the lack of effective state housing policy, with impact on the real estate and rental markets, on the other.

At the end of the first period – together with the Bulgaria's EU membership – the country has registered a real boom in construction and real estate market that was possible thanks to higher international investments in Bulgarian resort properties, and sizeable housing credit expansion despite the relatively higher interest rates.

In terms of housing policy design and implementation, in this period the governments adopted several housing related strategic documents: National Plan for Regional Development, National Housing Strategy, Regional Development Operative Program. The first steps towards the recognition of Roma and other vulnerable groups' housing challenges were also made, and as a result, several strategic documents addressing poor living conditions in the socially marginalized communities (deprived from decent home and social infrastructure) were developed[130]. However, prolonged deterioration of living and housing conditions of most vulnerable groups continued and went even deeper when the economic crisis struck.

Throughout the transition period after 1990, there is a downward trend in the public rental sector (shrinking to approximately 2.6% of all inhabited dwellings by 2011), and the government's policy does not seem to be aimed at changing this negative trend. Consistently ignoring the need for substantial tangible public interventions in the housing market resulted in deepening inequities in the access to housing for socially vulnerable groups.

Even though in the mid-1990s several strategic documents were developed and adopted outlining housing sector priorities, most of them remained only 'desirable', without substantial funding or implementation (see National Housing strategy, below).

Under market economy circumstances, the new public housing policy was based on the concept of shifting the focus 'from providing housing to providing opportunities'.

Two strategic goals are defined in the National Housing Strategy[131]: terminating the deterioration process of the existing housing stock, and creating a working mechanism for provision of new affordable (both for purchase and rental purposes) housing.

The strategic objectives are achieved in three operational areas:

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Жилищен фонд/Книга 2. Жилища, НСИ, 2012 г., 24 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 24).

[130] Although the first National Program for Improving the Living Conditions of Roma was adopted with more than BGN billion (app. EUR half a billion) envisaged budget it had never been realised. Only few pilot patchy initiatives both at national and local level characterized the efforts for implementation of the program and many of them proved to be unsuccessful both in terms of effectiveness and efficiency.

[131] Adopted by the Council of Ministers in 2004.

i. The first operational direction is addressed to the ***administrative, legal and financial framework*** of the National Housing System. As part of the public housing policy in the middle of last Decade the following draft-laws were prepared but remained just submitted bills never voted by the national parliament:
   (1) Draft law on housing savings banks – new financial credit institutions through which to stimulate housing investment by special savings, credits and government support.
   (2) Draft law on housing associations – private organizations registered as non-profit organizations for public benefit. It is planned that they should be regulated as a legal alternative to the municipalities for the construction and management of social housing.

ii. The second operational direction is aimed at ***solving priority problems in housing utilization***. For this purpose a set of specialized programs has been designed:
   (1) Program to improve the management and maintenance of the existing housing stock and residential buildings under condominium ownership (the draft law for the management of condominiums in buildings has been prepared and adopted in May 2009[132]);
   (2) Program for building renovation: in January 2005 the Council of Ministers adopted the National Program for Renovation of Residential Buildings, defining functions of actors and the amount of state support (20%) of total cost of the whole package of renovation measures. The program is primarily targeted to residential buildings constructed by panels or steel-concrete houses in residential complexes. Later the program was modified and implemented while the support has been raised up to the 50% for condominiums.
   (3) Program to provide access to housing for low-income families – with the aim to offer mechanisms and instruments, and changes in legislation (first and foremost financial and tax) leading to improved access to housing for all vulnerable groups.
   (4) Program to improve the living conditions of Roma – this program is based on the United Nations Development Program – Bulgaria project 'National Program for Improvement of Living Conditions in the Urban Environment of Disadvantaged Ethnic Minorities'. The National Program for Improving the Living Conditions of Roma in Bulgaria' has been developed and adopted in in March 2006.

iii. The third operational direction in addressing the objectives of the National Housing Strategy is associated with an ***information and education campaign to achieve public consensus for the implementation of the new housing and training of district and municipal administrations*** to implement the programs.

The National Program for Improving the Living Conditions of Roma was adopted in March 2006 by the government of Bulgaria. The program envisages construction of

[132] Law on the Condominium Ownership Management, promulgated in State Gazette issue 6 of 23 January 2009, in force from 01 May 2009, last amended State Gazette issue 66 of 26 July 2013.

30,000 social houses which would lead to increasing the number of inhabited social houses by about one-third.
It was planned in the program that within ten years of its implementation the living conditions of 412,500 Roma (or 85,900 Roma households) residents of 100 neighbourhoods in 88 cities will be improved. The overall budget of the program amounts at app. EUR 650 million.

The necessary amendments to the legislation are included in the program such as:

- In terms of the Spatial Development Act – giving municipalities additional powers in the process of regulation of the area for housing.
- The Law on the State Budget – providing subsidies to municipalities to implement their powers and obligations for construction or acquisition of social housing for rent.
- The Law on Municipal Debt – to allow the state to guarantee for municipal debt incurred for the construction of housing for social needs and renovation of residential buildings with prevailing municipal property.

It is planned in the program to promote the legislation and encourage establishment of housing associations for building and management of social housing for rent, and to encourage the improvement of the financial and credit mechanisms and tools for the residential sector.
Nevertheless, the results of implementation of the national program to improve the living conditions of Roma in the past five years show that a very small part of the envisaged program budget was spent – mainly invested in some preparatory activities. Moreover, in practice, most of the envisaged amendments in legislation are still pending.

One of the major achievements in piloting initiatives in social housing construction is the Grant Scheme 'Support for Provision of Modern Social Housing for Vulnerable, Minority and Socially Weak Groups and Other Disadvantaged Groups'. The scheme was launched in 2011 within the framework of Regional Development Operational Program and Human Resources Operational Program and it is aimed at demonstrating the advantages of cross-program funding of social activities. Although it is still a single pilot project in its initial phase implemented in four municipalities only, the experience from its realization are considered as a basis for large scale programs in the next EU budgetary period.
The main objective of the scheme is to provide modern social housing for accommodation of vulnerable, minority and socially weak groups and other disadvantaged groups and to ensure social inclusion, spatial integration and equal access to adequate housing for disadvantaged and vulnerable people.

The scheme is based on the Regulation (EU) no 437/2010 of the European Parliament and of the Council of 19 May 2010 amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of housing interventions in favor of marginalized communities.
The amendments extend the eligible costs for interventions in the housing sector by supporting interventions to renovate existing or construct new buildings with a focus on people with special needs (para 4) : 'Irrespective of whether communities are located in urban or rural areas, due to the extremely poor quality of their housing conditions,

expenditure on the renovation or replacement of existing housing, including by newly constructed housing, should also be considered as eligible expenditure'.

Although the Regulation (EU) no 437/2010 of the European Parliament and of the Council of 19 May 2010 allows for allocation to housing expenditure maximum of 3% of the ERDF allocation to the operational programs concerned or 2% of the total ERDF allocation the total investment in the first pilot scheme in Bulgaria is less than EUR 10 million.

An essential tool for the implementation of activities in the field of housing policies is Regional Development Operative Program (RD OP). Priority axis 1 of the RD OP is called 'Sustainable and Integrated Urban Development'. It is aimed at enhancing the attractiveness and competitiveness of cities and providing better quality of life and access to basic services in them. The financial resource of this priority is EUR 839,067,973 (representing 52.40% of RD OP); of which EUR 713,207,777 covered by EU funding. RD OP also envisages several interventions linked to housing, including improved living conditions through upgrading existing neighbourhoods; improvement of energy efficiency and renewable energy investments in housing sector; and relevant changes of national legislation encouraging owners to create associations.

The program encourages implementation of an integrated development policy approach taking into account the existing Municipal Development Plans, Master Plans and Detailed Spatial Plans. In terms of funding for the 'Housing' operation, approximately EUR 40 million is allocated; which is 4.77% from the overall budget of priority axes No 1.

*Policy initiatives against the crisis*

In order to mitigate the impact of the crisis on most vulnerable groups, the government introduced housing-related amendments in the legislation for eligibility of social assistance. On 16 August 2011, a Decree for amending and supplementing of the Rules for Implementation of the Social Assistance Act entered into force. Regulatory changes extended the number of persons who are eligible for targeted assistance to pay rental of municipal housing. The limit for eligibility was increased from 150% to 250% of the official differentiated minimum income. The social allowance covers the entire amount of rent (no garbage fee). However, given the fact that the social housing stock in the country (especially in the bigger cities) is much less than the demand of households from vulnerable groups that qualify for social housing, many of them are not able to use this type of social allowance simply because they are not accommodated in social houses. Nevertheless, the analyses of the statistical data[133] show that the allowances for housing in 2011 amount to EUR 4.6 million. This represents app. 30% increase of state spendings on social housing in 2010 (EUR 3.5 million.).

*Tackling vacancies*

[133] National Statistical Institute, Social Protection, Housing needs Function, http://www.nsi.bg, Sofia, 2014.

In recent years, the aging buildings and lack of owners of properties' funds for maintenance of the old buildings led to a series of tragic accidents[134] with casualties as a result of poorly maintained buildings. This led to some increase in the activity of local authorities in order to prevent such tragic cases, pressing them to tackle the issue presented by the large number of vacant dwellings.

The measures against vacancies are regulated under the Section III of the Spatial Development Act[135], which entered into force on 27 July 2007. Despite the existence of legislation and obligatory tasks of the local government under this law, there are many difficulties in the enforcement of the law by municipal authorities mainly due to the lack of administrative capacity and difficulties in communication with different co-owners of properties. There are also cases when, lacking sufficient incomes, property owners are not able to maintain and rehabilitate the facilities.

In some cases the mayor's ordinance and follow-up activities are late, and removal of constructions that have become dangerous for citizens' health and life is postponed or even cancelled, and the buildings that are inappropriate for usage are temporarily used as shelters by squatters[136].

### 3.4. Urban policies

- Are there any measures/ incentives to prevent ghettoization, in particular
- mixed tenure type estates[137]
- 'pepper potting'[138]
- 'tenure blind'[139]
- public authorities 'seizing' apartments to be rented to certain social groups

Other 'anti-ghettoization' measures could be: lower taxes, building permit easier to obtain or requirement of especially

[134] Опасните сгради се отсяват на око, в. 'Труд', , http://www.trud.bg/Article.asp?ArticleId=891412, 14 May 2011 (Dangerous buildings are screened an eye, Trud Daily, 2011).
[135] Spatial Development Act, promulgated in State Gazette issue 1 of 2 January 2001, last amended State Gazette issue 66 of 26 July 2013, Art. 195, para. 6 providing that 'The municipality mayor shall issue an order for removal of constructions, which due to natural wear or any other circumstances have become dangerous for citizens' health and life, which are inappropriate for usage, which are exposed to a danger of self-collapsing, which create conditions for emerging fires or are dangerous sanitary and hygiene wise and cannot be repaired or strengthened.'
[136] Извадиха 12 самонастанили се в опасна сграда в Ловеч, http://bg.time.mk/read/7a7939c960/a4e007d91f/index.html, 16 October 2010 (12 squatters evicted from a hazardous building in Lovech).
[137] Mixed tenure means that flats of different tenure types: rented, owner-occupied, social, etc. are mixed in one estate, it is the simplest way of avoiding homogenized communities, and to strengthen diversification of housing supply.
[138] This mechanism is locating social housing flats among open market ones, so as not to gather lowest income families in one place. The concept is quite controversial, however in English affordable housing system was used for a long time to minimize the modern city ghettos problem.
[139] This is a mechanism for providing social housing in a way that the financial status of the inhabitants is not readily identifiable form outside. It is used to avoid/minimize stigmatization and social exclusion which could be caused by living in a (openly identifiable) social stock.

attractive localization as a condition to obtain building permit, condition of city contribution in technical infrastructure.

- Are there policies to counteract gentrification?
- Are there any means of control and regulation of the quality of private rented housing or is quality determined only by free market mechanisms? (does a flat have to fulfil any standards so that it may be rented? E.g.: minimum floor area, equipment, access to technical and/or social infrastructure and/or public transport, parameters such as energy efficiency, power/water consumption, access to communal services such as garbage collection. If so: how are these factors verified and controlled?)
- Does a regional housing policy exist? (in particular: are there any tools to regulate housing at regional level, e.g.: in order to prevent suburbanization and periurbanization? Is it possible to distribute local taxes so that villages can afford the limitation of housing areas?)

Not applicable for Bulgaria. The quality of private rented housing is determined only by free market mechanisms.

### 3.5. Energy policies

- To what extent do European, national and or local energy policies affect housing?

The state policy in the energy sector is performed by the National Assembly and the Council of Ministers. Energy strategy is a fundamental document of the national energy policy, which is approved by the Council of Ministers and adopted by the National Assembly of the Republic of Bulgaria as stipulated in the Art. 3 of the Energy Sector Act[140].
In accordance with Art. 4, para. 2, point 1 of the Energy Sector Act the Energy strategy is developed by the Ministry of Economy and Energy[141].
The present reflects the political vision of the Government of European Development of Bulgaria pursuant to the up-to-date European energy policy framework and the global trends in the development of energy technologies.
The Energy Efficiency Act[142] stipulates that the state shall exercise its functions for energy efficiency promotion through the National Assembly and the Council of Ministers. The national Assembly shall adopt a National Strategy on Energy Efficiency of the Republic of Bulgaria, which shall define the national objective for energy savings, the stages, means and measures for its achievement. The Strategy shall be updated every five years.

[140] Energy Sector Act, promulgated in State Gazette issue 107 of 9 December 2003, last amended State Gazette issue 66 of 26 July 2013, Art. 3.
[141] Ibid., Art. 4, para. 2, point 1.
[142] Energy Efficiency Act, Energy Efficiency Act, promulgated in State Gazette issue 98 of 14 November 2008, last amended State Gazette issue 66 of 26 July 2013, Art. 3.

The Council of Ministers shall define the state policy for energy efficiency promotion in the end-use energy and providing energy services, which is an integral part of the sustainable development of the country.
The state policy on energy efficiency promotion in the end-use energy is implemented by the Minister of Economy and Energy.
The Minister of Regional Development carries out the state policy of energy efficiency in the residence buildings as part of the National Residence Strategy of the Republic of Bulgaria, the National Programme for Renewal of the Residence Buildings and through strategic planning and programming of the regional development of the country. The minister has shared responsibility with the Minister of Economy and Energy for the development, updating, submission and adoption by the Council of Ministers and notifying the European Commission of implementation of the National Plan for Increasing the Number of Building with Close to Zero Energy Consumption. Both ministers jointly issue subordinate normative acts under the Energy Efficiency Act regarding the energy efficiency of buildings.
The activities on the implementation of the state policy on the promotion of the energy efficiency of end-use energy and providing energy services are implemented by the Executive Director of the Agency for Sustainable Energy Development.
The National Energy Strategy till 2020[143] defines the following five main priorities:

- to guarantee the security of energy supply;
- to attain the targets for renewable energy;
- to increase the energy efficiency;
- to develop a competitive energy market and policy for the purpose of meeting the energy needs;
- to protect the interests of the consumers.

These priorities also determine the Government's vision for development of the energy in the coming years, namely:

- Maintaining of a safe, stable and reliable energy system;
- The energy sector remains a leading branch of the Bulgarian economy with definite orientation to foreign trade;
- Focus on clean and low-emission energy – nuclear and from renewable sources;
- Balance between quantity, quality and prices of the electric power produced from renewable sources, nuclear energy, coal and natural gas;
- Transparent, efficient and highly professional management of the energy companies.

In relation to the development of the housing policy, the strategy envisages implementation of specific measures to support the construction of solar utilizing installations, thermal and geothermal energy and biomass for households by private persons. Furthermore, the strategy envisages direct financial support to achieve equal treatment and balance between all producers of energy from renewable sources. The strategy also envisages development and extension of household gasification in the country. At 2011 only 1.5% of the Bulgarian households are supplied by gas while for Europe this percentage is 55%. The analytical information in the strategy shows that

[143] Енергийна стратегия на Република България до 2020 г., За надеждна, ефективна и по-чиста енергетика, Energy Strategy of the Republic of Bulgaria until 2020. For a Reliable, Efficient and Cleaner Energy, promulgated in State Gazette issue 43 of 7 June 2011.

almost 40% of the energy used in the Bulgarian households (including for heating and housekeeping) is electrical, while for Europe this percentage is 11%.Therefore, the strategy set a goal of increasing this percentage to 30% by 2020.

One of the key strands of the drafted Bulgaria 2020 government program (as part of EU 2020 goals) is the priority No 7: Building adequate energy infrastructure, support for increasing resource efficiency and reducing energy dependence. As part of this priority it is envisaged that the country will undertake priority actions in the following area: ***increasing the efficiency of energy consumption*** and ***increasing the energy efficiency of buildings (public and private property)*** – refurbishment to save energy costs.

In connection with this government program, the project BG161RO001-1.2.01-0001 'Energy Renovation of Bulgarian Homes' was launched with the financial support of OP 'Regional Development' 2007 - 2013, co-financed by the EU through the European Regional Development Fund. The project covers 36 urban centres and lasts three years (2012 - 2015). For each approved building, owners will receive financial aid up to 50% of renovation costs. A Housing Renovation Fund has been set up for granting loans/bank guarantees to support owners' associations and individual owners in multifamily buildings, to provide their share of 50% of the budget for renovation. The funding will be provided on the 'first come first served' basis and according to depletion of available public financial resources. The total amount of the grant by the OP RD is BGN 50 million (EUR 25.6 million); the project is administered by the 'Housing' Directorate at the Ministry of Regional Development and Public Works. The expected number of people benefiting from improved housing infrastructure under this program is 13,500 residents living in 6,100 homes in 180 buildings/apartment blocks.

One of the measures with feasible impact on energy savings of the households is the "Program for loans for energy efficiency home improvements" that has been implemented in 2005. The program 'Residential Energy Efficiency Credit (REECL) Facility' is developed by the European Commission, European Bank for Reconstruction and Development and the national Energy Efficiency Agency and its budget amounts to 40 million until 31 July 2014. The Program provides credit lines to the banks operating in Bulgaria to make loans to householders and Associations of Home Owners for implementation of different energy efficiency measures, incl. double-glazing; wall, floor, and roof insulation; efficient biomass stoves and boilers; solar water heaters; efficient gas boilers; heat pump systems; building-integrated photovoltaic systems; heat-exchanger stations and building installations; gas installations; and balanced mechanical ventilation systems with heat recovery. The funding comes from the Kozloduy International Decommissioning Support Fund (KIDSF), set up in 2000 to financially support the early decommissioning of units 1-4 of Kozloduy Nuclear Power Plant.
The total number of energy efficiency home improvement projects to be financed under the REECL facility is expected to reach app. 50,000.

**Table 10. Summary table 4**

| | National level | 2nd level (NUTS 1 – two regions) | 3rd level (NUTS 2 – six planning regions) | 4th level (NUTS 3 – 28 districts) | Lowest level (e.g. municipality – 264 municipalities) |
|---|---|---|---|---|---|
| Policy aims<br>1)<br>2)<br>Etc. | Policy aims in the area of housing are set in the National housing strategy:<br>1. Termination of the process of deterioration of the existing housing stock<br>2. Creating a working mechanism for provision of new affordable (both for purchase and rental purposes) housing. | | | Policy measures related to building new social houses for vulnerable groups are briefly mentioned in some regional strategies for social services. | Policy measures related to local housing policy (incl. social housing policy) are set in the strategies for local development. |
| Laws<br>1)<br>2)<br>Etc. | Please, find more information on the rest relevant laws in the attached bibliography | | | | Ordinance at municipality level regulating social houses |

| | National level | 2nd level (NUTS 1 – two regions) | 3rd level (NUTS 2 – six planning regions) | 4th level (NUTS 3 – 28 districts) | Lowest level (e.g. municipality – 264 municipalities) |
|---|---|---|---|---|---|
| Instruments<br>1)<br>2)<br>Etc. | Operative programs HRD and RD<br>Loans from ERDB used and mutual projects with the UNDP and other foreign donors implemented in the past | | Policy aims in the area of housing are set in the National Regional Development Strategy | Implementation of measures to support local youth, left specialized institutions by provision of housing (such as accommodation in municipal housing and support for subsidized rent payments for limited-time, etc.). | Implementation of projects under the OP RD and HRD for construction of social houses;<br>Provision of social housing<br>Local tax exemption |
| Notes: | | Sometimes used for statistics purposes – no specific measures are developed at this level to influence housing policy and tenancy relationships | Tenancy relationships are not directly addressed at this level | No specific measures are developed at this level to influence housing policy and tenancy relationships | |

### 3.6. Subsidization

- Are different types of housing subsidized in general, and if so, to what extent? (give overview)
- Explain the different forms of subsidies for tenants, (certain) landlords and, if relevant, housing associations or similar entities acting as intermediaries (e.g. direct, by means of investment loans, tax privileges). Which level of government is competent to assign the subsidies? Is there a subjective right to certain subsidies or does the public administration have discretion in whom to assign the subsidy?

- Have certain subsidies been challenged on legal grounds (in particular: on the basis of competition law or budget law)?
- Summarize these findings in tables as follows:

In Bulgaria, the practice of subsidizing the housing market is severely limited. Subsidies do not directly impact the real estate market, and affect a very small number of users. The major part of public subsidies in housing is related to the provision of municipal housing for needy citizens of the respective communities. These are people without their own housing and have low income, which does not allow them rent a dwelling on the market.

The most popular form of housing affordability related subsidies is the heating allowance. In compliance with the Ordinance № RD-07-5 of 16 May 2008, on the terms and conditions for granting the heating allowance, individuals and families from most vulnerable groups[144] can submit applications and receive targeted allowance for heating during the heating season (5 months). The Annual report for 2010 of the Agency for Social Assistance shows that app. 260,000 persons and families received app. EUR 36 million heating allowances for the heating season 2009 - 2010.[145]

The Rules for the Implementation of the Social Assistance Act envisage another type of social assistance: targeted assistance for rental payment for municipal housing. This type of support is available to a limited number of beneficiaries: tenants of social dwellings, who are: (1) orphans under 25; (2) who have completed social vocational training in a public training center; (3) elderly people (over the age of 70) living alone; and (4) single parents. Furthermore, the eligible persons should have income from the previous month up to 250 per cent of the differentiated minimum income. According to the Agency for Social Assistance data for the period January - December 2010 monthly on average only 201 persons were assisted for rental payment[146]. Another 933 persons with disabilities received monthly additive payment to rent municipal housing.[147]

There are also specific cases of housing related social allowances, like the targeted subsidy provided to disabled persons, for the reconstructions of the home in relation to

[144] Persons living alone, persons with a permanent disability, orphan children, single parents with a child under the age of 18 (if learning), pregnant women 45 days before birth, elder people living alone etc.
[145] Agency for Social Assistance Annual Report for 2010, Agency for Social Assistance, 2011, 5.
[146] Ibid., 3.
[147] Ibid., 8.

their disability. According to the Regulations for Implementation of the Law on Integration of People with Disabilities[148] people with disabilities (more than 90% permanently decreased working capacity), and children with specific type and degree of disability, are entitled to a single target social allowance amounting to BGN 600 (EUR 307) for the reconstruction of their home, if the average monthly income per family member for the past twelve months is equal to or less than twice the guaranteed minimum income (BGN 130 or app. EUR 67). Targeted assistance is received after the repair; it is documented through submission of invoice. Social worker from the 'Social Assistance' Directorate inspects and certifies by a social inquiry that the reconstruction is made to ensure the free movement of the person with a disability. In 2010 only fifteen persons with disabilities received targeted assistance for reconstruction of housing[149].

There is another relatively new form of subsidizing housing sector in Bulgaria, affecting the private owners of dwellings. In 2011, a particularly high level, 97.4%, of the housing stock was owned privately. There are 70,259 residential buildings constructed by panels or steel-concrete, containing 1.12 million housing units. In the last 50 years these buildings have considerably depreciated, both in terms of the basic construction of the buildings, and their systems. In the meantime, the technical and operational requirements for housing and living conditions have greatly risen. In the early 1980s, expert assessments revealed that most of the surrounding walls of the existing buildings built before 1980 do not comply with the applicable thermal technical standards for residential buildings[150]. Furthermore, the EU accession process (both negotiation and entering) raised the normative requirements towards energy efficiency standards. Many households living in these dwellings do not have the financial capacity to cover the necessary investments, although there are estimates that the optimization of energy consumption would make up for renovation costs in seven to ten years, comprising not only thermal insulation but also the overall rehabilitation[151].

The problem is further complicated by the lack of (either complete or partial) project documentation for the majority of the blocks to be remediated. The partial repair of separate dwellings for some better-off households did not lead to overall improvement, since the common areas of the buildings in most cases remained intact. Taking this into consideration, the government undertook some normative and administrative steps to address the need for rehabilitation.
Bulgarian research team do not have information that any of the reported subsidies have ever been challenged on legal grounds.

**Table 11. Summary table 5**

| **Subsidization of** | Tenure type 1 | Tenure type 2, etc. |
|---|---|---|

[148] Regulations for Implementation of the Law on Integration of People with Disabilities, promulgated in State Gazette issue 115 of 30 December 2004, last amended State Gazette issue 70 of 9 August 2013, Article 50, para. 1.
[149] Agency for Social Assistance Annual Report for 2010, Agency for Social Assistance, 2011, 9.
[150] National Housing Strategy, 6.
[151] Проблеми при саниране на сгради в България, изградени до 1992 година, http://stroitelstvo.info/show.php?storyid=408389, 17 December 2007. (Problems for refurbishment of buildings in Bulgaria, constructed before 1992).

| **landlord** | | |
|---|---|---|
| Subsidy before start of contract (e.g. savings scheme) | n/a | n/a |
| Subsidy at start of contract (e.g. grant) | n/a | n/a |
| Subsidy during tenancy (e.g. lower-than market interest rate for investment loan, subsidized loan guarantee) | n/a | n/a |

**Table 12. Summary table 6**

| **Subsidization of tenant** | Public and private tenure | Only Public tenure |
|---|---|---|
| Subsidy before start of contract (e.g. voucher allocated before finding a rental dwelling ) | n/a | n/a |
| Subsidy at start of contract (e.g. subsidy to move) | Name of subsidy: Allowance for people with disabilities for reconstruction of the home. Aim: Free movement of the person with a disability | n/a |
| Subsidy during tenancy (in e.g. housing allowances, rent regulation) | Name of subsidy: Ordinance № RD-07-5 of 16.05.2008 on the terms and conditions for granting the allowance for heating. Aim: Granting allowance for heating to individuals and families during the heating season (5 months).<br><br>Name of subsidy: military housing subsidy. Aim of subsidy: partially covering of monthly rental expenses of soldiers who pay rent at the free tenancy market. | Name of subsidy: targeted assistance for payment of the rental expenses for municipal housing for persons with disability in accordance with the Rules for the Implementation of the Law on Integration of People with Disabilities. Aim of subsidy: Covering the rent for social housing of tenants with disability.<br><br>Name of subsidy: targeted assistance for payment of the rental expenses for municipal housing. Aim of subsidy: Covering total amount of housing expenses of tenants of social dwellings with income from the previous |

| | | |
|---|---|---|
| | | month up to 250 per cent of the differentiated minimum income – orphans by the age of 25 who have completed social vocational training center; lonely elderly people over the age of 70 and single parents. |

**Table 30. Summary table 7**

| **Subsidization of owner-occupier** | Public and private tenure | Only Private tenure |
|---|---|---|
| Subsidy before purchase of the house (e.g. savings scheme) | n/a | n/a |
| Subsidy at start of contract (e.g. grant) | Name of subsidy: allowance for people with disabilities for reconstruction of the home. Aim of subsidy: free movement of the person with a disability | n/a |
| Subsidy during tenure (e.g. lower-than market interest rate for investment loan, subsidized loan guarantee, housing allowances) | Name of subsidy: Ordinance № RD-07-5 of 16.05.2008 on the terms and conditions for granting the allowance for heating. Aim of subsidy: Granting allowance for heating to individuals and families during the heating season (5 months). | Name of subsidy: Energy Renovation of Bulgarian Homes. Aim of subsidy: Financial support for the implementation of energy efficiency measures (financial aid up to 50% of the budget for the renovation of the building) for homeowner associations registered under the Law on the Condominium Ownership Management. |

### 3.7. Taxation

- What taxes apply to the various types of tenure (ranging from ownership to rentals)? In particular:
  - Tenants: Do tenants also pay taxes on their rental tenancies? If so, which ones?
  - Homeowners:
    - Income tax of homeowners: is the value of occupying a house considered as a taxable income?
    - Is the profit derived from the sale of a residential home taxed?
- Is there any subsidization via the tax system? If so, how is it organized? (for instance, tenants being able to deduct rent from taxable income; landlords being able to deduct special costs; homeowners being treated favourably via the tax system)
- In what way do tax subsidies influence the rental markets?
- Is tax evasion a problem? If yes, does it affect the rental markets in any way?

*Taxation and tenure forms*

In Bulgaria the owners of real estate are charged a tax for the building and for household waste (collection and management). These are local taxes (called 'communal taxes'), determined and collected by local authorities through the municipal administration. Tax rates vary in different municipalities and cities; they also vary depending on the location of the property (by the settlement area – e.g. central, suburban part etc.) and its floor space. Municipal Council determines the amount of tax in accordance with and within the limits laid down in the Local Taxes and Fees Act[152]. Although the communal taxes are bearable for the prevailing part of citizens they can put financial overburden on some low-income owners' groups like pensioners. For example, the annual tax weight on an average-size flat in Sofia (of seventy sq. m.) can exceed the average amount of a monthly pension (app. EUR 100).

Regarding tax on real estate ('property tax'), taxable persons are the owners of the taxable real estate. This includes all homeowners. Property tax is paid to the municipality on whose territory the property is situated. The tax is due whether or not property is used. If the home is a shared property of two or more owners, each tax is due in proportion of the part of property they own. Each of the owners of the property is, respectively, bearers of real estate right, so either can pay the entire property tax. The owner of a building standing on state or municipal land is taxable for that property or part of it. For property owned by the state or municipality, the taxpayer is the person responsible for the administration of the property; this also generally applies to buildings for business purposes leased by the municipality.

[152] Local Taxes and Fees Act, promulgated in State Gazette issue 117 of 10 Dec ember 1997, last amended State Gazette issue 101 of 22 November 2013.

Property tax is assessed on the taxable value of the property as at 1 January of the year it is due. When the rate pertaining to the property changes during the tax year, the tax is determined based on the reassessment from the month following the change. If the municipal councils modify border zones in urban areas and categories of cottage areas or settlements, the tax is assessed on the new tax assessment by January 1 of next year. Municipal councils determine the amount of tax in the range of 0.1 (in small towns) to 4.5 (in urban areas, like Sofia) pro mille on the tax valuation of the immovable property.

The fee for household waste is also determined by the municipal councils, depending on the size of the immovable property and its location. Councils adopt an ordinance for setting and administering local taxes and service prices. Fees are collected by the municipal administration as revenue received in the municipal budget. As per the Local Taxes and Fees Act[153], the Municipal Council may release from payment separate categories of individuals. This applies mostly to the residents in public housing tenants – these are people with low or very low income.

In some cases a rescheduling of municipal fees is permitted. Mayor authorizes the implementation of payment by instalment plan or postponement of obligations for local taxes of up to BGN 30,000 (EUR 15,340), and provided rescheduling or deferral is required for a period of one year from the date of issuance of the permit. Permission for postponement or rescheduling local fees over BGN 30,000 (EUR 15,340) or for a period longer than one year is issued by the mayor after the decision of the municipal council.

Generally, in Bulgaria tenants do not pay taxes on their rental tenancies. According to the Value Added Tax Act [154] the delivery, related to buildings, is exempted from VAT if the building or part of it is let out for dwelling to natural person, different from trader. In the case of private rented properties, property tax and waste management fee remains the responsibility of the owner, unless otherwise agreed with the tenant. As for public rental (municipal or state property), recent changes in the Law on Local Taxes and Fees (Art. 1, para. 5, effective from 1 January 2011)[155], stipulate that tax-bearer for the state property and for the municipal property is the person to whom the property is provided for management. In this case, the tenant is the one who usually pays the household waste fee to local authorities (this is arranged in the tenancy contract between the municipality and the tenant).

Regarding the cost of condominium (maintenance of elevators, cleaning, electricity in common areas, repairs to the common parts, porter and housekeeper if any), landlords commonly agree with the tenant to pay those expenses or part of them – this is a matter of specific agreement between two parties and it is not regulated by legislation.

[153] Local Taxes and Fees Act, promulgated in State Gazette issue 117 of 10 Dec ember 1997, last amended State Gazette issue 101 of 22 November 2013, Art. 8.
[154] Value Added Tax Act, promulgated in State Gazette issue 63 of 4 August 2006, in force from 1 January 2007, last amended State Gazette issue 104 of 3 December 2013, Art. 45, para. 4.
[155] Local Taxes and Fees Act, promulgated in State Gazette issue 117 of 10 Dec ember 1997, last amended State Gazette issue 101 of 22 November 2013, Art. 1, para. 5.

In line with the Income Taxes on Natural Persons Act[156], the taxable income originating from a sale or exchange of immovable property, including limited property rights on such property, shall be determined by way of decreasing the positive difference between the sale price and the acquisition price of the property by the expenses amounting to 10 percent.
However, according to the Art 13, para. 1, point 1a and 1b of the same act[157], there are two exceptions. The income received during the year of taxation from the sale or exchange of immovable property is considered as non-taxable income if it comes from sale of exchange of only one immovable housing property, provided that more than three years have passed between the date of its acquisition and the date of the sale or exchange or up to two pieces of immovable property are sold or exchanged, providing that the time elapsed between the date of acquisition and the date of sale or purchase is more than five years.

*Subsidization via the tax system*

The Local Taxes and Fees Act[158] provides some tax relief to those properties that are main dwellings – for this type of property the tax is 50% less. Furthermore, according to para. 2, the main housing property of a person with a disability from 50 to 100 percent, the tax reduction is 75%[159].

There are specific cases of reliefs for the property tax for the municipality and state (public real estate property) etc., so certain buildings, fully or partially used as residential buildings, can be exempt. Specific cases are defined the Law on Local Taxes and Fees[160] and include the following tenures: municipality-owned properties; state-owned properties; buildings in the ownership of a foreign country (e.g. Embassy building owned by the respective state); buildings with a cultural purpose; the immovable properties the ownership in which has been restored under a law and which cannot be used, for a period of five years; buildings that has being brought in use before 1 January 2005 and having obtained certificate of category A, issued under the procedure of the Energy Efficiency Act[161] as follows.

Another type of tax relief is aimed at young families buying their own home with a mortgage. It concerns the opportunity for young household to reduce taxes under the Income Taxes on Natural Persons Act[162]. This measure of indirect support for young families was adopted several years ago, but it has not gained popularity, due to existing

[156] Income Taxes on Natural Persons Act, promulgated in State Gazette issue 95 of 24 November 2006, in force from 1 January 2007, last amended State Gazette issue 100 of 19 November 2013, Art 33, para. 1.
[157] Ibid., Art. 13, para. 1.
[158] Local Taxes and Fees Act, promulgated in State Gazette issue 117 of 10 Dec ember 1997, last amended State Gazette issue 101 of 22 November 2013, Art. 25, para. 1.
[159] Ibid., para. 2.
[160] Ibid., Art. 24.
[161] Energy Efficiency Act, promulgated in State Gazette issue 98 of 14 November 2008, last amended State Gazette issue 66 of 26 July 2013.
[162] Income Taxes on Natural Persons Act, promulgated in State Gazette issue 95 of 24 November 2006, in force from 1 January 2007, last amended State Gazette issue 100 of 19 November 2013.

restrictions in its practical enforcement. Tax relief for young families allows a deduction of the annual tax bases with the interest payments on a mortgage. The deduction from the annual tax bases means that interest payments on mortgage reduces the sum of all taxable income declared in the annual tax form. Thus, the full amount of interest paid on mortgage is not refundable. Further limits for implementation of this tax relief are related to specific age and property requirements. Tax relief may be used during the year for interest payments on the first BGN 100,000 (app. EUR 51,000) of the principal.
The most recent changes of the law permit as of January 2014 tax relief for young families of foreign natural persons, established for taxation purposes in an EU Member State or in another state – party of the European Economic Area Agreement (EEAA)[163].

According to the National Revenue Agency (NRA), 5,112 families have benefited from the possibility of tax relief for their mortgage in 2009, and 3,890 families in 2011. The total amount of income tax that families have saved is BGN 1.8 million (EUR 920 thousands), which means that on annual basis each family received back to around 360 BGN (EUR 184) or about one average monthly mortgage payment. This amount represents app. 0.02% of the total amount of mortgages in Bulgaria at December 2009. For these reasons, these tax advantages have limited impact on the sale or rental housing market.

The lack of effective state housing policy over the past 20 years has been even more problematic considering the current economic crises and decline in the construction industry. A number of business organizations have brought to the public agenda a new initiative of provision of equal access to housing and revival of construction through a new state policy. This group of organizations has recently proposed a public debate on the draft-program 'First Home'. The goal of the program is to ensure preferences to young families to be able to buy their first home by reduced VAT at 5% instead of 20% and by state policy to encourage reduced interest on mortgage loans. Among the ideas launched is that the preferences should be given only to build apartments with sizes up to 75-80 square meters or not exceeding a certain price threshold – for example, up to 65,000 EUR.

### *Subsidies impact on rental markets*

The number of social housing administered by local authorities to accommodate the neediest populations is so negligible that it does not affect the overall housing market. Rent for social housing can be as low as about BGN 10-20 (about EUR 5-10) a month. For example, in accordance with the Methodology for Determining the Price Of Municipal Rental Housing Estate of the Municipality of Shumen, the rent for accommodation in municipal hostels in Shumen (center of one of the 28 districts of Bulgaria) is BGN 10.00 (app. EUR 5) a month, and basic rental price for one square meter useful floor is BGN 0.70 (app. EUR 0.36), which is at least 4-5 times lower than market rents. However, many tenants have extremely low or no income, often belong to marginalized communities and some of them are not able to cover their payments for the rent to municipalities in due time.

[163] Income Taxes on Natural Persons Act, Art 22a, para. 3, point 5.

Due to the limited intervention of the state in the housing market, the money from the state budget for social housing rent allowances are quite limited, although the growth of payments between the pre-crisis year 2008 and 2011 is 3.3 times.

**Table 13. Allowances paid by function 'Housing' for rent of social housing (in million EUR), 2012**

| Year | Allowances paid for rent of social housing in million EUR | Annual growth |
|---|---|---|
| 2005 | 0.21 | |
| 2006 | 0.41 | 96.13% |
| 2007 | 0.66 | 60.25% |
| 2008 | 1.42 | 114.10% |
| 2009 | 2.24 | 57.57% |
| 2010 | 3.52 | 57.41% |
| 2011 | 4.61 | 30.71% |

Source: National Statistical Institute, Allowances paid for rent of social housing, 2013

A major problem for municipalities, however, is the accumulation of debts for electricity, heat and water supply companies, which some residents in social housing have not paid for years. These arrears are huge, and there are cases in which a problem arises for the entire municipal budget. Such problems are typical of the households of mostly marginalized families, and the situation is complicated by the fact that many of these people do not have jobs, social skills, and consumer culture. This can lead to bad household management, which in turn makes the dwellings unsuitable to accommodate other tenants. Sometimes this can even lead to demolition of structural elements of the building, which then becomes useless and dangerous. As a result, the building will either need expensive renovation, which is beyond the municipal budget, or it has to be sold, which is also impossible since these buildings do not attract investors. Demolition is also expensive, and complicated due to squatting. Eventually, such a building has to be removed from the municipal housing stock; this usually happens with multi-storey blocks of flats, which can have detrimental impact on the municipality capacity of implementing social housing policy.[164]

[164] Over the past three years two such examples that are particularly dramatic were widely reported and discussed in the media. One is in the town of Yambol, where the resident population most of which tenants and squatters were dislodged terraces and walls of one 8-storey block. The mayor was compelled to require police prohibiting the access to the building and secured it until its complete demolition. The shortage of social housing stock in municipality limited the provision of new social shelter to the residents and provoked serious social tension between the local authorities and resident population.
Another example was identified in the city of Pleven. In its issue of 24 September 2012, the popular newspaper 'Trud' ('Никой не иска блок на ужасите', http://www.trud.bg/Article.asp?ArticleId=2318327, Daily Newspaper 'Trud', 24 September 2012 (Nobody wants a block of horrors) writes that residents evicted from Pleven 'Block of horrors' have settled with relatives or in villages near Pleven. The building is now locked and guarded because its basic construction was assessed compromised and it is dangerous to live there. Losses on the disposal of the building are great – a tax evaluation amounts to BGN 1.6 million (approximately EUR 818 thousand). Due to the arrears accumulated only half of the evacuated tenants have the right to live in public housing and they were moved in municipal hostels. Only water debts are BGN 70,000 (about EUR 36,000) to be covered by the municipal budget.

*Tax evasion*

Individual citizens renting their property are legally obliged to declare the rental income in the annual tax return, and pay income tax at a 10% rate (after the tax base calculation). However, the contracts concluded between the landlord and the tenants are not required to be registered in the administration as it is mandatory, for instance, for labor contracts. Every tenant who pays rent or lives rent-free must be registered in the condominium book, although it is not a valid source of information on the rent paid to the landlords, and in the book there is no data about tenancy contracts.

In Bulgaria, non-public legal entities seldom rent residential units (apartments); they normally only rent office buildings and/or business premises (shops, storage space etc.). Those who give commercial space for rent are under the reliable control of the tax administration, and it would be difficult to conceal their income. Moreover, the companies require invoices for the rent expenses.

In private rental housing, most landlords are individuals who rent out detached housing, less are those renting part of the dwelling (apartment of rooms) or more separate dwellings to individual families, most of which have no direct financial benefit for the landlord if he or she declares the rental income. Therefore it is possible that a large number of owners who rent their housing property not to declare their rental revenue. According to the National Revenue Agency (NRA), undeclared rental income is one of the most common tax violations in Bulgaria. Exact data on the scale of undeclared rental income does not exist, but it is probably widespread, even if less so than in the case of renting for commercial purposes. In addition, tenants can give signals to the tax authorities for cases when the landlord does not pay taxes on the rental revenue. NRA encourages tenant to report tax law abuses by landlords, including anonymous reporting via phone and email. The reports are accepted for hidden rental income not only for housing, but also for commercial areas.

In April 2010 the NRA launched a campaign for citizens to report tax evasion by owners of residential property. Within a week, over 200 reports were submitted on potential violations by landlords. The checks and inspections on them found that in about 80% of cases the landlords have either not declared their rental income, or declared a lower amount than the actual income.

An analysis of the NRA has shown that although average rental prices in Bulgaria have dropped by an average of 17% from 2007 to 2009, in 2009 landlords declared BGN 488 million (EUR 250 million) – or about 1/3 higher income from letting properties compared to 2007 (BGN 344 million, or EUR 176 million). Of course, part of the increase is due not only to the tightened measures implemented by the tax authorities, but also to the growing number of rental contracts at the expense of the housing purchases as a consequence of the GFC.

There are other legal instruments to curb tax evasion. One of the most important measures is the change in the Personal Income Tax Act, effective since 1 January 2011, providing for amendment of tax payment procedure for rental income when a tenant is a

legal or self-employed person, and the lessor is an individual person. Until the end of 2010, the whole payment of the rental amount used to be paid from the tenant to the lessor. Currently, the tax is paid by the tenant, directly to the account of the National Revenue Agency.

A wide spread practice among public housing tenants is the phenomenon of arrears, or non-payment of debts to the municipality for the 'household waste fee'. As it was demonstrated in the examples for other types of arrears, sometimes a large amount of debts is accumulated. This is sanctioned by municipalities, including through eviction from the social dwelling and lose of the right of future accommodation in municipality social housing. This could contribute to further migration between different municipalities in search of available social or other housing (uninhabited and abandoned dwellings).

The Municipal Property Act[165] provides for termination of contracts with tenants in case of residents' abuses of the obligations of maintaining the municipal property. However, due to the lack of effective comprehensive strategies to deal with the challenges faced by vulnerable tenant groups, many municipalities fail to undertake appropriate preventive measures and interventions. In this way, part of social houses in municipalities of Yambol and Pleven were destroyed to extent that made the buildings dangerous for their inhabitants and the local authorities had to move hundreds of inhabitants for the sake of their security. Also, the effectiveness of municipal management and control for proper use of social housing is difficult because the municipal dwellings are often dispersed in different buildings.

**Table 14. Summary table 8**

[165] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 15.

| | Home-owner | | Landlord of tenure type – private owner | Tenant of tenure type – tenants of social housing | Landlord of tenure type - municipality | Landlord of tenure type – state |
|---|---|---|---|---|---|---|
| | Name of taxation | Does it contain an element of subsidy, if any? If so, what? | Divide up columns, if there is a subsidy | | | |
| Taxation at point of acquisition | Notary fee for sale (up to a scale) | | Notary fee | | | |
| | Local Tax - 2% of the taxable value of the property or of the contracted amount if it is higher than the taxable value | | Local Tax - 2% of the taxable value of the property or of the contracted amount if it is higher than the taxable value | | | |
| | Inheritance tax | | Inheritance tax | | | |
| | Donation tax | | Donation tax | | | |
| Taxation during tenure | Tax on real estate (‘property tax’) | Immovable properties the ownership in which has been restored under a law and which cannot be used, for a period of five years are tax exempted | Tax on real estate (‘property tax’) | | Tax on real estate (‘property tax’) - tax relief | Tax on real estate (‘property tax’) - - tax relief |

| | Home-owner | | Landlord of tenure type – private owner | Tenant of tenure type – tenants of social housing | Landlord of tenure type - municipality | Landlord of tenure type – state |
|---|---|---|---|---|---|---|
| | Name of taxation | Does it contain an element of subsidy, if any? If so, what? | Divide up columns, if there is a subsidy | | | |
| | Fee for household waste | Municipal council can exempt certain categories of individuals, entirely or partially, from payment | Fee for household waste | Fee for household waste | | |
| Taxation at the end of occupancy | n/a | n/a | n/a | n/a | n/a | n/a |

## 4. Regulatory types of rental and intermediate tenures[166]

### 4.1. Classifications of different types of regulatory tenures

- Which different regulatory types of tenure (different regulation about contracts and tenant security) do you classify within the rental sector? What are their shares in dwelling stock (compare summary table 1)?

The tenure forms in Bulgaria are regulated by the legislation dealing with different forms of public and private ownership, as well as property rights and their acquisition, loss and protection. Depending on the social task they serve, the tenure forms can be split in two major groups: rental housing without a public task, and rental housing with a public task.

### 4.2. Regulatory types of tenures without a public task

- Please describe the regulatory types in the rental sector in your country that do not have a public task. This category may be called private or market rental housing.[167]
  - Different types of private rental tenures and equivalents:
    - Rental contracts
      - Are there different intertemporal tenancy law regimes in general and systems of rent regulation in particular?
      - Are there regulatory differences between professional/commercial and private landlords?
        - Briefly: How is the financing of private and professional/commercial landlords typically arranged (e.g. own equity, mortgage based loan, personal loan, mix, other)
      - Apartments made available by employer at special conditions
      - Mix of private and commercial renting (e.g. the flat above the shop)
    - Cooperatives
    - Company law schemes
    - Real rights of habitation
    - Any other relevant type of tenure

Precise estimations on the size of the **private housing rental sector** are missing due to lack of specific statistical data. Nevertheless, according to the Eurostat data in 2011

[166] I.e. all types of tenure apart from full and unconditional ownership.
[167] Market rental housing means housing for which the rent price determines the conclusion of contracts and not some social rules of allocation based on need.

1.7% of Bulgarian population are tenants at market price[168]. Based on the data for the number of resident population this figure accounts for approximately 125,000 citizens[169]. Precise estimations on the size of informal private housing rental sector are not available. Nevertheless, according to the Eurostat data in 2011 11.1% of Bulgarian population are tenants at reduced price or free, which is about 817,000 citizens[170]. According to the National Statistical Institute Census data from 2011 more than half of them – 436,676 are tenants free of rent. They practically exercise the right of use, which is governed by the Law for the Ownership[171].

The typical group of landlord comprises private persons/families in biggest cities and university centres. Usually, they possess more than one dwelling. Some of those dwellings have been received as a heritage or as a result of restitution. There are also examples of private investors buying second home to rent it. Dwellings are also rented if there is demand (usually in biggest cities) in case the whole family of the owners leaves the country (mainly due to the phenomenon of labor emigration quite typical for Bulgaria in the last two decades). Therefore, the vacant dwelling can be let at the rental market or rented for free to relatives. Poor landlords in biggest cities and university centres (single and old persons – mainly pensioners) who need additional income to cover their housing and living expenses also rent houses and often share their only dwelling with tenants. Around 4.8% of housing stock (128,000 inhabited dwellings) are dwellings inhabited by cohabiting landlords and tenants.

Some cases of **foreign investors** buying blocks of flats and renting them to students exist but they are rather exceptional. Private persons or companies also buy second home properties in the resort areas, and rent them to tenants-tourists from abroad seasonally (In the winter in the mountain regions and summertime on the Black sea cost).

**The major groups of tenants include: Students** studying in cities where their families do not own dwellings (due to the scarcity of public students dwellings – according to the last Census the overall number of students and workers dwellings is 15,659[172]); The dwellings in student hostels (incl. workers' hostels) account for only 8% of all student population. Therefore, there is a large opportunity for development of rental market for university students; **Young individuals and families** with medium and high qualification moved from their native cities to find better job opportunities in biggest regional cities

[168] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012.

[169] *Inhabited dwellings and residents by tenancy types (%)*

| Total | Total | Owner | Tenant, rent free | Tenant | Owner/Tenant, rent free and tenant | Institutional dwellings* |
|---|---|---|---|---|---|---|
| Dwellings | 100.0% | 81.7% | 7.1% | 6.4% | 4.8% | 0.03% |
| Residents | 100.0% | 81.1% | 6.2% | 6.2% | 6.1% | 0.4% |

* Collective housing (boarding houses, specialized homes and monasteries, prisons, etc.). The inhabitants of those types of homes live in collective households, i.e. group of persons living in have a common budget and regime.

Source: National Statistical Institute, Census, 2011.

[170] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012.

[171] Law for the Ownership, promulgated in State Gazette issue 92 of 16 November 1951, last amended State Gazette issue 105 of 29 December 2011. This issue is further discussed below in chapter on right of use (p.123).

[172] Housing and Population Census in Bulgaria, Volume 2. Housing fund/Book 3. Housing conditions of the population, 2011, National Statistical Institute, Sofia, 2012, 14.

and the capital (not meeting financial credit institutions' criteria for mortgages or not willing to take the risks of bank loans). According to the Eurostat data[173], the very low work intensity is scarcer up to 2.37 times among the tenants' households that lease dwellings at market price compared to the average households with very low work intensity.

Generally, the regulation does not provide different treatment between professional/commercial and private landlords. The only exception is the Income Taxes on Natural Persons Act, which stipulates, in Art. 44, para. 4, that where the payer of the income from rental or other grant of use of rights or property for valuable consideration qualifies as undertaking or self-insuring persons, the advance tax on income shall be determined and the tax deducted from the income payer at the moment of payment. This not applies in cases when the lessor and the lessee are individuals or companies.

**Table 15 Summary table 10, regulatory types of rental tenure**

| | Description of the type | Significance |
|---|---|---|
| Rental housing **without a public task** | | |
| 1. Occasional owner | Families possessing more than one dwelling often provide one of the abodes at the real estate market – for rent or for rent and selling. | XX |
| 2. Restored ownership (restituted dwellings) | The right to ownership of owners who were deprived of their properties in the period after 1944. Many owners, mainly in big cities, started to rent out the restored dwellings. | XX |
| 3. Private companies' homes | As a result of privatization, private companies acquired buildings of flats and continued to use them by renting the dwellings at much lower prices compared to real estate market trends as a measure of companies' social policy. In some less attractive industry (e.g. mining) and production based in countryside and smaller settlements those dwellings are used as a mean to attract young or well-qualified workers. | X |
| 4. Housing co-operatives | Associations of households on a voluntary basis. Municipal councils assist housing cooperatives by determined annual sites for co-operative housing and by yielding to housing cooperatives the right to build on state or municipal land. The resulting dwellings are individually owned, the common parts are shared property. | X |

[173] Eurostat, http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, 2012.

| | | |
|---|---|---|
| 5. Special arrangement | In the countryside there is a large number of abandoned or rarely used houses in smaller settlements – often they are let for rent free accommodation to relatives. | XX |
| 6. Private owners from abroad | Private persons or companies from abroad buy second home properties in the resort areas, and rent them to tenants.<br>There are also some exceptional cases of foreign investors buying blocks of flats and renting them to students. | XX |

Bulgarian legislation in force recognises other forms of 'lawful possession' of a premise for housing purposes:

The so called 'usufruct' is permissible ground for use of a property belonging to another person. It is known in the Bulgarian legal system as a 'right to use' and is regulated in the legislation on the ownership. Such right was for the first time recognised in the Bulgarian legal system in 1904 with the adoption of the Assets, Properties and Easements Law[174]. The law provided for the right of usufruct, which embraces the right of a person to use assets belonging to someone else. The right of usufruct is established by the law or with a contract. In a modified manner, the right is also recognised in the present Law for the Ownership[175], which in 1951 substituted the aforementioned Assets, Properties and Easements Law[176]. Nowadays, the right to use, as prescribed by the Law for the Ownership[177], gives its holder all the titles inherent for the owner except the right to alienate the asset. The right to use is established by mutual agreement between the parties in the form of a notary deed. The right to use includes the right to use the property in accordance with its purpose and the right to the benefits thereof without causing any essential changes to it. The user cannot transfer his right of use to third parties, even with the consent of the owner[178]. According to the Law for the Ownership[179] the user must: pay the expenses related to the use, including taxes and other charges; insure the property in favour of the owner and pay the insurance premiums, unless otherwise decreed or agreed; maintain the property in the state in which it was received and return the property to the owner after the termination of the right of use. Also the user is obliged to inform the owner of any trespass on the ownership. The right of use terminates with the death of the user, if a shorter period is not agreed upon. The right to use shall be terminated, if it is not exercised for five years. If the user, after being warned, continues to use the property in a way which threatens it with destruction or significant damage, the owner may request from the court that the right of use shall be terminated;

[174] Assets, Properties and Easements Law, promulgated in State Gazette issue 29 of 7 February 1904, repealed State Gazette issue 92 of 16 November 1951.
[175] Law for the Ownership, promulgated in State Gazette issue 92 of 16 November 1951, last amended State Gazette issue 105 of 29 December 2011.
[176] Assets, Properties and Easements Law, promulgated in State Gazette issue 29 of 7 February 1904, repealed State Gazette issue 92 of 16 November 1951.
[177] Law for the Ownership, promulgated in State Gazette issue 92 of 16 November 1951, last amended State Gazette issue 105 of 29 December 2011.
[178] Ibid., Art. 56, para. 2.
[179] Ibid.

The Obligations and Contracts Act[180] entitles a person (lender) to allow another person (borrower) to use an asset, belonging to the lender, for no charge. This is usually the legal instrument permitting in the everyday life some family members to inhabit a common dwelling belonging to only one/part of them. Unless the owner is obliged to allow a family member to live within her/his own house (for example the parents towards their under-age children), such right is acquired through a contract, though no special form is prescribed by law. According to the data from the last Census held in 2011 by the NSI[181] in about 316 thousand (11.9%) inhabited dwellings live 436,676 tenants not paying rent (6.2%) and another 430,534 tenants cohabit with landlords (6.1%);
A right to a 'lawful possession' can as well be established by a commercial leasing contract, signed between a lessor and a lessee, according to which the lessor undertakes to provide an item for use for consideration. Although not very common in the sphere of the housing, it is recently more and more frequently used as a means for financing of the acquisition of real estate and as an alternative of the mortgage. What differentiates the commercial leasing contract from the rent contract is the option granted to the lessee upon expiration of the term of the contract to buy the property at its outstanding value under conditions stipulated in advance.
In Bulgaria no different intertemporal tenancy law regimes in general and systems of rent regulation in particular exist.
The mixed tenancy contract (residential and commercial) in Bulgaria is lawful, although very rare.[182]

### 4.3. Regulatory types of tenures with a public task

- Please describe the regulatory types of rental and intermediary tenures with public task (typically non-profit or social housing allocated to need) such as
  - Municipal tenancies
  - Housing association tenancies
  - Social tenancies
  - Public renting through agencies
  - Privatized or restituted housing with social restrictions
  - Public entities (e.g. municipalities) taking over private contracts, typically for poor tenants to counteract homelessness
  - Etc.

- Specify for tenures with a public task:
  - selection procedure and criteria of eligibility for tenants
  - typical contractual arrangements, and regulatory interventions into rental contracts

[180] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.
[181] Преброяване на населението и жилищния фонд в Република България през 2011 г., Том 2. Жилищен фонд/Книга 2. Жилища, НСИ, 2012, 20 (Housing and population census in Bulgaria, Volume 2. Housing fund/Book 2. Housing, NSI, 2012, 20).
[182] Please, see also the second part of the questionnaire on the allowed uses of the rented dwelling and their limits.

- opportunities of subsidization (if clarification is needed based on the text before)
- from the perspective of prospective tenants: how do I proceed in order to get 'housing with a public task'?

**Table 16 Summary table 10, regulatory types of rental tenure**

| | Description of the type | Significance |
|---|---|---|
| Rental housing **with a public task** | | |
| 7. Municipal rental homes: social | Social houses provided by the municipality to special categories of tenants (poor and socially vulnerable households, municipal employees) at low prices. Opportunity for buying social houses after certain period of time exists. | XXX |
| 8. Social rental housing provided by charity organizations | Social houses are built and let to socially vulnerable groups. In Bulgaria, the quite limited examples are based on public-private partnership between municipalities and NGOs supported by foreign donors' organizations (Kyustendil – 'Iztok' Neighbourhood). | X |
| 9. Rental state owned housing | The housing stock for employees in state administration and members of parliament is available although very limited. Many of those dwellings used to be sold to the tenants after certain period of renting. The Ministry of Defence also maintains military housing fund provided to soldiers. | X |
| 10. Social housing by NGOs | Churches and NGOs own a limited number of housing units, which are used according their specific programs (independently of the Housing Law). | X |

Given the scarcity of public housing stock and the trend of its further decrease, there has been a deepening mismatch between the growing demand and shrinking supply of social housing since the start of GFC (due to privatization and shortage of public investment in new housing stock).

Particularly strong discrepancies are identified in the largest cities, where the demand for social housing is greatest. For example, in 2011 the population of the Municipality of Sofia is about 18% of the national population, and in the municipality there possesses only 7% of social housing stock in the country.
In the Municipality of Sofia the number of social dwellings is about 5,000. The list of enrolled individuals with established needs of accommodation in social houses is significantly longer:

> *Since on average only a single digit percentage of public housing stock is released for recruitment of new tenants, those citizens registered in the list of enrolled individuals with identified housing needs, have a theoretical chance of access to municipal housing after about half a century.* (Expert in municipal administration)

Based on the Municipality Property Act, municipalities issue ordinance providing for determining the needy households and setting criteria to classify and accommodate the approved families in municipal dwelling. Municipalities determine the rent of social housing, which is preferential – significantly lower than private rental market rates. However, many of socially disadvantaged people have no means to cover maintenance costs. Municipalities are obliged by law to give priority to the vulnerable tenants; and sometimes municipal housing becomes unusable after accommodating very low income tenants for a prolonged period. There are bulk of examples of deterioration of social housing – Yambol – Block 20; Vietnam Hostel in Sofia etc. Repairs are seldom made by municipalities.
The tenants are reluctant to bring major improvements, but often have no choice because of a very poor state of social housing. In such cases, however, there are risks to the lessor, since if the tenant made significant improvements upon leaving she or he may decide to take with him some of the improvements, thereby leaving home in worse condition than it was before undertaken improvements. 'We had a dramatic case in which we found a social dwelling released from the tenants without windows – tenants had moved out and had taken the windows because they belonged to them.' (interview with an expert in municipal administration, quoted material is translated by the authors)

Exceptions can be found only in some of the wealthier municipalities that implement policies and projects to enhance or repair social housing, or even launch the construction of municipal buildings for needy populations[183]. In addition, the public rental stock is scattered among different condominiums, which makes its management difficult and inefficient.

In Bulgaria, the definition of households in need of social housing is set at the municipal level (usually by the regulation on the procedures for defining housing needs of citizens, tenancy and sale of public housing). Despite the local particulars, individuals and families who meet a number of conditions are generally eligible for social rental housing, among which:
1. they do not own a home, villa or residential plot or more than 1/6 of the common parts of such property;
2. they do not have factories, workshops, shops, warehouses for commercial use;
3. they do not possess other assets overriding a given value fixed by Municipality Councils;
4. they receive a limited gross monthly income per family;

[183] Within the framework of the Project to build experimental housing for Roma families in the metropolitan area 'Hristo Botev' were invested more than 5.56 million EUR. The dwellings have been rented by 132 filed as desperate needy Roma families. The project is implemented by the Municipality of Sofia and the European Bank for Reconstruction and Development. It is financed equally by both parties. This project is part of the Municipal Program to build social housing for Roma families and improve the living conditions of the Roma population.

5. they have had permanent address in the respective municipality for five years without interruption;
6. they never squatted in public housing, or their rental contract for such housing was not terminated as a result of culpable violation of the rules by the tenant;
7. they have no financial obligations to the municipality;
8. they have insufficient living space.

Eligible individuals and families are grouped in a housing register depending on their housing needs in the following groups:

- persons, whose houses have been restored to their former owners under Section 7 of the Law for Reinstatement of the Ownership of Nationalised Real Estates[184];
- public housing tenants who are affected by new construction, upgrading or extension, overhaul or reconstruction;
- citizens who do not have any accommodation in a residential area, and have been accommodated in non-housing facilities for at least a year (such as sheds, cellars, attics etc., places unfit for habitation, unacceptable from a sanitary point of view, or at risk of collapse);
- families renting premises based on free rental contract for at least one year until the submission of documents for filing in the register;
- persons or families occupying insufficient living space.

Usually, in the case of families being in the same group, priority is given to:

- families with two or more children;
- single parents of minor children;
- families where one member with a disability level of over 50%;
- young families;
- families who have lived longer in poor housing conditions.

There are several other forms of subsidized accommodation in public housing (with preferential rent rate); these include hostels for students and soldiers, and officers of the housing units in the state administration (Council of Ministers, ministries and state agencies etc.). The housing fund for public employees is very limited, and most employees live in their own homes or rent at the private market. Higher education institutions have a large building stock for student housing concentrated in the campuses of the bigger university centers. According to the data from the last Census as of 1 February 2011, the whole number of the rooms in inhabited hostels (including workers' hostels) is 23,877, which is about 8% of all university students (284,995 for the school year 2011/2012). This data means that a significant number of students do not have the chance to benefit from subsidized accommodation in dormitories.

In order to be eligible for dormitory accommodation, students need to meet a minimum level in educational performance. They are also classified according to family income, and students with lower family income are given preference. The rent is preferential: monthly dormitory fee varies between BGN 30 (EUR 15) and BGN 28 (EUR 55) including consumables, depending on the number of students in a room. Beyond the

[184] Law for Reinstatement of the Ownership of Nationalised Real Estates, promulgated in State Gazette issue 15 of 21 February 1992, last amended State Gazette issue 53 of 30 June 2006.

rent, all students pay an additional sum to partially cover the cost of heating, water and electricity supply. Since many of dormitories have never been renovated and are not well maintained, many students are not motivated to apply for residence in dormitories, especially when they can afford to rent on the free market.

The Ministry of Defence also has military housing units. Due to the shortage of Ministry of Defence own housing fund, more housing units are necessary to accommodate needy soldiers. Therefore, the Ministry pays an amount to partially cover the monthly rent to the soldiers who can't be provided with Ministry of Defence housing and live rent free. The Ministry of Defence also used to buy flats in different estates and accommodated there military servants. (Otherwise the ministry would be obliged to pay higher rents to cover expenses for military servants' accommodation). However, the purpose of this program was economic (saving money from the Ministry of Defence in long run prospective) and social – gathering lowest income families in one place.

The social group affected most negatively by the shrinking provision of social housing is the poor. Faced with the problem of rapidly shrinking social housing stock and the lack of income for rent or to purchase a home, people from vulnerable groups are forced to seek alternative forms of social protection. These forms are also extremely limited and cannot meet the growing number of people in need.

One of them is related to social service 'temporary accommodation for homeless people over the age of 18.' These temporary accommodation services are provided to homeless persons over the age of 18 for up to three months within a calendar year. Homeless persons can be accommodated in a crisis accommodation centers as well. Services at these centers include providing hot meals, shelter, clothing and counseling with a social worker, from 18.00 to 10.00 hours the next day. Places in these centers are filled during the cold winter months. As far as services in these centers are funded by the resources of the local self-governance, municipalities with municipal budget deficit are often unable to provide sufficient capacity and volume of services.

In the last year there are very few examples of public private partnerships aimed at addressing the housing needs of vulnerable groups.

In 2002 the municipality of Kyustendil, ADRA Foundation from Austria, ADRA Foundation from Bulgaria, and Municipality of Vienna implemented the first phase of a joint project to build social housing to improve the living conditions of vulnerable Roma families 'Iztok' Neighbourhood – city of Kyustendil. The funds for the construction of social housing are donated by the Vienna Municipality, and Austrian private individuals. Many Austrian companies contributed to the construction of the dwellings by in kind donations. The future inhabitants of the social housing in 'Iztok' district were involved in the construction works.

In the period 2002-2008 almost 30 houses were erected and poor families were accommodated. The monthly rent was symbolic; the amount of app. EUR 5. The example of this type of public-private partnership between municipality of Kyustendil and foreign donors in the field of social housing remained an exception, and no further steps

were undertaken by the state to create normative or financial incentives for further building of housing with a public task from private organizations.

Another relevant innovative project is currently realized by the Municipality of Pernik. The scheme was launched in 2011. The project is a pilot for Bulgaria, and it is based on the model and good practices from countries like Austria, the Netherlands and Montenegro. It includes, besides housing construction, creation of the entire necessary social infrastructure – schools, kindergartens, etc. The project is an example of public-private partnership involving the municipality of Pernik (52% share in the joint-company) and two private business entities: Wien-Süd (represented by 'Wien-Süd Bulgaria') and IIBW.

The advantages of the model are (1) its orientation towards minimal profit margin for the private companies, (2) land provided for free from the municipality,(3) access to credit with low-interest rate from the international credit institutions, and (4) guarantees from municipality that the rent is regularly collected. Due to the participation of public authorities (municipalities), this project can show high level of sustainability since it is less sensitive to economic than purely private construction projects.

**Table 17 Summary table 9, regulatory types of rental tenure**

| | Description of the type | Significance |
|---|---|---|
| Rental housing **without a public task** (market rental housing for which the ability to pay determines whether the tenant will get the dwelling); for example different intertemporal schemes of different landlord types with different tenancy rights and duties | | |
| 11. Occasional owner | Families possessing more than one dwelling often provide one of the abodes at the real estate market – for rent or for rent and selling. | XX |
| 12. Restored ownership (restituted dwellings) | The ownership right of owners being deprived of their properties after 1944. Many owners, mainly in big cities, started to rent out the restored dwellings. | XX |
| 13. Private companies' homes | As a result of privatization, private companies acquired buildings of flats and continued to use them by renting the dwellings at much lower prices compared to real estate market trends as a measure of companies' social policy. In some less attractive industrial zones (e.g. mining) and/or where production is based in the countryside those dwellings are used as a tool to attract young or well-qualified workers. | X |

| | | |
|---|---|---|
| 14. Housing co-operatives | Associations of households on a voluntary basis. Municipal councils assist housing cooperatives by determined annual sites for co-operative housing and by yielding to housing cooperatives the right to build on state or municipal land. The resulting dwellings are individually owned, the common parts are shared property. | X |
| 15. Special arrangement | In the countryside there is a large number of abandoned or rarely used houses stock – they are often let for free rent accommodation to relatives. | XX |
| 16. Private owners from abroad | Private persons or companies from abroad buy second home properties in the resort areas, and rent them to tenants.<br>There are also some exceptional cases of foreign investors buying blocks of flats and renting them to students. | XX |
| Rental housing for which a **public task** has been defined<br>(provision of housing that is not determined by the free market, but any form of state intervention) | | |
| 17. Municipal rental homes: social | Social houses provided by the municipality to special categories of tenants (poor and socially vulnerable households, municipal employees) at low prices. Opportunity for buying social houses after certain period of time exists. | XXX |
| 18. Social rental housing provided by charity organizations | Social houses are built and let to socially vulnerable groups. In Bulgaria, the quite limited examples are based on public-private partnership between municipalities and NGOs supported by foreign donors' organizations (Kyustendil – 'Iztok' Neighbourhood). | X |
| 19. Rental state owned housing | The housing stock for employees in state administration and members of parliament is available although very limited. Many of those dwellings used to be sold to the tenants after certain period of renting. The Ministry of Defence also maintains military housing stock provided to soldiers. | X |
| 20. Social housing by NGOs | Churches and NGOs own a limited number of housing units, which are used according their specific programs (independently of the Housing Law). | X |

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innovations and recent amendments to the legislation and synthesized scientific opinions and case law

5. National Statistical Institute, Bulgaria, www.nsi.bg. NSI information base either on consultations with NSI experts, or on the statistics the Institute published. NSI reports consulted for the present country report include: Quarterly average market prices of dwellings, 2012; Household budgets, 1999-2011; Housing and population censuses 2011 (http://censusresults.nsi.bg/Census/Reports/1/2/R5.aspx, also, see details below)

6. Puneva, I., Gachev V., Horozov G., Miteva D., Tanev D., Krashkova E., Balevska E., Topalov K., Vlahov K., Margarita Zlatareva M., Obretenova M., Bobatinov M., Kyurkchiev S., *Code of Civil Procedure. Practical comments. Enforcement problems. Analysis of Case Law.* Sofia: Trud i Pravo Publishing House*, 2012.* Content includes general rules; proceedings before the first instance; appealing against the decisions and orders. Repealing of effective solutions; specific claim proceedings; enforcement proceedings; special rules for proceedings in civil cases under the Acquis Communautaire

**List of abbreviations – Part I**

GDP – Gross domestic product
EU – European Union
EU-27 - – European Union 27 Member States
GFC – Global Financial Crisis
NSI (НСИ) – National Statistical Institute
ERDF – European Regional Development Fund
RDOP Regional Development Operative Program
OP – Operational Program
REECL – Residential Energy Efficiency Credit
KIDSF – Kozloduy International Decommissioning Support Fund (
EEAA – European Economic Area Agreement
NRA – National Revenue Agency
VAT – Value added tax
Eurostat – the statistical office of the European Union

**Part 2: Tenancy Law (space: 80-130 pages, 1 space, 12pt**
**Introductory Remark: If necessary, please distinguish private and "public task tenancies" throughout the whole part 2.**

## 5. Origins and development of tenancy law

- What are the origins of national tenancy law and where was and is it laid down (civil code, special statute, case law)?

The Third Bulgarian state appeared in 1878 and a new legal order had to be established to replace the old legislation of the Ottoman Empire. Nevertheless, the changes in the civil law of the new Bulgarian state could not be rapid, as this would cause problems and uncertainty in the legal system and law enforcement. That is the reason why immediately after the liberation of 1878 in Bulgaria continued to operate Ottoman Empire law and the customary law. Their replacement with new Bulgarian laws is a gradual process that had continued for decades.
During this period even terms of Ottoman law are still used in the new statutes. The first legislative acts in Bulgaria related to tenancy are in the area of the tax law. For example, on May 16, 1880 a law was adopted on taxation 'emlyak' (tax on buildings and structures) 'idzhar' (income from rents) and 'temetuat' (on income from crafts)[185].
The Fourth Regular National Assembly passed a Law for Tax on Rental Value of the Immovable Properties (Idzhar), which stated that 'Idzhara size shall be 3% of the rental income from the property, not subject to tithe.'[186]

The national tenancy legislation has since 1893 been regulated in the civil law, as the primary arrangements were laid down in the Obligations and Contracts Act[187] adopted in 1892 and, subsequently in the Obligations and Contracts Act[188], presently in force.
The first Obligations and Contracts Act was composed of sixteen parts, including a general part regulating all types of obligatory relationships and special parts dealing with a variety of contract types. The tenancy contracts were dealt with in the fourth part.[189]. A separate sub-chapter was dedicated to the specific terms and conditions for letting for rent of immovable properties, in which the obligations of landlord and tenant and basic

[185] Law on Taxation 'Emlyak' (tax on buildings and structures) 'Idzhar' (income from rents) and 'Temetuat' (on income from crafts), 16 May 1880 (the Turkish terms are in quotation marks).
[186] Law for Tax on Rental Value of the Immovable Properties (Idzhar), 16 January 1885, Art. 2 (the Turkish term is in brackets).
[187] Obligations and Contracts Act, promulgated in State Gazette issue 268 of 1 January 1892, in force 1 March 1893, repealed State Gazette issue 275 of 22 November 1950 in force 1 January 1951.
[188] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.
[189] Obligations and Contracts Act, promulgated in State Gazette issue 268 of 1 January 1892, in force 1 March 1893, repealed State Gazette issue 275 of 22 November 1950 in force 1 January 1951, Art. 335. The Art. 335 laid down the first legal definition of the rental relations in the newest Bulgarian state: 'Rental of goods is a contract under which one of the contracting parties undertakes to let the other the use of a property for a specified time and for a price which the latter shall be obliged to pay'.

requirements of the leases were regulated, inclusive small repairs, cleaning and maintenance of the property, lease terms and co-habitation of tenants and landlords[190].
In its major parts the law was based on the Italian Civil Code (Codice civile) of 1865, influenced by the French Civil Code (Code Napoléon) of 1804.
The structure of the Bulgarian population in the late 90s of nineteenth century was similar to the Italian one – the rural population comprised more than 80% of all citizens. Given the composition of Bulgarian society at that time the Members of the Parliament deliberately avoided the German Civil Code, as it mainly reflected the interests of the people involved in the trading, while the Italian legislation was rather focused on the needs of rural population.

The low level of urbanization of Bulgaria during this period and limited demand for rental housing did not require adoption of special legislation in the field of tenancy relationships. The leading role belonged to the general law – primarily the Obligations and Contracts Act[191].

The first need of regulation of public relations linked to tenancy appeared during and after the Balkan Wars and the First World War and the following decade.
The refugees' floods that had left the lost Bulgarian territories led to gradual urbanization and increasing number of urban population and the residents of major cities.
In this period the first special law on tenancy was adopted – the Law on Tenancy and on Buildings during the War Period[192]. As the title of the statute indicated, it came to address a crisis war and post war situation, by imposing restrictions on landlords' profiteering attempts to increase the rental prices due to a growing demand and limited supply of houses[193]. The Law on Tenancy and on Buildings during the War Period[194] was supplemented by series of special statutes aimed at increasing state interventions in tenancy relations and protection of the most vulnerable groups in the post war period – mainly refugees and homeless people.[195]

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[190] Ibid., part IV, sub-chapter II – 2, Art. 369 – 377.
[191] Obligations and Contracts Act, promulgated in State Gazette issue 268 of 1 January 1892, in force 1 March 1893, repealed State Gazette issue 275 of 22 November 1950 in force 1 January 1951.
[192] Law on Tenancy and on Buildings during the War Period, promulgated in State Gazette issue 79 of 12 April 1917.
[193] After the World War I Bulgaria registered ever highest growth of the national population – by annual average of 2.1% growth in the period 1921-1926. This is exactly the period when the growth of urban population started to prevail over the growth of rural population. (National Statistical Institute, comparative tables by Census years, http://censusresults.nsi.bg/Census/Reports/1/2/R1.aspx, December, 2013.)
[194] Law on Tenancy and on Buildings during the War Period, promulgated in State Gazette issue 79 of 12 April 1917.
[195] The problems with refugees' waves are particularly severe in the capital. In 1920 refugees represent sixteen percent from the capital population (Sofia 127 Years, Urban evolution, Municipality of Sofia, http://www.sofia.bg/history.asp?lines=1771&nxt=1&update=all, Sofia, December 2013.). At the beginning of the Second World War in other fast growing urban areas and large industrial centers such as Varna refugees reached about one third of the total population. (Varna State Archive, фонд 58К, опис 1, а.е. 195, лист 63, Писмо от инж. Янко Мустаков, кмет на Варна до министъра на търговията, промишлеността и труда с молба за осигуряване на средства за построяване жилища на бежанци - Fund 58K, inventory 1, ae 195, sheet 63 Letter from Yanko Mustakov, mayor of Varna to the Minister of Commerce, Industry and Labour with a request to provide funds to build housing for refugees, Varna, 4 December, 1941. There are several examples of special care from refugees even from smaller settlements.

Solution of the housing and refugee issues is regulated by laws such as: the Law on Extra-Local Loan from BGN 150,000 to Help Needy Refugees[196]; the Law on the Rent of Buildings during the War[197]; the Law for Alleviation of the Housing Needs[198]; the Law for Settlement of Refugees and Ensuring Their Livelihoods[199] and the Law for Governing of the Immovable Property on the New Lands[200].

These laws were characterized with short life-span and many amendments to respond better to the contemporary and newly arising social challenges. For example, only within a short period of 5 years three laws were consecutively adopted for alleviation of the housing needs of the refugees.[201]

In some cases enforcement of the special legislation excluded the application of the general regime, provided for in the Law on Contracts and Obligations[202]. 'However, due to the limited temporal, territorial and subjective scope of the special legislation, the two regimes – both the general and the exclusive – applied concurrently.'[203]

The process of modernization and transition from traditional rural to urban society in Bulgaria had taken place mainly in the 60s and 70s of the twentieth century.

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Among the major problems of the municipal urban management of the Municipality of Gorna Dzhumaya is the accommodation and feeding of the refugees. (Нурие Муратова, Решения на общинското градско управление на Горноджумайска община (1927-1934), стр. 81 (Nurie Muratova, Decisions of the municipal city government of the Gornodzhumayska municipality (1927-1934) p. 81.).
The construction of social housing for refugees after the First World War is a priority of the regional authorities in Burgas (Burgas State Archive, ЧП 157, лист 165, Писмо от Главната дирекция за настаняване на бежанците до Околийската комисия за настаняване на бежанците в Айтос за строителството на бежански жилища със средства от бежанския заем, в новосъздаденото село Домуз Орман (с. Миролюбово), Бургаско (Letter from the General Directorate for accommodation of refugees to the district committee for the accommodation of refugees in Aytos for the construction of refugee housing with funds from the refugee loan in the newly created village Domuz Orman (Mirolyubovo), Burgas, 23 November 1928) and Stara Zagora (Stara Zagora State Archive, фонд 622K, опис 1, а.е. 1, лист 10 гр.-12, Протокол № 16 на Старозагорския общински хигиеничен съвет за жилищното настаняване на бежанците (Fund 622K, inventory 1, ae 1, sheet of 10 gr-12, Minutes No 16 of Stara Zagora Municipal hygienic council for the housing of refugees, Stara Zagora, 30 August 1918).

[196] Extra-Local Loan from BGN 150,000 to Help Needy Refugees, promulgated in State Gazette issue 68 of 24 March 1916.

[197] Law on the Rent of Buildings during the War, promulgated in State Gazette issue 79 of 4 December 1917.

[198] Law for Alleviation of the Housing Needs, (promulgated in State Gazette issue 233 of 20 January 1920).

[199] Law for Settlement of Refugees and Ensuring Their Livelihoods, promulgated in State Gazette issue 214 from 21 December 1920.

[200] Law for Governing of the Immovable Property on the New Lands, promulgated in State Gazette issue 92 of 27 July1921.

[201] Law for Alleviation of the Housing Needs (promulgated in State Gazette *issue* 233 of 20 January 1920), Law for Relief of the Housing Needs (promulgated in State Gazette issue of 16 May 1921) and Law for Relief of the Housing Needs (promulgated in State Gazette issue 83 of 16 July1924).

[202] Obligations and Contracts Act, promulgated in State Gazette issue 268 of 1 January 1892, in force 1 March 1893, repealed State Gazette issue 275 of 22 November 1950 in force 1 January 1951.

[203] Ekaterina Rousseva, Tenancy Law and Procedure in the EU, country report for Bulgaria, European University Institute, Research Project co-financed by the Grotius Programme for Judicial Co-operation in Civil Matters, 25 September 2009, p. 1.

In 1975 the share of rural population in the country was 42% – double time less than it used to be half a century earlier (Census, 1926 – 79.4%)[204].
However, the growth of urban population and increased demand for urban housing is just one reason for introduction of new, including specialized, legislation in the area of rental relations after the middle of last century. Another key factor necessitating adoption of legislation in this area is the imposing of special restrictions on ownership and right of use of immovable property laid down by the new socialist regime after 1944, and the established privileges of ruling communist party elites[205].

The Law on Tenancy (1947)[206] introduced standards for use of the residential premises[207]; obligation to declare free residential space[208]; accommodation of new tenants was regulated by the orders of the administrative authorities[209] and the rental price was determined through centrally regulated rental rates[210].

The growing demand for urban housing urged the ruling communist party to introduce a slightly liberal (more market oriented) regime in the 60s and 70s.
The Law on Tenancy of 1947 was repealed by the Law on Tenancy Relationships (1969)[211]. The new law preserved many of previously imposed restrictions for renting properties however it abolished state regulated accommodation in properties owned by citizens[212], and restated[213] that 'rental relations for dwellings and other premises owned by citizens ... are governed by the Obligations and Contracts Act[214]'.

[204] National Statistical Institute, comparative tables by Census years, http://censusresults.nsi.bg/Census/Reports/1/2/R1.aspx, December, 2013.
[205] Establishment of a new tenancy regime of privileges in favour of the communist party constituency is among the first priority of the new ruling party's tenancy policy. (See, Ordinance for the Housing of Responsible Party Staff, Central State Archive, фонд 1Б, опис 6, а.е. 449, лист 1, Постановление № 58 от 19 февруари 1948 г. на Политбюро (ПБ) на ЦК на БРП /к/ за: жилищата под наем на отговорни партийни кадри (Fund 1B inventory 6 ae 449, sheet 1, Decree No 58 of February 19, 1948 of the Political Bureau (PB) of the Central Committee of the Workers' Party / k / for: rented housing of responsibility party cadres), 19 February 1948; Ordinance for Improvement of Housing Conditions of Employees in Important Industrial Companies, Central State Archive, фонд 1Б, опис 6, а.е. 509, лист 1-6, Решение № 116 от 24 юни 1948 г. от заседание на Политбюро (ПБ) на ЦК на БКП за: подобряване жилищните условия на работещите във важните индустриални предприятия (Fund 1B inventory 6 ae 509, sheet 1-6 Decision No 116 of June 24, 1948 from a meeting of the Political Bureau (PB) of the BCP to: improving the living conditions of workers in the important industrial enterprises), 24 June 1948.).
[206] *Law on Tenancy,* promulgated in State Gazette issue 77 of 1 January 1947, repealed State Gazette issue 53 of 8 July 1969.
[207] Ibid., Art. 8.
[208] Ibid., Art. 13.
[209] Ibid., second sentence.
[210] Ibid., Art. 3.
[211] Law on Tenancy Relationships, promulgated in State Gazette issue 53 of 8 July 1969, repealed State Gazette issue 44 of 21 May 1996.
[212] Ibid., Art. 2.
[213] Ibid., Art. 24.
[214] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.

Furthermore, it kept the restrictions on the rent price however allowing for increase of the rental price up to three times higher than regulated by the state delimited rental rates[215].

As it has been proven above from its very beginning the tenancy law in Bulgaria has always been a part of the civil law system, although strong public law implications existed for the period between 1945 and 1989 (Tenancy Relations Act[216] which introduced the maximum rent prices determined by a specialised state body and which could not be exceeded by an agreement between the tenant and the landlord. These limitations were repealed in 1990).
As regards the accommodation in public owned dwellings (municipality and state owned houses) some public law acts are applicable, such as the Municipal Property Act[217], State Property Act[218] and the regulations for their implementation. It is worth noting at the outset that the latter legislation concern a very limited number of cases, most of them constituting lodging of persons with established housing needs and the members of their families; accommodation of state and/or municipal officers entitled for departmental housing; accommodation of persons whose housing has been rendered unfit for habitation as a result of natural or man-made disasters. Rent prices are regulated only in respect to the tenancy of state owned (Regulations for Implementation of the State Property Act[219]) and municipality owned (Municipal regulations for implementation of the Municipal Property Act[220], adopted separately by each of the 264 Bulgarian municipalities) housing fund.
As regards the rights of the former spouses in relation to the use of the marital home the Family Code[221] provides that rent relation shall occur as a result of the court judgement on the divorce when any of the former spouses is entitled to continue using the marital home.

- Who was the political driving force? Was it based on a particular legal philosophy (e.g. socialism)? Is there a particular philosophy behind the rules (e.g. protection of the tenant's home as in Scandinavia vs. just a place to live as in most other countries)

A distinction must be drawn between the tenancy law regulating the rental relations between private persons and/or commercial entities on one hand (referred to as 'private tenancy') and the legislation in the sphere of the accommodation in public houses on the

[215] Law on Tenancy Relationships, promulgated in State Gazette issue 53 of 8 July 1969, repealed State Gazette issue 44 of 21 May 1996, Art. 25.
[216] Tenancy Relations Act, promulgated in State Gazette issue 53 of 08 July 1969, repealed State Gazette issue 44 of 21 May 1996.
[217] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.
[218] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.
[219] Regulation on the Implementation of the State Property Act, promulgated in State Gazette issue 78 of 26 September 2006, last amended State Gazette issue 62 of 12 July 2013.
[220] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.
[221] Family Code, promulgated in State Gazette issue 47 of 3 June 2009, last amended State Gazette issue 68 of 2 August 2013.

other hand (referred to as 'public tenancy'). In the first instance the principles of the civil law, and particularly the principles for equality of the contracting parties and the freedom to set contracts, are applicable. During the pre-communist era (before 1944) a particular accent in the legislation was put on the protection of the special interests of the tenants of agricultural lands, due to the fact that agriculture was the main economic area in the country and a large portion of the population was involved in different types of farming activities and/or dependent on them.

The legislation of the socialist era allowed the forced accommodation of tenants in private houses at state regulated rent prices against the will of the owners. This policy, in obvious disregard to the rights of the owners, was purported to meet the requirements of the mass urbanisation processes that took place in Bulgaria during the second part of twentieth century.

Leaving behind such temporary policies imposed by specific historical requirements, it should be concluded that the main doctrine governing the landlord-tenant relations in the civil law is that of the equality of the parties and due respect to the balance of their interests without granting more weight to any of the parties' rights.

Furthermore, the legislation governing the public tenancy is designed to meet the requirements for provision of housing for those who cannot afford one due to their disadvantaged position or who possess special features making them eligible for public tenancy (for instance staff members of local and/or central administrative bodies), thus implementing the social commitments of the state and the municipalities. Unlike the general civil law, which applies to the vast majority of the rental relations, the legislation for accommodation in municipal and state owned houses (public tenancy) is not based on the principle of equality of the contracting parties. The major reason is that the conditions for accommodation in such houses differ from the market conditions as the rent prices for such accommodation serve mainly social functions. Being so, the demand for such houses far exceeds the supply. Therefore, it requires introduction of special procedures for applying, assessment classification and ranking of candidates, and finally – for awarding of such accommodation to the successful applicants. Identical is the justification of the rather severe conditions that would lead to premature termination of the rental relations in the public sector, some of which would not lead (or would not lead in all cases) to a termination of an 'ordinary' private tenancy. A typical example in this respect is the tenant's **obligation to use** the municipal dwelling once granted to him which is introduced in most municipal ordinances related to the municipal tenancy[222]. The rationale here is the notion that the tenant does not have a genuine and serious housing need if he does not use the dwelling. Another typical example is the subletting of the dwelling, which in many municipal regulations leads not only to termination of the agreement but moreover to imposition of administrative penalty – fine.

- <u>What were the principal reforms of tenancy law and their guiding ideas up to the present date?</u>

The main legislative changes concerning, among many other spheres, the tenancy law, took place during the past twenty two years and were dictated by the period of transition from centralized state-governed economy to free market economy. The principal reforms have the following aspects:

[222] See the review of the local tenancy legislations below.

- abolishment of any restrictions and regulations involving centralised assessment of the rent prices and forced accommodation of tenants in private owned houses, originating from the major constitutional reforms proclaiming the protection of the right to property (Art. 17, paragraph 3 of the Constitution of 1991: '*Private property shall be inviolable.*'[223]) and promotion of the principles of the free market in the tenancy relations (Art. 19, paragraph 1 of the Constitution: '*The economy of the Republic of Bulgaria shall be based on free economic enterprise.*[224]');
- abandonment of the state from its properties, including those aimed at accommodation of people in need or people working for the respective state owned companies, trough the processes of privatization and restitution having as their main result the passing of the ownership from the state to private structures;
- keeping very limited potential for provision of socially oriented accommodation services due to the transfer of responsibilities to the municipalities by way of adoption of the legislation regarding the state and the municipal property.

- ~~Do other forms of "lawful possession" of a premise for housing purposes (e.g. usufruct, licence etc) play a role? (~~deleted as contained in part 1)

- Human Rights:
- To what extent and in which fields was tenancy law since its origins influenced by fundamental rights enshrined in
  - the national constitution

Bulgarian tenancy related law keeps regard to the principles and the fundamental rights enshrined in the Bulgarian Constitution[225]. However, a distinction has to be drawn between the law governing the private landlord-tenant relationship (private tenancy) and the public law governing the lodging of people in need with state and/or municipality owned houses (public tenancy), as both aspects relate to separate safeguards contained in the Constitution.

As regards the private tenancy, the following Constitutional guarantees are applicable:

- Article 17, paragraph 1[226] provides that [t]he right to property ... shall be guaranteed and protected by law. This provision has a core meaning in the entire civil and public relations as it enshrines the major safeguard against unlawful and arbitrary interference with the right to property, thus ensuring that both parties to the rent relationship may negotiate and agree upon conditions as they seem appropriate without any external interference. Paragraph 5 of Article 17 provides that property may be taken by eminent domain for state and municipal needs solely in pursuance of a law subject to the condition that these needs cannot be

[223] Constitution of the Republic of Bulgaria, promulgated in State Gazette issue 56 of 13 July 1991, Art. 17.
[224] Ibid, Art. 19.
[225] Constitution of the Republic of Bulgaria, promulgated in State Gazette issue 56 of 13 July 1991.
[226] Ibid., Art. 17, para. 1.

satisfied in another manner and after an advance and equivalent compensation.

- Article 33, paragraph 1[227] states that [t]he home shall be inviolable. No one shall enter or stay inside a home without its occupant's consent, except in the cases expressly stipulated by law. Here, the main interest of the tenant to remain undisturbed, while occupying the house and not to be expelled arbitrary and without due legal proceedings for review of the lawfulness of the claim for eviction, finds its constitutional basis.

As regards public law governing the lodging of people in need within state and/or municipality owned houses (public tenancy), it is worth mentioning the lack of an explicitly set 'right to housing' within the domestic legislation. Nonetheless, the Constitution encompasses some principles reasoning the state policies towards the lodging of people who cannot afford their own home or cannot pay the market rent prices due to certain incapability or other unfavourable circumstances. For instance, in the preamble of the Constitution[228] pronounces that t is a 'social' state and the Article 51 (1) specifies that '[ci]tizens shall have the right to ... welfare aid.'[229] Such welfare aid could be for example social allowances for housing for the eligible citizens. Generally, the specific conditions for execution of the state policy in this sphere are left to the consideration of the municipal authorities as far as they own and maintain the houses designed for social purposes. However, even the wealthier municipalities in Bulgaria[230] (not mentioning the rest of municipalities) do not have financial leverage and sufficient incentives to contribute to the improvement of the living conditions of the most vulnerable citizens. Despite the fact that according to the State Property Law[231] the state bodies can also provide housing to public employees, due to the intensive selling of state abodes in the last 2 decades and scarcity of newly constructed state dwellings, the state is also unable to ensure the right to housing of state employees' families meeting the criteria and requirements set in the law.

▪ international instruments, in particular the ECHR

Article 5, paragraph 4 of the Constitution[232] proclaims that any international treaty, which has been 'ratified in accordance with the constitutional procedure, promulgated and having come into force with respect to the Republic of Bulgaria, shall be part of the legislation of the State'. Any such treaty 'shall have primacy over any conflicting provision of the domestic legislation'[233].
European Social Charter (revised) ('the Charter')[234] in Art. 16 (provision accepted by Bulgaria[235,236]) enshrines the right of the family to social, legal and economic protection,

[227] Ibid., Art. 33, para. 1.
[228] Ibid, last sentence of the preamble.
[229] Ibid, Art. 51.
[230] In Bulgaria very few municipalities are better off and the bulk of municipalities are poor.
[231] State Property Law, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 22.
[232] Constitution of the Republic of Bulgaria, promulgated in State Gazette issue 56 of 13 July 1991, Art. 5, para. 4.
[233] Ibid.
[234] European Social Charter (revised), http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm, Council

as the Parties undertake to promote the economic, legal and social protection of family life by such means as *inter alia*, provision of family housing, benefits for the newly married and other appropriate means.
Under Article 15 of the Charter (not accepted provision) on the right of persons with disabilities to independence, social integration and participation in the life of the community the Parties undertake '… to promote the full social integration and participation in the life of the community of the persons with disabilities in particular through measures, … enabling access to transport, housing, cultural activities and leisure'[237].

The elderly persons are another vulnerable group, protected by the Charter. In accordance with Article 23 of the Charter[238] (not accepted provision):

> the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular: …to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of: … provision of housing suited to their needs and their state of health or of adequate support for adapting their housing.

Article 31 of the Charter[239] (not accepted provision) protects the right to housing itself envisaging, that with:

> a *view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:*
> *1. to promote access to housing of an adequate standard;*
> *2. to prevent and reduce homelessness with a view to its gradual elimination;*
> *3. to make the price of housing accessible to those without adequate resources.*

European Social Committee in its most recent Conclusion 2011[240] – Bulgaria – Article 16, of 12/09/2011 (the 'Conclusion') – concludes that the situation in Bulgaria is not in conformity with Article 16 of the Charter – as Bulgaria has not accepted Article 31, housing for families is examined under Article 16.

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of Europe, Strasbourg, 3.V.1996, Art. 16.
[235] Bulgaria and the European Social Charter (revised), http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/Bulgaria_en.pdf, 2013, (Ratified by law, adopted by the 38th National Assembly on 29.03.2000 - SG No. 30/11.04.2000, Issued by the Ministry of labour and social politic, promulgated, promulgated in State Gazette issue No 43/4.05.2001, effective for Republic of Bulgaria since 1.08.2000).
[236] Ibid., 1. By April 2013, Bulgaria ratified the Revised European Social Charter on 07/06/2000, accepting 62 of its 98 paragraphs.
[237] European Social Charter (revised), http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm, Strasbourg, 3.V.1996, Art. 15.
[238] Ibid., Art. 16.
[239] Ibid., Art. 31.
[240] European Social Charter (Revised), Conclusions 2011 – Volume 1 (Albania, Andorra, Armenia, Azerbaijan, Belgium, Bulgaria, Cyprus, Estonia, Finland), Chapter 7 – Bulgaria, European Committee of Social Rights, Council of Europe, December 2012, 286.

In the Conclusion the Committee points out that Articles 16 and 31, though different in personal and material scope, partly overlap in several areas relating to the right of families to housing. In this respect, the notions of adequate housing and forced eviction are identical under Articles 16 and 31 (*COHRE v. Italy*, Complaint No. 58/2009, decision on the merits of 25 June 2010, § 115[241]).
The Committee has constantly interpreted the right to economic, legal and social protection of family life provided for in Article 16 of the Charter as guaranteeing the right to adequate housing for families, which encompasses secure tenure supported by law (*COHRE v. Croatia*, Complaint 52/2008, decision on the merits of 22 June 2010, § 53[242]).

The European Social Committee reiterates that under Article 16 of the Charter:

> States Parties must promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and size considering the composition of the family in question, and include essential services (such as heating and electricity). Furthermore, the obligation to promote and provide housing extends to ensuring enjoyment of security of tenure, which is necessary to ensure the meaningful enjoyment of family life in a stable environment. The Committee recalls that this obligation extends to ensuring protection against unlawful eviction (*ERRC v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 24).

In the same Conclusion the European Social Committee also points out that:

> The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers and tenants must have access to affordable and impartial legal and non-legal remedies. Any appeal procedure must be effective (Conclusions 2003 France, Italy Slovenia and Sweden; Conclusions 2005 Lithuania and Norway; *FEANTSA v. France*, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 80-81). Public authorities must also guard against the interruption of essential services such as water, electricity and telephone (Conclusions 2003, France).

In order to comply with the Charter, legal protection for persons, threatened by eviction, must include:

- an obligation to consult the parties affected in order to find alternative solutions to eviction;
- an obligation to fix a reasonable notice period before eviction;
- accessibility to legal remedies;
- accessibility to legal aid;
- compensation in case of illegal eviction.

[241] European Committee of Social Rights, Council of Europe, Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, 25 June 2010.
[242] European Committee of Social Rights, Council of Europe, Centre on Housing Rights and Evictions (COHRE) v. Croatia, Complaint 52/2008, decision on the merits of 22 June 2010, § 53, Centre on Housing Rights and Evictions (COHRE) v. Croatia, Complaint No. 52/2008, 22 June 2010.

The International Covenant on Economic, Social and Cultural Rights[243] in Article 11, paragraph 1 provides that:

> *The States Parties … recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent*.

Convention on the Rights of Persons with Disabilities[244] Article 9 'Accessibility' provides that:

> *[t]o enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:*
> *a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces …*

Article 28 of CRPD 'Adequate standard of living and social protection' paragraph 1[245], states that:

> States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

Paragraph 2[246] of the same article provides that:

> States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and

[243] International Covenant on Economic, Social and Cultural Rights, United Nations, adopted and opened for signature, ratification and accession by General Assembly, resolution 2200A (XXI), of 16 December 1966, entry into force 3 January 1976, in accordance with article 27, ratified by Decree No. 1199/23.07.1970 of the Presidium of the National Assembly – SG No. 60/31.07.1970. Issued by the Ministry of the Foreign Affairs, promulgated, SG 43/28.05.1976, effective for Bulgaria since 23.03.1976, Art. 11, para. 1.
[244] Convention on the Rights of Persons with Disabilities, (CRPD), United Nations, ratified by law, adopted by the 41-st National Assembly on 26.01.2012 - SG, No. 12/10.02.2012. Issued by the Ministry of Labour and Social Policy, promulgated SG, No. 37/15.05.2012, effective 21.04.2012, Art. 9.
[245] Ibid., Art 28, para. 1.
[246] Ibid., para. 2.

> promote the realization of this right, including measures … d) To ensure access by persons with disabilities to public housing programmes.

International Convention on the Elimination of All Forms of Racial Discrimination (Article 5)[247], provides that:

> In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
>
> …
>
> (e) Economic, social and cultural rights, in particular:
>
> …
>
> (iii) The right to housing.

**Relevant case-law of the European Court of Human Rights:**

In the case of *Yordanova and Others v. Bulgaria*, No 25446/06, Judgment of 24 April 2012 European Court of Human Rights (ECtHR)[248] considered planned eviction of Roma from established settlement without proposals for rehousing, finding violation of Article 8 of the European Convention of Human Rights: 'Everyone has the right to respect for his private and family life, his home and his correspondence'[249].
In its judgment ECtHR noted that:

> the mayor of the relevant district, stated, inter alia, that the Roma inhabitants … did not have the right to be registered as persons in need of housing because they were occupying municipal land unlawfully. For that reason, she would not offer them the tenancy of municipal dwellings, there being many other families on the waiting list[250].

The district mayor further stated that:

> the agreement of 28 September 2005 between the mayor of Sofia and a committee of representatives of the Roma families "had been concluded in a pre-electoral period" and that she did not consider herself bound by it. She also stated that the removal order had been upheld by the courts

[247] International Convention on the Elimination of All Forms of Racial Discrimination, adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965, entry into force 4 January 1969, in accordance with Article 19, Ratified by Decree No 515 of 23 June 1966 of the State council – promulgated in State Gazette issue 51 of 1 July 1699. Issued by the Ministry of the Foreign Affairs, promulgated in State Gazette issue 56 of 10 July 1992, effective since 4 January 1969, Art. 5.
[248] Case of *Yordanova and Others v. Bulgaria*, (Application no. 25446/06), Judgment, European Court of Human Rights, version rectified on 5 June 2012, under Rule 81 of the Rules of Court, Strasbourg, 24 April 2012, Final, 24 September 2012.
[249] European Convention of Human Rights, Council of Europe, F-67075 Strasbourg, www.echr.coe.int, Rome, 4.XI.1950, Art. 8 Right to respect for private and family life.
[250] See paragraph 42 of *Yordanova and Others v. Bulgaria*, quoted above.

and must be enforced; the fact that the persons concerned had nowhere to go was irrelevant[251].

In the same judgment[252] it is pointed out, that in September 2007, the Sofia Municipal Council adopted a Plan for the Implementation of the Ten-Year National Programme in Sofia for the Period 2007-2013. The document includes an analysis of the existing situation in respect of housing. According to this analysis, overpopulated Roma settlements had formed over the years in Sofia and nothing had been done by the authorities in the past to address the ensuing problems. Having always been a marginalised group with minimal resources, the Roma cannot in practice acquire real property. Traditionally they occupy vacant land and construct makeshift huts. Although most of them, being persons in need of housing, meet the relevant criteria for tenancy of municipal housing, this option does not work in practice owing to several factors, including the limited number of available municipal dwellings and unwillingness on the part of many Roma families to resettle in municipal flats. Their unwillingness could be explained partly by the lack of the necessary resources to cover the related expenses, such as utility bills, and partly by the animosities, which often erupt between non-Roma residents of blocks of flats and Roma families moving in.

- Is there a constitutional (or similar) right to housing (droit au logement)?

Firstly, the Constitution[253], in its preamble, proclaims that Bulgaria is a 'social' state. Therefore, the state cannot withdraw from its responsibilities to protect and maintain at least the minimum required living conditions for the people. Secondly, a more particular right is the one of Article 51 (1) which states that '[ci]tizens shall have the right to ... welfare aid'[254]. The Constitution leaves the issue of the forms and the extent of the welfare aid to the consideration of the state and municipal authorities. The right to housing (droit au logement) is not explicitly proclaimed by the Constitution. It is not developed in the Bulgarian legislation in force as a separate protected and enforceable personal right, but rather as a legal possibility granted to specific categories of people, which, for instance, have proven to be in a housing need to receive accommodation, depending on the housing capacity and availability of the respective local authority. This 'legal possibility' could hardly be construed as a 'right' as such for the following reasons: (1) it is not explicitly provided and regulated in the legislation as a personal right; (2) even where the person concerned meets all the criteria for accommodation in a municipal house, his situation depends on his position in the list of the candidates; (3) such legal possibility is not in principle enforceable. In any case, if this legal possibility is exercised, it has to be provided without any discrimination on protected grounds. However, the administrative decisions can be challenged by the affected persons for their compliance with the material and procedural administrative regulations.

## 6. Tenancy regulation and its context

### 6.1. General introduction

[251] Ibid.
[252] Ibid, para. 61 and 62.
[253] Constitution of the Republic of Bulgaria, promulgated in State Gazette issue 56 of 13 July 1991.
[254] Ibid, Art. 51.

- As an introduction to your system, give a short overview over core principles and rules governing the field (e.g. basic requirements for conclusion, conditions for termination of contracts by the landlord, for rent increase etc.; social orientation of tenancy law in force; habitability (i.e. the dwellings legally capable of being leased))

  Legal basis (rules, governing the field)

**Private tenancy**

Tenancy relations are governed primarily by the rules of the civil law and more specifically – by the Obligations and Contracts Act (1950)[255], which lays down the major principles for conclusion, amendments and termination of the rent contracts. As a variation to this legal framework occur the rent agreements in which at least one of the parties is a trader, which lets properties within the scope of its trade activities. Such contracts are governed by the Commerce Act[256] although the main civil regulations of the Obligations and Contracts Act[257] are applied subsidiarily. Indeed, the specific commerce aspects of the rent contract mainly concern the maximum period for which a rent contract may be concluded – under Obligations and Contracts Act[258] it may not be signed for a period longer than 10 years (Article 229 of that act says that a contract of lease may not be signed for a period longer than 10 years, unless such contracts are commercial transactions) and under Commerce Act[259] it may be concluded for more than 10 years.

**Public tenancy**

Chapter 5 'Municipal Housing' of the Municipal Property Act[260] provides that one of the purposes assigned, shall include housing, against payment of rent, of individuals with established housing needs as well as, among others, reserve housing. The dwellings designated for accommodation of people with established housing needs shall be specified by the municipal council upon a proposal by the mayor of the municipality and may be changed in accordance with the needs in the community. The terms and procedure for establishing the housing needs and for provision of accommodation against payment of rent in the housing referred to shall be established in an ordinance adopted by the respective municipal council.

Each municipal council adopts its own ordinance on municipal housing or includes respective provisions in other municipal ordinances. For example, in Sofia relevant provisions are included in Ordinance for the Terms and Conditions for Management and

[255] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art 228 – 239.
[256] Commerce Act, promulgated in State Gazette issue 48 of 18 June 1991, last amended State Gazette issue 20 of 28 February 2013.
[257] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.
[258] Ibid., Art. 229.
[259] Commerce Act, promulgated in State Gazette issue 48 of 18 June 1991, last amended State Gazette issue 20 of 28 February 2013.
[260] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.

Disposals of Municipal Housing in the Territory of Sofia Municipality[261] and in Ordinance on the Prices of the Transactions concerning Real Estate Properties Owned by the Sofia Municipality[262], which regulates the assessment of the rental prices. The first ordinance describes: which are municipal dwellings; the terms and procedures for establishing housing needs and accommodating people in reserve housing; termination of the tenancy relation; accommodation in departmental municipal dwellings of members of permanent municipal staff and rental prices. The tenancy order, the orders for termination of the tenancy relation and the Model Tenancy Contracts are included in the attachments to that Ordinance, so the parties cannot negotiate terms, which are different from the established with the Model Contract.

Municipal Property Act[263] provides that reserve housing shall be made available for accommodation, against payment of rent, for a term not exceeding two years, to persons whose housing has been rendered unfit for habitation as a result of natural or man-made disasters and industrial accidents or in danger of collapsing or to families experiencing severe social or health problems. Municipal Property Act[264] also provides that vacant municipal housing for which there are no individuals in need that meet the terms set out in the act (namely: persons with established housing needs; lessees in municipal housing affected by new construction, superstruction or addition of new parts of the building, renovation or reconstruction works; persons whose housing has been restituted to former owners following the procedure set out in the Law for Reinstatement of the Ownership of Nationalised Real Estates[265], people, whose housing has been rendered unfit for habitation as a result of natural or man-made disasters and industrial averages or in danger of collapsing and people, whose families have severe social or health problems), may be rented out at market prices under terms and following a procedure as set out in the ordinances of the municipal councils.

State Property Act[266] and the Regulation on the Implementation of the State Property Act[267] govern the tenancy relations between the state and the state officers entitled to housing in state owned dwellings, as the tenant occupancy of residential departmental properties, studios or garages constituting state property is in the discretion of the competent minister, chief officer of another department or regional governor to whom the management of the properties has been assigned under a procedure specified in the Regulation on the implementation of the State Property Act[268].

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[261] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, adopted with Decision No 466 under Minutes No 53 of 14 July 2005 - http://sofiacouncil.bg/index.php?page=ordinance&id=57, accessed at 11 August 2013.

[262] Ordinance on the Prices of the Transactions Concerning Real Estate Properties Owned by the Sofia Municipality, adopted with Decision No 81 under Minutes No 7 of 28 February 2008, last amended with Decision No 210 under Minutes No 87 of 14 April 2011, in force as from 10 May 2011 - http://sofiacouncil.bg/index.php?page=ordinance&id=93 – accessed at 11 August 2013.

[263] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 45.

[264] Ibid., Art. 45a.

[265] Law for Reinstatement of the Ownership of Nationalised Real Estates, promulgated in State Gazette issue 15 of 21 February 1992, last amended State Gazette issue 53 of 30 June 2006.

[266] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.

[267] Regulation on the Implementation of the State Property Act, promulgated in State Gazette issue 78 of 26 September 2006, last amended State Gazette issue 62 of 12 July 2013.

[268] Ibid.

The State Property Act[269] forwards to the Obligations and Contracts Act[270] for subsidiary application as regards the termination of the rent contract.

**In addition to the basic rules governing the principal relations regarding tenancy, many other statutory provisions apply to different aspects of the housing relations. Some of the rules that may apply in specific circumstances occurring in the tenancy field are listed below:**

1. Code of Civil Procedure[271] – applies to the procedures for dispute resolutions in the field of the private tenancy and the enforcement of court decisions ordering eviction of the habitants from a house or the coercive execution of obligations for payment of rent, penalties, damages, etc. The civil procedure applies also in the very rare cases for accommodation in state-owned houses mainly concerning the accommodation of the staff of some state authorities.

2. Administrative Procedure Code[272] – regulates the procedures of issuing, appealing and execution of administrative acts, including orders of mayors for accommodation or refusal for accommodation in municipal houses and/or for eviction from such houses.

3. Penal Code[273]. Some matters related to offences that may involve tenancy relations are the following:

Article 170, paragraph 1[274], states that a person who enters the dwelling of another by using therefor force, threat, ruse, dexterity, abuse of power or special technical means, shall be punished by imprisonment for up to three years or by probation for up to six months. …
Paragraph 4 of the same article provides that a person who 'stays illegally in another's home despite of the explicit invitation to leave, shall he punished by imprisonment of up to one year'[275].
Another provision of the Penal Code, connected with the inviolability of the home is Article 12, paragraph 3[276], envisaging, that the limits of inevitable defence shall not be considered exceeded where the attack took place through violent penetration into the premises or through violent housebreaking.
According to Article 323, paragraph 1[277] a person who unwarrantedly, not in the order established by the law, implements an actual or supposed right of his or of another

[269] Ibid., Art. 24, para. 1.
[270] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.
[271] Code of Civil Procedure, promulgated in State Gazette issue 59 of 20 July 2007, in force from 01.03. 2008, last amended State Gazette issue 66 of 26 July 2013.
[272] Administrative Procedure Code, promulgated in State Gazette issue 30 of 11 April 2006, in force from 12.07.2006, last amended State Gazette issue 104 of 3 December 2013.
[273] Penal Code, promulgated in State Gazette issue 26 of 2 April 1968, corr. State Gazette issue 29 of 12 April 1968, last amended State Gazette issue 84 of 27 September 2013.
[274] Ibid., Art. 170, para. 1.
[275] Ibid., para. 4.
[276] Ibid., Art. 12, para. 3.
[277] Ibid., Art. 323, para. 1.

person, contested by another, shall be punished, in cases other than minor, by imprisonment for up to five years and by a fine of up to BGN 1,000.
Article 323, paragraph 2[278], states that a person who unwarrantedly occupies real property from the possession of which he has been removed under the established procedure, shall be punished by imprisonment for three years and by a fine for up to BGN 5,000. …

Article 155[279] states that a person who systematically places at the disposal of different persons premises for sexual intercourse or for acts of lewdness shall be punished by deprivation of liberty for up to five years and by a fine from BGN 1,000 to 5,000.

Article 354b[280] states that a person who systematically places premises at the disposal of different people for taking of narcotic substances or organizes the use of such substances, shall be punished by imprisonment from one to ten years and a fine from BGN 5,000 to BGN 20,000.

4. Law for the Ownership[281] – regulates the ownership, possession, recording, other real rights and their acquisition, loss and protection of all types of owners (state, municipalities, cooperatives and other corporate bodies and citizens). It provides actions for protection against unlawful deprivation of the possession over real estate property (the tenant is regarded as holder for the purposes of the protection under this act).
The law provides that all kinds of ownership shall enjoy equal opportunities for development and protection.

5. Law on the Condominium Ownership Management[282] – regulates the rules in the condominium which also apply to the tenants.

6. Spatial Development Act[283] and a great number of regulations thereto comprehensively regulate all matters associated with town planning and building processes including the conditions that must be met in the projecting and the construction of residential buildings – the measures against vacancies are regulated under the Section III

7. Civil Registration Act[284] – regulates the conditions for address registration of persons accommodated in privately owned, state or municipal dwellings.
Art. 92. (1) (former text of Art. 92 – SG 9/11; suppl. – SG 39/11, in force from 20.05.2011)[285] states that the address registration shall be implemented by the mayor of

[278] Ibid., para. 2.
[279] Ibid., Art. 155, para. 2.
[280] Ibid., Art. 354b, para. 4.
[281] Law for the Ownership, promulgated in State Gazette issue 92 of 16 November 1951, last amended State Gazette issue 105 of 29 December 2011.
[282] Law on the Condominium Ownership Management, promulgated in State Gazette issue 6 of 23 January 2009, in force from 01 May 2009, last amended State Gazette issue 66 of 26 July 2013.
[283] Spatial Development Act, promulgated in State Gazette issue 1 of 2 January 2001, last amended State Gazette issue 66 of 26 July 2013.
[284] Civil Registration Act, promulgated in State Gazette issue 67 of 27 July 1999, last amended State Gazette issue 68 of 2 August 2013.
[285] Ibid., Art. 92, para. 1.

the municipality, of the region or of the mayoralty of by official nominated by them upon application by the person.
Further on, paragraph (7) (new – SG 42/12)[286] states that as regards to address registration of persons accommodated in state or municipal dwellings, written consent by the owner of the property shall not be required, only tenancy order or lease.

8. Law on Cadastre and Property Register[287] – regulates the requirements for recording of contracts in the Cadastre and Property Register (for example – Art. 62 Contracts, subject to recordation; a) type of contract; b) date of conclusion, parties and subject-matter; c) the circumstance that the contract was concluded under caveat or for a term).

9. Value Added Tax Act[288] – if the landlord is VAT registered the tenant will be charged 20 % VAT over the amount of the rent.

10. Local Taxes and Fees Act[289] – the owner of the real estate property is obliged to pay local tax and garbage fee. The parties of the tenancy agreement could agree the tenant to be responsible to pay the respective municipal duties. However, such agreement could not be confronted to the tax authorities (either state or municipal).

11. Income Taxes on Natural Persons Act[290] – landlord pays income tax, including for income from letting a property.
Article 31[291] states that the taxable income accruing from rent or from other onerous provision for use of rights or immovable property shall be determined by debiting the income acquired with 10 per cent expenses.
The payments acquired under a lease contract, which does not expressly provide for transfer of the right of ownership to the property, shall be treated as income from rent.

12. Corporate Income Taxation Act[292] – regulates the taxation of legal entities including the income from letting of property.

Non-discrimination and equal opportunities acts:
13. Protection against Discrimination Act[293] in its relevant parts provides for the following:

> Art. 4. (1) (suppl., SG 70/04) Prohibited shall be any practice or indirect discrimination based on sex, race, nationality, ethnic belonging, human

[286] Ibid., para. 7.
[287] Law on Cadastre and Property Register, promulgated in State Gazette issue 34 of 25 April 2000, last amended State Gazette issue 66 of 26 July 2013, Art. 62, para. 1, point 6.
[288] Value Added Tax Act, promulgated in State Gazette issue 63 of 4 August 2006, in force from 1 January 2007, last amended State Gazette issue 104 of 3 December 2013.
[289] Local Taxes and Fees Act, promulgated in State Gazette issue 117 of 10 Dec ember 1997, last amended State Gazette issue 101 of 22 November 2013.
[290] Income Taxes on Natural Persons Act, promulgated in State Gazette issue 95 of 24 November 2006, in force from 1 January 2007, last amended State Gazette issue 100 of 19 November 2013.
[291] Ibid., Art. 31.
[292] Corporate Income Taxation Act, promulgated in State Gazette issue 105 of 22 December 2006, in force from 1 January 2007, last amended State Gazette issue 100 of 19 November 2013.
[293] Protection against Discrimination Act, promulgated in State Gazette issue 86 of 30 September 2003, in force from 1 January 2004, last amended State Gazette issue 68 of 2 August 2013, Art. 4, para. 1-3.

genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or public status, disability, age, sexual orientation, family status, property status or any other characteristics established by an Act or by an international agreement party to which is the Republic of Bulgaria.

(2) Direct discrimination is every less favourable treatment of a person on the grounds of the characteristics under para 1 as compared with another person, treated, having been treated or would be treated in similar circumstances.

(3) Indirect discrimination is placing of a person, on the grounds of the characteristics under para 1, in a less favourable position as compared with other persons by means of an ostensibly neutral provision, criterion or practice, unless this provision, criterion or practice is objectively justified in view of a legal objective, and the means of achieving the objective are appropriate and necessary.

14. Law for Integration of People with Disabilities[294] – regulates the right to monthly additions for social integration – incl. expenses to rent for municipal tenement. Its relevant provisions provide for as follows:

Art. 42. (1) (amend. – SG 97/06; amended– SG 41/09, in force from 01.07.2009) The people with permanent disabilities shall have right to monthly additions for social integration according to their individual needs in consideration of the degree of reduced ability to work or the type and level of disability.

(2) The addition of para 1 shall be differentiated and is pecuniary resources, supplementing the own incomes and are designated for covering additional expenses for:

(…)

6. (prev. item 7 - SG 105/05, in force from 01.01.2006; amended– SG 97/06) rent for municipal tenement;

15. Law for Social Support[295] – regulates the provision of support in cash and/or in kind for satisfying basic vital needs (incl. home) of citizens when this is not possible with their work and with their possessions.

16. Law on Protection from the Domestic Violence[296], in its Article 5, states that the measures of protection from domestic violence shall be:

(…)

2. removal of the perpetrator from the jointly inhabited abode for a term, defined by the court.

[294] Law for Integration of People with Disabilities, promulgated in State Gazette issue 81 of 17 September 2004, in force from 1 January 2005, last amended State Gazette issue 68 of 2 August 2013, Art. 42, para. 1, 2, 6.

[295] Law for Social Support, promulgated in State Gazette issue 56 of 19 May 1998, last amended State Gazette issue 66 of 26 July 2013.

[296] Law on Protection from the Domestic Violence, promulgated in State Gazette issue 27 of 29 March 2005, title amend. – State Gazette issue 102/09, in force from 22 December 2009, last amended State Gazette issue 99 of 17 Dec ember 2010, Art. 5, para. 1-3.

3. (suppl. – SG 102/09, in force from 22.12.2009) prohibition for the perpetrator to approach the victim, the abode, the place of work and the places for social contacts and recreation of the aggrieved person under conditions and term, defined by the court.

17. Higher Education Act[297] – regulates the rights and management of social-accommodation service of students and lecturers and its relevant provisions state the following:

Art. 8. (amend. and suppl. SG 60/99; suppl. – SG 41/07) The state shall create conditions for the free development of higher education and conditions of access to higher education by:
(…)
3. (amend. and suppl. SG 60/99, suppl. SG 53/02; amend., SG 48/04) subsidizing the education of students in the state higher schools; under certain conditions ensuring grant and campus accommodation, and canteen;

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1. Regulations on Implementation of the Law for Social Support[298] – regulates the terms and conditions under which the following social institutions operate and provide social services in the community (Article 36, paragraph 2, lists among the others):

…
5. day centre;
6. social rehabilitation and integration centre;
7. social service – residence type;
a) family type accommodation centre;
b) temporary accommodation centre;
c) crisis centre;
d) provisional residence;
e) protected residence;
f) monitored residence;
g) shelter;
8. social education-professional centre;
9. mother and baby unit;
12. foster care;

And also, in Article 36, paragraph 3[299] lists the specialized institutions for providing of social services:

1. children's homes:
a) home for children lacking parental care;
b) a home for children with physical disabilities;
c) home for children with mental retardation;

[297] Higher Education Act, promulgated in State Gazette issue 12 of 27 December 1995, last amended State Gazette issue 101 of 22 November 2013, Art. 8, para. 3.
[298] Regulations on Implementation of the Law for Social Support, promulgated in State Gazette issue 133 of 11 November 1998, last amended State Gazette issue 26 of 7 April 2009, Art. 36, para. 2.
[299] Ibid., para. 3.

2. homes for the elderly with disabilities:
a) home for adults with mental retardation;
b) home for adults with mental disorders;
c) a home for adults with physical disabilities;
d) home for adults with sensory disorders;
e) home for the elderly with dementia;
3. homes for old persons.

Although a great number of legislative acts are related to housing issues, the tenancy law matter, in strict sense of this term, is concentrated in a few acts governing the material and procedural matters, predominantly the Obligations and Contracts Act and the Code of Civil Procedure.

## Basic requirements for conclusion of rent contracts

### Private tenancy

The conclusion of the rent contract is subject to the general rules for conclusion of contracts according to the Obligations and Contracts Act[300]. In both its civil and commercial limbs the law does not require written form of the rent contract as a precondition for its validity. The Obligations and Contracts Act[301] describes the rent contract as a consensual contract, that is the consent of the parties to the contract over the main elements of the deal (object, rent price) is sufficient for the deal to be considered as concluded. That is why a simple oral agreement will suffice provided this agreement clearly encompasses the description of the rented real estate and the rental price to be paid by the tenant. The lacking stipulations regarding other conditions of the rent contract, such as period of the contract, payment deadlines, rights and obligations of the parties, etc., shall be substituted by the respective dispositive provisions of the law. However, when it comes to the burden of proof in an eventual court proceeding related to the rent contract, oral agreements between the parties would hardly be substantiated either because witnesses are not allowed by the procedural rules for the substantiation of some circumstances such as agreements for payments exceeding certain amount of money (which can only be established with documents) or because some specific conditions of the agreement (that is obligation for covering of expenses, repair works in the dwelling, etc.) in practice could not be proved by witnesses.

### Public tenancy

In the context of the municipal renting, Municipal Property Act[302] refers to the municipal regulations the issue of the accommodation in municipal houses. In general, the rent relation in such cases comes as a result of a complex and often very long procedure, including as a minimum: entering of the candidates in a 'waiting list'; assessment of each candidate's application and classification of the candidates eligible for municipal lodging; issuing an accommodation order by the mayor of the municipality; conclusion of

[300] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Articles 8 – 20.
[301] Ibid., Art. 228.
[302] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 45a, para. 1.

a rent contract in writing (Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality[303]). Such procedure is followed for accommodation of officers in state owned departmental houses, as the chief of the respective authority specifies the conditions for assessment of the housing needs of the candidates and for amendment of the rental price (Regulations for Implementation of the State Property Act[304]).

## Conditions for termination of contracts by the landlord

### Private tenancy

The landlord is not granted special authority to terminate the rent contract and his right to cancel the agreement is subject to the general civil law rules and the special rules related to the rent contracts which are equally applied to both parties to the contract.
In principle, the rent contract will be terminated in some of the following circumstances:

- when it is fulfilled, that is the time period it is concluded for has expired and the parties did not express their will to extend the contract. Some particularities of the expiration of the time period of the contract exist and they will be reviewed at the respective place below;
- under the mutual agreement of the parties to terminate the contract prior to the expiration of the time period for which it is concluded. This mutual agreement has to be expressed in the same form in which the rent contract is concluded. Of course, the parties may agree initially or after the conclusion of the lease that it shall be terminated upon occurrence of a specific circumstance, that is in case the landlord get married and wishes to live in the house;
- when the contract itself gives the landlord the right to terminate it unilaterally prior to the expiration of the time period of the contract. Usually, the parties provide for the possibility for unilateral termination of the contract by way of prior written notice sent to the other party some time before the termination;
- when the tenant does not fulfil his contractual obligations. These obligations originate both from the special legal provisions related to the rent contracts and from the contract itself. No matter what the source of the obligation is, the landlord does not have an unconditional right of termination in case of failure on the part of the tenant to fulfil some of his obligations. Unless otherwise stipulated in the contract, the landlord has to give prior notice to the tenant to remedy the deficiencies within a reasonable period of time (that is to pay the rent due, to do the repairs, to cancel subletting done in breach of the contract, etc.). The landlord cannot terminate the agreement when the tenant's failure is minor and he remedied it[305].

### Public tenancy

[303] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010.
[304] Regulations for Implementation of the State Property Act, promulgated in State Gazette issue 78 of 26 September 2006, last amended State Gazette issue 87 of 4 October 2013, Articles 22 – 29.
[305] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 87, para. 5.

The tenancy relations with municipalities shall be terminated in accordance with Article 46 of the Municipal Property Act[306] under some of the circumstances listed below:

1. Failure of the tenant to pay the rental price or utility bills for more than three months;

> 'Particularly cumbersome is the procedure for seizure of social housing. According to the municipal ordinance after more than three months, for which rent has not been paid, the municipality has the right to terminate the tenancy relations. Annual average between 10 and 15 such cases are registered (in our municipality).' (interview with an expert in municipal administration, quoted material is translated by the authors) This condition is an example of conditions in public tenancy favouring the tenant compared to the private tenancy as in the latter case the failure of even one rent payment may lead to termination of the rent agreement.

2. New construction, superstruction or addition, renovation or reconstruction, where such works affect inhabited rooms;
3. Violation of the rules governing the respectful behaviour (that is disturbing the public order and tranquillity of citizens as regulated in the municipal ordinances[307 and 308]);
4. Failure to show the care of a good householder in using the dwelling;
5. Termination of employment, under the Labour Code[309] or Civil Servants Act[310], of persons accommodated in the housing designated for staff, unless otherwise provided for in the respective municipal ordinance on the terms and conditions for the management and disposition of public housing on its territory;
6. Expiration of the term for accommodation;
7. The tenant does not meet the conditions for accommodation in municipal dwelling anymore (this relates to the tenant's socio/economic status);
8. Use of the housing for purposes other than the designated use;
9. Other reasons determined by the respective municipal ordinance on the terms and conditions for the management and disposition of public housing on its territory.

In the cases listed above the rental relations shall be terminated under an order issued by the authority which has issued the order approving the tenancy. The order shall

[306] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 46, para. 1..

[307] For example, Art. 3, para. 1-5 of the Ordinance No 1 on the Public Order on the Territory of the Municipality of Sofia prohibits any activities that might disturb the peace of other inhabitants of residential buildings such as: noisy entertainment, production and repair work; playing musical instruments and singing training, rehearsal, teaching and music making between following hours: 10 PM to 8 AM and 2 PM to 4 PM. (Ordinance No 1 on the Public Order on the Territory of the Municipality of Sofia, Municipality of Sofia, adopted with Decision 8 under Minutes 28 of 12-13 July 1993, last amendment Decision 170 under Minutes 86 of 31 March 2011).

[308] For example, the Haskovo Administrative Court, after examining the evidences, holds that broken furniture and damaged sanitary and electrical equipment, unsanitary conditions in the apartment and unpleasant odour for the neighbours in the condominium represent failure of rendering the care of good husbandry at using the abode. (Haskovo Administrative Court, Judgment No 245 of 08 January 2009 on administrative case 316/2008, http://www.admsudhaskovo.org/2009/jan_mar/finished/a316-08.htm, Haskovo, December 2013).

[309] Labour Code, promulgated in State Gazette issue 26 of 1 April 1986, last amended State Gazette issue 104 of 3 December 2013.

[310] Civil Servants Act, promulgated in State Gazette issue 67 of 27 July 1999, last amended State Gazette issue 68 of 2 August 2013.

indicate the reasons for terminating the rental relation and the time limit for vacating the housing, which may not exceed one month. These orders are administrative acts and are regulated in the administrative legislation[311].

In terminating a rental relation for reasons based on new construction, superstruction or addition, renovation or reconstruction, where such works affect inhabited rooms the order for termination of the rental relations for the respective dwelling shall enclose an order granting tenancy in another municipal housing unit, provided the tenant meets the accommodation criteria[312].

Where the term for accommodation has elapsed, the rental relation may be extended, provided the tenant meets the criteria for accommodation in rental municipal housing[313].

As seen from point 9 of Article 46, para. 1 of the Municipal Property Act[314], each municipal council may decide to introduce other reasons for termination of the municipal renting. This can be done either by a special provision of the relevant municipal regulation or by a clause included in the model rent contract applied by the respective municipality. Different municipalities use different approaches:

The Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of Varna Municipality[315] provides for additional ground for termination of the tenancy agreement declaring of untrue information in the declarations on family and property status or delay in submitting the declaration until December 31 each year or within one month following the changes in the respective circumstance, subject to declaration;

- Article 33, paragraph 1, point 8 of Ordinance on the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality[316] includes as additional reason for termination of the agreement if the family (household) does not inhabit the house for more than six months (there are some exceptions provided in Article 24 of the Ordinance[317]). The same additional ground is included in the Ordinance of the Municipal Council of Blagoevgrad on the Terms and Conditions for Establishment of the Housing needs of Citizens, Use and Management of Public Housing[318] – Article 22, point 9. Point 10[319] of the same provision refers to the additional grounds stipulated in the tenancy agreement. More than six

[311] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 46, para. 2.
[312] Ibid., Art. 46, para. 3.
[313] Ibid., Art. 46, para. 4.
[314] Ibid., Art. 46, para. 1, point 9.
[315] The Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of Varna Municipality, Art. 21, para. 1, point 9, http://www.varna.bg/, 12 April 2012.
[316] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 33, para. 1, point 8.
[317] Ibid., Art. 24.
[318] Ordinance of the Municipal Council of Blagoevgrad on the Terms and Conditions for Establishment of the Housing needs of Citizens, Use and Management of Public Housing, http://www.blgmun.com/cat22/167/ObS_Naredbi.html, 18 May 2013, Art. 22, point 9.
[319] Ibid., point 10.

months non-occupancy is also envisaged in the Ordinance of the Municipal Council of Montana to the Terms and Conditions for the Management and Disposal of Municipal Housing Stock in Montana[320];

- The Ordinance of the Municipal Council of Rousse on Terms and Conditions for Determining Housing Needs, Housing Rental and Sale of Housing - Municipal Property[321] envisages as additional grounds for termination respectively non-using the house for more than 3 months without good reason or subletting of the whole house or parts of it. Point 10 of the same provision provides that additional grounds for termination could be stipulated in the tenancy agreement[322];
- The Ordinance on the Terms and Conditions for the Management and Disposal of Municipal Residential Real Estate Property on the Territory of Stara Zagora Municipality, Article 32, paragraph 1, points 9, 10 and 11[323] include respectively as additional grounds for termination of the agreement subletting, non-occupancy for more than 6 months and untrue declarations. Non-occupancy for more than six months without good reason is a ground for termination of the tenancy agreement also in Vratsa[324] and Yambol Municipalities[325];
- Article 25, paragraph 1, point 9 of the Ordinance on the Terms and Conditions for Establishing Housing Needs of the Citizens, Renting and Sale of Houses – Municipal Property in Vidin[326] includes as an additional reason for termination if it is found that the house is unoccupied (no specific period is provided) or if the accommodated person is abroad for more than 3 months;
- Ordinance No 18 on the Procedures for Management, Use and Disposal of Municipal Residential Property in the Municipality of Pleven[327] provides respectively as additional reasons for termination of the agreement

[320] Ordinance of the Municipal Council of Montana to the Terms and Conditions for the Management and Disposal of Municipal Housing Stock in Montana, Municipality of Montana, http://montana.bg/old_docs/os/n/NJF.pdf, December 2013, Art. 26, para. 1, point 8.

[321] Ordinance No 6 of the Municipal Council in the town of Russe on the Terms and Conditions for Establishing of Housing Needs, Accommodation and Disposing of Dwellings – Municipal Property, Municipality of Russe, http://obs.ruse-bg.eu/naredbi/1680, October 2013, Art. 31, para. 1, points 8 and 9.

[322] Ibid., point 10.

[323] Ordinance on the Terms and Conditions for the Management and Disposal of Municipal Residential Real Estate Property on the Territory of Stara Zagora Municipality, Municipality of Stara Zagora, http://www.starazagora.bg/images/stories/municipality/adm_acts/naredba_obshtinski_zhilishta-1.pdf, August 2012, Art. 32, para. 1, points 9, 10 and 11.

[324] Ordinance on the Terms and Conditions for the Management and Disposal of Municipal Housing Stock, Municipality of Vratsa, http://www.vratza.bg/userfiles/file/obs/naredbi/Naredba_04_za%20gilighnia%20fond-05072011.pdf, December, 2013.

[325] Ordinance on the Terms and Conditions for the Management and Disposal of Municipal Housing Stock, Municipality of Yambol, http://yambol.bg/%D0%B4%D0%BE%D0%BA%D1%83%D0%BC%D0%B5%D0%BD%D1%82%D0%B8/%D0%BD%D0%B0%D1%80%D0%B5%D0%B4%D0%B1%D0%B8/nruroj, December 2013.

[326] Ordinance on the Terms and Conditions for Establishing Housing Needs of the Citizens, Renting and Sale of Houses – Municipal Property in Vidin, http://www.vidin.bg/?page_id=4584, December 2013, Art. 25, para. 1, point 9.

[327] Ordinance No 18 on the Procedures for Management, Use and Disposal of Municipal Residential Property in the Municipality of Pleven, Municipality of Pleven, adopted with Decision 466 of 21 April 2005, last amendments December 2010, Art. 32, points 9, 10 and 11.

non-using of the house for more than 6 months (except for good reasons), subletting, established following a special procedure and the third ground is when as a result of unpaid utility bills the tenant has been signed a repayment schedule with the respective company, provider of utilities, delays the respective payment under the schedule with more than 3 months;

- In the Municipality of Lovech[328] the additional grounds for termination include non-using of house for more than 6 months, death of the person to which the accommodation order has been issued and non-fulfilment of the obligation to declare the relevant circumstances;
- The Municipal Ordinance of Gabrovo Municipality[329] includes numerous additional reasons, such as non-occupancy, systematic breach of public order, non-payment of garbage collection fees, non-fulfilment of the obligation to declare relevant circumstances or false declaration, death of the tenant, written notice by the landlord, non-fulfilment of the obligation of the tenant to conclude agreements with utility supply companies on his/her behalf;
- In Razgrad[330] municipality additional reasons for termination of the agreement are not using the house for more than 3 months (unknown reasons) and up to 6 months for good reason, death of sole tenant. In Sliven Municipality[331] additional reasons are death of the tenant and dropping out of the grounds for accommodation for other members of the family;
- In Silistra Municipality[332] the reasons are: absence for more than 3 months within one calendar year of all persons, accommodated in the dwelling; refusal of the tenant to occupy the dwelling, provided for re-accommodation; not submitting the annual declaration in due time; non-fulfilment of other obligations, undertaken with the agreement;
- In Shumen Municipality[333] – non-occupancy for more than 6 months and subletting;
- In Kardzhali Municipality[334] the additional grounds for termination of the tenancy agreement are: subletting; non-submitting of annual declaration till

[328] Ordinance on the Procedures for Management, Use and Disposal of Municipal Residential Property in the Municipality of Lovech, Municipality of Lovech, adopted with Decision 170 of 30 October 2008, last amendments May 2012.
[329] Ordinance on Terms and Conditions for Determining Housing Needs and Housing Rental in Municipal Housing, Municipality of Gabrovo, adopted with Decision 27 of 17 March 2005, last amendments March 2012.
[330] Ordinance on Terms and Conditions for Determining Housing Needs of the Citizens and Housing Rental and Sale of Municipal Housing, Municipality of Razgrad, http://www.razgrad.bg/index.php?option=com_content&view=article&id=40&Itemid=281&lang=bg, July 2013.
[331] Ordinance on the Terms and Conditions for Establishing of Housing Needs of the Citizens, Renting and Sale of Municipal Dwellings of the Sliven Municipality, Municipality of Sliven, http://www.sliven.bg/index.csp?f=NURUZNGNPPOZ, December 2013.
[332] Ordinance on Terms and Conditions for Determining Housing Needs and Housing Rental and Sale of Municipal Housing, Municipality of Silistra, http://www.silistra.bg/files/naredbi/naredba_jilishtni_nujdi_nastanqvane_podnaem_prodajba_jilishta_2013-02-21.pdf, February 2013.
[333] Ordinance on Terms and Conditions for Determining Housing Needs of the Citizens and Housing Rental and Sale of Municipal Housing, Municipality of Shumen, http://www.shumen.bg/doc/1307301.htm, July 2013.

December 31; by mutual agreement; unilaterally with one month prior written notice; following a final court decision;

- In Haskovo Municipality[335] additional reasons for termination of the tenancy agreement are: not presenting the relevant documents in due time each year (till November 30), subletting, non-occupancy of the dwelling by the accommodated family for more than 3 months (to be established by utility – water and electricity - bills); non-compliance with the condominium rules; refusal to sign an addendum for the updated tenancy price or other terms and conditions of the tenancy agreement; non-compliance with the obligation to declare newly occurred circumstances in due time; death of the tenant; other grounds, envisages in the tenancy agreement;
- In some municipalities there are no additional grounds for termination of the agreement, provided in the ordinance.

The identified considerable variety of local regulations (even if the municipalities share common demographic and housing characteristics) proves the fact that the best practices and models in the field of public tenancy have not been thoroughly studied and carefully adapted by the local authorities. This fact can be also indirectly pondered as an additional proof of missing political priorities at local level related to the public housing.

As stipulated in the Regulation on the Implementation of State Property Act[336], tenancy relations with the state shall be terminated, besides the terms and conditions provided for in the agreement and in accordance with the procedure stipulated by the Obligations and Contracts Act[337], also on the following grounds: (1) due to termination of the employment contract or the official relations with an employee accommodated in a departmental residential property; (2) where the tenant or a member of his/her family acquires a home or villa fit for constant occupation in the same city, town or village; (3) where the tenant ceases to satisfy the conditions for renting a residential property constituting state property.

## Conditions for rent increase

### Private Tenancy

In the private tenancy context the rent price is one of the substantial elements of the rent contract and its lack would make the contract void. It is only the will of the parties to the contract that may establish, increase or decrease the rent. There are no legal provisions giving the right of some of the parties to change the rent under certain conditions unilaterally, without the other party's consent. Nor the landlord is authorised to increase

[334] Ordinance on Terms for Acquisition, Management and Disposal of Municipal Residential Property and on the Terms and Conditions for Determining Housing Needs and Housing Rental, Municipality of Kardzhali, http://www.kardjali.bg/?pid=8,4, December 2013.

[335] Ordinance on Municipal Housing of the Municipality of Haskovo, http://www.haskovo.bg/images/top_menu/city_council/naredbi/naredba%20obsht.jili6ta_19.11.12.pdf, December 2013.

[336] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.

[337] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.

the rent due to the inflation unless this condition is agreed in the contract. There is one particular hypothesis related to the rent contracts governed by the commercial law[338], which entitles some of the parties to request from the court to amend some of the contractual conditions where due to some extraordinary circumstances the present conditions of the contract have become unfair and unjust (that is very high inflation rate, devaluation of the currency of the contract, etc.). This provision has very limited applicability, moreover it requires legal proceedings and a court decision so that it could take effect. The most common practice in the rent contracts is the adoption of clauses that authorise the interested party to apply unilaterally changes in the rent in compliance with some objective criteria, such as the inflation rate announced by the respective state authority[339].

**Public Tenancy**

In contrary, when it comes to public tenancy, both Municipal Property Act[340] and State Property Act[341] authorise the respective public authorities (state bodies and municipal councils) to introduce legal provisions allowing the unilateral amendment of the rent price by the landlord under certain conditions. For example, Article 4 of the Model Tenancy Contract of Sofia Municipality provides, that if, as a result of amendments of Chapter VII of the Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality[342] the rental prices are updated the parties will conclude additional agreement to the tenancy contract for the amended prices. According to Article 17, point 13 of the Ordinance on Municipal Housing of the Municipality of Haskovo[343], in case of refusal by the tenant or failure to appear to sign the annex to update rent price or other conditions in the main lease agreement the tenancy relation shall be terminated.

**Social orientation of tenancy law in force**

**Private Tenancy**

Tenancy relations usually concern basic needs of the tenant and his/her family, such as the housing needs. Being in a nature to intervene in the private sphere of the tenant's life, the tenancy law keeps an eye to the social aspect of the rent relations. However, the private tenancy legislation, unlike the public tenancy legislation, aims to regulate the civil and commercial turnover, thus having the socially oriented aspects only as peripheral factor if any. One of the strongest guarantees against arbitrary interference of the

[338] Commerce Act, promulgated in State Gazette issue 48 of 18 June 1991, last amended State Gazette issue 20 of 28 February 2013, Art. 307.
[339] E.g. the National Statistical Institute, http://www.nsi.bg/.
[340] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 45a.
[341] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 22.
[342] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010.
[343] Ordinance on Municipal Housing of the Municipality of Haskovo, http://www.haskovo.bg/images/top_menu/city_council/naredbi/naredba%20obsht.jili6ta_19.11.12.pdf, December 2013, Art. 17, point 13.

landlord with the tenant's private life is the procedural guarantee that the landlord cannot take out the tenant from the dwelling against the will of the latter without court decision and a bailiff.

### Public Tenancy

On the other hand, in the field of the public tenancy, and particularly the municipal housing, the people with established housing needs or people whose housing has been rendered unfit for habitation as a result of natural or man-made disasters and industrial averages or in danger of collapsing or families or which have severe social or health problems will first be provided with place to live in and only after that, if vacant municipal housing for which there are no individuals in need are still available, they may be rented out at market prices to other people under terms and following a procedure as set out in the ordinances of the municipal councils. Such cases however hardly exist taking the very insufficient number of dwellings designated for public tenancy which cannot meet the existing demand of such houses.

The Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality[344] divides the people with housing needs in five groups, according to the degree of housing need and gives priority (by awarding respectively more scores) within the respective group to single parents of underage children or families with more than two children (seven additional points for each criteria), families with two children or people with disabilities (5 additional points for each criteria) and families with one child (3 additional points).

Article 27 of the Ordinance also provides that as an exception by decision of the Municipal Council, with the votes of a majority of two thirds all municipal councillors can be accommodated an ineligible family with minor children in need of specialized treatment or education that can only be done in a medical or educational institution on the territory of Sofia Municipality for the duration of treatment or education[345].

### Habitability

The Obligations and Contracts Act[346] has a very brief regulation regarding the state of the property in which it has to be handed over. The property shall acquire the state fit to the purpose it is intended, unless otherwise agreed between the parties[347]. However, some regulations and restrictions originating from the town planning and buildings supervision legislation may take effect in the cases of letting of dwellings. For example, where there is a legally imposed ban for habitation over a building due to its bad or dangerous condition or the existing risk for the lives or the health of its inhabitants, it could not be a subject of letting. The landlord shall be held responsible for any pecuniary damage occurred as a result of the bad condition of the dwelling.

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[344] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 8, para 2.

[345] Ibid., Art. 27.

[346] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.

[347] Ibid., Articles 230 and 232.

According to Article 195, paragraph 6 of Spatial Development Act[348]:

> the [competent] municipality mayor shall issue an order on the removal of any construction works which, owing to natural wear or other circumstances, pose a health and life hazard to citizens, are unusable, present a risk of spontaneous collapse, create conditions for the occurrence of a fire or are harmful in terms of sanitation and hygiene and cannot be repaired or reinforced.

Other relevant provisions are envisaged in Ordinance No 5 of 4.03.1996 on the Hygienic Requirements for the Device, Furnishing and Operation of Dormitories issued by the Minister of Health[349], according to which the tenants are responsible for the order and cleanliness of the dwellings and the owners or managers of dormitories wash and disinfect the common the common areas of buildings.

- To what extent is current tenancy law state law or infra-national law (if legislative jurisdiction is divided: what is the allocation of competencies and for which subject matters)

**Private tenancy**

The relations of civil or commercial nature are regulated on state level with legislative acts of the Parliament.

**Public tenancy**

The legislative acts regulating the cases when the state or the municipality act as landlords are the State Property Act[350] and the Municipal Property Act[351]. The existence, planning, building and maintenance of the dwellings that are let for social purposes are the main responsibility of the municipalities. The Municipal Property Act[352] gives the municipal authorities the discretion to regulate by municipal regulations adopted by the municipal councils the matters related to the management of municipality owned houses. In the field of the renting of such houses to persons with established housing needs, the law authorises the municipal authorities to determine the conditions and the rules for renting of municipal houses and for the criteria for establishment of the housing needs of persons that apply for a municipal house.

Article 45a of the Municipal Property Act[353] provides that the terms and procedures for establishing the housing needs and for provision of accommodation against payment of rent in the housing, the terms and procedure for provision of accommodation in the housing stock designated for municipal staff and the vacant municipal housing for which

[348] Spatial Development Act, promulgated in State Gazette issue 1 of 2 January 2001, last amended State Gazette issue 66 of 26 July 2013.
[349] Ordinance No 5 of 4.03.1996 on the Hygienic Requirements for the Device, Furnishing and Operation of Dormitories, promulgated in State Gazette issue 24 of 19 March 1996.
[350] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.
[351] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.
[352] Ibid.
[353] Ibid., Art. 45a.

there are no individuals in need to be rented out at market prices, shall be established in an ordinance by the municipal council.

There are 264 municipalities in Bulgaria and each of them has already adopted (or is obliged to adopt) its own Ordinances under Article 45a of the Municipal Property Act[354].

- Is the position of the tenant also considered as a real property right (and therefore also governed by property law) or (only) as a personal (obligatory) right?

In general, the right of the tenant towards the rented real estate is an obligatory right and is governed by the contractual legislation or both by the contractual and administrative legislation but not by property law. Nevertheless, there are some aspects and specifics of the rent relations which make them borderline between obligations and contracts law and property law. Here, follow some legal matters which may invoke the application of the property law in renting cases:

- The Law for the Ownership[355] gives legal protection to the holder of a real estate (the lessee is considered to be a holder for the purposes of the Law for the Ownership) against violent or concealed deprivation of his rented property. The lessee may exercise his right by a civil claim to the court against the person who unlawfully deprived him from the holding of the property;
- In the case of civil law rentals the right of the lessee to continue using the dwelling may extend to any third person who acquired the ownership over the rented property after the conclusion of the rent contract. Such rights of the lessee will survive the transfer of ownership until the time period specified in the rent contract has expired, if the contract has been entered into the property register. In such a case the new proprietor will substitute the previous landlord to the rent contract.

- To what extent is the legislation divided up into general private law and special statutes? To what extent are these rules mandatory and dispositive? Does the relationship between general and special rules work properly so as to create legal certainty?

**Private tenancy**

The tenancy relations are subject to general private law. Some special statutes exist solely in relation with some specific aspects of the contractual relations. For example, the interest rate of the penalty interest, charged over amounts that are overdue, is determined by the Council of Ministers and applies to all civil monetary obligations and if higher rates are negotiated, they shall be reduced by operation of law to the determined amount.[356] The parties are also obliged in conducting negotiations and concluding contracts to act in good faith.[357]

The rules of the law governing the tenancy relations can be clearly divided into mandatory and dispositive rules where the dispositive outset clearly prevails.

[354] Ibid.

[355] Law for the Ownership, promulgated in State Gazette issue 92 of 16 November 1951, last amended State Gazette issue 105 of 29 December 2011.

[356] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 10.

[357] Ibid., Art. 12.

Nonetheless, some basic rules are mandatory and the parties to the contract could not overcome them by way of contractual stipulations. Such mandatory rules are:

- The maximum time period of the rent agreement. It cannot exceed ten years unless it is a commercial deal[358]. All non-commercial contracts signed for a longer period shall be deemed as signed for a ten-year period. If the landlord only has limited rights over the property (only management rights, as for example the rights of the co-owner or the holder of usufruct right), then the maximum time period of the tenancy agreement shall be three years[359];
- The regulations for the conduct of the inhabitants in a condominium. Such regulations are set in a special legislation and in the regulations adopted by the general meeting of the inhabitants in the condominium and they cannot be altered by the will of the parties to the rent contract;
- All rules regarding the capability of the persons to sign contracts are mandatory and cannot be circumvented by an agreement.

In the private tenancy relations, parties are free to negotiate on issues such as: exact lease term (within the limits pointed above); term for which the premises are to be vacated, following the termination of the agreement (compensation or penalty for late vacation); lease rate; periods in which the price is to be paid – daily, weekly, monthly or in longer periods, and respectively in the beginning of the lease period – pre-paid or at the end; lease rate indexation (only increased in case of inflation, but not decreased in case of deflation or both) and the ways to be calculated (for example, Harmonized Index of Consumer Prices or information about the inflation, provided by National Statistical Institute[360]) and periods in which it is to be adjusted; currency of the lease payments; ways to determine exchange rate, if it has to be paid in a currency different from the one in which it is negotiated; ways of payment – in cash or by bank transfer; person (persons) who has to be paid; dividing the whole lease amount to different people (equal parts or different proportion; what is included in the price – utility costs (water, heating, cooling, electricity, gas supply, furniture, etc.), taxes, fees (for example rubbish disposal), different facilities (swimming pools, gyms, laundries, parking space, internet, etc.), service charge (expenses for the management of the building and its common parts, including expenses for maintenance and repairing, consumed water, heating, cooling, cleaning, security, controlled access to the building, video surveillance, snow removal, electricity, landscaping and care for green areas, etc.) and extraordinary expenses; who will be responsible for the aforementioned activities – tenant, landlord, sub-contractor and/or managing company; terms and conditions for payment of the additional expenses; liability for damages, loss, inconvenience or disturbance; subletting; insurance; termination of the agreement prior to the expiry of its term (unilaterally, with prior written notice, term of the notice, penalties, compensations, in cases of breach of the agreement – with or without prior written notice specifying the breach and giving time the party to remedy the breach); list of specific cases of breach of the agreement – delay in payment, not using the premises in accordance with the purpose for which it is rented, causing damage to the property, etc.; payment of a

[358] Ibid., Art. 229, para. 1.
[359] Ibid., Art. 229, para. 2.
[360] National Statistical Institute, Harmonized Index of Consumer Prices, http://www.nsi.bg/, November 2013.

deposit and clarifying the purposes, for which it could be used; arbitration clause and pointing which court of arbitration will solve the disputes.
All of the above listed issues are eventually regulated by way of dispositive provisions which shall apply, only if the parties to the contract failed to stipulate some of those conditions in the rent contract they signed. In case of disputes between the parties in relation to some of these matters, which are agreed in the contract in general or vague terms, then it is the court that shall interpret the common will of the parties subject to the main rules for interpretation of the contracts (Article 20 of the Obligations and Contracts Act[361], which states that, in interpreting contracts, the real common will of the parties shall be sought. Individual provisions shall be interpreted in their interconnection and each one of them shall be understood in the context of the overall contract by taking into account the purpose of the contract, usage and good faith).

**Public tenancy**
Public tenancy has been regulated in administrative law with mandatory rules that leave no room for negotiation between the parties to the rent relation. Although there is a 'rent contract' that is concluded as an outcome of the selection procedures, its clauses are previously predefined by the landlord – public authority – and are not subject to changes.

- What is the court structure in tenancy law? Is there a special jurisdiction or is the ordinary one competent? What are the possibilities of appeal?

The regular procedural rules establishing the competence and the jurisdiction of the courts and the appellate procedures apply for the disputes originating from rent contracts. Special courts or other jurisdictions reviewing such cases do not exist.
The cases originating from private tenancy are reviewed by the regional and the district courts and by the Sofia City Court under the general rules for distribution of the jurisdiction between the courts.
As regards the public tenancy cases originating from disputes on accommodation in municipality or state owned houses, two separate regimes coexist. When it comes to termination of accommodation in municipal housing, the act for termination is an administrative act[362] which may be challenged in accordance with the rules for administrative jurisdiction that is before the respective administrative court. In contrast, the disputes arising from termination of accommodation in a state owned house (departmental houses rented by the staff of the respective state body) are reviewed under the common civil law and civil procedure rules[363].

- Are there regulatory law requirements influencing tenancy contracts
  - E.g. a duty to register contracts; personal registration of tenants in Eastern European states (left over of soviet system)

[361] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 20.
[362] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 46, para. 2.
[363] State Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 24, para. 1.

In Bulgaria there is no duty to register contracts.
The current address of a person according to the Bulgarian Civil Registration Act is relevant as the person concerned is obliged to register with the municipality their current address in each case when the stay duration exceeds thirty days. As far as the registration obligation is of a general nature for this obligation to occur it does not matter if the person is tenant, owner or has some other relation to the place he/she lives. According to the Civil Registration Act[364] as regards to address registration of persons accommodated in state or municipal dwellings tenancy order or lease agreement will be sufficient to be presented before the authorities for the purposes of registration.

- Regulatory law requirements on - new and/or old - habitable dwellings capable of being rented - e.g. on minimum size, number of bathrooms, other mandatory fittings etc.

A general planning law requirement applicable to all new dwellings which must be respected in each architectural project exists and according to it, every dwelling unit must have a separate entrance, at least one residential premise, a kitchen or a kitchenette and a bathroom, as well as a cellar which may be located inside or outside the dwelling unit. It shall be permissible for the premises to be spatially linked, with the exception of lavatories and bathrooms[365]. In addition, the Spatial Development Act[366] gives the following definition of 'dwelling': a set of premises, roofed and/or open spaces, constituting a single functional and spatial whole and designed for the satisfaction of housing needs. The legislation concerning rental relations gives no separate definition of dwelling, so that it should be accepted that it has the same meaning when used in both private and public law tenancy regulations. However, non-compliance of the 'dwelling' with the administrative rules, concerning the buildings and construction does not affect the tenancy contract – even a house without Using Permit can be validly rented.
Municipal ordinances establish standards for satisfaction of the housing needs of the families, to be accommodated in municipal housing. The approach is not the minimum, but the maximum size of the dwelling, according to the number and special needs of the members of the family (household). Local authorities have discretion and opt for different standards of regulation of the size of the municipal houses to be rented. For example, the Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality[367] provides that for one-member family the living space will be up to 25 sq. meters, for a family of two members – up to 40 sq. meters, three-member family – up to 55 sq. meters, up to 70 sq. meter for a four-member family. For families with five and more members – up to 15 sq. meters additional living space for each following member. The Ordinance provides that in

[364] Civil Registration Act, promulgated in State Gazette issue 67 of 27 July 1999, last amended State Gazette issue 68 of 2 August 2013, Art. 92, para. 7.
[365] Spatial Development Act, promulgated in State Gazette issue 1 of 2 January 2001, last amended State Gazette issue 66 of 26 July 2013, Art. 40, para. 1.
[366] Ibid., para. 5, point 30 of the Supplementary Provisions.
[367] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 17, para. 1.

establishing the necessary leaving space, the child, which is going to be born, is to be taken into consideration. In case the dwelling exceeds the established norms with up to 5 sq. meters the rent rate will the double for these 5 sq. meters. If it exceeds the norms with more than 5 sq. meters then the market prices will be applicable for the excess. The approach used by the Municipal Council in Burgas is similar to this in Sofia – establishing maximum living space to be provided to people in need. As to the unborn child, the Burgas' Ordinance[368], unlike this in Sofia, says that it could be taken into account. When the dwelling area exceeds the maximum size for satisfaction of housing needs by 10 % or more, doubled rent shall be due over the excess.
Article 10 of the Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of Varna Municipality[369] establishes the following norms for housing needs: one-member family – up to 25 sq. meters, two-member family – up to 40 sq. meters, for families of three or more members - not less than 55 sq. meters. If the house exceeds the standards for housing satisfaction and if there is a declaration by the tenants, other tenants could be accommodated in the house. If the tenants refuse to declare, that they agree other tenants to be accommodated in the dwelling, then they pay higher price for the house. The Ordinance provides that if the size of the dwelling is smaller than the established norms, then the tenant has to sign a declaration for agreement for accommodation[370].

- Regulation on energy saving

Energy Efficiency Act[371] in the relevant provisions provides that:

> Article 20. (1) The contracting authorities, within the meaning given by Article 161 (1) of the Spatial Development Act, shall be obligated to obtain an energy performance certificate of the building according to the procedure established by this Act not earlier than three and not later than six years after the date of the commissioning of the building.
> (2) (Amended, SG No. 24/2013, effective 12.03.2013) Pending the issuing of the certificate referred to in Paragraph (1), the energy performance of the building shall be certified by a design energy performance certificate.
> (3) (Repealed, SG No. 24/2013, effective 12.03.2013).
> (4) The energy performance certificate of the building shall be updated whenever activities leading to an improvement of the overall energy performance of the building are implemented, such as:
> 1. redevelopment, major renovation, overhaul or remodelling of the building;
> 2. routine repair of net-bound systems of the building;

[368] Ordinance on Conditions and Terms for Determining Housing Needs of the Citizens and Housing Rental and Sale of Municipal Housing, Municipality of Burgas, http://www.2007-2011.burgascouncil.org/pages/orders/index.php, December, 2013.
[369] The Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of Varna Municipality, Art. 21, para. 1, point 9, http://www.varna.bg/, 12 April 2012, Art. 10.
[370] Ibid., Art. 10, para. 5.
[371] Energy Efficiency Act, promulgated in State Gazette issue 98 of 14 November 2008, last amended State Gazette issue 66 of 26 July 2013, Art. 20, 21 and 161.

3. other activities.
(5) (Amended and supplemented, SG No. 24/2013, effective 12.03.2013) The energy performance certificate for a building unit of the building shall be issued on the basis of a common certificate of the whole building in the cases of buildings with a common heating and/or cooling system.

Article 20a. (New, SG No. 24/2013, effective 12.03.2013) (1) The measures for increasing energy efficiency, which are recommended in case of any redevelopment, major renovation, overhaul or remodelling of a building or parts of a building in use shall be evaluated in terms of technical and economic feasibility for using alternative systems under Article 15, Paragraph 2.
(2) After the implementation of the redevelopment, major renovation, overhaul of a building, its energy performance should be thus improved as to conform to the minimum regulatory requirements provided for in the ordinance under Article 15, Paragraph 4.

Local Taxes and Fees Act[372] provides that:

Art. 24. (1) From tax shall be exempt:
(...)
18. (new, SG 18/04; amended- SG 55/07, in force from 01.01.2008; amended– SG 24/13, in force from 12.03.2013) the buildings being brought in use before January 1st, 2005 and having obtained certificates of class B energy consumption, and the buildings brought in use before 1st January 1990 and having obtained certificates of class C energy consumption, issued under the procedure of the Energy Efficiency Act and the ordinance under Art. 25 of the Energy Efficiency Act as follows:
a) for a period of 7 years, considered from the year following the year of issuance of the certificate;
b) for a period of 10 years, considered from the year following the year of issuance of the certificate, if measures for measures for utilization of renewable sources for production of energy for the satisfaction of the needs of the building are applied;
19. (new, SG 18/04; amended- SG 55/07, in force from01.01.2008) the buildings being brought in use before January 1st, 2005 and having obtained certificate of category B, issued under the procedure of the Energy Efficiency Act as follows:
a) for a period of 3 years, considered from the year following the year of issuance of the certificate;
b) (amend. - SG 35/11, in force from 03.05.2011) for a period of 5 years, considered from the year following the year of issuance of the certificate, if measures for measures for utilization of renewable sources for production of energy for the satisfaction of the needs of the building are applied;

[372] Local Taxes and Fees Act, promulgated in State Gazette issue 117/10 December 1997, last amended State Gazette issue 30 of 26 March 2013, suppl. 61 of 9 July 2013, Art. 24.

(2) (amend., SG 153/98) The exemption of para 1, items 1, 2, 4, 7, 8 and 9 shall be under the condition that the properties are not used for economic purpose which is not connected with their direct activity.

However, as demonstrated from the legal texts above, the energy efficiency rules may establish some obligations (privileges) for the owner (co-owners) of the real estate property, but such obligations in no way affect tenancy relations.

- ~~What is the role of estate agents? What are the usual services they provide in the area of rental housing?~~ Deleted as dealt with elsewhere

### 6.2. Preparation and negotiation of tenancy contracts

**Preliminary Note:** We suggest that for each section (b through g) and each tenancy type some concluding remarks should be provided in a summary table about the rights and duties of tenant and landlord and the main characteristics (in telegram style).

Example of table for b) Preparation and negotiation of tenancy contracts

| | Main characteristic(s) of tenancy type 1 – Private tenancy | Main characteristic(s) of tenancy type 2 – Pubic tenancy | (Ranking from strongest to weakest regulation, if there is more than one tenancy type) |
|---|---|---|---|
| Choice of tenant | Free choice of tenant by the landlord;<br>Parties are equal;<br>- No special requirements as to the tenant | Conditions and procedures for choice of tenants are prescribed by law:<br>- persons with established housing needs and the members of their families;<br>- accommodation of state and/or municipal officers entitled for departmental housing;<br>- accommodation of persons whose housing has been rendered unfit for habitation as a result of natural or man-made | Public tenancy – strong regulations;<br>Private tenancy – weak regulation |

| | | | |
|---|---|---|---|
| | | disasters;<br>- Lessees in municipal housing affected by new construction;<br>- Persons whose housing has been restituted to former owners. | |
| Ancillary duties | - No special ancillary duties | - Obligation of the applicant to submit evidence and documents establishing his/her eligibility | Public tenancy – strong regulations; Private tenancy – weak regulation |

**********

- Freedom of contract
  - Are there cases in which there is an obligation for a landlord to enter into a rental contract?

**Private tenancy**
As to the question whether there are cases in which there is an obligation for a landlord to enter into a rental contract, it must be answered negatively. This might only be the case where a new proprietor of a real estate succeeds as part to the rent agreement signed by his predecessor and entered into the property register. This case however does not reveal a new rent relation but just a continuation of a previous one.

**Public tenancy**
As shown above, public tenancy legislation has mandatory nature, meaning that the landlord shall be obliged to sign a rental contract having considered that the applicant is eligible for accommodation and that there is a dwelling available. Even where there is some margin of appreciation, it is nevertheless limited by the relevant provisions that classify the types of applicants in respect to their situation and the housing needs they succeeded to prove.

- Matching the parties
  - How does the landlord normally proceed to find a tenant?

In most cases the property to let is advertised through agencies and/or different means for communication and advertisement (internet sites, publications in newspapers, etc.)

  - What checks on the personal and financial status are lawful and usual? In particular: May the landlord ask for a salary statement? May he resort to a credit reference agency and is doing so usual?

**Private tenancy**

A simple identity check of the lessee and her or his family members which will inhabit the dwelling usually are made by presenting of the ID documents of the lessee. Enquiries of the financial status are very rare and only in the sphere of the commercial renting. They are not practised in the private renting because the landlord has no means available to check the information eventually provided by the prospective tenant. Private credit reference agencies keeping records on individuals do not exist. The Central Credit Register with Bulgarian National Bank[373] is only accessible by banks and other financial institutions in relation to the assessment of the financial status of clients.

**Public tenancy**

It is left to the municipal authorities to decide what kind of data and documents to request from the applicants for municipal dwellings. As an illustration, below are the respective requirements of the Sofia municipality. The Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of the Sofia Municipality[374] provides that the applicant for a municipal dwelling shall file a declaration containing, among others, the following information: full names of the applicant and family members (household); data regarding the type, size, ownership and duration of the actual occupancy of the property currently occupied by the applicant; transactions with any real estate done in the past; ownership of personal property whose value exceeds a certain amount; total annual income of the family (household) for the previous year originating from salaries and pensions, as well as additional income from honoraria, commercial activities, renting of private buildings, agricultural land etc.; evidence for previous filings, etc.

In addition to the information described below, the applicant is required to present the following documents: certificates issued by the Address Service; certificates from the Registry Agency for committed transactions with real estate on the territory of the Sofia Municipality or in the territory of other settlements; certificates issued by the Tax Office for declared properties, official certificates for annual income from the employment or civil servant relationship for the previous year; copies of filed tax returns; copies of lease contracts where the person and the members of his family (household) live on a free market rent; copy of the decision of the Medical Advisory Board, established degree of disability, etc. Similar requirements for declarations and presenting documents, issued by different authorities are included in the ordinances of other municipalities for the purpose of establishing housing needs of candidates for municipal housing and members of their families. Non-presenting of required information and evidence, or declaring untrue information shall result in a refusal for the accommodation of the person in a municipal house, or respectively, the tenancy relation to be terminated.

- How can information on the potential tenant be gathered lawfully? In particular: Are there blacklists of "bad tenants"? If yes, by whom are they compiled? Are they subject to legal limitations e.g. on data protections grounds?

[373] Bulgarian National Bank, http://www.bnb.bg/AboutUs/AUFAQ/CONTR_CREDIT_REGISTER_FAQ?toLang=_EN, December 2013.

[374] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 5, para. 2.

Official channels for information of 'bad tenants' do not exist. In an informal manner some real estate agencies may give advice to their clients – landlords as to the reliability of the tenant wishing to rent the house.
In the field of public tenancy, for example, according to Article 65 of the Municipal Property Act[375] as 'bad tenants' will be considered those individuals and/or members of their families, from which a municipal property is seized because it is being held on no legitimate grounds, is not being used as designed, or the need for use does not exist anymore. Usually, municipal orders provide a term, within which such a person will not be allowed to be accommodated in municipal housing. For Sofia Municipality this term is two years as of the date of the seizure.

- What checks may and does the tenant carry out on the landlord (e.g. to avoid being trapped by a swindler landlord)

The tenant is enabled to access the following registers or data and documents: access to the public property register where he/she could obtain information regarding the ownership of the dwelling or on any other circumstances that may hinder his/her tenancy rights in the future such as mortgages, claims concerning rights over the real estate, right to use, other recorded tenancy agreements, etc.; documents and data provided by the landlord in regard to his/her capacity to sign the contract, such as identity documents, power-of-attorney, etc. When the landlord is a company, a check may be done on the legal status of the company and its representatives in the public Trade Register[376].

- Services of estate agents *(please note that this section has been shifted here)*
  - What services are usually provided by estate agents?

The real estate agents provide intermediary and advertising services together with some accompanying services such as legal advice and assistance to the parties in the course of the negotiations and the concluding of the lease contracts. They provide information to prospective tenants for available dwellings on the basis of their requirements and organise inspections of the houses to let.

  - To what extent are estate agents regulated? In particular: are there rules on how an agent should present a house, i.e. on the kind of information which needs to be given?

Real estate agencies are commercial entities – sole traders or companies registered under the Commerce Act and the Trade Register Act[377]. They are not subject to any special registration or licensing procedure and do not have any specific regulation of

[375] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 65.
[376] Trade Register, http://www.brra.bg/, December 2013.
[377] Trade Register Act, promulgated in State Gazette issue 34 of 25 April 2006, last amended and supplemented, State Gazette issue 99 of 14 December, 2012.

their activities. However, the law allows for the agencies to found their professional associations which may adopt ethic rules or codes of conduct. In 1995 the National Real Estate Association (NREA)[378] had adopted a Code of Professional Ethics, that since that time had undergone several changes. The Committee on Professional Ethics at the NREA is mandated to monitor the process of enforcement of the commonly accepted professional rules by the estate agencies – members of the NREA .

- What is the usual commission they charge to the landlord and tenant? Are there legal limitations on the commission?

The commissions charged by the real estate agents are not regulated. It is common that the agent charges its client - either landlord or tenant – with a commission equal to the amount of one monthly rent payment as agreed between the parties. Some agents collect additional fees for organising inspections and/or for providing of legal assistance.

- Ancillary duties of both parties in the phase of contract preparation and negotiation ("culpa in contrahendo" kind of situations)

'Culpa in contrahendo' exists as a legal institute governing the process of negotiations prior to the conclusion of a contract. Thus, according to the Obligations and Contract Act[379], during the negotiations the parties have to act in good faith. Otherwise, the respective party shall be liable for compensation for damages. This is generally applied to all kinds of contracts, including rent contracts.

### 6.3. Conclusion of tenancy contracts

Example of table for c) Conclusion of tenancy contracts

| | Main characteristic(s) of tenancy type 1 – Private tenancy | Main characteristic(s) of tenancy type 2 – Pubic tenancy | Ranking from strongest to weakest regulation, if there is more than one tenancy type |
|---|---|---|---|
| Requirements for valid conclusion | - No special requirements as to the legal form of the contract<br>- General principles for valid conclusion of the contract are applicable; | - Special body (commission) reaches a decision and issues an order;<br>- written form of the contract mandatory; | Public tenancy – strong regulations; Private tenancy – weak regulation |
| Regulations limiting | General principles | Virtually no | Public tenancy – |

[378] The leading association of estate agents (currently representing app. 300 companies in 30 app. cities) – The National Real Estate Agency (NREA), http://www.nsni.bg/en, December 2013.
[379] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 12.

| | | | |
|---|---|---|---|
| freedom of contract | for valid conclusion of the contract are applicable<br>- no discrimination rules; | freedom of contract exists as tenant cannot negotiate the terms of the contract | strong regulations; Private tenancy – weak regulation |

There is no single position among the interviewed lawyers and owners of real estate agencies in terms of whether tenants or landlords have stronger positions. In fact throughout the different stages of the contract – negotiating and signing, execution and termination – the positions are with alternating advantages. However the attitudes dominate that landlords are in a stronger position in determining clauses of the contracts, while in case of litigation potentially the advantages are rather belonging to the tenants:

> I think that as regards the contracts (they are bilateral stated wills and they are signed to satisfy the interests of both parties, the procedure of termination is the same, the rights of both sides are protected) it can be argued that there is unequal treatment and a party is in a stronger position. The legislation creates preconditions for equal positioning of the two parties. Article 9 (sic) [of the Obligations and Contracts Act] says that each contract has the force of a law – that is it all depends on the will of the parties – yes, someone could try using the opportunities of the law to lie to others, but the law is the same for both sides – it provides equal rights and equally protects the interests of the parties. The same goes for the lawsuit – the rights of the plaintiff are such as the rights of the defendant.
>
> (interview with a notary, quoted material is translated by the authors)

It should be emphasized that the main group of landlords in Bulgaria are people with not very high financial capacity – 'elderly people who have more than one property in the city or have to live in the countryside to secure rental income for their only urban home' (interview with a real estate employee, quoted material is translated by the authors). The same is true, however, for the majority of the tenants. In most cases, these are students. 'Our typical customers are primarily students.' (interview with a real estate employee, quoted material is translated by the authors)

- Tenancy contracts
  - distinguished from functionally similar arrangements (e.g. licence; real right of habitation; Leihe, comodato)

The tenancy contract should be distinguished from some similar legal institutes:

*The right of use.* The right of use is governed by the Law for the Ownership[380]. This right is a limited real right over a property incorporating the authority of the user to use the property in compliance with its purpose and the right to benefits thereof without essentially modifying the property. The right of use excludes the ability of the user to transfer the right. It can be established for a certain period of time or as permanent. In

[380] Law for the Ownership, promulgated in State Gazette issue 92 of 16 November 1951, last amended State Gazette issue 105 of 29 December 2011.

the last case it will cease to exist with the death of the user – physical person or the winding up of the user-legal entity, as long as under the contract of lease the lessor is bound to provide a property to the lessee only for temporary use. The right to use could be granted free of charge, while by definition the lessee is obliged to pay the lessor a certain price. Thus, the right of use is similar to the property right, as it only excludes the authority of the user to alienate their right. Unlike the lease contract, the right of use is established by a notary deed, executed before a notary public in the same way the ownership transactions are executed.

*Leasing contract.* The leasing contract is a commercial contract governed as such by the Commerce Act[381]. Under the leasing contract the lessor undertakes to provide to the lessee an item for use for consideration. Most commonly the leasing contract provides the lessee with the possibility to acquire the item at the end of the leasing contract though this is not an obligatory element of the contract. What distinguishes the leasing contract from the civil lease contract is the quality of the lessor being a trading company which funds the acquisition of the item and gives it to the lessee against monthly or other periodical payments. The leasing of real estate property is rare in the Bulgarian market thought it is not prohibited.

*Loan for Use.* According to Obligations and Contract Act[382], under the contract of lease the lessor is bound to provide a property to the lessee for temporary use, and the lessee – to pay him a certain price. Since, under the contract of loan for use the lender shall provide free of charge to the borrower one chattel in specie for temporary use and the borrower assumes the obligation to return it[383]. Under the loan of use agreement the borrower must take due care of the chattel, giving higher priority to its preservation than to the preservation of his own belongings. Like in tenancy agreement the borrower may use the loaned chattel only in accordance with the contract, and where the use has not been negotiated, in accordance with its function. Unlike the tenancy agreement, where if not agreed upon otherwise, the lessee may sublease parts of the leased property without the consent of the lessor, the borrower may not provide the use of the chattel to somebody else. The Obligations and Contract Act[384] provides explicitly that if the chattel has been loaned to several persons, they shall be liable jointly and severally, where such joint responsibility does not originate from the law and must been agreed upon between the parties. Where the loaned chattel bears fruits the borrower must return them, unless agreed otherwise[385]. Similar to the tenancy contract upon the expiration of the agreed term or after the termination of the use the borrower must return the chattel. But in contrast to the tenancy contract the lender may claim the return of the chattel even before that if he himself urgently needs it because of unforeseen developments or if the borrower dies or does not perform his obligations. If the time or the purpose of the

[381] Commerce Act, promulgated in State Gazette issue 48 of 18 June 1991, last amended State Gazette issue 20 of 28 February 2013.
[382] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 228.
[383] Ibid. Art. 243.
[384] Ibid. Art. 244.
[385] Ibid. Art. 246.

use are not specified in the contract, the lender may at any time claim the return of the chattel.[386]

- specific tenancy contracts, e.g. contracts on furnished apartments; student apartments; contracts over room(s) only (e.g. student rooms); contracts over rooms or apartments located in the house in which the landlord lives himself as well. Please describe the legal specificities in these cases.

The tenancy contract specifics related to the object of the contract may also be differentiated. A specific regulation as to the type and the quality of the dwelling to be rented does not exist and the question is left to the appreciation of the parties to the contract, practically all types of dwellings are eligible to be rented by lease contracts. In practice, the needs of the tenant and her/his family members determine the kind of the rented property. The legislation does not distinguish the contracts on the basis of the kind of the property. This is why, all above listed properties may become subject to a lease contract under the same general regulations.

- Requirements for a valid conclusion of the contract
  - formal requirements
  - is there a fee for the conclusion and how does it have to be paid? (e.g. "fee stamp" on the contract etc)
  - registration requirements; legal consequences in the absence of registration
    *Note: If relevant, please distinguish the various existing registers, e.g. land register, tax register, register of domicile.*

Under the Bulgarian legislation the lease contract shall be considered concluded when a mutual agreement between the parties is reached as regards the main elements of the contract – the item to be rented and the price due. All other elements of the contract, such as time limits, conditions for use of the item, etc. shall be regulated by the legislation unless otherwise explicitly agreed by the parties to the contract. However, the lack of agreement over a fundamental element of the contract, that is the price, shall render the contract void. Although the written form is not obligatory, for the purposes of clarity and as a proof the great majority of lease contracts are concluded in writing. The written form is also relevant to the duration of the contract in cases of transfer of the real estate property. A written contract with a date of conclusion verified before a notary shall be binding for the new proprietor for the period of the contract but for not more than one year. A contract that is registered in the property register shall remain valid until the expiration of the time-period specified in it and the new proprietor will be obliged to comply with it.
Lease contracts are not subject to compulsory registration. It is left to the common will of the parties whether to register their rent contract in the property register. The legal consequences of such registration are described above.

The price for the legal certainty of deals for rental housing in Bulgaria

[386] Ibid., Art. 249.

is too high. 'No contract of my practice is registered with a notary, because the price for such registration is unreasonably high.' (interview with a lawyer, quoted material is translated by the authors)

> The price is determined in specialized table and it is quite high. Furthermore, at the notary office fee is calculated for the entire period of the contract, that is if the monthly rent is EUR 500 and the contract was concluded for 12 months, the fee is based on EUR 6,000. If the contract is for 10 years – the fee is based on EUR 60,000. You understand that no one wants to pay such a fee.
>
> (interview with a lawyer, quoted material is translated by the authors)

This conclusion is correct and reflects an improper practice of notaries. Many of them refuse to notarise the signatures of the parties against the amount of BGN 3 (EUR 1.5) (which is sufficient to protect the parties and provides reliable date on their contract) and want to receive fees based on the material interest specified in the contract. Of course, although rarely, there are notaries who only notarise signatures, which is a correct and adequate manner of protecting the parties:

> If, however, the parties resort to notarization, this happens in the beginning (at the very conclusion of the contract) for a short time – just a few months – while the parties get to know each other and begin to trust each other. Then, if the lease is extended, the parties entered into a new contract without notarization. (interview with a lawyer, quoted material is translated by the authors)
>
> If we want to encourage the registration of rental contracts for housing into the property register we need to remove the state fee for registration of contracts. It must be recorded in the law that not only the conclusion but also the termination of the lease needs also to be registered in the property register. There should be an information campaign about this opportunity.
>
> (interview with a lawyer, quoted material is translated by the authors)

- Restrictions on choice of tenant - antidiscrimination issues
  - EU directives (see enclosed list) and national law on antidiscrimination

EU directive, which applies in respect to the non-discrimination principle in the tenancy relations is Council Directive 2000/43/EC of 29 June 2000[387] implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, which purpose is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment, in Art. 3 (1) provides that it shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to: ... (h) access to and

[387] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJEC 19.07.2000 Nº L 180/22.

supply of goods and services which are available to the public, including housing. The Directive 2000/43/EC[388] covers prohibition of discrimination in all aspects of housing, including not only sale and acquisition of property and housing loans but also letting of property, conclusion of tenancy agreement, allocation of tenancies in private and public sector, residential care institutions, management of rented accommodations.
In the rental housing field discrimination is most likely to occur on the grounds of ethnic origin or race. Directive 2000/43/EC[389] forbids direct and indirect discrimination, which means that not only less favourable treatment on grounds of racial or ethnic origin is banned (direct discrimination) but also apparently neutral provision, criterion or practice which put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary is forbidden (indirect discrimination).
The restrictions on choice of tenants on discriminatory basis cover private and public landlords, but also rental agencies and attorneys, representing them. Another forbidden behaviour in tenancy relations will be the instruction to discriminate against persons on grounds of racial or ethnic origin, which is also considered discrimination.
On the other hand the restrictions are limited to goods and services which are 'available to the public' – to unlimited group of people by advertisements on the internet, magazines and newspapers as well as through rental agencies.
There is no clear and coherent answer to the question whether sharing the rented property with the owner and his/her near relatives fall within the scope of goods and services, 'available to the public'.

***National anti-discrimination law:***

Protection against Discrimination Act[390] was adopted during the process of accession of Bulgaria to the European Union and was a response to the requirements of acquis communautaire – and in particular Directive 2000/43/EC and Directive 2000/78/EC. It was aimed at transposing the EU provisions into the national law. Protection against Discrimination Act bans any direct or indirect discrimination on the grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party. The act prohibits also racial segregation, harassment (including sexual harassment), incitement and assistance to discrimination and persecution on the ground of anti-discrimination action taken by the victim or third person. The act provides a list of cases that are not qualified as discrimination, including the special measures in favour of individuals or groups of persons in disadvantaged position, aiming at equalisation of their opportunities, insofar and until such measures are necessary[391]. Protection against

[388] Ibid.
[389] Ibid.
[390] Protection against Discrimination Act, promulgated in State Gazette issue 86 of 30 September 2003, in force from 1 January 2004, last amended State Gazette issue 68 of 2 August 2013, Art. 4, para.1.
[391] Dilyana Giteva, Study Module I "Antidiscrimination Legislation – Civil Law Aspects of the Protection Against Discrimination, Lectures, 20. Exceptions from the Ban of Discrimination and Affirmative Measures" Commission for Protection against Discrimination, Sofia 2010-2011, p. 239-247. (Диляна Гитева, Учебен модул I „Антидискриминационно право – гражданскоправни аспекти на защитата от

Discrimination Act[392] provides protection against discrimination in the fields of labour relations, educational and vocational training and access to services. The act envisages shifting of the burden of proof and provides various sanctions in case of discrimination.
Protection against Discrimination Act establishes the Commission against Discrimination[393] and an administrative procedure before the Commission and respectively before the court. With the amendments from 2011[394] the act was amended and now the decisions of the Commission for Protection against Discrimination are to be appealed before the Sofia Administrative Court[395]. Before the amendments the appellative body was the Supreme Administrative Court[396].
Art. 37 of Protection against Discrimination Act prohibits[397] the refusal to provide goods or services, as well as the provision of goods and services of a lower quality or on less favourable terms on the grounds referred to in Article 4, paragraph 1. Protection against Discrimination Act[398] does not mention the term 'housing', as it is done by Directive 2000/43/EC[399]. It is considered that housing is implicitly included in the notion of goods and services.
According to the Protection against Discrimination Act and the antidiscrimination provisions of international human rights treaties, ratified by Bulgarian Republic, landlords (both private and public) are not allowed to discriminate against tenants on the basis of race, gender, disability, sexuality or religion and all other grounds[400] referred to in Art. 4, paragraph 1, both directly and indirectly[401]. Below, there are some examples of acts in the field of tenancy relations, which could constitute discrimination:

- Renting a property to certain tenants of lower quality or on worse terms than other tenants (in violation of Art. 37)[402];
- Treating certain tenants less favourably when setting policies regarding facilities (Art. 4, paragraph 2)[403];
- Evicting or harassing certain tenants because of their race, gender, disability, sexuality or religion (Art. 5)[404];

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дискриминация", Лекционен курс, 20. Изключения от забраната за дискриминация и мерки за насърчаване на равенството, София, Комисия за защита от дискриминация, 2010-2011 г., стр. 239-247).

[392] Protection against Discrimination Act, promulgated in State Gazette issue 86 of 30 September 2003, in force from 1 January 2004, last amended State Gazette issue 68 of 2 August 2013.

[393] Commission against Discrimination, http://www.kzd-nondiscrimination.com/layout/, December 2013.

[394] Amendments in Protection against Discrimination Act, State Gazette issue 39 of 20 May 2011, Art. 68, para. 1.

[395] Sofia Administrative Court, http://www.admincourtsofia.bg/, December 2013.

[396] Supreme Administrative Court, http://www.sac.government.bg/, December 2013.

[397] Protection against Discrimination Act, promulgated in State Gazette issue 86 of 30 September 2003, in force from 1 January 2004, last amended State Gazette issue 68 of 2 August 2013. Art. 37.

[398] Ibid.

[399] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJEC 19.07.2000 Nº L 180/22.

[400] Dilyana Giteva, Fundamental Rights and Freedoms Manual, Prohibition of Discrimination, Sofia, Bulgarian Lawyers for Human Rights, p. 86-97 2011 (Основни права и свободи, Наръчник, издание на фондация Български адвокати за правата на човека, Забрана за дискриминацията, София, 2011 г. стр. 86-97) http://blhr.org/media/documents/Narachnik.pdf

[401] Protection against Discrimination Act, promulgated in State Gazette issue 86 of 30 September 2003, in force from 1 January 2004, last amended State Gazette issue 68 of 2 August 2013.

[402] Ibid., Art. 37.

[403] Ibid., Art. 4, para. 2.

[404] Ibid., Art. 5.

- Segregating tenants because of their race (Art. 5)[405];
- Refusing to incorporate reasonable demands in a tenancy agreement necessary for a disabled person to live at the property. For example, problems could occur if a landlord held a 'no pets' policy and did not offer to alter it for a blind tenant with a guide dog. (Art. 4, paragraph 3 and Art. 5)[406];
- Instructing or incitement to discrimination (Art. 5)[407];
- Persons who have consciously assisted in the commitment of acts of discrimination shall also bear liability for discrimination (Art. 8)[408].

- <u>Limitations on freedom of contract through regulation</u>

> 'I do not think (the problems) are related to the legal regulations – I think all laws in the field, especially the Obligations and Contracts Act, were made long ago and so create a good basis, equality of the parties… and the less we play with the laws better.'(interview with a notary, quoted material is translated by the authors)
>
> However, the Obligations and Contracts Act is one of the oldest laws, which can serve as a textbook and that's good. And the secondary legislation may not repeal or amend the text of the law /law is above them/… However you can create an avalanche of texts (on the principle snowball, as mentioned before, and so even the lawyers cannot work normally – lawyers, judges, attorneys, not to mention the other government officials and all citizens.
> (interview with a notary, quoted material is translated by the authors)

- mandatory provisions in rental contracts, in particular: mandatory minimum requirements of what needs to be stated in a tenancy contract

The mandatory minimum requirements are:

- The maximum time period of the rent agreement. It cannot be signed for more than ten years unless it is a commercial deal[409]. All non-commercial contracts signed for a longer period shall be deemed as signed for ten years period. If the landlord has only limited rights over the property (only management rights), than the maximum time period of the tenancy agreement shall be three years[410];
- the price, the parties, identification of the dwelling;
- The regulations for the conduct of the inhabitants in a condominium. Such regulations are set in a special legislation and in the regulations adopted by the general meeting of the inhabitants in the condominium and they could not be altered by the will of the parties to the rent contract.

All rules regarding the capability of the persons to sign contracts are mandatory and could not be circumvented by an agreement.

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[405] Ibid.
[406] Ibid., Art. 4, para. 3 and Art. 5.
[407] Ibid., Art. 5.
[408] Ibid., Art. 8.
[409] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 229, para. 1.
[410] Ibid., para. 2.

- control of contractual terms (EU directive and national law); consequences of invalidity of contractual terms

Contractual terms may be subject to review by the courts in cases of disputes between the parties. Ex officio, state control of the contractual terms does not exist. Obligations and Contracts Act[411] recognizes two types of invalidity of the contracts, both of them applicable to the rent contracts as well: (1) a contract may be null and void, or (2) voidable. A contract is null and void when it is 'infected' with such serious deficiencies (see below) so that it could not produce the results intended by the parties. A contract is voidable when the deficiencies are not so serious to lead automatically to its invalidity unless the court takes a decision for its invalidation.

According to Obligations and Contracts Act[412] a contract shall be null and void: when it contravenes or infringes the law or good morals, including a contract on a future inheritance; when it has an impossible subject; when it lacks consent, the form prescribed by law, a rationale; or when it is simulated. However, the nullity only of parts of the contract shall not entail nullity of the entire contract, provided the null provisions are replaced by operation of law with mandatory rules of the law, or when it can be assumed that the transaction would have been concluded even without its null parts.

According to Article 27 of the Obligations and Contracts Act the following circumstances render the contract voidable: the contract is concluded by persons lacking capacity, or by their representative without observing the requirements established for such representatives; the contract is concluded under mistake, fraud, threat or financial duress. According to article 31 of the Obligations and Contracts Act a contract entered into by a person possessing capacity shall be subject to invalidation provided that upon conclusion of the contract that person could not understand or could not guide his acts[413]. Article 33 states that a contract entered into because of financial duress under clearly unfavourable terms shall be subject to invalidation, but the court may invalidate such a contract fully or only for the future[414].

Article 34 of the Obligations and Contracts Act[415] regulates the consequences of invalidity of the contract: where a contract is recognized as null and void or is invalidated each party must give back to the other party everything it has received from it. However, a contract subject to invalidation may be confirmed by the party entitled to request its invalidation, by a statement in writing which should indicate the grounds for invalidation. A contract shall also be confirmed in the event the party entitled to request its invalidation voluntarily performs it, entirely or partially, while being aware of the grounds for invalidation. Nevertheless, a contract which is invalidated on grounds of financial duress may not be ratified. In contrast, a contract which is null and void could not be confirmed.

[411] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.
[412] Ibid., Art. 26 - 31.
[413] Ibid., Art. 31.
[414] Ibid., Art. 33.
[415] Ibid., Art. 34.

- statutory pre-emption rights of the tenant

Bulgarian legislation does not recognise any preferential rights of the tenant to purchase the rented property in the sphere of the private tenancy. However, the Municipal Property Act[416] allows for the municipalities to permit the tenants in municipal houses to purchase the house they have been accommodated in under certain conditions. For instance, article 38 of the Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality[417] entitles the tenant of a municipal house to purchase the property when he/she: (1) meets the requirements for accommodation in municipal dwelling; (2) has been a tenant of a municipal house for not less than five years without interruption; (3) has not breached the terms of the rent agreement.
Same possibility is provided to the employees from the municipal administration which have been working there for not less than five years without interruption in respect of the departmental municipal houses they live in. Possibility to buy municipal house is provided for some categories of persons specified in the special laws, who are also entitled to rent municipal houses (the Law of Arranging the Rights of Citizens with Long Term Housing Saving Deposits[418] and the Law for Reinstatement of the Ownership of Nationalised Real Estates[419]).
In the City of Sofia in order to initiate the purchase procedure the tenant files an application to the mayor who checks the eligibility of the applicant and presents the materials to the Sofia Municipal Council. The Council takes the final decision approving or rejecting the proposal of the mayor for the purchase of the real estate. It is essential that the municipal council is not obliged to take a positive decision for the purchase, which means that such a preemption right is not a 'right' in the strict sense of the word, but rather a legal possibility of the tenant to request from the municipal authorities to allow him/her to purchase the dwelling.

- are there provisions to the effect that a mortgagor is not allowed to lease the dwelling (charged by the mortgage) or similar restrictions?

No, there are no such restrictions.

[416] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.
[417] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 38.

[418] Law of Arranging the Rights of Citizens with Long Term Housing Saving Deposits (Title amended, SG No. 100/2008, effective 21.11.2008), promulgated in State Gazette issue 82 of 4 October 1991, last amended, Judgment No 10 of the Constitutional Court of the Republic of Bulgaria of 3 December 2009, State Gazette issue 97 of 8 December 2009, supplemented, State Gazette issue 99 of 15 December 2009.

[419] Law for Reinstatement of the Ownership of Nationalised Real Estates, promulgated in State Gazette issue 15 of 21 February 1992, last amended State Gazette issue 53 of 30 June 2006.

### 6.4. Contents of tenancy contracts

Example of table for d) Contents of tenancy contracts

| | Main characteristic(s) of tenancy type 1 – Private tenancy | Main characteristic(s) of tenancy type 2 – Public tenancy. | Ranking from strongest to weakest regulation, if there is more than one tenancy type |
|---|---|---|---|
| Description of dwelling | The property should be identifiable, no requirement of detailed description | Each municipality adopts its own rules as to the minimum content of the rent agreement and the attachments to it | Public tenancy – strong regulations; Private tenancy – weak regulation |
| Parties to the tenancy contract | Equal private law parties | Subordination between the landlord and the tenant | Public tenancy – strong regulations; Private tenancy – weak regulation |
| Duration | Max 10 years in some cases 3 years, unless the landlord is a commercial entity | No limitation in the duration as far as the tenant meets the respective requirements | Public tenancy – strong regulations; Private tenancy – weak regulation |
| Rent | Freely negotiated between the parties | Established figures in the municipal regulations or other documents | Public tenancy – strong regulations; Private tenancy – weak regulation |
| Deposit | Freely negotiated between the parties | Each municipality adopts its own rules | Public tenancy – strong regulations; Private tenancy – weak regulation |
| Utilities, repairs, etc. | Dispositive regulations; Usually utilities and small repairs on tenant's expense other repairs and capital investments for the landlord | Each municipality adopts its own rules | Public tenancy – strong regulations; Private tenancy – weak regulation |

- Description of dwelling; indication of the habitable surface (and consequences in case of the provision of wrong data)

The law provides for the specification of the rented dwelling as one of the major elements of the lease contract the lack of which will make the contract void. Although there are no legal provisions stipulating the degree of concreteness for the description of the house, the description shall be considered to be sufficiently detailed when it encompasses: the exact location (address, entrance, floor and number of the house/apartment)of the real estate. Indeed, these are the most common properties of a specific real estate which are used to describe it in real estate transactions. However, in rent contracts some features, such as neighbouring properties, are generally omitted – a fact which does not make the contract void. The leading rule here is that the description has to be of such nature as to allow the genuine common will of the parties to the contract to be disclosed. Once it is established that the parties have agreed on a specific real estate for a specific consideration, since the lack of agreement on these points will make the contract void, all other elements will be matter of execution of the contract but not of its conclusion. Such will be the case of discrepancy between the surface indicated by the landlord and the actual surface of the real estate. This would be a particularly serious problem when the rent is calculated per square meter (although a rare practice in the rent contracts for housing purposes). As a general rule, this will appear to be a non-fulfilment of the contract on the part of the landlord giving the tenant the right to claim reduction of the rent or to cancel the agreement.

- Allowed uses of the rented dwelling and their limits
  - In particular: to what extent are mixed (residence/commercial) contracts lawful and usual (e.g. having a shop, a legal office or a doctor's studio in the dwelling)

Mixed (residence/commercial) contracts are not usual.
Commercial transaction shall be any transaction concluded by a merchant within the ambit of his typical commercial activities and when such transactions form the main source of his income. A transaction shall also be considered commercial when it falls within the transactions listed in Art. 1, para 1 of the Commerce Act regardless of the capacity of the persons effecting them[420]. Tenancy contracts are not among these latter transactions. Respectively, the nature of the transaction will depend on the capacity of the parties and whether it is related to the occupation, exercised by them. Thus, a rent contract shall be considered commercial transaction when the landlord concludes such contracts for the purpose of making profits. Using the premises for commercial purposes however, does not necessarily make the contract commercial transaction unless the above criterion is met. In contrary, a rent contract for housing purposes shall be commercial transaction if the landlord is a trader who lets dwellings within the course of his commercial activity.
Mixed (residence/commercial) contracts are lawful in a sense that the parties could agree on the purposes for which the premises could be used. In any case, to be used for commercial purposes the premises have to meet the specific requirements for the different commercial activities, established in the legislation.

- Parties to a tenancy contract

[420] Commerce Act, promulgated in State Gazette issue 48 of 18 June 1991, last amended State Gazette issue 20 of 28 February 2013, Art. 286.

- Landlord: who can lawfully be a landlord?
  - does a change of the landlord through inheritance, sale or public auction affect the position of the tenant?
- Tenant:
- Who can lawfully be a tenant?
- Which persons are allowed to move in an apartment together with the tenant (spouse, children etc)?
- Changes of parties: in case of divorce (and equivalents such as separation of non-married and same sex couples); apartments shared among students (in particular: may a student moving out be replaced by motion of the other students); death of tenant
- Subletting: Under what conditions is subletting allowed? Is subletting being abused e.g. with the aim of circumventing the legal protection of tenants (when the tenant is offered not an ordinary lease contract but a sublease contract only)?
- Is it possible, and if yes under what conditions, to conclude a contract with a multiplicity of tenants (e.g. group of students)?

**Private tenancy**

*Landlord: who can lawfully be a landlord?*

Both physical and legal persons may be landlords. In the case of the landlord being a physical person, he or she must be capable to sign contracts. All physical persons of full age (18 years) may conclude deals in their behalf. Underage persons (under 14 years) and persons with full legal disability can only conclude deals through their parents or guardians. Persons of age between 14 and 18 years and those with partial legal disability may conclude deals with the consent of their parents or trustees. The non-compliance with the capability requirements leads to the contract being subject to invalidation.

In the case of legal persons, the landlord must be established under the law applicable to the respective kind of legal entity. Most commonly the establishment of a legal person originates from an act of a public authority – entry into the Trade Register[421]; court decision; administrative or legislative act, etc. A legal entity which is not founded or which is in a process of registration may not conclude deals, as such 'deals' will be null and void. Upon establishment, the legal entity shall act either through its legal representatives according to the law and/or the act for the establishment or through an attorney.

Contracts concluded by persons lacking capacity or by their agents without observing the requirements established for such agents shall be invalidatable[422] (voidable).

As regards the legal position of the landlord towards the real estate, the law does not require the landlord to be the owner of the property to let. This means that it is sufficient that the landlord is able to secure the use of the dwelling by the tenant without regard to the relation from which the rights of the landlord originate. Thus, the landlord may be: owner; co-owner; holder of the property right of use; or even the tenant himself/herself.

[421] Trade Register, http://www.brra.bg/, December 2013.

[422] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 27.

As the rent agreement establishes only an obligation between the parties but does not transfer ownership, it is the landlord's contractual responsibility to secure the use of the dwelling by the tenant. However, the law distinguishes between landlords who acquire only limited rights of management over the real estate (for example, one of the co-owners, tenant, etc.) and landlords of full rights (a single owner). In the first case the landlord may only conclude rent agreements with a duration not exceeding 3 years. In the second case they may conclude it for the maximum period allowed by the law – 10 years or more in the cases of commercial deals.

*Does a change of the landlord through inheritance, sale or public auction affect the position of the tenant?*

These three distinguished cases have three different legal outcomes. In the case of inheritance the inheritors shall remain bound by the contractual obligations of their legator, as the contract had not been concluded with view to the personality of the landlord (intuitu personae, personal services contract) and the obligations of the landlord do not cease to exist with his/her decease.
In the case of sale the situation was explained above. In brief, the lease contract shall be bounding to the new proprietor for the period of the contract but for not more than one year if the contract bears a notary verified date of signature; the proprietor shall be obliged to respect the contract for its entire period in case the contract had been entered into the property register (as there is a presumption that the proprietor had got acquainted with its existence prior to the transfer of the property, because the register is public). The public auction conducted by a bailiff (for example for debts of the landlord) cancels all other rights over the real estate property. An inconsistent practice exists when the rent contract has been entered into the property register. According to the practice of the bailiffs, even in this case the rights of the tenant cease to exist. If the contract does not have a verifiable date and the lessee is in possession of the property, the contract shall be binding upon the transferee as a contract of lease with an indefinite term.

*Who can lawfully be a tenant?*

As to the legal capability of the tenant in relations of civil and commercial nature, the same which has already been stated as regards the landlord applies.

**Public tenancy**

In tenancy relations originating from acts of public authorities, to be eligible, a tenant must meet numerous conditions set by the municipal authorities. Due to the lack of a unified regulation of those conditions on a national level, each municipality may introduce their own requirements reflecting the needs of the local communities and the abilities of the municipality to provide such social services. However, it could be observed that the municipal drafters, although concerned with the problems of the local population, sometimes fail to assess the local regulations they adopt as to its compliance with the higher level legislation and particularly with the EU legislation. Such example may be found below in the context of the eligibility criteria set by the Sofia municipality which requires the applicants to be Bulgarian citizens, thus preventing any

other EU citizens from that possibility contrary to the EU legislation. Below, as an illustration are shown the requirements for rental accommodation of homes, owned by Sofia Municipality, where families or households, eligible for rental accommodation in the homes for citizens with established accommodation need, must meet all the following conditions[423]:

- at least one member of the family (household) is a Bulgarian citizen[424] with a registered address and permanent address on the territory of Sofia Municipality for more than ten years without interruption;
- not own a home, villa or shares of such property, suitable for permanent use or right to use them on the territory of Sofia Municipality and in areas of settlements in categories from zero to three included, defined in the Unified Classification of the Administrative-territorial Units and the Regions in Bulgaria;
- not possess undeveloped land intended for residential or holiday development, shares of such property or the right to build on it in the territory of Sofia Municipality, in the areas of settlements in categories from zero to three included, in the resort areas and complexes and in the villa areas to them, land ten km. from the sea coast;
- not own factories, workshops, shops, warehouses and commercial business or shares of such properties in the areas of settlements in categories from zero to three included;
- not transferred property under item 2, 3 or 4 others over the past decade, with the exception of termination of ownership, transfer of common parts of a third party or a gift to the Municipality of Sofia;
- not own property with a total value of more than half of the average market price of housing geared to the needs of the family (household), under the rules of Art. 17 of the Ordinance[425];
- a quarter of the total annual income of persons and members of their families (households) cannot cover the cost of the average market rent for housing geared to the needs of the family (household), under the rules of Art. 17 of the Ordinance;
- a procedure for the seizure of municipal housing has not been completed against the persons and the members of their families, except when more than 2 years have passed since its release.

Other groups of people eligible for municipal accommodation within the Sofia municipality due to their disadvantaged position or holding special capacity could be minor children with special needs of healthcare and education or permanent staff of the municipal institutions.

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[423] Ordinance on the Terms and Conditions for the Management and Disposition of Public Housing on the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010.

[424] The requirement of possessing Bulgarian citizenship is envisaged also in the respective municipal ordinances of other municipalities: Kardzhali, Pernik, Blagoevgrad, Pleven, Kyustendil, Silistra and many others.

[425] Ordinance on the Terms and Conditions for the Management and Disposition of Public Housing on the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010., Art. 17.

*Which persons are allowed to move in an apartment together with the tenant (spouse, children etc)?*

This issue is not explicitly stipulated in the law as regards the private tenancy. The parties to the agreement may agree on which persons will legitimately use the dwelling. Even if they fail to do so, it is commonly accepted that a person is going to live in the house together with a spouse and children, parents or other members of the family and the landlord would hardly be able to prove noncompliance with the rent agreement on the part of the tenant due to the admittance to the dwelling of people who were not explicitly authorised with the contract. However, this is not the situation when the tenant is not able to establish the capacity of the co-dwellers. Nevertheless, some implicit conclusions may be drawn from the provision of Art. 233 of the Obligations and Contracts Act[426] which states that the tenant shall be liable for damage to the real estate caused by members of his/her household.
When it comes to public tenancy, the question is regulated by the respective municipal ordinances. The Ordinance on the Terms and Conditions for the Management and Disposition of Public Housing on the Territory of Sofia Municipality[427] for instance says that families and households shall be eligible for accommodation in municipal dwelling. The Ordinance defines the terms of 'family' and 'household', where the family includes the spouses and their underage children and the household may include next of kin such as ascending, brothers and sisters, children of full age living with their parents. However, unmarried couples are not mentioned.

*Changes of parties: in case of divorce (and equivalents such as separation of non-married and same sex couples); apartments shared among students (in particular: may a student moving out be replaced by motion of the other students); death of tenant.*

The Family Code[428] regulates the use of the family house (including the case when it is rented) after the divorce. It provides for the creation of a lease relationship by the court judgement awarding the use of the marital home. Article 56 of that Code[429] states that in granting a divorce, where the marital home cannot be used by the two spouses separately, the court shall award its use to one of the spouses provided he or she has requested that and is in need of housing. Where minors are children from the marriage, the court shall rule on the use of the marital home ex officio. Where minors are children from the marriage and the marital home is owned by one of the spouses, the court may award its use to the other spouse to whom the exercise of parental rights is awarded as long as he or she exercises these rights.

[426] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 233.
[427] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 5, para. 1.
[428] Family Code, promulgated in State Gazette issue 47 of 3 June 2009, last amended State Gazette issue 68 of 2 August 2013.
[429] Ibid., Art. 56.

Where minors are children from the marriage and the marital home is owned by a kin of one of the spouses, the court may award its use to the other spouse to whom the exercise of parental rights is awarded for a period of up to one year. The use of the marital home shall be terminated earlier, where the housing need of the user becomes irrelevant and, in the above cases - if the user re-marries.
Where the spouses are co-owners or have a shared right to use the marital home, the court shall award its use to one of them, taking into account the interests of minor children, the fault, the health condition and other circumstances. Where the circumstances relevant to the awarded use change, either former spouse may request change in the use of the marital home.
By virtue of the court judgment awarding the use of the marital home a lease relation occurs. The judgment may be entered into the property register and the registration shall have the effect of binding the eventual subsequent owner of the property with the rent until the expiration of its term. Either party may request the court to rule on the amount of the rent in the divorce judgment. No rent shall be payable for the housing space used by minor children. The awarded amount of the rent may be changed in case of change in circumstances.
The case of apartments shared among students, co-workers, etc., lacks any specific legal provision. Subsequently, the general rules regarding the parties and the beneficiaries to the contract shall apply. More specifically, except for the family members, the contract cannot create rights in favour of persons which are not specified in it as parties or beneficiaries. This is why the consent of the landlord shall be required in any event of change of some of the co-tenants.

*Subletting: Under what conditions is subletting allowed? Is subletting being abused e.g. with the aim of circumventing the legal protection of tenants (when the tenant is offered not an ordinary lease contract but a sublease contract only)?*

**Private tenancy**

In the private tenancy subletting is allowed for by the Obligations and Contracts Act[430] which provides for that If not agreed upon otherwise, the lessee may sublease parts of the leased property without the consent of the lessor. But even in this case he is not discharged from his obligations under the contract of lease. The sublessee shall not have more rights than the lessee as to the use of the property. The sublessee shall be liable to the lessor only for payment of the lease which he himself owes upon the bringing of the action, without being entitled to plead the payments he made in advance.
What is essential here is that only an explicit contractual ban may prevent the lessee from subletting. Moreover, only part of the property may be subleased and the subletting does not release the initial tenant from his/her obligations towards the landlord. He remains liable for paying the rent, for damages, expenses, etc. The rights of the sublessee derive from the rights of the lessee. This is why the lease relation between the sublessee and the lessee is depended on the initial lease agreement between the lessee and the landlord. As a result, the sublessee could not claim more rights than the lessee. For example, the sublease agreement could not survive the expiration of the

[430] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 234.

term of the initial lease agreement even if otherwise stipulated between the sublessee and the lessee.

**Public tenancy**

In regard to public tenancy most of the relevant municipal ordinances explicitly forbid the subletting occurring of which shall be considered as a breach of the conditions for accommodation and could justify termination of the tenancy. Moreover in almost all of the municipal ordinances, where administrative sanctions are provided[431] there is a fine for subletting, which vary between BGN 50 (approximately EUR 25) and BGN 2,000 (approximately EUR 1,000).

*Is it possible, and if yes under what conditions, to conclude a contract with a multiplicity of tenants (e.g. group of students)?*

The answer is positive when it comes to private tenancy. There can be multiple tenancy relations joined together in one common document. However, due to the dispositive nature of the regulations, the parties should clearly stipulate the obligation for payment of the rent, as there may be different approaches: single amount that will be due by all tenants jointly, that is each of the tenants shall be obliged for the entire amount of the rent; separate amounts agreed separately with each of the tenants.
In the field of public tenancy municipal regulations make explicit provisions as to the members of the household, entitled to cohabit the dwelling. There is no freedom of contract in this field.

- Duration of contract
  - Open-ended vs. limited in time contracts
    - for limited in time contracts: is there a mandatory minimum or maximum duration?

Open-ended shall be considered any lease agreement that lacks provisions regarding time period. Article 238 of the Obligations and Contracts Act[432] states that if the contract of lease has an indefinite term, each of the parties may renounce it by a one month notice to the other party. But if the lease is daily a one day notice shall be sufficient. In addition, according to Article 237 of the Obligations and Contracts Act[433] a limited in time contract is converted into an open-ended upon transfer of the property to a new proprietor when the contract does not bear an officially certified date of signature and the lessee is in possession of the property.

For limited in time contracts: is there a mandatory minimum or maximum duration

[431] The quoted municipal ordinances in the towns of Plovdiv, Varna, Sliven, Razgrad, Veliko Tarnovo, Pazardzik, Kardzhali, Pernik, Pleven, Montana, Kyustendil, Dobrich and many others.
[432] Ibid., Art. 238.
[433] Ibid., Art. 237.

As noted above, a maximum duration of the contract exists, which is ten years, respectively – three years when the landlord acquires only management rights over the property. This limit does not apply when the lease agreement has the quality of a commercial contract, that is where at least one of the parties is a trader which concludes such deals within the scope of its business activities. There is no mandatory minimum duration. A valid rent contract could be signed for a day or even for an hour.

- Other agreements and legal regulations on duration and their validity: periodic tenancies ("chain contracts", i.e. several contracts limited in time among the same parties concluded one after the other); prolongation options; contracts for life etc.

The duration of the contract may be extended upon expiration with an agreement by both sides. It is disputable whether such extension is possible when the contract has been signed for the maximum possible period of ten years. Nonetheless, there is no legal ban for a new contract to be signed immediately after the expiration of the previous one. A specific case of automatic prolongation is provided, when the lessee continues to use the real estate after expiration of the agreement with the knowledge and without the objection of the landlord. In this case the contract shall be deemed extended for an indefinite term. There is no legislative ban this rule to be applied in cases when the contract is signed for the maximum 10-year period and the term expires. In addition, the parties may agree on a variety of prolongation modalities within the agreement itself, as for instance: a specific time period which shall be extended automatically if none of the parties expresses its will to terminate the contract prior to its expiration. Tenancy contract for life shall be void as regards the term of the contract and the respective clause shall be replaced by the statutory provision, establishing the maximum term of the contract.

- Rent payment

The payment of the rent is the main obligation of the tenant.

> 'Other commonly occurring conflicts are related to delays in the payment of the rental price.' (interview with a lawyer, quoted material is translated by the authors)

- In general: freedom of contract vs. rent control

Private lease agreements, unlike the renting of state and municipality owned dwellings, is not regulated in terms of maximum amount of rent payments, payment due dates, changes and indexing of the rent, etc. It is up to the parties to the agreement to arrange all such issues at their own discretion.

- Rent control: how is it legally framed; when does it apply; who carries it out; what are the consequences when the parties agree on an excessive rent

**Private tenancy**

No rent control in the strict sense of this phrase exists. The relations between the parties to the lease agreement are subject to judicial control performed by the regular courts in cases of claims based on rent agreements.

## Public Tenancy

***The rental prices of municipal dwellings*** are established with municipal ordinances governing the terms and conditions for establishing the housing needs of citizens and their accommodation or respectively for management of municipal property. In some cases, for example in the municipality of Shumen, the respective municipal ordinance use a separate act, called Methodology for Calculation of the Rent Prices of the Municipal Dwellings[434]. There is a regulated rental price per square metre in different municipalities varying according to the location of the dwelling, which year the dwelling was built, the material, from which it is built, the floor, the exposure, amenities (water supply, drainage, electricity, central heating), quality of the environment. Usually the basic rental price for municipal dwelling is less than EUR 1 per square metre per month.

- Maturity (fixed payment date); consequences in case of delayed payment

As there are not special arrangements provided for by the law in respect to the rent agreements, the general rules of the Obligations and Contracts Act[435] apply. Thus, the due payment date should be agreed between the parties to the rent agreement, and it can be set as a fixed payment date, a specific time period upon the beginning of the payment period, etc. Although most commonly the payment period is one month, it is up to the mutual will of the parties to the agreement to set a different payment period. In the very rare cases where the parties have omitted the arrangement for the payment period, then the dispositive provisions of the Obligations and Contracts Act shall apply regulating the performance of obligations not bound by time limits[436]. Consequently, the due payment date shall always be determinable, even if the parties have failed to do so. As a result, the issue of late payment and its consequences may arise whether the parties agreed upon a payment due date or not. The late rent payment has the result of any default on the part of the debtor in a legal system giving priority to the principle of the actual performance of the obligation, that is termination of the contract can only be the creditor's last resort in case he/she has given the debtor appropriate time for execution or to remedy the default[437].

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[434] Ordinance on Terms and Conditions for Determining Housing Needs of the Citizens and Housing Rental and Sale of Municipal Housing, Municipality of Shumen, http://www.shumen.bg/doc/1307301.htm, July 2013.

[435] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.

[436] Ibid., Art. 69. If the obligation has no fixed time period the creditor may demand its immediate performance.

[437] Ibid., Art. 87. Where a debtor under a bilateral contract does not perform his obligation due to a reason for which he is liable the creditor may avoid the contract by providing the debtor with an appropriate time period for performance with a warning that he shall deem the contract avoided upon the expiration of that time period.
Where a contract has been concluded in writing the warning must also be made in writing.

- May the tenant exercise set off and retention rights over the rent payment? (i.e. the tenant withholding the rent or parts of it when the landlord does not respect his contractual duties, e.g. does not repair a defect);

Article 90, paragraph 1 of the Obligations and Contracts Act[438] states that a debtor who has a claim against his creditor arising from the same legal relationship as his own obligation, may refuse performance of that obligation until the creditor performs his obligation. In that case the court shall rule that the defendant should fulfil their obligation simultaneously with the plaintiff.

- May claims from rental agreements be assigned to third parties (i.e. may the landlord assign his rent claim to a bank?)

A rent claim may as well be regarded as an asset, thus being a subject to transactions itself. The law allows for its transfer to a third party. Article 99 of the Obligations and Contracts Act[439] provides that a creditor may transfer his claim unless the law, the contract or the nature of the claim do not permit this. A transferred claim shall pass on to the new creditor with its privileges, securities and other attributes, including interest arrears, unless otherwise agreed upon. The former creditor must notify the debtor of the transfer and hand over to the new creditor any documents he may hold which verify the claim, as well as a confirmation in writing that the transfer has taken place. A transfer shall be binding to third parties and the debtor from the date when the latter is notified by the former creditor.

- May a rent payment be replaced by a performance in kind (e.g. reparation, renovation)? Does the tenant have a statutory right to this effect? Could a lien of the "tenant-contractor" create problems in that case? (a lien is a statutory right of a contractor to ensure his being paid for his performances, e.g. improvements to the house, e.g. § 648 BGB)

In general, performance in kind may substitute payment as far as the lessor agrees to accept such action instead of payment. Article 65 of the Obligations and Contracts Act[440] states that the creditor may not be forced into accepting something different from what is

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The creditor may inform the debtor, that he/she is avoiding the contract, without providing a notice time period when performance of the contract has become partially or fully impossible, if due to the debtor's default it has been rendered useless or if the obligation had had to be fulfilled exactly within the agreed time.
The avoiding of a contract for the transfer, creation, recognition or termination of real rights on immovable property shall be done through the court. Should the defendant offer performance in the course of the proceedings, the court may grant a time period for that purpose depending on the circumstances.
The avoiding of a contract shall not be admissible if the part not performed is immaterial with regard to the creditor's interest.
The right to avoid a contract shall expire by limitation after five years.

[438] Ibid., Art. 90.
[439] Ibid., Art. 99.
[440] Ibid., Art. 65.

owed. A lien is only permissible in respect of movables. Article 91, paragraph 1 of the Obligations and Contracts Act[441] states that **a** person who has an executable claim in connection with the preservation, maintenance, repair or improvement of the movable chattel of another, or for damages caused by such a chattel, shall be entitled to retain the said chattel until satisfied, unless he has acted in bad faith.

- Does the landlord have a lien on the tenant's (movable) property in the house (Vermieterpfandrecht as in § 562 BGB, which functions as a guarantee for the payment of the rent by the tenant)? If yes, what is the scope of this right? How is it enforced?

As evident from the legal provision of Article 91, paragraph 1 of the Obligations and Contracts Act[442], a movable property belonging to another person may lawfully be retained only in connection with claim related to the preservation, maintenance, repair or improvement of the same property, that is a landlord could not be regarded as being in that position.

- Clauses on rent increase
  - Open-ended vs. limited in time contracts
  - Automatic increase clauses (e.g. 3% per year)
  - Index-oriented increase clauses

**Private tenancy**

The law does not grant the landlord any rights of indexation of the rent, unless it is explicitly agreed. Most commonly, indexation clauses shall be met in long-term contracts, for example contracts concluded for two or more years. There are few typical clauses intended to protect the value of the rent against inflation. The most common used clause binds the change of the amount of the rent with the inflation rate as announced by the National Statistical Institute[443] meaning that the rent may be either subject to increase or decrease depending on the inflation or deflation rate. The increase clause may also be tied with another index such as the Euro zone inflation rate or it could be 'unidirectional', that is applied only in case of increase (inflation reported) but with no possibility of decrease. Automatic increase clauses would also be admissible in terms of legality but rarely used. Frequently the rent contracts are signed for one year, which gives opportunity for the parties to renegotiate the terms and conditions of the agreement, including in particular the rental price.

**Public tenancy**

In the field of public tenancy the issue of rent increase is solved differently by the various municipal ordinances, regulating tenancy relations. Below are some examples:

[441] Ibid., Art. 91, para. 1.
[442] Ibid.
[443] National Statistical Institute, Inflation and Consumer Price Indices, http://www.nsi.bg/en/content/6010/inflation-and-consumer-price-indices, December 2013.

- According Article 13, paragraph 2 of the Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of the Varna Municipality[444] the rental price of the dwellings to be rented shall be established and indexed annually by the Varna Municipal Council under proposal, made by the Mayor of Varna Municipality;
- The Ordinance on the Terms and Conditions for Establishing of Housing Needs of the Citizens, Renting and Sale of Municipal Dwellings of the Sliven Municipality[445] provides that the rental price shall be indexed annually on March 1, with the statistically established index of inflation for the previous year;
- Article 2, paragraph 2 of the Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of the Municipal Council of Veliko Tarnovo[446] provides, that the indexation of the rental price will be pointed out in the rental agreement;
- Another technic for indexation of the rental prices used by municipal ordinances is the amendment of the ordinance by the municipal councils in the part of establishing the rental price, when they consider the need of indexation (Ordinance No 6 of the Municipal Council in the town of Russe on the Terms and Conditions for Establishing of Housing Needs, Accommodation and Disposing of Dwellings – Municipal Property[447]);
- In some municipal ordinances there are no provisions, concerning the indexation of prices (Stara Zagora[448], Vidin[449]).[450]

- Utilities
  - Describe the usual kinds of utilities (e.g. basic utilities like the supply of water, gas and electricity vs. additional utilities, i.e. services such as waste collection) and their legal regulation
  - Responsibility of and distribution among the parties:
    - Does the landlord or the tenant have to conclude the contracts of supply?

[444] The Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of Varna Municipality, Art. 21, para. 1, point 9, http://www.varna.bg/, 12 April 2012, Art. 13, para.2.
[445] Ordinance on the Terms and Conditions for Establishing of Housing Needs of the Citizens, Renting and Sale of Municipal Dwellings of the Sliven Municipality, Art. 22.
[446] Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of the Municipal Council of Veliko Tarnovo, Municipality of Veliko Tarnovo, http://www.veliko-tarnovo.bg/bg/obshinska-sobstvenost/normativni-dokumenti/naredba-za-reda-i-usloviyata-za-ustanovyavane-na-zhilishni-nuzhd/, December 2013.
[447] Ordinance No 6 of the Municipal Council in the town of Russe on the Terms and Conditions for Establishing of Housing Needs, Accommodation and Disposing of Dwellings – Municipal Property, Municipality of Russe, http://obs.ruse-bg.eu/naredbi/1680, October 2013, para. 11 of the Concluding Provisions.
[448] Ordinance on the Terms and Conditions for the Management and Disposal of Municipal Residential Real Estate Property on the Territory of Stara Zagora Municipality, Municipality of Stara Zagora, http://www.starazagora.bg/images/stories/municipality/adm_acts/naredba_obshtinski_zhilishta-1.pdf, August 2012.
[449] Ordinance on the Terms and Conditions for Establishing Housing Needs of the Citizens, Renting and Sale of Houses – Municipal Property in Vidin, http://www.vidin.bg/?page_id=4584, December 2013.
[450] See also the Chapter 'Conditions for rent increase' above.

According to the Obligations and Contracts Act[451] it is the lessee who pays the expenses for the use of property. Usually, the term 'expenses' includes electricity, water supply, gas supply, central heating, landline phones, etc. Where the lessee is a private person the contracts will usually be signed with the landlord or the owner of the real estate (in some cases the assignment of a contract from the landlord to someone else may be a real administrative adventure that is why this practise is rarely used). There are, although uncommon, lease agreements where the rent price includes the utilities.

- Which utilities may be charged from the tenant?

The tenant is charged all utilities which are connected with the use of the dwelling if it is not otherwise stipulated in the contract. He/she is also obliged to cover the expenses for the maintenance of the common parts of the building, such as cleaning, guard, elevators, repairs, etc. Waste collection usually is performed by the municipality (or a company appointed by it) and the owner of the real estate, together with property tax is obliged to pay the waste collection fee, according the Local Taxes and Fees Act[452]. The specified amount of that taxes and fees is established by municipal ordinances and vary from one municipality to another.

- What is the standing practice?
  - How may the increase of prices for utilities be carried out lawfully?
  - Is a disruption of supply by the external provider or the landlord possible, in particular if the tenant does not pay the rent?

As shown above, the tenant pays for the utilities they use and apparently he/she will bear the increased costs for these utilities. In the very occasional cases where according to the rent agreement these utilities are included in the rent the landlord has taken the risk of increase of the utility costs and unless otherwise stipulated will not be able to claim rent increase based on the increase of the expenses. As regards the disruption of supply the reason for the disruption will be of relevance. Where the disruption occurs due to unpaid bills originating from periods preceding the conclusion of the rent agreement, the tenant may reasonably claim damages due to the landlord's failure to provide for the normal use of the dwelling and to ask the landlord to restore the conditions for use of the property.

- Deposit:
  - What is the legal concept (e.g. is the deposit an advance rent payment or a guarantee deposit to cover future claims of the landlord)?
  - What is the usual and lawful amount of a deposit?

[451] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 232. The lessee must use the property as specified in the contract, and when the use is not specified, in accordance with its function. He shall pay the lease and the expenses related to the use of the property.

[452] Local Taxes and Fees Act, promulgated in State Gazette issue 117 of 10 Dec ember 1997, last amended State Gazette issue 101 of 22 November 2013.

- How does the landlord have to manage the deposit (e.g. special account; interests owed to the tenant?)
- What are the allowed uses of the deposit by the landlord?

The deposit in the lease agreement is not explicitly regulated by the law, though commonly used. It serves as guarantee against possible damages and/or unpaid expenses upon termination of the agreement. The deposit must be specifically arranged in respect to the expenses it should cover and the way and the time period for its refund. The deposit is paid when the agreement is concluded and is kept by the landlord until the agreement expires or is otherwise terminated. In practice it is refunded upon the tenant presenting the landlord evidence that all utility bills have been entirely paid and the dwelling is returned in the agreed condition. The dispositive nature of the deposit clause means that the landlord can not claim or subject the entry into force of the rent agreement on the payment of the deposit where such deposit is not agreed upon between the parties. The usual amount of the deposit is the amount of the rent for one month, although the parties to the agreement are free to negotiate any other amount of the deposit they consider to be appropriate for the purpose of guaranteeing the risk of damage to the dwelling. It is also for the parties to agree whether the deposit will be kept in a bank account or not. Furthermore, the landlord will not be entitled to keep the deposit for reasons which have not been agreed upon or without providing any reason as such case would give rise to tenant's claim against the landlord. As far as there are not specific rules whether the landlord should put the deposit in special account or whether he should owe an interest to the tenant, the parties could agree on these figures.

- <u>Repairs</u>
  - Who is responsible for what kinds of maintenance works and repairs? What kind of repairs or works may lawfully be assigned to the other party (especially the tenant)

> Most frequent conflicts between landlords and tenants arise in relation to occurring needs for repairs of the rented dwellings: Who will cover expenses for the small fixes – like changing batteries, plastering walls, etc. 'Bulgarians have always loved repairing something in the apartment and if it is not clear who is responsible for this then a risk arises for conflict between the tenant and the landlord.' (interview with a lawyer, quoted material is translated by the authors)

The Obligations and Contracts Act[453] provides for a distinction between the repairs for which the tenant is responsible and those for which the landlord must take care. The

[453] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 231. Small repairs related to damages which are caused by conventional use, such as dirty walls in the rooms, corrosion of faucets, door locks, blockage of chimneys etc., shall be at the expense of the lessee.
The repair of all other damages, if they are not caused through the lessee's fault, shall be at the expense of the lessor. If the lessor fails to make these repairs, the lessee shall have the rights set forth in paragraph 2 of the preceding article, but he may claim damages only when the repair is due to reasons the lessor is liable for. If the lessee makes the repair himself with due diligence he may deduct the cost of the repair from the rent.

tenant will be responsible for all small repairs and for those repairs caused guiltily by the tenant. In addition, in case the tenant performs the repairs for which the landlord was responsible, the tenant may deduct the cost of the works from the rent he owes.

- Connections of the contract to third parties
  - Rights of tenants in relation to a mortgagee (before and after foreclosure)

In general, although still disputed in the case-law and the practice, the public sale of a mortgaged property precludes all preceding rights over the property. In this respect, the rights of the tenant should also be considered precluded upon the public sale. However, the question whether a lease agreement which has been entered into the property register prior to the foreclosure, remains valid after the sale is disputable as the law contains no explicit provision. Nevertheless, the experience of the bailiffs in administering public sales of mortgaged real estate properties leads to the conclusion that even such kind of lease agreements, otherwise protected against transfers of ownership, will also be considered precluded.

### 6.5. Implementation of tenancy contracts

Example of table for e) Implementation of tenancy contracts

| | Main characteristic(s) of tenancy type 1 – Private tenancy | Main characteristic(s) of tenancy type 2 – Public tenancy | Ranking from strongest to weakest regulation, if there is more than one tenancy type |
|---|---|---|---|
| Breaches prior to handover | The law does not differentiate whether the breaches are prior, during or following the handover | The law does not differentiate whether the breaches are prior, during or following the handover | No difference |
| Breaches after handover | The law does not differentiate whether the breaches are prior, during or following the handover | The law does not differentiate whether the breaches are prior, during or following the handover | No difference |
| Rent increases | Only when agreed between the parties | The terms and conditions are established in municipal regulations and can be amended by the municipal councils on their | Public tenancy – strong regulations; Private tenancy – weak regulation |

When the property perishes completely or partially Article 89 shall apply.

| | | | |
|---|---|---|---|
| | | own motion | |
| Changes to the dwelling | Only when agreed between the parties | Minor changes could be made by the tenant<br>Significant changes are not allowed | Public tenancy – strong regulations;<br>Private tenancy – weak regulation |
| Use of the dwelling | For the agreed or usual purpose of the dwelling | Only for housing needs | Public tenancy – strong regulations;<br>Private tenancy – weak regulation |

- **Disruptions of performance (in particular "breach of contract") prior to the handover of the dwelling**
  - In the sphere of the landlord:
    - Delayed completion of dwelling
    - Refusal of handover of the dwelling by landlord (in particular: case of "double lease" in which the landlord has concluded two valid contracts with different tenants over the same house)
    - Refusal of clearing and handover by previous tenant
    - Public law impediments to handover to the tenant

The consequences of the failure of the landlord prior to the handover of the dwelling are predefined by the consensual nature of the lease contract, meaning that the handover of the rented item forms part of the execution of the contract but not of its conclusion, unlike, for example the loan for use, where the provision of the borrowed item constitutes part of the conclusion of the contract. The handover of the dwelling therefore is regarded as a constitutive part of the landlord's obligations under the contract, failing which drags its liability for non-performance of the contract. Article 230 of the Obligations and Contracts Act[454] states that If not agreed upon otherwise, the lessor is bound to hand over the property in a state which is appropriate to the use it has been leased for. If the property was not delivered in the proper condition, the lessee may claim its repair or a proportional reduction in the lease price, or may avoid the contract of lease, as well claim damages in all cases.
Same is the case when the handover of the property is subject to certain conditions or time periods (in the case where the house needs to be completed or renovated prior to the handover or in case of 'double or triple lease' in which the landlord has concluded two or three or more valid contracts with different tenants over the same house and hand over the dwelling to one of them or to neither of them) and the landlord failure to handover the dwelling in due time will give rise to the lessee's right to terminate unilaterally the contract and/or to claim damages.

- In the sphere of the tenant:
  - refusal of the new tenant to take possession of the house

[454] Ibid., Art. 230.

The tenant is not obliged to use the rented property and therefore it would be enough for the landlord to ensure that the dwelling is available to the tenant without the need of any particular formal actions to be performed. Once the dwelling is handed over the tenant shall be obliged to pay rent no matter if he/she actually uses the house. That is why, apparently, the tenant's refusal to accept the property without due legal justification would be immaterial as regards the existence of the contract and the obligation for payment of the rent.
Under the Bulgarian law insolvency is only possible for traders – legal of physical persons and is regulated by the Commerce Act[455] and other special legislation governing the activities of banks, insurance companies, etc. Renting of a dwelling for housing needs does not fall within the business activities of a trader and, therefore, is irrelevant to the matters related to the tenancy.

- **Disruptions of performance (in particular "breach of contract") after the handover of the dwelling**
  - **Defects of the dwelling**
    - Notion of defects: is there a general definition?
    - Examples: Is the exposure of the house to noise from a building site in front of the house or are noisy neighbours a defect? What about damages caused by a party or third persons? Is the occupation of the house by third parties such as squatters considered as a defect in the legal terms?
    - Discuss the possible legal consequences: rent reduction; damages; "right to cure" (to repair the defect by the landlord); reparation of damages by tenant; possessory actions (in case of occupation by third parties) what are the relationships between different remedies; what are the prescription periods for these remedies

As presented above, handing over of a dwelling fit for its usual or contracted use constitutes a prime obligation of the landlord. The notion of 'defects' is not defined in the applicable law. Nevertheless, the term should be understood in its ordinary sense according to the requirement of the Law for the Normative Acts[456]. Article 230, paragraph 3 of the Obligations and Contracts Act[457] states that the lessor shall not be liable for the defects of the leased property which were known to the lessee or which he could easily detect if he had been normally attentive upon conclusion of the contract, except if the defects are hazardous to his health or the health of the members of his household. Apparently, the landlord could not be held responsible for any particularities and specifics of the dwelling that could have been easily noticed by the tenant prior to the conclusion of the contract. Whether this is the case, is a matter of assessment of each particular case. However, exposure to excessive noise would hardly be a convincing reason giving rise to the landlord's contractual responsibility unless in

[455] Commerce Act, promulgated in State Gazette issue 48 of 18 June 1991, last amended State Gazette issue 20 of 28 February 2013.
[456] Law for the Normative Acts, promulgated in State Gazette issue 27 of 3 April 1973, last amended State Gazette issue 46 of 12 June 2007.
[457] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 230.

exceptional circumstances where, even the noise could have been noticed by the tenant prior to the conclusion of the rent contract, it is of such a nature that could be regarded as harmful for the health of the tenant and his/her family members.
The legal consequences of the provision of a house with defects consist of the right of the tenant to choose one of the following remedies: to claim the repair of the dwelling; to claim a proportional reduction of the rent price; or to terminate the rent contract. In addition, in all cases the tenant may claim damages. When the damages come as a result of the ordinary use of the dwelling, all small repairs related to damage, such as dirty walls in the rooms, corrosion of faucets, door locks, blockage of chimneys etc., shall be at the expense of the tenant. However, the repair works of all other damage, if it is not caused through the tenant's fault, shall be at the expense of the landlord. If the landlord fails to make these repairs, in addition to the rights listed above, the tenant shall have the right to make the repair himself with due diligence and to deduct the cost of the repair from the rent. In such cases the tenant may claim damages only when the repair is due to reasons the landlord is liable for.
There are no specific deadlines for execution of these rights of the tenant meaning that the general rules of the civil law shall apply. The Obligations and Contracts Act[458] states that all claims for which the law does not provide for another time period shall be extinguished upon the expiration of a five year limitation period. The obligations that are extinguished upon the expiration of a three year limitation period include, among others, claims arising from damages and liquidated damages from non-performed contracts; claims for rent, interest and other periodic payments.

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

There is no legal provision permitting the landlord to enter the rented house or regulating any conditions for gaining access to the dwelling. The main obligation of the landlord is to ensure the tenant's undisturbed use of the house. As a result in order to be justified the landlord's right to enter the premises should be present in the rent agreement. Landlord's entering the premises may constitute a breach of the contract and may give rise to the tenant's right to terminate it and/or to seek compensation for damages. Unlawful entry into a house may also constitute a crime under Article 170 of the Penal Code stating that a person who enters the dwelling of another by using therefore 'force, threat, subterfuge, legerdemain, misuse of power or special technical devices', shall be punished by imprisonment for up to three years or by probation for up to six months.[459]

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

The landlord may keep (and actually use) a set of keys for the dwelling when agreed with the tenant. Actually, the landlord's retaining of a set of keys would be immaterial, unless he/she is entitled to or actually use it to enter the premises, as the mere fact of the possession of the keys could hardly be substantiated in court.

[458] Ibid., Art. 110 – 111.
[459] Penal Code, promulgated in State Gazette issue 26 of 2 April 1968, corr. State Gazette issue 29 of 12 April 1968, last amended State Gazette issue 84 of 27 September 2013, Art. 170, para. 1.

- Can the landlord legally lock a tenant out of the rented premises,

The landlord is not allowed to lock the tenant out of the rented premises for whatever reason, including for not paying rent. Failing to pay the rent may serve as a reason for termination of the contract as a result of which the landlord shall be entitled to ask the tenant to leave the house. However, even in this case the landlord cannot force the tenant to leave without a court decision and enforcement proceedings.

- **Rent regulation (in particular implementation of rent increases by the landlord)**
  - Ordinary rent increases to compensate inflation/ increase gains
  - Is a rent increase after renovation measures, e.g. upgrading the energy performance of the house, or similar lawful and dealt with in a special procedure?
  - Rent increases in "housing with public task"
  - Procedure to be followed for rent increases
    - Is there some orientation at the market rent; if yes, how is the market rent measured/calculated (e.g. statistical devices such as a Mietspiegel [= rent statistics for a certain area])?
  - Possible objections of the tenant against the rent increase

The legal basis for the rent increase has been reviewed above. It has become clear that in the context of the civil law tenancy it is only possible when it is agreed between the parties. Subsequently, it is left to them to decide the particular methods and procedures for rent amendments (increase and decrease being equally acceptable). Most frequently the rent increase clause has 'automatic' effect, that is the interested party may claim the increased/decreased rent without the need of the other party's consent or of signing of an additional agreement, although some kind of notification is commonly used. The procedure will also usually include provisions as to the reference period, the exact date for entry into force of the increased/decreased rent, the official sources of information for the indexation of the rent, etc.
Rent increase after renovation would entitle the landlord to increased rent only if it is stipulated in the rent contract.
Calculation of 'market rent' issues may arise in the following contexts: when the state or the municipalities let their own properties on the free market. These cases mainly concern the letting of real estate for non-housing purposes, which can only be done after an auction and at market prices. Relevant legislation obliges the authorities involved in the procedure to assign experts to evaluate the market rates for the respective real estate property. Other group of cases requiring experts' assessment of the market rent involves those court proceedings in which an owner claims compensation for the unjustified use of his/her property by third parties without legal reasons, the so called quasi-rental relations (indeed, constituting a great part of the tenancy related case-law).
Possible objections of the tenant may be based on the respective contractual provisions or on the fact that such increase has not been provided for in the contract.

- **Alterations and improvements by the tenant**
    - Is the tenant allowed to make (objective) improvements on the dwelling (e.g. putting in new tiles)?
    - Must, and if yes under what conditions, improvements of the dwelling by the tenant be compensated by the landlord?
    - Is the tenant allowed to make other changes to the dwelling?
        - in particular changes needed to accommodate a handicap (e.g. building an elevator; ensuring access for wheelchairs etc)?
        - fixing antennas, including parabolic antennas

The law (Obligations and Contracts Act[460]) and the case-law clearly distinguish few different cases when it comes to improvements made by the tenant in the rented property. Firstly, a distinction is made between the works constituting repairs from those that could qualify as improvements. The repairs from their side are divided into small repairs of damages caused by the conventional use of the property[461] for which the tenant is responsible and all other repairs which in addition must not be caused by the tenant and for which the landlord is responsible. Both types of repairs concern the restoration of the dwelling in the condition it was meant to be, that is the agreed condition. Secondly, the repair works specified in Article 231 of the Obligations and Contracts Act[462] are distinguished from the improvements of the real estate which consist of works leading to the increase of the value of the real estate.
Moreover, the improvements are treated differently depending on the presence or the lack of respective provisions in the rent contract that regulate that matter. In the first case, Article 9 of the Obligations and Contracts Act[463] applies according to which the parties are free to determine the content of the contract insofar as it does not contravene the mandatory provisions of the law and good morals. As there are not mandatory provisions concerning the improvements of the rented real estate, the parties may agree upon the conditions of such improvements. Generally, the case-law reveals the following approaches to this matter: (1) all improvements shall be on the account of the tenant; (2) all improvements shall be on the account of the landlord; (3) only the improvements that has been approved in advance by the landlord shall be covered by him/her; (4) improvements shall only be eligible for reimbursement by the respondent party if they meet certain criteria such as: quality and quantity of the works, total amount of the works, etc. Where such provisions exist, they will govern the relations between the parties originating from the improvements in the dwelling.
Where the contract does not cover the issue of improvements, it will be resolved on the basis of the institute of unjust enrichment which is of a subsidiary nature and is only applied when the claimant does not have on her disposal any other legal remedies. The unjust enrichment is laid down in Articles 55 – 59 of the Obligations and Contracts Act[464], where the provision applicable to improvements in a rented real estate is that of

[460] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.
[461] Ibid., Art. 231, para. 1.
[462] Ibid., Art. 231.
[463] Ibid., Art. 9.
[464] Ibid., Art. 55 – 59.

Article 59[465], which states that whoever increases their estate without cause at the expense of another, shall owe the return of that by which the estate was increased, up to the amount by which the other's estate was reduced. This right shall arise whenever there is no other action by which the person whose estate has been reduced may protect himself.
As regards the changes for accommodation of a handicap and mounting antennas, having regard to the lack of specific case-law, we should suggest that both changes do not constitute repairs. Thus, it is to be considered whether there is an improvement. When it comes to mounting facilities for people with disabilities, although it is a statutory requirement for all new residential buildings (Article 35 of Ordinance No. 4 of 1 July 2009 for Designing, Execution and Maintenance of the Buildings in accordance with the Requirements for Accessible Environment for the Population, including Persons with Disabilities[466]), it appears to be a very rare situation since it will most probably require a building permit which can only be issued upon request of the owner accompanied with a full set of designs and plans.
As regards the mounting of antennas, they should be regarded as movables capable to be mounted and removed without causing changes to the real estate, the only possible issue that may arise being of a public law nature, but namely any restrictions originating from the regulations for the appearance of the facade of the buildings.

- **Maintenance measures and improvements, in particular upgrading the energy performance of the house by the landlord**
  - What kinds of maintenance measures and improvements does the tenant have to tolerate?

It is the main obligation of the landlord to secure the use of the dwelling by the tenant under certain conditions prescribed by law or agreed in the rent contract. The Obligations and Contracts Act[467] states that the landlord shall be liable for all repairs that cannot qualify as small repairs and that have not been caused by the tenant guiltily. In some cases, however, the repairs in the house may not only be a responsibility of the landlord but their right, when, for instance, they are indispensable in order to keep the dwelling fit for use and safe (for example, repairs of the roof, of the drainage pipes, etc.). The legislation lacks any special provisions as to the procedures for execution of such landlord's right, though the tenant may be held responsible for damages[468] in case he/she prevents the landlord from access to the property needed for performing urgent works. The rent contract may provide any specific circumstances that give rise to landlord's right to access to the property and a procedure to be followed, which may

[465] Ibid. Art. 59.
[466] Ordinance No 4 of 1 July 2009 for Designing, Execution and Maintenance of the Buildings in accordance with the Requirements for Accessible Environment for the Population, including Persons with Disabilities, issued by the Ministry of Regional Development and Public Works, promulgated in State Gazette issue 54 of 14 July 2009.
[467] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 231, para. 2.
[468] Ibid., Art. 233, para. 1. (Article 233, paragraph 1, second and third sentences of the Obligations and Contracts Act state that the tenant shall be liable for compensation for the damage caused by him or members of his household or by his sub- lessees during the period of use of the property, unless he proves that it is due to reasons he is not liable for).

include a prior notice to the tenant giving them enough time to react, limitations as to the time of the day during which visits are (not) allowed, etc.

- What conditions and procedures does a landlord who wants to make renovations need to respect (e.g. giving adequate [i.e. sufficiently long] notice; offer an alternative dwelling; offer a rent reduction to compensate for disturbances)?

The law does not guarantee a right of a landlord to make renovations in the dwelling at any time he wishes during the rent contract, unless such possibilities and procedures are agreed between the parties to the rent agreement or an obligation arises for the landlord from special legislation (for example energy efficiency requirements). In these instances the will of the parties shall be substituted by mandatory legal provisions.

- **Uses of the dwelling**
  - Keeping animals; producing smells; receiving guests; prostitution and commercial uses (e.g. converting one room in a medical clinic); removing an internal wall; fixing pamphlets outside.
  - Is there an obligation of the tenant to live in the dwelling? Are there specificities for holiday homes?

**Private tenancy**

The basic principle here is envisaged in Article 232, paragraph 1 of the Obligations and Contracts Act[469] stating that the tenant shall use the property as specified in the contract, and when the use is not specified, in accordance with its function. In addition, article of the same act states that the tenant of a dwelling in a condominium must obey the internal rules of the condominium[470]. Otherwise he may be evicted from the leased premises upon the motion of the management. Furthermore, even if it is not forbidden from the internal rules, the landlord may, prior to the conclusion of the contract, place certain limitations as to the use of the dwelling that may include a ban on animals, number of people allowed in the house, reserving some of the rooms, etc. Such limitations will usually be included in the rent contract.

**Public tenancy**

In the public tenancy relations the people/families accommodated in municipal housing are obliged to use the property in accordance with its purposes. Municipal Property Act[471] provides that rental relations shall be terminated due to use of the housing for purposes other than the designated use. The same provision can be found in almost each municipal ordinance, regulating municipal housing. Article 31, paragraph 1, point 7 of Ordinance No 6 of the Municipal Council in the town of Russe on the Terms and

[469] Ibid., Art. 232, para. 1.
[470] Ibid., Art. 235.
[471] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 46, para. 1, point 8.

Conditions for Establishing of Housing Needs, Accommodation and Disposing of Dwellings – Municipal Property[472] envisages not using the dwelling in accordance with its purposes as a ground for termination of the tenancy agreement. The same ground for termination is included in the Ordinance on the Terms and Conditions for Establishing Housing Needs of the Citizens, Renting and Sale of Houses – Municipal Property in Vidin[473], the Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of the Varna Municipality[474] and many others.

Another significant aspect of the use of a house is the criminal liability imposed on person who systematically places at the disposal of different persons premises for sexual intercourse or for acts of lewdness[475] and also on persons who systematically place the premises at the disposal of different people for taking of narcotic substances or organizes the use of such substances[476]. The case-law reveals the notion 'systematically' as meaning 'over three times'. Both the landlord and the tenant may be held liable for such crime.

As regards the cases of alteration of the real estate mentioned above (converting one room in a medical clinic; removing an internal wall), it should be noted that that they can only be possible upon the cumulative existence of the following conditions: the landlord has consented to the change of the use of the dwelling or to the alteration of the internal elements of the construction, such consent forming part of the rent agreement either initially or as an additional agreement amending the initial arrangements; compliance with the legislation governing the planning, permitting, execution and completion of the buildings which in any case will require approved designs and building permits issued by the respective authority. In addition, special regulations concerning the performance of some special kinds of activities (running a clinic and/or a pharmacy) shall also apply.

When it comes to private tenancy, the tenant is not obliged to use the property. He is not released however from the duty to cover the expenses related to the use of the property[477] nor is he freed from the obligation to maintain the dwelling so that it could be returned to the landlord without damages.

A different conclusion must be drawn in connection to the public tenancy. Article 20 paragraph 6 of the Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality[478] states that if the

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[472] Ordinance No 6 of the Municipal Council in the town of Russe on the Terms and Conditions for Establishing of Housing Needs, Accommodation and Disposing of Dwellings – Municipal Property, Municipality of Russe, http://obs.ruse-bg.eu/naredbi/1680, October 2013, Art. 31, para. 1, point 7.

[473] Ordinance on the Terms and Conditions for Establishing Housing Needs of the Citizens, Renting and Sale of Houses – Municipal Property in Vidin, http://www.vidin.bg/?page_id=4584, December 2013, Art. 25, para. 1, point 8.

[474] The Ordinance on Terms and Conditions for Establishing Housing Needs of the Citizens, Accommodation and Selling of Municipal Houses of Varna Municipality, Art. 21, para. 1, point 9, http://www.varna.bg/, 12 April 2012, Art. 21, para. 1, point 8.

[475] Penal Code, promulgated in State Gazette issue 26 of 2 April 1968, corr. State Gazette issue 29 of 12 April 1968, last amended State Gazette issue 84 of 27 September 2013, Art. 155, para. 2.

[476] Ibid., Art. 354b, para. 4.

[477] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 232, para. 2.

[478] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466

family (household) does not occupy the dwelling without reasonable justification in a one month period from the entry into force of the accommodation order, the respective authority shall revoke it. In addition, Article 33, paragraph 1, point 8[479] of the same Ordinance provides that the non-occupancy of the dwelling by the family (household) for more than 6 months (but the cases where such non-occupancy is due to acceptable reasons are exhaustively listed in Article 24 of the Ordinance[480]) shall be ground for termination of the municipal tenancy contract. Apparently, the use of the dwelling cannot be regarded as an obligation but the non-use may serve as a ground for deprivation of the entitled persons from that privilege.

- **Video surveillance of the building**

Is the surveillance of certain parts (e.g. corridors) of the building lawful and usual?

According to Bulgarian legislation (Constitution[481], international treaties, Law for Protection of the Personal Data[482]) video surveillance in publicly accessible areas, including recording, capturing, processing, storing and broadcasting images of identifiable individuals, be it live or pre-recorded contains 'personal data' because through them the individual could be physically identified in a conclusive way. The personal data controllers are obliged to be registered in the Commission for Protection of Personal Data[483].

The entities using video surveillance are obliged to register with the Commission for Protection of Personal Data as a personal data administrators or to update their registers if they are already registered, including with the 'Video Surveillance' register. Also the companies are obliged to update their internal rules and to undertake the respective technical and organisational measures to protect the personal data of individuals against unlawful processing.

Persons shall observe the principles for personal data protection – permitted by the law, justified by public or private interest, expedience and proportionality.

At least one of the conditions permitting personal data processing should be met (consent, protection of the life or health, etc.). Given the nature of video surveillance it may be used by: (1) persons licenced to pursue private security activities, (2) government institutions in their activities, (3) persons processing personal data on the basis of certain legal grounds or (4) persons who have obtained the explicit consent of the individual.

To tackle the problem of obtaining consent of the individual, the Commission for Protection of Personal Data has issued an expert opinion on how the personal data administrators may process the personal data of an undefined number of individuals[484].

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under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 20, para. 6.

[479] Ibid., Art. 33, para. 1, point 8.

[480] Ibid., Art. 24.

[481] Constitution of the Republic of Bulgaria, promulgated in State Gazette issue 56 of 13 July 1991.

[482] Law for Protection of the Personal Data, promulgated State Gazette 1 of 4 January 2002, last amended and supplemented State Gazette 15 of 15 February 2013.

[483] Commission for Protection of Personal Data, https://www.cpdp.bg/, December 2013.

[484] Commission for Protection of Personal Data, https://www.cpdp.bg/?p=element_view&aid=365, 28 July 2010.

They can notify the individuals about the video surveillance using notice boards placed on visible location and containing the contact details and other information identifying the personal data administrator. If individuals are aware of the video surveillance and have not objected to the controller of the processing of their personal data, it is assumed that they have given their consent for the purposes of the Law for Protection of the Personal Data[485] their personal data to be processed by technical means for video.
Noncompliance with the rules, governing protection of personal data, may amount to the imposition of a fine for the offender.

Every individual shall have the right to access personal data, which applies to him/her (including video). In cases when within exertion of the right of access of an individual to his personal data, personal data of a third party may be disclosed, the personal data controller must provide access only to that part of the data, which refers only to the respective individual. For this purpose, the administrator must take appropriate technical measures to delete/mask images of other persons, subject to video surveillance. In the absence of such technical possibility access to videos can be provided only with the consent of all parties, subject to video surveillance.

### 6.6. Termination of tenancy contracts

Example of table for f) Termination of tenancy contracts

| | Main characteristic(s) of tenancy type 1 – Private tenancy | Main characteristic(s) of tenancy type 2 – Public tenancy | Ranking from strongest to weakest regulation, if there is more than one tenancy type |
|---|---|---|---|
| Mutual termination | Allowed by the law | Allowed by the law | No difference |
| Notice by tenant | Allowed by the law only when agreed between the parties | Allowed by the law | No difference |
| Notice by landlord | Allowed by the law only when agreed between the parties | Allowed by the law | No difference |
| Other reasons for termination | Parties can agree | Envisages in the law and municipal regulations | Public tenancy – strong regulations; Private tenancy – weak regulation |

At the outset it should be noted that in relation to the civil tenancy the general principles apply as to the freedom of the parties to determine the contents of the contract. Furthermore, in the context of the approach adopted by the Bulgarian legislation which gives priority to the actual execution of the contract, the right to unilateral termination

[485] Law for Protection of the Personal Data, promulgated State Gazette 1 of 4 January 2002, last amended and supplemented State Gazette 15 of 15 February 2013.

due to failure of some of the parties to obey its contractual obligations shall be subject to certain limitations and procedures.
The public law tenancy is mainly based on administrative law provisions due to the coexistence of the civil law (rent agreement) and public law (orders for accommodation and for cancelation) aspects with the prevalence of the latter.

- **Mutual termination agreements**

As underlined above, article 9 of the Obligations and Contracts Act[486] guarantees the right of the parties to determine the content of the contract insofar as it does not contravene the mandatory provisions of the law and good morals. It is clear from this provision, taken in conjunction with article 8, paragraph 1[487] of the same act which specifies that the contract is an agreement between two or more persons to create, regulate or terminate a legal relationship between them, that the parties are free to terminate the rent contract the same way it is concluded. As to the form of the termination agreement, just the same applies as for the conclusion of the contract, that is the written form is not mandatory but it will usually be the most appropriate way for proving the will of the parties to the contract.
As far as the public tenancy implies the existence of a contract, the same applies in this regard as well.
Of course, for the mutual consent for termination to be established, the will of the offering party (the offeror) must reach the other party which on their side must accept the offer and the acceptance must have reached the first party[488].

- **Notice by the tenant**
  - Periods and deadlines to be respected
  - May the tenant terminate the agreement before the agreed date of termination (in case of contracts limited in time); if yes: does the landlord then have a right to compensation (or be allowed to impose sanctions such as penalty payments)?
  - Are there preconditions such as proposing another tenant to the landlord?

The law does not guarantee in principle a right for unilateral termination of the contract[489] unless it is breached by the other party. Few special provisions exist that entitle either parties to the contract to withdraw unilaterally thereof and the tenancy provisions are among theme only in cases of contracts concluded for an indefinite term. Article 238 of the Obligations and Contracts Act[490] states that in case the rent contract is concluded for an indefinite term, each of the parties may renounce it via a one month notice addressed to the other party. If the lease is daily a one day notice shall be sufficient. Article 236 of

[486] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 9.
[487] Ibid., Art. 8, para. 1.
[488] Ibid., Art. 14.
[489] Ibid., Art. 20a. Article 20a. of the Obligations and Contracts Act states that the contracts shall have the force of a law for the parties which have concluded them.
[490] Ibid., Art. 238.

the Obligations and Contracts Act[491] provides a special case of this rule by stating that if after the expiration of the term of the lease the use of the property continues with the knowledge and without the objection of the lessor, the contract shall be deemed extended for an indefinite term. As a result, when a lease contract is implicitly prolonged after the expiration of its term, a one month notice would suffice for the landlord (tenant) to terminate it.

Aside from the cases of unilateral termination on legal basis, the parties may agree on special conditions for unilateral termination of the rent contract by either party. Such conditions may consist of the right of the party to unilaterally terminate the contract subject to his/her obligation to notify the other party; to pay compensation in a certain amount; to secure a new tenant (in the case of termination by the tenant), etc.

Finally, the rent contract may be cancelled by one of the parties thereon in case the other party fails to fulfil his/her contractual obligations. The procedure for execution of the right of cancelation is specified in Article 87 of the Obligations and Contracts Act[492], which in its relevant part states that where a debtor under a bilateral contract does not perform his obligation due to a reason for which he is liable the creditor may avoid the contract by providing the debtor with an appropriate time period for performance with a warning that he shall deem the contract avoided upon the expiration of that time period. Where the contract has been concluded in writing the warning must also be made in writing. The creditor may inform the debtor that he/she is avoiding the contract without providing such a time period, if the performance has become fully or partially impossible, if due to the debtor's fault it has been rendered useless, or if the obligation had had to necessarily be fulfilled within the agreed time. The avoiding of a contract shall not be admissible if the part not performed is immaterial with regard to the creditor's interest.

- **Notice by the landlord**
  - Ordinary vs. extraordinary notice in open-ended or time-limited contracts; does such a distinction exist: definition of ordinary vs. extraordinary (= normally related to fundamental breaches of the contract, e.g. in cases of massive rent arrears or strong antisocial behaviour)
  - Statutory restrictions on notice:
    - for specific types of dwellings, e.g. public dwellings; rental dwellings recently converted into condominiums (if a special form of protection in this case as in German law exists) etc.
    - in favour of certain tenants (old, ill, in risk of homelessness)
    - for certain periods
    - after sale including public auction ("emptio non tollit locatum"), or inheritance of the dwelling
  - Requirement of giving valid reasons for notice: admissible reasons
  - Objections by the tenant
  - Does the tenancy have "prolongation rights", i.e. the statutory right to stay for an additional period of time (outside the execution procedure)?
- Challenging the notice before court (or similar bodies)

[491] Ibid., Art. 236.
[492] Ibid., Art. 87.

- in particular claims for extension of the contract or for granting of a period of grace under substantive or procedural law

**Private tenancy**

The basic notions underlying the right of termination of a rent contract shall equally apply in the cases of termination on the part of the landlord. As shown above, any kind of a serious and not remedied failure of the tenant shall give rise to the landlord's right for termination. Such failure may consist of non-payment of the rent in due time; use of the property not for the agreed purposes; non-execution of other contractual obligations, etc. It is material that the law requires the tenant be given the chance to remedy the omission within a reasonable time period[493]. However, in so far as that provision has a dispositive nature, it can be overruled by the contract which may provide for a different procedure for termination, by stating for example that the landlord shall unconditionally terminate the contract when the tenant fails to pay until a certain period of time after the due payment date. It becomes clear that the notice of termination has to be based on particular legal provision or a clause of the agreement in order to have a legally binding effect. Even then such notice may be challenged by the tenant if he/she considers that the notice is ungrounded. In such case it is the landlord who must refer the case to the court as he/she is not allowed to expel the tenant on their own. Then the matter reviewed by the court will be the existence of the right for termination and the compliance with the procedural rules for execution of that right.
There are not any statutory restrictions on termination other than those attached to the general civil law principles reviewed above.

**Public tenancy**

> Most frequently we have litigation for non-payment of rent. Orders for termination of tenancy and seizure may be appealed to the Administrative Court. There are cases when the court issues an order to stop the execution until the final court decision on the dispute is taken. A typical case of protection of the tenant is that of single mothers. Of course we wait for the court's decision and absolutely obey to the order. While the court decides, in some cases years have passed (for example 5 years) – during which period of time the tenant lives in the apartment, the execution of the order is suspended and we cannot throw tenant out. The lessee has to pay during that time. Usually this money, however, must be sought through litigation because the tenants do not pay.
>
> (interview with an expert in municipal administration, quoted material is translated by the authors)

In the context of public tenancy (as applicable in the field of municipal housing) the approach adopted in relation with the termination of the tenancy relation by the landlord (that is the municipal authorities) is more rigid by listing particular circumstances that

[493] Ibid.

lead to the termination of the rent relation. Article 46 of the Municipal Property Act[494] states that the rental relations shall be terminated due to:

- the tenant's failure to pay the rental price or utility bills for more than three months;
- performing of new construction, superstruction or addition, renovation or reconstruction, where such works affect the habitated rooms;
- breach of good morals;
- the tenant's failure to show due diligence in using the housing;
- termination of the employment, under the Labour Code[495] or Civil Service Act[496], of persons accommodated in the housing designated for staff;
- elapse of the term of accommodation;
- lapse of the conditions for accommodating the lessee in municipal housing;
- use of the housing for purposes other than the designated use;
- other reasons determined by the municipal ordinances.

The law gives discretion to the municipalities to introduce additional grounds for termination of the tenancy. For example, the Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of the Sofia Municipality[497] provides for a termination of the tenancy if the dwelling has not been used for more than six months without any justified reason. Reasons regarded as justified are exhaustively listed in the ordinance.

In all such cases the rental relations shall be terminated by an order issued by the authority which has issued the order approving the tenancy. The order shall indicate the reasons for terminating the rental relation and the time limit for vacating the housing, which however may not exceed one month.

When the termination of the rental relation is justified with a performing of new construction, superstruction or addition, renovation or reconstruction, the order shall be accompanied with an order granting tenancy in another municipal housing unit, provided the tenant meets the accommodation criteria. The order for termination of the tenancy can be appealed before the administrative court in accordance with the procedure set out in the Administrative Procedure Code[498]. However, the appeal shall not stay the execution of the order, unless the court rules otherwise.

Where the term for accommodation has elapsed, the rental relation may be extended, provided the tenant meets the criteria for accommodation in rental municipal housing. However, neither the Municipal Property Act[499] nor the Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia

[494] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 46.

[495] Labour Code, promulgated in State Gazette issue 26 of 1 April 1986, last amended State Gazette issue 104 of 3 December 2013.

[496] Civil Servants Act, promulgated in State Gazette issue 67 of 27 July 1999, last amended State Gazette issue 68 of 2 August 2013.

[497] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010.

[498] Administrative Procedure Code, promulgated in State Gazette issue 30 of 11 April 2006, in force from 12.07.2006, last amended State Gazette issue 104 of 3 December 2013.

[499] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.

Municipality[500] provide for any social guarantees for the tenant to rely on in specific circumstances, such as illness, winter season, etc. Moreover, the order for expulsion, being the final step of the termination procedure, is subject to immediate execution even when it has been challenged before the court unless the court rules on the stay of the execution of the order.

- **Termination for other reasons**

  - Termination as a result of execution proceedings against the landlord (in particular: repossession for default of mortgage payment)
  - Termination as a result of urban renewal or expropriation of the landlord, in particular:
    - What are the rights of tenants in urban renewal? What are the rules for rehousing in case of demolition of rental dwellings? Are tenants interested parties in public decision-making on real estate in case of urban renewal?

The most obvious reason for termination is the expiration of the term of the contract. However, even in such cases the termination may not be an automatic one, as the Obligations and Contracts Act[501] provides for a silent prolongation of the contract as a contract for indefinite term. Such contract may easily be avoided by either party by a one month notice addressed to the other party.
Other cases of termination disclose reasons falling outside the will of the parties. Article 89 of the Obligations and Contracts Act[502] regulates such cases stating that in case of a bilateral contract, if the obligation of one of the parties is extinguished due to impossibility of performance, the contract shall be cancelled ex officio. Where the said impossibility is only partial, the other party may claim a respective reduction of its obligation or cancellation of the contract through the court, if it does not have sufficient interest in seeking partial performance.
The Bulgarian legal system, case-law and administrative practice are hesitant as to the question whether the public sale of the dwelling as a result of enforcement procedures (for instance in cases of mortgages, debts, court decisions awarding the ownership to a third person, etc.) precludes the rights of the tenant in those cases in which he/she may otherwise claim survival of the tenancy after the transfer of the ownership[503]. The question whether the transfer of ownership as a result of enforcement procedures must be regarded as equivalent to an ordinary real estate transaction in respect to the tenant's right to have his/her rent contract survived is therefore unanswered. Apparently, in this point the legislation lacks the required degree of certainty and foreseeability.
As regards the very rare cases of expropriation for the purposes of urban renewal, it will undoubtedly be regarded as an objective hindrance for execution of the contract for which none of the parties may be held responsible. In practice, expropriation procedures

[500] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010.
[501] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 236.
[502] Ibid., Art. 89.
[503] Ibid., Art. 237.

are not implemented towards residential buildings. The very few cases from the near past consist of actions of the municipalities for demolition of their own residential buildings that had become risky for habitation due to a lack of maintenance. In an expropriation procedure only the owners may take part being as interested parties whose rights are protected by the Constitution[504].

### 6.7. Enforcing tenancy contracts

Example of table for g) Enforcing tenancy contracts

| | Main characteristic(s) of tenancy type 1 – Private tenancy | Main characteristic(s) of tenancy type – Public tenancy | Ranking from strongest to weakest regulation, if there is more than one tenancy type |
|---|---|---|---|
| Eviction procedure | Not possible without order and enforcement procedure | With Mayor's order Alleviated procedure | Public tenancy – strong regulations; Private tenancy – weak regulation |
| Protection from eviction | Very strong protection against eviction | Easier to evict the tenant | Private tenancy– strong regulations; Public tenancy – weak regulation |
| Effects of bankruptcy | N/A if the landlord is natural person; If the landlord is legal entity the general rules are applicable | N/A | Public tenancy – strong regulations; Private tenancy – weak regulation |

- Eviction procedure: conditions, competent courts, main procedural steps and objections

**Private tenancy**

When the tenancy relation runs smoothly there will be no room for enforcement procedures. And, indeed, most rent relations are closed upon termination of the rent agreement voluntarily. Thus, eviction procedures may turn to be necessary when the tenant refuses to leave the dwelling. In all such cases the landlord shall not be entitled to expel the tenant without a court decision and enforcement procedure administered by a bailiff. The case concerning the right of the tenant to stay in the dwelling shall be reviewed by the regional court as first instance and by the district court as second instance. The case may be granted leave to the Supreme Court of Cassation in very limited circumstances which reveal, for example, incoherent case-law on similar cases.
The procedural mean for the landlord to initiate proceedings is an action brought before the court with which he/she asks the court to order the tenant to leave the dwelling. The

[504] Constitution of the Republic of Bulgaria, promulgated in State Gazette issue 56 of 13 July 1991.

procedural rules are set up in the Code of Civil Procedure[505]. Special summary proceedings may apply in such cases based on Article 310 of the Code of Civil Procedure[506] stating that the summary procedure shall apply to examination of any actions in relation to, among others, eviction from leased premises. However, when the claim is joined with an action which is subject to examination according to the standard action procedure, a summary proceeding shall be inadmissible. This will be the case when the claim is joined with a claim for compensation for damages or for payment of contractual penalties. In a summary procedure all deadlines for the actions of the parties and the court are reduced. The same applies to the review of the decision before the court of appeal.

A decision of the second instance court may serve as enforcement title when it is issued against the tenant (that is ordering him/her to leave the dwelling) even if a cassation procedure is still possible and/or pending. The coercive enforcement of the court decision is only possible after the grant of writ of execution. As laid down in Article 405 and the following of the Code of Civil Procedure[507], a writ of execution shall be issued upon written request based on the court decision subject to execution. A copy of the request shall not be served upon the debtor. The request shall be submitted to the first-instance court which has examined the case. The request shall be examined in camera within seven days by a judge of the competent court.

A writ of execution shall be issued after the court verifies whether the act is prima facie conforming and whether the said act attests the receivable enforceable against the debtor. Although the order for issue of a writ of execution may be challenged, the appellate review of the order shall not stay the enforcement.

The writ of execution is issued in a single copy, signed by a judge of the competent court. If the original writ of execution is lost or destroyed, the court which has issued the said writ, acting upon a written request by the applicant, shall issue a replacement of the said writ. However, unlike the procedure for the issue of the initial writ of execution, the request shall be examined in a public hearing after a duplicate of the request is delivered to the debtor, who may raise various objections and the judgment rendered shall be appealable according to the standard procedure.

The writ of execution shall serve as a base for commencement of the enforcement procedure. The enforcement procedure is governed by an enforcement agent ('съдебен изпълнител'), a self-employed or state officer who is authorised by the law to administer the entire process of the coercive enforcement of the judicial acts, also referred as 'bailiff' or 'enforcement judge'. According to Article 426, paragraph 1 of the Code of Civil Procedure[508] the enforcement agent shall proceed with enforcement upon request by the interested party on the basis of a presented writ of execution or another enforceable act. The enforcement agent shall be obligated to invite the execution debtor to comply voluntarily with the obligation thereof within two weeks[509]. Failing this, the respective enforcement actions shall follow.

The debtor (tenant) has in his/her disposal very limited means for protection at this stage given that he/she was supposed to submit all relevant objections during the court

[505] Code of Civil Procedure, promulgated in State Gazette issue 59 of 20 July 2007, in force from 01.03. 2008, last amended State Gazette issue 66 of 26 July 2013.
[506] Ibid., Art. 310.
[507] Ibid., Art. 405 and the following.
[508] Ibid., Art. 426, para. 1.
[509] Ibid., Art. 428.

procedure. The execution debtor may appeal against the eviction from an immovable, by reason of not being duly notified of the enforcement[510]. Article 436 of the Code of Civil Procedure[511] in its relevant parts states that the appeal shall be lodged through the enforcement agent with the district court within one week upon completion of the contested action, if the party was present at the performance of the said action or if the party was summoned, and in the rest of the cases, within one week after the day of the notification.

The appeal lodged by the parties shall be examined in camera, except where witnesses or expert witnesses must be heard. The court shall examine the appeal on the basis of the data in the enforcement case and the evidence presented by the parties. It will deliver the judgment together with the reasoning thereof within one month after the receipt of the appeal in the court. The judgment shall be final[512]. Filing of an appeal shall not stay the enforcement procedure, unless the court orders the stay. In such case, the court shall immediately transmit a duplicate copy of the ruling on stay to the enforcement agent[513].

The intended outcome of the procedure is the transfer of the possession from the tenant to the landlord. In this regard Article 522, paragraph 1 states that the possession of an immovable which has been awarded to a person shall be delivered to the said person[514]. The enforcement agent shall assign a day and hour for the delivery of possession and shall notify the parties. The memorandum shall be drawn up by the enforcement agent on site. If the debtor does not vacate the house voluntarily, he/she shall be evicted coercively. It is material here that according to Article 431, paragraph 2 of the Code of Civil Procedure[515], when requested to do so, the police authorities shall be obligated to render assistance to the enforcement agent if the execution of the functions thereof is obstructed.

> There are grounds to suppose that disputes between tenants and landlords in the last 2-3 years have become more frequent since there is an increase of conflicts on property issues because of the crisis in the economy.
> I cannot say definitely, but given that economic conditions deteriorated and many tenants cannot pay, peg out, I guess that disputes have increased… As to us as a notary office we, for example, may draft notarized letter of invitation, through which we can ask the defaulting party to fulfil its obligations - I have the impression that these notarized letters of invitation have increased in number.
>
> (interview with a notary, quoted material is translated by the authors)
>
> The information for the increased number of notary letters of invitations, however, cannot be sufficiently indicative exactly because the financial and economic crisis for which people with limited financial resources have limited opportunities for access to justice.
> This is the rental price that determines whether there will be a litigation: The higher the rental price – the more likely it is to get to the court. However, typically in rental housing the rental price is too low and parties do not get to court. This is

[510] Ibid., Art. 435, para. 2.
[511] Ibid., Art. 436.
[512] Ibid., Art. 437.
[513] Ibid., Art. 438.
[514] Ibid., Art. 522, para. 1.
[515] Ibid., Art. 431, para. 2.

> because the legal costs and particularly the cost of hiring a lawyer, are often much higher than the amount for which an action would be brought in the court. Furthermore, usually judicial proceedings last more than two or three years.
> (interview with a lawyer, quoted material is translated by the authors)

**Public tenancy**

The general rules for eviction in the cases of public tenancy (in the case of municipal housing) can be found in Article 46 of the Municipal Property Act[516]. As stated there, the rental relations shall be terminated under an order issued by the authority which has issued the order approving its tenancy. The order shall indicate the reasons for terminating the rental relation and the time limit for vacating the housing, which may not exceed one month. The order can be appealed before the administrative court following the procedure set out in the Administrative Procedure Code[517]. The appeal shall not stay the execution of the order, unless the court rules otherwise.
The eviction order has the nature of an individual administrative act, and subsequently it is enforced in accordance with the rules and procedures set in the Administrative Procedure Code[518]. The relevant provisions of that code[519] state that the enforcement authority shall be in respect of enforcement against individuals and organizations by the administrative authority which issued or should have issued the administrative act, unless another authority is specified in the enforcement title or in the law. Where the nature of the obligation so necessitates, the enforcement authority may request assistance from the police authorities, other State bodies and from the municipalities. All State bodies shall be obligated, upon request, to assist the enforcement authority and the persons authorized for the enforcement.
Enforcement shall commence ex officio, on the initiative of the authority which issued or should have issued the administrative act. Enforcement may furthermore commence on the initiative of the superior authority, of the prosecutor or the Ombudsman[520], or at a written request of an individual or organization concerned. The enforcement authority shall address a notice of voluntary compliance within fourteen days after the receipt thereof to the execution debtor. Where the property status of the execution debtor or other objective circumstances impede immediate enforcement, the enforcement authority, acting at the request of the execution debtor, may allow, on a single occasion that enforcement be carried out in whole after a specified time limit. In such case, the authority may determine additional conditions upon the non-compliance of which the deferral will be cancelled. Deferral shall be permissible for a fourteen-day period after the date of enforcement as initially appointed in the enforcement title. The obligation to surrender the house shall be enforced by the competent enforcement authority according to the procedure established by the Code of Civil Procedure[521].

[516] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013, Art. 46, para. 2 – 5.
[517] Administrative Procedure Code, promulgated in State Gazette issue 30 of 11 April 2006, in force from 12.07.2006, last amended State Gazette issue 104 of 3 December 2013.
[518] Ibid.
[519] Ibid., Art. 267 and the following.
[520] Ombudsman of the Republic of Bulgaria, http://www.ombudsman.bg/, December 2013.
[521] Code of Civil Procedure, promulgated in State Gazette issue 59 of 20 July 2007, in force from 01.03. 2008, last amended State Gazette issue 66 of 26 July 2013.

A more detailed regulation of the enforcement procedure may be found in the municipal ordinances governing the municipal tenancy. The Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of the Sofia Municipality[522] which provides for the cases of eviction of municipal houses which are occupied without reasons or are used not for their purpose shall be executed upon order of the respective district mayor. Such order shall be based on a findings protocol, specifying, among other things, the ownership of the property; the person who occupies the dwelling and the grounds for the occupation; the order for termination of the tenancy, etc. The eviction order shall be notified to the interested persons in accordance with the rules of the Code of Civil Procedure[523]. For the enforcement of the order the assistance of the police authorities may be sought. When the forced eviction takes place in the absence of the occupants, the officers must prepare a list of the chattels found in the property and the list must be signed by the drafter, representative of the police and two witnesses. The mayor shall be responsible for keeping the belongings for a period of one month, upon expiration of which they shall be sold on an auction and the income shall be used to cover the expenses for the property.

- Rules on protection ("social defences") from eviction

The legislation lacks any rules designed for protection of the tenant from eviction on social grounds. All protection mechanisms are encompassed in the respective procedural acts and only concern the right of defence of the affected persons against unlawful acts of the enforcement authorities. The possibility for deferral described above does not seem to be an effective protective means given that it is applied only upon the discretion of the enforcement authority and only for a period not exceeding fourteen days.

- May rules on the bankruptcy of consumers influence the enforcement of tenancy contracts?

Bulgarian legislation makes no provision for consumer bankruptcy, though commercial bankruptcy may in some occasions has implications for the tenancy relations. A typical example could be the case where the landlord is a commercial entity and the tenant rents a departmental house owned by the bankrupt company (a number of state owned and/or privatised companies maintained numerous departmental houses for accommodation of their employees). In such an occasion Article 644 of the Commerce Act[524] shall apply which entitles the trustee in bankruptcy to terminate any contract to which the debtor is party, including rent contracts.

[522] Ordinance for the Terms and Conditions for Management and Disposals of Municipal Housing in the Territory of Sofia Municipality, http://sofiacouncil.bg/?page=ordinance&id=57, adopted with Decision 466 under Minutes 53 of 14 July 2005, last amendment Decision 500 under Minutes 73 of 23 September 2010, Art. 34.

[523] Code of Civil Procedure, promulgated in State Gazette issue 59 of 20 July 2007, in force from 01.03. 2008, last amended State Gazette issue 66 of 26 July 2013.

[524] Commerce Act, promulgated in State Gazette issue 48 of 18 June 1991, last amended State Gazette issue 20 of 28 February 2013.

## 6.8. Tenancy law and procedure "in action"

*Preliminary notice: To the extent that scientific sources are lacking, reporters are welcome to use any evidence (also newspaper articles, online sources, private interviews or even their own experience and opinion) in this section.*

The practical role of private rented housing can only be realistically assessed when the practical functioning of the legal system in this field ("tenancy law in action") is taken into account:

- What is the legal status and what are the roles, tasks and responsibilities of associations of landlords and tenants?

The domestic law does not grant any special status to such associations, so that they could be registered under the ordinary procedures for establishing of NGOs or for-profit organisations or as trading companies.

- What is the role of standard contracts prepared by associations or other actors?

Some real estate agencies use their own model contracts which they offer to their clients. However, a model contract could not substitute the particulars agreed between the parties and it has the role of a facility for them to allow them to identify the substantial points they should pay attention on.

- How are tenancy law disputes carried out? Is tenancy law often enforced before courts by landlords and tenants and/or are - voluntary or compulsory - mechanisms of conciliation, mediation or alternative dispute resolution used?

As a background, it should be noted that tenancy related disputes are most commonly resolved by mutual agreement between the parties, or, regrettably, by relinquishment of the respective party's claims (unpaid rent or utility bills) due to the fact that their financial value does not justify the initiation of proceedings, which in the outcome may turn to be more costly than the disputed right itself. Although the legislation provides for a variety of means for extrajudicial dispute resolutions, such as mediation and arbitration procedures, they are very rarely used by the parties to rent contracts. The major tool for institutional dispute resolutions still remain court proceedings.

Along with this the alternative solutions that may be cheaper and affordable, yet have very limited practical implementation in Bulgaria. 'Extrajudicial settlement of such disputes through mediators is extremely rare.' (interview with a lawyer, quoted material is translated by the authors)

'It's good to have incentives to direct disputes to arbitration. The lease shall preferably have an arbitration clause – that is the parties to approach the court of arbitration. But at the moment there the fees are high, too.'(interview with a lawyer, quoted material is translated by the authors)

As observed by notaries mediation as a form of alternative dispute resolution is

hardly used not only as regards a dispute between landlords and tenants of residential properties but in general. In their opinion, this form may be effective mainly regarding divorce matters:

> One way or another, whether on the advice of a lawyer, a notary, friends, parents or mediators, when people cannot agree not to go to court and not spending money and nerves they may settle the dispute or terminate it without trial. Our observations show that the institution of mediators is not functioning. In every respect, not only in relation to disputes relating to rents, we do not know if mediators have work.
>
> (interview with a notary, quoted material is translated by the authors)

- Do procedures work well and without unreasonable delays? What is the average length of procedures? Are there peculiarities for the execution of tenancy law judgments (e.g. suspensions of, or delays for, eviction)?

The length of a legal procedure will normally depend on the legal and factual complexity of the case and the volume of evidence to be admitted and assessed by the court. The cases originating from tenancy related disputes would not usually be among such complex and voluminous court files, so the length of the procedures will probably be below the average.

- Are there problems of fairness and justice? Are there problems of access to courts especially for tenants? What is the situation concerning legal fees, legal aid and insurance against legal costs?

Problems of fairness and justice in the Bulgarian judicial system have repeatedly been established, criticised and scrutinised by various international and EU authorities[525], so that they may not be a subject of detailed review within the present report. It seems nevertheless that tenancy related disputes are not affected by such deficiencies as much as other judicial spheres such as the criminal justice.

- How about legal certainty in tenancy law? (e.g.: are there contradicting statutes, is there secondary literature usually accessible to lawyers etc?)

The current regulation of the private tenancy (Obligations and Contracts Act[526]) was adopted in 1950 during the communist era but remains one of the very few legislative acts that have survived to the present moment unlike many other acts that were repealed during the period of transition. Furthermore, when it comes to the chapter dedicated to the rent contracts, it has undergone relatively low number of amendments during the entire period of its applicability in contrast with many other provisions of this

[525] For example, Report from the Commission to the European Parliament and the Council on Progress in Bulgaria under the Cooperation and Verification Mechanism, COM(2012) 411 final, European Commission, Brussels, 18 July 2012.

[526] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008.

law. The Obligations and Contracts Act[527] presently in force is based on the continental civil law traditions and is a core authority of the Bulgarian civil law. It is stable and foreseeable as to the legal consequences it creates. The public tenancy regulation is based on the new constitutional recognition of the municipal property as a separate type of property. So long as it delegates the municipalities the powers to adopt their own legal acts governing the municipal tenancy within the framework of the Municipal Property Act[528], significant differences between the municipalities exist. This fact itself may cause some concerns as to the legal certainty of the local legislation. On the other hand, the municipalities should be vested with sufficient autonomy to resolve local problems specific to each separate municipality.

Secondary literature on the tenancy law is scarce. Most academic materials deal with the general part of the obligations law which is nevertheless applicable to the tenancy relations.

- Are there "swindler problems" on the rental market (e.g. flats fraudulently advertised on the internet as rental offers by swindlers to whom the flats do not belong)?

"Swindler problems" on the rental market are disclosed mainly in the real estate agencies' practises for attracting clients[529]. A common unfair practice consist of advertising of non-existent properties on very attractive rent prices with the only purpose to instigate more calls, as the prospective tenants investigating the advertisement are usually told that this property has just been rented but they could be offered another one.

- Are the areas of "non-enforcement" of tenancy law (such as legal provisions having become obsolete in practice)?

Generally, areas of "non-enforcement" of tenancy related normative basis are not identified. However, there are weaknesses in law enforcement (long lasting police investigation procedures, prosecution and slow pace of litigation) limit the confidence in court system and increase the overall uncertainty that encourages informal market relationships and in some cases brings about higher risks of replacement of law enforcement with 'mob law' and other forms of arbitrariness or conflicts stemming from unsettled relationships between tenants and landlords. Furthermore, the lack of confidence and to the court system institutions, combined with the lack of financial access to legal aid for some poor social strata (some of which like students and pensioners partaking in tenancy relationships) decreases willingness to registration to the Notary of the concluded leases and thus indirectly encourages the practices of oral agreements characterized with much higher level of uncertainty than written contracts.

[527] Ibid.

[528] Municipal Property Act, promulgated in State Gazette issue 44 of 21 May 1996, last amended State Gazette issue 66 of 26 July 2013.

[529] Жертвите на жилищната мафия, Imoti.net, http://forum.imoti.net/read.php?14,90789, 30 December 2013 (The Housing Mafia Victims).

The indicator for efficiency of legal framework in settling disputes of the Global Competitive Index Report for 2011-2012 proves that Bulgaria is among the worst performing countries globally – Bulgaria ranks 126 out of 142 countries.[530] This conclusion has been confirmed in series of Monitoring reports of the European Commission under the Cooperation and Verification Mechanism: *'Legal proceedings are often of an excessive duration.'*[531]

- What are the 10-20 most serious problems in tenancy law and its enforcement?

**Most serious problems for tenants:**

- The landlord refuses to return the deposit after termination of the tenancy agreement. Under this problem there are different cases in practice: refusal to return the deposit without explanation, or refusal to return it alleging that there are damages of the dwelling, its equipment and/or furniture; the dwelling has to be cleaned that the deposit will be used for that purpose; unpaid utility bill – the deposit will be used to cover them, etc. In such cases it is important to establish whether the deposit and its purposes are stipulated in the written agreement or it is agreed verbally and also whether in the beginning of the tenancy relation and at in its end a delivery-acceptance protocol was signed between the parties, including the condition of the dwelling, its equipment and furniture, and also the figures of the utility bills in the beginning and in the end of the tenancy agreement, according respectively to water meters, electricity meters, calorimeters, etc.
- The landlord violates peaceful using of the dwelling – disturbs the tenant, harasses the tenant to make him/her pay higher rental price, or leave the dwelling or not to exercise rights, established by the law, or the landlord enters the property without asking for permission in a reasonable period before intended entering, initiates different repairing activities of the property without appropriate arrangements with the tenant.
- Landlord changes the locks of the dwelling, not permitting the tenant to enter and or to take his/her possessions. Such an act could be in violation of Article 170, paragraph 1 of the Penal Code[532] according to which the person who enters the dwelling of another by using therefor subterfuge, legerdemain, misuse of power or special technical devices, shall be punished. In regard to the belongings of the tenant, under certain conditions, the offender could be punished also for theft.
- Landlord evicts the tenant before having the dispute solved by the court. Similar cases (if there is pending court procedure) could fall within the scope of

[530] Global Competitiveness Report 2011-2012, 2011 World Economic Forum, Geneva, Switzerland, 2011, p. 131.
[531] Report from the Commission to the European Parliament and the Council on Progress in Bulgaria under the Cooperation and Verification Mechanism COM(2012) 411 final, Brussels, 18 July 2012, p. 5. – referring also to the conclusions of the Council of Europe (Conseil de l'Europe : Comité des Ministres. Surveillance de l'exécution des arrêts et décisions de la Cour européenne des droits de l'homme. Rapport annuel, 2011).
[532] Penal Code, promulgated in State Gazette issue 26 of 2 April 1968, corr. State Gazette issue 29 of 12 April 1968, last amended State Gazette issue 84 of 27 September 2013, Art. 170, para. 1.

Article 323, paragraph 1 of the Penal Code[533], according to which a person who unwarrantedly, not in the order established by the law, implements an actual or supposed right of his or of another person, contested by another.

- The landlord does not fulfil his/her obligation to repair damages different from these caused by the ordinary issuing of the dwelling.
- Discrimination – refusal to enter into agreement or imposing less favourable conditions for the tenants belonging to different minorities or vulnerable groups.

**Most serious problems for the landlords**

- Tenant is not paying the rental price.

> In the long run the price of non-use of legal opportunities in many cases may be much higher than the cost of legal advice and registration of contracts. Bulgarian notaries' practice shows that the main conflicts arise when the tenant cannot or does not want to pay the rent, or does not want to release the leased property. In these cases, if the landlord has not created the necessary prerequisites and had not paid the price in advance to ensure rapid legal procedure (by having done notarization and registration of the contract), he or she may suffer significant financial losses:
>
> > As these disputes are resolved through litigation this leads to additional costs. There is a long period of time to settle the dispute through the court system, and finally – dealing with private and state bailiffs that should bring out the tenant. And even the tenant is finally ordered to leave the rented dwelling, if he or she does not have property, at the end of the landlord could appear to be with no income from the property 1-2-3 years, and even amounting large losses. If you have, for example, nice property in a big city, which can be let to a good price, lost profits may be BGN 30-50 thousand (app. EUR 15-25 thousand).
> >
> > (interview with a notary, quoted material is translated by the authors)

- Tenants leaving the dwelling without paying utility bills. Parties could agree payment of a deposit by the tenant from which the landlord could pay remaining utility bills after termination of the agreement.
- Subletting of the dwelling by the tenant. Ways to avoid the problem is explicitly to be stipulated in the agreement that the tenant does not have the right to sublet the swelling and to be included as a ground for termination of the agreement by the landlord before the expiry of its term. A penalty could also be provided in such cases. Otherwise the general principle according Article 234 of Obligations and Contracts Act[534] – if not agreed otherwise, the lessee may sublease parts of the leased property without the consent of the lessor – will be applicable.
- Tenant refuses to leave the dwelling after the termination of the agreement or stay without paying the rent price. In such cases an issue could arise under Article 170, paragraph 4 of the Penal Code[535], according to which a person who

[533] Ibid., Art. 323, para. 1.
[534] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 234.
[535] Penal Code, promulgated in State Gazette issue 26 of 2 April 1968, corr. State Gazette issue 29 of 12 April 1968, last amended State Gazette issue 84 of 27 September 2013, Art. 170, para. 4.

illegally remains in another person's dwelling in spite of an express invitation to leave, shall he punished or Article 323, paragraph 2 of the Penal Code[536] providing that a person, who unwarrantedly occupies real property from the possession of which he has been removed under the established procedure, shall be punished.

- Destroying and/or damaging of the dwelling, furniture and/or equipment by the tenant. To minimise the negative impact of such behaviour the landlord could ask for deposit and/or to insure the property, including furniture and equipment. In some cases such behaviour could amount to an offence under Article 216, paragraph 1[537], according to which person who unlawfully destroys or damages movable or real property of another, shall be punished. In some of the relevant municipal ordinances, where are included administrative sanctions, a fine is provided for damaging municipal property (as far as the act does not constitute a crime)[538]. The fine is between BGN 50 (approximately EUR 25) and BGN 500 (approximately EUR 250).
- The dwelling is used not for the purposes agreed between the parties.
- Complaints by the neighbours, violation of the condominium rules by the tenant.

**Most serious problems for the both parties**

High financial thresholds for access to the justice system, low rental prices and short-term contracts, combined with relatively low legal culture are prerequisites for the limited use of legal means to resolve the disputes.

'Most of the concluded contracts are fictive, and therefore people cannot defend their rights in the courts. The parties have almost always "cleared" contradictions between themselves alone. To violence, I guess, they do not resort often.' (interview with a real estate employee, quoted material is translated by the authors)

Slow court proceedings in several cases also carry a risk of increased losses of time and money demotivates parties and significantly increases distrust in the judiciary:

> 'In most cases (the landlord and the tenant) take the law into their own hands. Parties rarely refer to the help of a competent authority. The main problem for this is cumbersome judicial system in Bulgaria. For this reason, the majority of disputes are settled between the parties "in one way or another".' (interview with a real estate employee, quoted material is translated by the authors)
>
> 'It is better to have a means and it will be very helpful to solve cases more quickly – a person must can get justice from the court system as quick as possible – whether guilty or innocent ... It is not normal a court case to be launched by the grandmother, and to be completed by the granddaughter.' (interview with a notary, quoted material is translated

[536] Ibid., Art. 323, para. 2.
[537] Ibid., Art. 216, para. 1.
[538] In the quoted municipal ordinances of the municipalities of Sliven, Pazardzik, Pernik, Pleven, Montana, Kyustendil, Dobrich and others.

by the authors)

- Slow and expensive judicial procedures for solving disputes, connected with tenancy relations. To minimise the risks the parties could notary verify the tenancy contract, so they can use quick judicial procedure. Also parties could agree on an arbitration clause and to address the dispute before the court of arbitration, which in many cases is considered to provide faster dispute resolution service.
- Non-written contract between the parties – only verbal.

Many of the above mentioned risks could be minimised by using the property management services of real estate agencies. Nevertheless these services are not very well developed in the Bulgarian market and the remuneration for them amounts between 10 to 30 % of the monthly rental price. Social Rental Agencies, which give many opportunities in enhancing the tenancy relations, do not exist in Bulgaria too.

- What kind of tenancy-related issues are currently debated in public and/or in politics?

The most commonly debated tenancy-related issue for the past years is the evasion of taxation on the part of the landlord. To address that concern the legislator amended some taxation procedures so that some tenants (legal entities) were made liable for reporting rent contracts and charge and pay the rent income tax instead of the landlord.

## 7. Effects of EU law and policies on national tenancy policies and law

- EU social policy against poverty and social exclusion
- consumer law and policy
- competition and state aid law
- tax law
- energy saving rules
- private international law including international procedural law
- anti-discrimination legislation
- constitutional law affecting the EU and the European Convention of Human Rights
- harmonization and unification of general contract law (sources such as the Common European Sales Law, the Common Framework of Reference or the Principles of European Contract Law may be considered here)
- fundamental freedoms

- e.g. the Austrian restrictions on the purchase of secondary homes and its compatibility with the fundamental freedoms;
- cases in which a licence to buy house is needed – is this compatible with the fundamental freedoms?

### 7.1. EU policies and legislation affecting national housing policies

- EU social policy against poverty and social exclusion

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term resident[539] requires they to enjoy equal treatment with nationals as regards *inter alia* access to goods and services and the supply of goods and services made available to the public and to procedures for obtaining housing[540]. The Member States were obliged for bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 23 January 2006 at the latest[541]. Paragraph 40 of the supplementary provision of the amendment to Foreigners in the Republic of Bulgaria Act[542] provides that this act introduces the requirement of Directive 2003/109/ EC of the Council concerning the status of third-country nationals who are long-term residents. Despite this statement, the act does not introduce any rules, concerning housing of long-term third-country nationals, except forced and temporary placement of foreigners (to be expelled from the country), which have more repressive functions rather than providing guarantee for equal treatment. Moreover, as it was pointed above many Ordinances of Municipal Council provide that to be illegible for municipal housing the applicant has to be Bulgarian citizen.

Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment[543] provides EU Blue Card holders to enjoy equal treatment with nationals of the Member State issuing the Blue Card as regards access to goods and services and the supply of goods and services made available to the public, including procedures for obtaining housing[544]. A provision for EU Blue Card holders, concerning their access to housing on equal basis does not exist in Bulgarian legislation. The general anti-discrimination provisions will be applicable.

- consumer law and policy

EU legislation on consumer law and policy is applicable only in the cases where the landlord is a i) trader, ii) which concludes rent contracts within the scope of its trade activities; iii) with consumers (individuals) iv) for housing needs. (See the table for transposition of EU legislation affecting leases below.)

Directive 2011/83/EU[545] of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive

[539] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:en:NOT, December 2013.
[540] Directive 2003/109/EC, Article 11 (1) (f).
[541] Directive 2003/109/EC, Article 26.
[542] Foreigners in the Republic of Bulgaria Act, promulgated in State Gazette issue 153 of 23 December 1998, last amended and supplemented in State Gazette issue 70 of 9 August 2013.
[543] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:l:2009:155:0017:0029:en:PDF, December 2013.
[544] Council Directive 2009/50/EC, Article 14 (1) (g).
[545] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:304:0064:0088:EN:PDFDirective of 25-10-2011 (OJEU L 304/64), December 2013.

1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council had to be transposed by the Member States by 13 December 2013[546]. It shall not apply to for social services, including social housing, childcare and support of families and persons permanently or temporarily in need, including long-term care[547].

### 7.2. EU policies and legislation affecting national tenancy laws

- competition and state aid law

Directive 2006/114/EC[548] of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising and Directive 2005/29/EC[549] of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) Nº 2006/2004 of the European Parliament and of the Council are transposed in Protection of Competition Act (Promulgated, State Gazette No. 102/28.11.2008, amended and supplemented, SG No. 42/5.06.2009, amended, SG No. 54/16.07.2010, SG No. 97/10.12.2010, effective 10.12.2010, SG No. 73/20.09.2011, effective 20.09.2011, SG No. 38/18.05.2012, effective 1.07.2012, SG No. 15/15.02.2013, effective 1.01.2014) in regard to misleading advertising and unfair business-to-consumer commercial practices.

- tax law

Value Added Tax Act[550] provides that the letting of a building or part thereof for residential use to a natural person who is not a merchant shall likewise be an exempt supply [551]. However this exemption according to Article 45, paragraph 6[552] shall not apply to provision of accommodation in hotels, motels, cottage villages and holiday villages, rented rooms in family houses, villas, houses, cabanas, camping sites, hikers' chalets, guest houses, inns, boarding houses, caravan parks, holiday camps, holiday accommodations owned by businesses for their employees, spa centres and sanatorium complexes. Consequently, Council Directive 2006/112/EC[553] of 28 November 2006 on the common system of value added tax shall not apply to letting of houses to natural persons for residential use.

[546] Directive 2011/83/EU, Article 28 (1).
[547] Directive 2011/83/EU, Article 3 (3) (a).
[548] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:376:0021:0027:EN:PDF, December 2013.
[549] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:en:PDF, December 2013.
[550] Value Added Tax Act, promulgated in State Gazette issue 63 of 4 August 2006, in force from 1 January 2007, last amended State Gazette issue 104 of 3 December 2013.
[551] Ibid., Art. 45, para. 4.
[552] Ibid., para. 6.
[553] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:347:0001:0118:en:PDF, December 2013.

In respect to direct taxes Article 113[554] of the Treaty on the Functioning of the European Union shall apply.

- energy saving rules

For transposition of EU directives concerning energy saving rules see the Table on European Directives affecting leases below. As stated above however Bulgarian legislation in this sphere does not affect in any way the landlord-tenant relations.

- private international law including international procedural law

Regulations concerning private international law including international procedural law apply directly in the national legal order for determination of the applicable law are: Regulation (EC) 593/2008[555] on the law applicable to contractual obligations (Rome I), Regulation (EC) 1346/2000[556] on insolvency proceedings (EUInsR) and Regulation (EC) 44/2001[557] on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (Brussels I).

Article 4 (1 c) of Regulation Rome states that contracts relating to a tenancy of immovable property are governed by the law of the country where the property is situated (*lex rei sitae*). An exception applies for temporary tenancies: If the landlord and the tenant have their habitual residence in the same country, the law of this country is applicable (Article 4 (1d). Apart from that, the parties can choose the law the tenancy shall be governed by (Article 3 (1). Such a choice of law takes precedence over the legal connection in Article 4. In addition, Article 11 (5) prescribes that the requirements of form for tenancies of immovable property are also subject to the *lex rei sitae* if those requirements are mandatory and if they are imposed irrespective of the country where the contract is concluded and irrespective of the law governing the contract.

Furthermore, the *lex rei sitae* is also the applicable law for the effects of cross-border insolvency proceedings on contracts conferring the right to make use of immovable property (Article 8, EUInsR).

Regulation Brussels I provides as well that the international jurisdiction in proceedings which have tenancies of immovable property as their object lies with the court where the property is situated (Article 22 (no. 1). An exception applies for tenancies concluded for temporary private use for a maximum period of six consecutive months. In that case the courts of another Member State have also the jurisdiction provided that both parties are domiciled there. This exemption clause concerns especially tenancies on holiday flats and homes as well as on dwellings rented by foreign students or employees.

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[554] Treaty on the Functioning of the European Union, Article 113 (ex Article 93 TEC) The Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition.

[555] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:177:0006:0006:en:PDF, December 2013.

[556] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:160:0001:0018:en:PDF, December 2013.

[557] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001R0044:en:HTML, December 2013.

- anti-discrimination legislation

As it has already been discuses above the EU anti-discrimination legislation, in accordance with which was adopted the Protection against Discrimination Act, affects the tenancy relations as far as prohibits different forms of discrimination on different grounds in the field of access to goods and services.

- constitutional law affecting the EU and the European Convention of Human Rights

The issue is discussed in Human Rights Chapter and International instruments, in particular the ECHR chapter above

- harmonization and unification of general contract law (sources such as the Common European Sales Law, the Common Framework of Reference or the Principles of European Contract Law may be considered here)

An example of attempt for harmonisation and unification of general contract law are Principles of European Contract Law (PECL)[558].

- fundamental freedoms

The issue is discussed in Human Rights Chapter and International instruments, in particular the ECHR chapter above.

7.3. Table of transposition of EU legislation

## III. Table: European Directives Affecting Leases

| DIRECTIVES | TRANSPOSITION | RELATED SUBJECT | PART QUESTIONNAIRE |
|---|---|---|---|
| **CONSTRUCTION** | | | |
| Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (Text with EEA relevance) | Technical Requirements to Products Act (Prom. SG. 86/1 Oct 1999, amended, SG 63/28 Jun 2002, amended, SG 93/1 Oct 2002, amended, SG 18/25 Feb 2003, amended, SG 107/9 Dec 2003, amended, SG, 45/31 May 2005, amended, SG 77/27 Sep 2005, amended, SG 88/4 Nov 2005, amended, SG 95/29 Nov 2005, amended, SG 105/29 Dec 2005, amended, SG 30/11 Apr 2006, amended, SG 62/1 Aug 2006, amended SG, 76/15 Sep 2006, amended, SG 41/22 May 2007, amended, SG 86/26 Oct 2007, amended, SG 74/15 Sep 2009, amended, SG 80/12 | About construction products: free movement and the certificates required. | |

[558] http://frontpage.cbs.dk/law/commission_on_european_contract_law/PECL%20engelsk/engelsk_partI_og_II.htm, December 2013.

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| | Oct 2010, amended, SG 38/17 May 2011, amended SG 38/18 May 2012, amended, SG 53/13 Jul 2012, amended, SG 77/9 Oct 2012, supplemented, SG 84/2 Nov 2012, amended, SG 66/26 Jul 2013, amended, SG 68/2 Aug 2013) | | |
| **TECHNICAL STANDARDS** | | | |
| **Energy efficiency** | | | |
| Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJEU 14.11.2012 Nº L 315/1). | Energy Efficiency Act (Promulgated, SG No. 98/14.11.2008, effective 14.11.2008, supplemented, SG No. 6/23.01.2009, effective 1.05.2009, amended, SG No. 19/13.03.2009, effective 10.04.2009, supplemented, SG No. 42/5.06.2009, amended, SG No. 82/16.10.2009, effective 16.10.2009, supplemented, SG No. 15/23.02.2010, effective 23.02.2010, amended, SG No. 52/9.07.2010, SG No. 97/10.12.2010, effective 10.12.2010, amended and supplemented, SG No. 35/3.05.2011, effective 3.05.2011, amended, SG No. 38/18.05.2012, effective 1.07.2012, SG No. 15/15.02.2013, effective 1.04.2014, amended and supplemented, SG No. 24/12.03.2013, effective 12.03.2013, SG No. 59/5.07.2013, effective 5.07.2013, amended, SG No. 66/26.07.2013, effective 26.07.2013) | Energy saving targets imposed to the State. It also deals with the Public Administration buildings and others that require greater energy savings. | |
| Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJEU 18.06.2010 Nº L153/13). | Energy Efficiency Act | Energy efficiency of the new and the existing buildings. | Part II 2.a 'Regulation on energy saving'. |
| Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other ~~resources by energy-related products~~ (OJEU 18.6.2010 Nº L 153/1). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other ~~resources (adopted with a~~ Decree of the Council of Ministers No. 140/17.05.2011, promulgated OJ 41/31.05.2011 effective 20.07.2011, last amended OJ 43/14.05.2013, | Labeling and basic information for household electric appliances' users. | |

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| | effective 14.05.2013) | | |
| Commission Delegated Regulation (EU) Nº 874/2012 of 12 July 2012 supplementing **Directive 2010/30/EU** of the European Parliament and of the Council with regard to energy labelling of electrical lamps and luminaires (OJEU 26.9.2012 Nº L 258/1). | | | |
| Commission Directive 98/11/EC of 27 January 1998 implementing Council Directive 92/75/EEC with regard to energy labelling of household lamps (OJEC 10.3.1998 Nº L 71/1). | | | |
| Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJEU 5.6.2009 Nº L 140/16). | Energy from Renewable Sources Act Promulgated, State Gazette No. 35/3.05.2011, effective 3.05.2011, amended and supplemented, SG No. 29/10.04.2012, effective 10.04.2012, SG No. 54/17.07.2012, effective 17.07.2012, SG No. 15/15.02.2013, effective 15.02.2013, amended, SG No. 59/5.07.2013, effective 5.07.2013, SG No. 68/2.08.2013, effective 2.08.2013 | Promotion of the use of renewable energy in buildings. | |
| Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (DOCE 14.8.2009 Nº L 211/55). | Energy Act (Promulgated, SG No. 107/9.12.2003, amended, SG No. 18/5.03.2004, effective 5.03.2004, amended and supplemented, SG No. 18/25.02.2005, effective 20.01.2005, amended, SG No. 95/29.11.2005, effective 1.03.2006, SG No. 30/11.04.2006, effective 12.07.2006, amended and supplemented, SG No. 65/11.08.2006, effective 11.08.2006, No. 74/8.09.2006, effective 8.09.2006, amended, SG No. 49/19.06.2007, amended and supplemented, SG No. 55/6.07.2007, effective 6.07.2007, amended, SG No. 59/20.07.2007, effective 1.03.2008, SG No. | Basic standards for electricity sector. | |

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| | 36/4.04.2008, amended and supplemented, SG No. 43/29.04.2008, supplemented, SG No. 98/14.11.2008, effective 14.11.2008, amended, SG No. 35/12.05.2009, effective 12.05.2009, amended and supplemented, SG No. 41/2.06.2009, SG No. 42/5.06.2009, amended, SG No. 82/16.10.2009, effective 16.10.2009, SG No. 103/29.12.2009, amended and supplemented, SG No. 54/16.07.2010, effective 16.07.2010, amended, SG No. 97/10.12.2010, effective 10.12.2010, amended and supplemented, SG No. 35/3.05.2011, effective 3.05.2011, supplemented, SG No. 47/21.06.2011, effective 21.06.2011, amended, SG No. 38/18.05.2012, effective 1.07.2012, amended and supplemented, SG No. 54/17.07.2012, effective 17.07.2012, amended, SG No. 82/26.10.2012, effective 26.11.2012, SG No. 15/15.02.2013, effective 1.01.2014, supplemented, SG No. 20/28.02.2013, effective 28.02.2013, SG No. 23/8.03.2013, effective 8.03.2013, amended and supplemented, SG No. 59/5.07.2013, effective 5.07.2013, amended, SG No. 66/26.07.2013, effective 26.07.2013 | | |
| **Heating, hot water and refrigeration** | | | |
| Commission Delegated Regulation (EU) Nº 626/2011 of 4 May 2011 supplementing **Directive 2010/30/EU** of the European Parliament and of the Council with regard to energy labelling of air conditioners (OJEU 6.7.2011 Nº L 178/1). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about air conditioners. | |
| Commission Delegated Regulation (EU) Nº 1060/2010 of 28 September 2010 supplementing **Directive 2010/30/EU** of the European Parliament and of the Council with regard to energy labelling of household refrigerating appliances (OJEU 30.11.2010 Nº L 314). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about household refrigerating appliances. | |

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| Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJEU 14.8.2009 Nº L 211/94). | Energy Act | Basic legislation about natural gas in buildings and dwellings. | |
| Council Directive of 10 December 1982 amending Directive 78/170/EEC on the performance of heat generators for space heating and the production of hot water in new or existing non-industrial buildings and on the insulation of heat and domestic hot-water distribution in new non-industrial buildings (OJEC 31.12.1982 Nº L 378/19). | | Legislation about heating and hot water in dwellings and buildings. | |
| **Household appliances** | | | |
| Commission Delegated Regulation (EU) Nº 392/2012 of 1 March 2012 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household tumble driers (OJEU 9.5.2012 Nº L 123/1). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about tumble driers. | |
| Commission Delegated Regulation (EU) Nº 1059/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household dishwashers (OJEU 30.11.2010 Nº L 314/1). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about dishwashers. | |
| Commission Delegated Regulation (EU) Nº 1061/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household washing machines (OJEU 30.10.2010 Nº L314/47). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about washing machines. | |
| Commission Delegated Regulation (EU) Nº 1062/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of televisions (OJEU 30.11.2010 Nº L 314/64). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about televisions. | |
| Commission Directive 2003/66/EC of 3 July 2003 amending Directive 94/2/EC implementing Council Directive 92/75/EEC with regard to energy labelling of household electric refrigerators, freezers and their combinations (OJEU 09.07.2003 Nº L 170/10). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about household electric refrigerators and freezers. | |

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| Commission Directive 2002/40/EC of 8 May 2002 implementing Council Directive 92/75/EEC with regard to energy labelling of household electric ovens (OJEC 15.05.2012 Nº L 128/45). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about household electric ovens. | |
| Commission Directive 96/60/EC of 19 September 1996 implementing Council Directive 92/75/EEC with regard to energy labelling of household combined washer-driers (OJEC 18.10.1996 Nº L 266/1). | Regulation on the requirements for labeling and standard product information of energy-related products concerning the consumption of energy and other resources | Labelling and information to provide about household combined washer-driers. | |
| **Lifts** | | | |
| European Parliament and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts (OJEC 07.09.1995 Nº L 213). | Regulation on the essential requirements and the machine compatibility assessment (adopted with a Decree of the Council of Ministers No. 140/19.06.2008, promulgated OJ 61/8.07.2008, effective, last amended OJ 48/25.06.2010, effective 15.12.2011) | Legislation about lifts. | |
| **Boilers** | | | |
| Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels (OJEC 22.06.1992, Nº L 167). Amended by Council Directive 93/68/EEC of 22 July 1993 (BOE 27.03.1995 Nº 73). | | Legislation about boilers. | |
| **Hazardous substances** | | | |
| Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJEU 01.07.2011 Nº 174/88). | Regulation on the conditions and the procedure for put on the market of electrical and electronic equipment in relation to the restrictions of the use of certain hazardous substances (adopted with a Decree of the Council of Ministers No. 55/6.03.2013, promulgated OJ 24/12.03.2013) | Legislation about restricted substances: organ pipes of tin and lead alloys. | |
| **CONSUMERS** | | | |
| Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive | Consumer Protection Act (Promulgated, State Gazette No. 99/9.12.2005, effective 10.06.2006, amended, SG No. 30/11.04.2006, effective 12.07.2006, amended and supplemented, SG No. | Information and consumer rights. Legislation referred to procurement of services, car park. Immovables are excluded: lease of | (RDL 1/2007) Part II 2.b. 'Ancillary duties of both parties in |

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| 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJEU 22.11.2011 Nº L 304/64). | 51/23.06.2006, effective 24.12.2006, SG No. 53/30.06.2006, effective 30.06.2006, amended, SG No. 59/21.07.2006, effective as from the date of entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended and supplemented, SG No. 105/22.12.2006, effective 1.01.2007, supplemented, SG No. 108/29.12.2006, effective 1.01.2007, amended, SG No. 31/13.04.2007, effective 13.04.2007, SG No. 41/22.05.2007, amended and supplemented, SG No. 59/20.07.2007, effective 1.03.2008, SG No. 64/7.08.2007, effective 8.09.2007, amended, SG No. 36/4.04.2008, amended and supplemented, SG No. 102/28.11.2008, amended, SG No. 23/27.03.2009, effective 1.11.2009, amended and supplemented, SG No. 42/5.06.2009, amended, SG No. 82/16.10.2009, effective 16.10.2009, supplemented, SG No. 15/23.02.2010, effective 23.02.2010, amended, SG No. 18/5.03.2010, effective 5.03.2010, SG No. 97/10.12.2010, effective 10.12.2010, amended and supplemented, SG No. 18/1.03.2011, amended, SG No. 38/18.05.2012, effective 1.07.2012, supplemented, SG No. 56/24.07.2012, amended, SG No. 15/15.02.2013, effective 1.01.2014, supplemented, SG No. 27/15.03.2013, amended, SG No. 30/26.03.2013, effective 26.03.2013**)** | housing, but not of premises. | the phase of contract preparation and negotiation'. |
| Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic | Electronic Communications Act **(**Promulgated, SG No. 41/22.05.2007, amended and supplemented, SG No. 109/20.12.2007, effective 1.01.2008, amended, SG No. 36/4.04.2008, amended and supplemented, SG No. 43/29.04.2008, amended, SG | Consumer protection in the procurement of communication services. | |

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| communications sector and Regulation (EC) Nº 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJEU 18.12.2009 Nº L 337/11). | No. 69/5.08.2008, amended and supplemented, SG No. 17/6.03.2009, SG No. 35/12.05.2009, effective 12.05.2009, SG No. 37/19.05.2009, effective 19.05.2009, SG No. 42/5.06.2009, Decision No. 3 of the Constitutional Court of the Republic of Bulgaria of 4.06.2009 - SG No. 45/16.06.2009, amended, SG No. 82/16.10.2009, effective 16.10.2009, SG No. 89/10.11.2009, effective 10.11.2009, amended and supplemented, SG No. 93/24.11.2009, SG No. 12/12.02.2010, SG No. 17/2.03.2010, effective 10.05.2010, SG No. 27/9.04.2010, effective 9.04.2010, amended, SG No. 97/10.12.2010, effective 10.12.2010, amended and supplemented, SG No. 105/29.12.2011, effective 29.12.2011, SG No. 38/18.05.2012, effective 1.07.2012, amended, SG No. 44/12.06.2012, effective 1.07.2012, SG No. 82/26.10.2012, effective 26.11.2012, SG No. 15/15.02.2013, effective 1.01.2014, supplemented, SG No. 27/15.03.2013, SG No. 28/19.03.2013, amended, SG No. 52/14.06.2013, effective 14.06.2013, SG No. 66/26.07.2013, effective 26.07.2013, SG No. 70/9.08.2013, effective 9.08.2013) | | |
| Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests (OJEU 01.05.2009, Nº 110/30). | Consumer Protection Act | Collective injunctions infringements of Directives Annex I. | |
| Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJEU 27.12.2006, Nº L 376/21). | Protection of Competition Act (Promulgated, State Gazette No. 102/28.11.2008, amended and supplemented, SG No. 42/5.06.2009, amended, SG No. | Misleading advertising and unfair business-to-consumer commercial | |

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| Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) Nº 2006/2004 of the European Parliament and of the Council (OJEU 01.6.2005 Nº L 149/22). | 54/16.07.2010, SG No. 97/10.12.2010, effective 10.12.2010, SG No. 73/20.09.2011, effective 20.09.2011, SG No. 38/18.05.2012, effective 1.07.2012, SG No. 15/15.02.2013, effective 1.01.2014) | practices. | |
| Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJEC 04.06.1997 Nº L 144/19). | Consumer Protection Act | Contracts relating to immovables are excluded, except from lease. | |
| Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJEC 21.04.1993 Nº L 095). | Consumer Protection Act | Unfair terms | Part II 2.c 'control of contractual terms'. |
| Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises (OJEC 31.12.1985 Nº L 372/31). | Consumer Protection Act | Information and consumer rights. Legislation referred to procurement of services. Contracts on immovables are excluded. | |
| **HOUSING-LEASE** | | | |
| Regulation (EC) Nº 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations - Rome I (OJEU 04.07.2008 Nº L 177/6). | | Law applicable (Art. 4.1.c and d and 11.5) | |
| Council Regulation (EC) Nº 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJEC 16.01.2001 Nº L 12/1). | | Jurisdiction (Art. 22.1) | |
| Commission Regulation (EC) Nº 1920/2001 of 28 September 2001 laying down detailed rules for the implementation of Council Regulation (EC) Nº 2494/95 as regards minimum standards for the treatment of service charges proportional to transaction values in the harmonised index of consumer prices and amending Regulation (EC) Nº 2214/96 (OJEC 29.9.2001 Nº L 261/46). | | CPI harmonization. Art. 5 includes estate agents' services for lease transactions. | |

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| Commission Regulation (EC) Nº 1749/1999 of 23 July 1999 amending Regulation (EC) Nº 2214/96, concerning the sub-indices of the harmonized indices of consumer prices (OJEC 13.8.1999 Nº L 214/1). | | CPI harmonization. Subscript 4: Lease, housing preservation and repair, water and other services. | Part II 2.d 'Index-oriented increase clauses'. |
| Council Regulation (EC) Nº 1687/98 of 20 July 1998 amending Commission Regulation (EC) No 1749/96 concerning the coverage of goods and services of the harmonised index of consumer prices (OJEC 31.07.1998 Nº L 214/12). | | | |
| Commission Regulation (EC) Nº 2214/96 of 20 November 1996 concerning harmonized indices of consumer prices: transmission and dissemination of sub indices of the HICP (OJCE 21.11.1996 Nº L 296/8). | | | |
| Recommendation 65/379/EEC: Commission Recommendation of 7 July 1965 to the Member States on the housing of workers and their families moving within the Community (OJEC 27.07.1965 Nº L 137/27). | | Discrimination on grounds of nationality. Equality in granting housing, aids, subsidies, premiums or tax advantages to workers who have moved within the EU. | |
| **DISCRIMINATION** | | | |
| Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJEU 21.12.2004 Nº L 373/37). | Protection against Discrimination Act (Title amended, SG No. 68/2006) Promulgated, SG No. 86/30.09.2003, effective 1.01.2004, supplemented, SG No. 70/10.08.2004, effective 1.01.2005, amended, SG No. 105/29.12.2005, effective 1.01.2006, SG No. 30/11.04.2006, effective 12.07.2006, amended and supplemented, SG No. 68/22.08.2006, amended, SG No. 59/20.07.2007, effective 1.03.2008, supplemented, SG No. 100/30.11.2007, effective 20.12.2007, amended and supplemented, SG No. 69/5.08.2008, SG No. 108/19.12.2008, supplemented, SG No. 42/5.06.2009, amended, SG No. 74/15.09.2009, effective 15.09.2009, amended and supplemented, SG No. 103/29.12.2009, effective 29.12.2009, amended, SG No. 97/10.12.2010, effective 10.12.2010, SG No. | Discrimination on grounds of sex. | Part II 2.c 'Restrictions on choice of tenant - antidiscrimination issues'. |

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| | 23/22.03.2011, effective 22.03.2011, SG No. 39/20.05.2011, SG No. 38/18.05.2012, effective 1.07.2012, amended and supplemented, SG No. 58/31.07.2012, effective 1.08.2012, amended, SG No. 15/15.02.2013, effective 1.01.2014, SG No. 68/2.08.2013, effective 2.08.2013 | | |
| Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJEC 19.07.2000 Nº L 180/22). | Protection against Discrimination Act | Discrimination on grounds of racial or ethnic origin. | Part II 2.c 'Restrictions on choice of tenant - antidiscrimination issues'. |
| **IMMIGRANTS OR COMMUNITY NATIONALS** | | | |
| Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (OJEU 18.06.2009 Nº L 155/17). | Foreigners in the Republic of Bulgaria Act (Promulgated, State Gazette No. 153/23.12.1998, amended, SG No. 70/6.08.1999, effective 1.01.2000, amended and supplemented, SG No. 42/27.04.2001, effective 27.04.2001, SG No. 112/29.12.2001, effective 1.01.2002, amended, SG No. 45/30.04.2002, effective 30.04.2002, SG No. 54/31.05.2002, effective 1.12.2002, amended and supplemented, SG No. 37/22.04.2003, SG No. 103/25.11.2003, effective 26.02.2004, amended, SG No. 37/4.05.2004, effective 4.08.2004, SG No. 70/10.08.2004, effective 1.01.2005, amended and supplemented, SG No. 11/1.02.2005, SG No. 63/2.08.2005, amended, SG No. 88/4.11.2005, SG No. 30/11.04.2006, effective 12.07.2006, SG No. 82/10.10.2006, SG No. 11/2.02.2007, amended and supplemented, SG No. 29/6.04.2007, SG No. 52/29.06.2007, supplemented, SG No. 63/3.08.2007, amended and supplemented, SG No. | Equality of treatment with housing (Art. 14.1.g.) However, Member States may impose restrictions (Art. 14.2). | |

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| | 109/20.12.2007, effective 1.01.2008, supplemented, SG No. 13/8.02.2008, effective 8.02.2008, amended, SG No. 26/7.03.2008, supplemented, SG No. 28/14.03.2008, amended, SG No. 69/5.08.2008, SG No. 12/13.02.2009, effective 1.01.2010 - amended, SG No. 32/28.04.2009, amended and supplemented, SG No. 36/15.05.2009, amended, SG No. 74/15.09.2009, effective 15.09.2009, SG No. 82/16.10.2009, SG No. 93/24.11.2009, effective 25.12.2009, amended and supplemented, SG No. 103/29.12.2009, supplemented, SG No. 73/2010, effective 17.09.2010, amended and supplemented, SG No. 9/28.01.2011, SG No. 43/7.06.2011, effective 15.06.2011, SG No. 21/13.03.2012, amended, SG No. 44/12.06.2012, effective 1.07.2012, amended and supplemented, SG No. 16/19.02.2013, SG No. 23/8.03.2013, amended, SG No. 52/14.06.2013, effective 14.06.2013, SG No. 68/2.08.2013, effective 2.08.2013, amended and supplemented, SG No. 70/9.08.2013) | | |
| Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) Nº 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJEU 30.04.2004 Nº L 158/77) | European Union Citizens and Members of Their Families Entry and Residence in and Departure from the Republic of Bulgaria Act (Promulgated, State Gazette No. 80/3.10.2006, effective as from the date of entry into force of the Treaty of Accession of the Republic of Bulgaria to the European Union - 1.01.2007, amended, SG No. 109/20.12.2007, effective 1.01.2008, SG No. 69/5.08.2008, supplemented, SG No. 36/15.05.2009, amended, SG No. 93/24.11.2009, effective 25.12.2009, supplemented, SG No. 102/22.12.2009, amended and supplemented, SG No. | Discrimination on grounds of nationality. Free movement for European citizens and their families. | |

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| | 9/28.01.2011, SG No. 21/13.03.2012) | | |
| Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJEU 23.01.2004 Nº L 16/44). | Foreigners in the Republic of Bulgaria Act | Equal treatment in housing (Art. 11.1.f.) | Part II 2.c 'Restrictions on choice of tenant - antidiscrimination issues'. |
| Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJEU 03.10.2003, Nº L 251/12). | Foreigners in the Republic of Bulgaria Act | The reunification applicant shall prove to have an habitable and large enough dwelling (Art. 7.1.a). | |
| Regulation (EEC) Nº 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJEC 17.04.1964 Nº L 257/2). | | Equal treatment in housing and access to the housing applicants' lists (Art. 9 and 10.3). | Part II 2.c 'Restrictions on choice of tenant - antidiscrimination issues'. |
| **INVESTMENT FUNDS** | | | |
| Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) Nº 1060/2009 and (EU) Nº 1095/2010 (OJEU 01.07.2011, Nº L 174/1). | Collective Investment Schemes and Other Undertakings for Collective Investments Act (Promulgated, State Gazette, No. 77/4.10.2011, amended and supplemented, SG No. 21/13.03.2012) | Real estate investment funds | |

## 8. Typical national cases (with short solutions)

The number of cases related to private tenancy issues is relatively small. The reasons could be summarized as follows: a great part of the disputes arising from tenancy relations are not referred to court because the financial interests affected by the disputes do not justify bringing the case to court because the procedure is expensive and time consuming (in some cases up to five – seven years); only very small portion of cases reach the higher court instance – the Supreme Court of Cassation due to the threshold of 5,000 BGN (app. EUR 2,500) financial interest involved in the case when it relates to civil disputes (BGN 10,000 (app. EUR 5,000) when the case involves commercial dispute); the relatively small number of private rental relations which accordingly leads to small number of legal disputes. In addition, the case-law on commercial tenancy

related cases is relevant as it is governed by the same legislation as the tenancy relations between private persons.

- name of typical case (e.g. “extra costs”, “ liability for damages”) ,
- brief sketch of typical case
- solution

> On the other hand, there is no interest of the parties in a case of rental disputes – to get to the Supreme Court (as the highest instance), because usually the amount on the disputes is small and the parties have no interest to appeal to a higher court. Otherwise, in the case the cost can be more than the amount for which the case is brought to the court - and most parties consider that they have no interest to appeal. The other important reason why there are few appeals is that the cases are usually easily solved and it is clear which party is at fault – the other party has no grounds for appeal and thus – to lose money and time.
>
> (interview with a notary, quoted material is translated by the authors)

### 8.1. Case No 1 – Judgment No 1037, 30.12.2009[559]

Lease of property during an active ownership litigation on part of the lessor and a third party

Description:

Side A leases a property to Side B which stipulates intentions to sublease the property to a third party in the annex of the contract. Side A submits a claim to a court of law, stating that Side B did not release the premises after breaching the agreement of payment in the agreed period as stated in Articles 232 and 233 of the Obligations and Contracts Act[560] Side B claims that Side A did not have factual possession of the premises due to an active litigation for ownership between Side A and a third party. On those grounds Side B claims nullity of the lease contract as Side A could not fulfil their obligation to provide access to the premises as stated in Art. 228 of the Obligations and Contracts Act[561]. According to them, they would be obliged to release the premises only if the aforementioned litigation is ruled in favour of Side A.

Solution:

After examining the evidence, The Supreme Court of Cassation[562] decrees that Side B has to release the premises and has to pay the amount of due rental fees during the period of the lease contract and relevant court fees for the proceedings. In their motives it is stated that the existence of an active ownership litigation does not null the force of the stipulated contract and is irrelevant to Art. 233 of the Obligations and Contracts

[559] Supreme Court of Cassation, Judgment No 1037 of 30 December, 2009 on civil case No 3399/08, Forth Civil Chamber, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/101B4EA2038C3379C2257A010031C4ED, Sofia, December 2013.
[560] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 232 and 233.
[561] Ibid., Art. 228.
[562] Supreme Court of Cassation, http://www.vks.bg/, December 2013.

Act[563], which states that the lessee has to return the leased object to the lessor after the conclusion of the obligation relations. Side B has failed to provide evidence of payment of the rental fees and has undoubtedly received the required access to the premises by Side A.

### 8.2. Case No 2 - No 49, 31.03.2011[564]

Absence of a valid written contract for a rent agreement

Description:

Side A leases a property to Side B to use as a boutique shop. The lessor files a claim to a court of law due to non-payment of the rental price for a period of 4 months. The defendant claims no factual contract was signed therefore no valid rental relation took place. The court establishes the existence of a rental contract stamped with a valid seal of the legal entity which the lessee represents but with an invalid signature and also evidence of online payment of the rental price for the first month stipulated in the contract, originating from the lessee's bank account. It is also established that during the whole five-month period, relatives of the lessee were in possession of the premises and were running it as a boutique shop, as stipulated in the contract. This is evidence of fulfilment of the obligation of the lessor to present the object of the agreement to the lessee as stated in Art. 228 of the Obligations and Contracts Act[565].

Solution:

After examining the evidence, The Supreme Court of Cassation[566] holds that de facto a valid rent contract exists albeit an informal one, due to fulfilment of the hypotheses in Articles 228 and 232 of the Obligations and Contracts Act[567], which state, respectively, that the lessor is obliged to present the object of the agreement for use to the lessee and that the lessee is obliged to use the object for the needs stipulated in the contract[568]. Therefore the lessee must pay the amount of due rental fees for the four-month period plus relevant court fees and interest.

### 8.3. Case No 3 - No 144, 17.05.2011[569]; No 54, 11.07.2011[570]

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[563] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 233.
[564] Supreme Court of Cassation, Judgment No 49 of 31 March 2011 on commercial case No 829/2010, Commercial Chamber, Second Section, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/1042431BD5AABC39C2257864002E7D0B, Sofia, December 2013.
[565] Ibid., Art. 228.
[566] Supreme Court of Cassation, http://www.vks.bg/, December 2013.
[567] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 228 and 232.
[568] Ibid., Art. 232, sentence 1.
[569] Supreme Court of Cassation, Judgment No 144 of 17 May 2011 on civil case No 401/2010, Fourth Civil Chamber, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/C3C231C6920A2AB0C2257893004DB52A, Sofia, December 2013.

Compensation or due rental fees for continued use after termination of the contract

Description:

Several persons, all owners of ideal parts of a property lease the property to a lessee to use as a retail store. Part of the lessors file a claim to a court of law, asking for due compensation for continued use after conclusion of the contract on part of the lessee. The lessee claims that the claimants refused payment for due rental fees for the period of the unlawful use of the premises, which would mean dismissal of the obligation for payment of said fees. The claimants filed a one-month preliminary notary eviction notice, stipulating their unwillingness for prolongation of the rental relations and thus terminating the contract, after which the defendant continued to operate for an established period on the whole of the premises, parts of which were owned by the claimants.

Solution:

After examining the evidence, The Supreme Court of Cassation[571] decided that the lessee indeed used the whole of the premises unlawfully. However it does not hold that the defendant was to pay due rental fees for that period, because of the open refusal of the lessors to continue the rental relations, provided by the notary notice. Instead, the due amount to be paid is calculated as compensation, which would be the average monthly market rent value of similar properties, but not lower than the stipulated in the contract monthly rental fee. The court believes that refusal to accept due monthly rent on part of the lessors is justified, according to Art. 66 of the Obligations and Contracts Act[572] which states that the lessor cannot be forced to accept partial payment of the obligation. Instead it bases its motives on Art. 226, para. 2 of the Obligations and Contracts Act[573], which states that if the lessee continues the use of the property after a clear refusal from the lessor, the former owes compensation fees and must continue fulfilment of their obligations from the contract, until the unlawful use is terminated. Therefore the defendant is to pay compensation and court expenses (as claimed by the lessors) to each of the lessors respective to their parts of ownership of the property.

### 8.4. Case No 4 - No 156, 28.12.2011[574]

Payment of taxes and fees and obligation for repairs on part of the lessee as stipulated in contract

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[570] Supreme Court of Cassation, Judgment No 54 of 11 July 2011 on commercial case No 377/2010, Commercial Chamber, Second Section, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/82102C83AB1A301DC22578CD0033753E, Sofia, December 2013.

[571] Supreme Court of Cassation, http://www.vks.bg/, December 2013.

[572] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 66.

[573] Ibid., Art. 226, para. 2.

[574] Supreme Court of Cassation, Judgment No 156 of 28 December 2011, on commercial case No 72/2011, Commercial Chamber, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/252C1A0F18864DDDC2257974003AFAF7, Sofia, December 2013.

Description:

Side A leases a property to Side B via a detailed written contract to use as a retail store, office and storage. Side B agrees to take responsibility for payment of bills and taxes for use of the property and also complete small repairs occurring from the everyday use of the premises. After conclusion of the contract, attorneys of the lessor, in order to defend their legal interest, describe several pieces of damage to parts of the property in a protocol. Side A files a claim to a court of law for due fees for repairs and waste tax. Side B files a counterclaim, stating that they did not use the whole property, therefore asking for reduction of the rental price and subsequently reduction of the claimed waste disposal tax. They base their motives on the aforementioned protocol, which found damage only in parts of the premises. Side B remains silent on the part of the due repairs.

Solution:

After examining the evidence, The Supreme Court of Cassation[575] holds that the statement made by the defendant is illogical and unmotivated due to the lack of any previous objection or written request to the lessor for the due rental fees and non-use of parts of the property after years of rental relations. The court believes that the defendant does not owe repair fees due to the lack of an initial protocol or appropriate evidence of the state in which the property was first provided to the lessee. Therefore, the defendant must only pay the due waste tax as stipulated in the contract plus relevant court fees.

### 8.5. Case No 5 - No 136, 04.06.2010[576]

Obligations in case of use of institutional housing with no written rent contract (consent on the rent price). Payment of utility bills

Description:

Side A is employed by Side B, which is a governmental institution. Side B provides a small apartment for Side A to use as housing on the terms listed in a valid 'Internal Regulations for the Use of Institutional Housing' legislation. Under strict procedural rules, listed in the Ordinance for the Base Real Estate Prices in Sofia Municipality[577], changes to the rental price may occur, administered by the institution without the need for consent of the lessee. Side B files a claim for due utility bills. Side A responds that no rental relation occurred between the two parties, due to the lack of a written contract and consent on the rent price and other expenses.

[575] Supreme Court of Cassation, http://www.vks.bg/, December 2013.
[576] Supreme Court of Cassation, Judgment No 136 of 04 June 2010 on civil case No 4831/2008, Second Civil Chamber http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/DE186372092E0124C2257A460046BB12, Sofia, December 2013.
[577] Ordinance for the Base Real Estate Prices in Sofia Municipality, Municipality of Sofia, adopted with Decision 81 under Minutes 7 of 28 February 2008, last amended and supplemented Decision 210 under Minutes 87 of 14 April 2011.

Solution:

After examining the evidence, The Supreme Court of Cassation[578] holds that the defendant is to pay the requested utility bills plus tax on the grounds of valid rental relations for the specified period and according to Art. 232, para. 2 of the Obligations and Contracts Act[579]. In its motives, the court holds that the rental relations occurred between the parties as to the Order for Accommodation issued on the grounds of a valid employment contract, which was accepted by the defendant. The rules for the accommodation in the institutional housing are listed in the internal regulations for use of the housing which is a subordinate legislation due to the nature of the employer's statute and are considered accepted by the defendant on the same grounds.

### 8.6. Case No 6 - No 238, 04.09.2013[580]

Priority of written stipulations over verbal evidence – signing of delivery protocol

Description:

Side A leases a property to Side B via a written contract. Article 7 of the contract states that the lessor must provide access to the premises to the lessee via a descriptive transfer protocol. The lessor claims due rent fees for a period of 3 years as according to witnesses the lessee had access to the property for the period. The defendant claims that the lessor did not fulfil their obligation to provide access to the premises under the agreed circumstances and therefore does not owe any rent fees.

Solution:

After examining the evidence, the Supreme Court of Cassation[581] holds that the existence of a valid agreement on the procedure of transfer accepted by both parties is the only needed evidence to prove whether access to the property was established or not. The relevant facts to whether there was a valid contractual rent relation are agreements by both sides on the price of the object and the actual object of the contract, expressed in a unanimous form of stipulation, which in this case is the written contract. The existence of a clause which clearly expresses the will of the parties for the process of transfer of the premises to the lessee nulls any kind of verbal or witness evidence relevant to the factual possession of the property. The lack of a descriptive transfer protocol signed by both parties according to the contract clause is evidence of failure of the lessor to fulfil his obligation to provide access to the premises to the lessee.

[578] Supreme Court of Cassation, http://www.vks.bg/, December 2013.
[579] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 232 para. 2.
[580] Supreme Court of Cassation, Judgment No 238 of 4 September 2013 on commercial case 123/2011, Commercial Chamber, Second Section, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/ED653D7FFA7DE116C2257BDC004C6D61, Sofia, December 2013.
[581] Supreme Court of Cassation, http://www.vks.bg/, December 2013.

Therefore, the lessee has no obligation to fulfil his contractual obligations and the rent fees claim is void.

### 8.7. Case No 7 – No 34, 02.04.2009[582]

Payment of repair and improvement bills when responsibility is not stipulated in the contract

Description:

Side A leases two buildings to Side B via a written contract for a period of 5 years. Side A stipulates agreement for major improvements, repairs and inner and outer renewal of the property but the parties do not specify who is responsible for the payment of said modifications. A few months after the five year period Side A sells the property to two different parties, known collectively as Side C, each owner respectively of one of the two different buildings. The lessee claims improvement and repair fees from the lessors based on Art. 59 of the Obligations and Contracts Act[583] which states that the beneficiary is responsible for the expenses made by the benefactor when no other claim is available for use.

Solution:

After examining the evidence, The Supreme Court of Cassation holds that according to Art. 237, para. 2 of the Obligations and Contracts Act[584], after the sale of the property, the lease contract is continued as one of indefinite period, therefore the new owners undertake the role of lessors for the same contract because it was not terminated before the transfer of ownership. The court agrees with the plaintiff that due to the lack of an agreement over who should take responsibility for made changes, Art. 59[585] is the appropriate tool for the claim and the new owners (Side C) as lessors are the beneficiaries. By practice, the appropriate amount to be received by the claimant is the lowest price when the expenses for the improvements and the increase of the real estate value of the property are compared side by side.

### 8.8. Case No 8 - No 227, 07.09.2010[586]

Nullity of default clause due to lack of conclusion of the rent contract. Excessive default

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[582] Supreme Court of Cassation, Judgment No 34 of 2 April 2009 on commercial case No 683/2008, Commercial Chamber, Second Section, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/4B998912ABC7EFEDC22579510033FEBF, Sofia, December 2013.

[583] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 59.

[584] Ibid., Art. 237, para. 2.

[585] Ibid., Art. 59.

[586] Supreme Court of Cassation, Judgment No 227 of 7 September 2010 on commercial case No 409/2009, Commercial Chamber, Second Section, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/78769EF4B64F21A3C22577E600585257, Sofia, December 2013.

Description:

Side A leases a property plus inventory to Side B to use as a fast food restaurant. They stipulate a clause, according to which the lessee owes 150% of the yearly rent price as compensation for default on part of the lessee to return the property after conclusion of the contract. After expiry of the duration of the contract the lessor does not object to the continued use of the property by the lessee immediately. Instead, after a few months the lessor sends a notice for eviction from the premises of the defendant. The lessor claims payment of the default clause due to non-transfer of the property in due time.

Solution:

After examining the evidence, The Supreme Court of Cassation[587] holds that the defendant must not pay the default clause stipulated in the contract. In its motives, the court declares that the lack of objection from the lessor of the use of the property by the lessee in the appropriate time frame transformed the contract into one of indefinite period which is regulated in a different manner. According to Art. 238 of the Obligations and Contracts Act[588], a contract of an indefinite period can be terminated by each of the parties with an appropriate notice, therefore the relevant facts leading to execution of the default clause never took place and the claim is invalid.

8.9. Case No 9 - *Yordanova and Others v. Bulgaria*, No 25446/06, Judgment of 24 April 2012 European Court of Human Rights (ECtHR) – see above detailed description in the chapter '5. Origins and development of tenancy law' on the Relevant case-law of the European Court of Human Rights.

8.10. Case No 10 - No 156, 28.12.2011[589]

Defects of rented dwelling. Claims by the tenant

Description:

Due to the aging buildings, rented dwellings are often outdated and can be characterized with significant physical or legal defects. The other most common scenario is leased unfinished new homes in need of major improvements (additional construction doings). Physical defects are those which affect building (walls, floors, ceilings, and/or operation of the facilities in the building (wiring, ducts and pipes). There are cases when these defects make it difficult or impossible occupation of rent of the dwellings. Repairs of the defects were agreed before signing the contract. However, the

[587] Supreme Court of Cassation, , December 2013.
[587] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 238.
[588] Obligations and Contracts Act, promulgated in State Gazette issue 275 of 22 November 1950, last amended State Gazette issue 50 of 30 May 2008, Art. 238.
[589] Supreme Court of Cassation, Judgment 156 of 28 December 2011 on commercial case No 72/2011, First Commercial Chamber, http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/252C1A0F18864DDDC2257974003AFAF7, Sofia, December 2013.

landlord fails to comply with obligations for making improvements in the rented property written in the signed lease.
(Besides physical defects, housing is likely to have the “legal defects” relating to possible risks/troubles with the right to use the rented dwelling. For instance, such impediments can include unbroken prior lease contract, third party claims to the ownership of the house and commenced enforcement procedure, concluded a preliminary agreement to sell the home, lack of administrative permission for use of the building, etc.).

S**olution:**

At lease the status in which the landlord delivers the dwelling should be described in detail. The Obligations and Contracts Act (Article 230, paragraph 1) provides that the landlord is obliged to deliver housing in the condition, which corresponds to the use for which it is employed.
However, this rule provides an exception. The lessee can rent the dwelling even if it is unsuitable for habitation but this must be explicitly agreed between the parties. This is required if the dwelling has any shortcomings that make it unfit for habitation.
If the dwelling is not delivered by the lessor in the proper state, there are four alternative options for the tenant:

1. Ask the landlord to repair the dwelling
2. Repair the dwelling by its own money
3. Claim a commensurate reduction of rental price
4. Initiate termination of the contract

In all cases, the tenant is entitled to compensation that can be arranged as a penalty. According to Obligations and Contracts Act[590], the tenant is entitled to claim a proportionate reduction of rent.

9. Tables

9.1. Literature


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## 9.3. List of abbreviations

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|---|
| COHRE – Center on Housing Rights and Evictions |
| CRPD – Convention on the Rights of Persons with Disabilities |
| EC – European Commission |
| ECtHR – European Court of Human Rights |
| ERRC – European Roma Rights Center |
| EUInsR – Regulation (EC) 1346/2000 on insolvency proceedings |
| FEANTSA – European Federation of National Organisations Working with the Homeless |
| ID – identification |
| SG – State Gazette (Държавен вестник) |
| VAT – Value added tax |