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

Tenant's Rights Brochure for

HUNGARY

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Tenant's Rights Brochure

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1. Introductory information

- Give a very brief introduction on the national rental market (MAX 2 Pages)

In Hungary, the size of the housing stock has reached 4.4 million units by 2011, of which 3.9 million units are used as a place of residence ('inhabited' in the Hungarian Census' terms, Census, 2012). As indicated in the table "*Tenure structure in Hungary (inhabited units) 1980-2011*", the vast majority of housing units are owner-occupied; with a roughly 90% owner occupation rate, Hungary can be considered one of the "super home-ownership" states. After 1990, intensive privatization of public housing stock has led to the heavy depletion of this sub-sector, leaving it around 3% of the entire housing stock.

Table 1 . Tenure structure in Hungary (inhabited units) 1980-2011

	1980	1990	2001	2011
Owner-occupied	71%	74%	92%	92%
Private rental	3%	3%	4%	4%
Public rental	26%	23%	4%	3%
Other	0%	0%	1%	1%
Total	100%	100%	100%	100%

*CSO Census data for 1980, 1990, 2001 and 2011

Private residential renting in Hungary is limited by a number of legal and financial factors. Nonetheless, the official tenure statistics and national Censuses are not considered fully reliable by the pollsters themselves: private rental is recorded to be around 4% of the full housing stock, while pollsters believe that many of the residences reported as 'vacant' are in fact privately let, but go unreported towards tax authorities.

In Hungary, owner-occupation is the dominant tenure form, but one has to keep in mind that available tenure statistics are not fully accurate. The share of private rental sector is unanimously considered underestimated by practically all actors and professionals in residential renting, due to widespread tax avoidance. According to expert estimates, the share of private rentals is more likely to be around 8% of the inhabited housing stock. Besides private rental and public function rental, a fairly large share of the population live in 'rent free tenure'.¹

- Current supply and demand situation

Housing construction substantially decreased from 1990, partly because of the economic recession of the 1990s, and partly because of the dampening demographic pressure. From 2008, the construction activity declined substantially because of the economic crisis; the construction sector has been stagnating ever since. Nonetheless, the composition of the housing stock improved both terms of size and comfort level. However, housing consumption has not reached the European

¹ Eurostat (SILC) - Distribution of population by tenure status, type of household and income group, 2012.

average in terms of space and comfort level: although the overall housing situation cannot be considered low relative to the GDP level of the country, it lags far behind the EU15 level.²

Residential tenancy is relatively low on an EU-28 comparison. Accidental landlords are the typical providers in the private rental sector, and municipalities are the main social landlords. The most typical form of private rental tenure is an individual landlord contracted to an individual tenant (or multiple individuals, e.g. a family). The term of the contract is typically short, one or two years, or even less, with students only staying for 10 months being a preferred “safe” option among many landlords.

The public rental sector offers affordable housing, but the demand is several times higher than the supply: the full number of households legally eligible for social rental housing is estimated to be around 300,000, about three times higher than existing habitable social rental units; and vacancies announced by municipalities are often met with multiple times the applications. In the private rental sector the rental costs are too high to be considered affordable, partly because of the legal uncertainties (leading to risks on both the supply and the demand side) and the inappropriate subsidy and tax policy, which strongly limits demand. Nonetheless, there clearly is a strong need for a larger and more reliable private rental sector.

- Main current problems of the national rental market from the perspective of tenants
 - Tax evasion, which pushes a large number of private rentals into shadow economy. In the case of an “informal rental”, the landlord usually concludes a valid rental contract with tenants, although they often evade tax payments after the rental income.
 - Subsequent lack of predictable contracts: most issues are left to individual agreements, no clear guidelines in conflict resolution (e.g. who renovates, and who pays for the renovation; what happens if the tenant is late with payment, what happens if landlord refuses to return the deposit etc.).
 - The current legal regulation is pro-landlord, and does not ensure thorough protection of the tenant in a number of issues, e.g. termination of the tenancy (30 day notice is sufficient for both parties, which makes renting a very unpredictable tenure form for the tenant).
 - Affordability issues: renting is hard to predict for landlord, as tenants may ‘disappear’ and leave large debts behind. As a result, landlords build the risk of non-payment and arrears into the rent, which raises the level of market rent significantly.
 - - Significance of different forms of rental tenure
 - Private renting

While home ownership is the predominant tenure form, private rental is dominant within residential leases. However, due to its permissive regulation, the general non-enforceability of contracts, and the subsequent higher relative private rent levels,

² EU Housing Statistics 2010: *Housing Statistics in the European Union*, Ed. Kees Dol & Marietta Haffner, (OTB Research Institute for the Built Environment, Delft University of Technology).

private residential renting faces serious limitations. According to official statistics, private rentals account for 4% of the full housing stock, although expert estimates place it around 8%.

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

In Hungary, rentals with and without a public task are clearly distinguished. As described earlier, official statistics show public rental to be around 3% and private rental at around 4% of the inhabited housing stock, although complementary information suggests slightly different percentages. As the typical social landlords are municipalities, which duly report their rental units, statistics on public function rentals can be considered reliable. Nonetheless, we can clearly state that the social rental sector has changed from a ‘universal’ to a ‘residualized’ sector in the last 20 years. The supply for social rentals (and even ‘cost based rentals’, which is public rental but with a rent level closer to market prices) is well below the demand, and the number of eligible households.

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

Although municipal housing may be lawfully available for all EU and EEA citizens, municipal decrees often give preference to long-time local residents with a disadvantageous social or economic situation. Due to this, and to the scarce supply of municipal housing, it is unlikely for foreign citizens without longstanding permanent residence in Hungary to obtain a municipal or social rental apartment. Accordingly this brochure focuses primarily on the private rental sector, and the main rules and practices of which the average renter coming from outside Hungary should be aware.

One important issue that foreign renters need to consider is that the vast majority of Hungary’s landlords do not speak foreign languages, which makes dealing with them very complicated, even beyond legal and financial difficulties. Real estate agencies can be very helpful in this regard. A number of online real estate rental services are available too (e.g. <http://realestatehungary.hu/> and <http://www.alberlet.hu/en> are essentially for Hungarians, but they are available in English as well). However, agencies and services specializing on a foreign audience tend to charge significantly higher fees; they may be very helpful for would be renters with little knowledge of the language and a stable financial background, but less appropriate for prospective tenants with a tighter budget. These latter might have to take the more complicated road of getting informal (personal) help from locals, or getting to know the basics of the language.

While all administrative issues should go quite smoothly for EU and EEA citizens in every field of life in Hungary, the prevalence of black market makes private rental particularly simple for all renters with a strong purchasing power; and particularly risky for all renters with more limited means. Furthermore, prospective renters from outside the EU/EEA may have to face discrimination based on their cultural background or geographic origin.

While nominally Hungary is one of the least expensive countries of the EU, foreigners may find many of the rental units overpriced when considering their quality (this again due to risks being built into rents).

- Main problems and “traps” (circa 5) in tenancy law from the perspective of tenants
1. Hungarian tenancy law does not secure an undisturbed, long-term tenancy relationship for the tenant. The legislation provides that the landlord may terminate open-ended tenancy contracts any time with a notice until the 15th day of the month, to take effect on the last day of the following month. In addition, landlords usually also provide for the right of ordinary termination in the case of contracts concluded for a determined period.
 2. In most cases, Hungarian tenancy law gives priority to the agreement of the parties. Furthermore, even in those cases where the law lays down certain rights and obligations, the legal practice considers that parties are free to deviate from these rules. Therefore, the legislation cannot be expected to address the potential conflict situations and it is crucial to examine the content of the tenancy agreement and make sure that it does not unilaterally favour the landlord.
 3. Widespread tax evasion of landlords pushes a large part of the sector into the shadow economy. This leads, on the one hand to part of the tenancy relationships being undocumented, others dissimulated as free use. In these cases, landlords are willing to charge lower prices but the resolution of legal conflicts becomes very difficult. On the other hand, tax evasion also often results in a reluctance of landlords to agree to the tenant’s registration at the local municipality, a declarative act necessary for accessing local services such as nursery schools and schools. Registration is, however, a right of tenants, also possible with a copy of the tenancy contract, without the landlord’s express agreement.
 4. Court procedures take long and their outcome is not entirely predictable in tenancy matters. Therefore, most lawyers are advising their clients to endeavour to reach an amicable solution instead of litigation.
 5. Evictions are difficult to obtain and until final court decision, the tenant may claim the protection of its possession against the landlord. In order to avoid the resulting risks, landlords are often requiring the conclusion of a tenancy agreement in front of a notary public, including an undertaking by the tenant to leave the dwelling in the case of termination. As agreements concluded in front of a notary public may be directly executed (i.e. without court decision), tenants need to pay special attention not end up in an unfavourable situation (e.g. not being able to contest unlawful termination before eviction).

Important legal terms related to tenancy law

Hungarian	English
Albérlet	Sub-tenancy (colloquially used as a synonym of tenancy)
Albérlő	Sub-tenant (colloquially used as a synonym of tenant)
Bérlet	Tenancy
Bérlő	Tenant
Bérbeadó	Landlord
Bérelti szerződés	Tenancy contract
Bíróság	(Civil) court
Értesítés	Notice
Felmondás	Termination
Fizetés	Payment
Határozatlan idejű	Indefinite term
Határozott idejű	Definite term
Hiba	Defect
Ingatlan	Real estate
Javítás	Repair
Kaució	Deposit
Kilakoltatás	Eviction
Közös költség	Common costs (shared costs in multifamily buildings, usually condominiums and cooperatives)
Lakbér	Rent
Nettó lakbér	Net rent (excluding common costs and utilities)
Bruttó lakbér	Gross rent (including common costs and utilities)
Szerződés	Contract
Szerződéskötés	Conclusion of contract
Szerződésszegés	Breach of contract
Rezsi	Utilities
Társasház	Condominium
Tulajdonos	Owner
Végrehajtó	Bailiff
Zálog	Pledge

2. Looking for a place to live

2.1. Rights of the prospective tenant

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

Act 125/2003 on equal treatment and the promotion of the equality of chances (“Antidiscrimination Act”) applies to tenancy contracts as well. The Antidiscrimination Act provides that *“natural persons and groups of persons residing in the territory of Hungary, legal persons and organisations without legal personality need to be treated with the same respect and diligence, and with equal considerations for the individual*

perspectives". The Antidiscrimination Act further provides that persons or a group of persons cannot be subject to direct or indirect discrimination based on their real or perceived characteristics, in particular their gender, race, colour, nationality, belonging to a nationality, mother tongue, handicap, health situation, religious or political belief, marital status, motherhood (pregnancy) or fatherhood, sexual orientation, age, social origin, financial situation, part time work or determined work contract, belonging to a representative body/advocacy group, etc.

The equal treatment obligation applies on the first place to public bodies. In the field of housing, a specific provision prohibits direct or indirect discrimination regarding housing subsidies, reductions or interest subsidy by the State or the municipalities; as well as in the course of the sale or lease of State or municipality owned dwellings and building plots.

In the case of private landlords, the Antidiscrimination Act provides that they have to respect the requirement of equal treatment when making an open offer for the conclusion of a contract or asking for an offer. This situation would also include the selection of tenants by a private landlord in case a newspaper or internet advertising is placed. There is however no standing practice in such cases and proving discrimination may often be difficult in an individual case.

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

Hungarian tenancy law does not address the phase of selection of tenants. Thus, the questions that may be asked by the landlord, the consequences of discriminative questions, and the tenant's right or prohibition to give a false answer are not addressed either.

Formal regulation is very limited in this regard. Landlords can generally be expected to assess their prospective tenants' legal and financial situation; and only to the extent they need to know that the tenant will be able to cover rent and utilities. Most landlords will avoid asking any questions that do not directly influence the safety of the dwelling and the profitability of their contract (e.g. despite Hungary's relatively strict take on same sex couples, the typical landlord will not turn down a tenant based on sexual orientation). On the other hand, many will discriminate based on ethnicity if they associate low income with an ethnic group (e.g. Roma population, immigrants from third world countries), although most of them will do so covertly.

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

This procedure is very unusual on the Hungarian rental market, and illegal in the case of public sector rentals.

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

On the private rental market, informal checks are usual, which are often limited to the

landlord assessing the tenant based on visual cues, or the landlord asking general questions about the tenant's job, the goal of moving to the rented apartment etc. A central information system on 'bad landlords' or 'bad tenants' is not available in Hungary.

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

Real estate agents assist in the selection of tenants and landlords; they merely facilitate matching the parties, but do not provide an in-depth assessment of either party's reliability. They do not take formal responsibility for the outcome; although in practice some agents may (informally) provide the option of finding a replacement for the landlord if one tenant leaves after a very short period (e.g. 3 months).

There are no formal associations helping tenants to find suitable rental housing. The National Association of Tenants provided legal aid until 2002, when it had to discontinue its activity due to lack of funding. This aid, however, aimed at helping tenants who already reside in a rented dwelling, rather than assist tenants in finding a place to rent.

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

There is no full and generally available blacklist of bad landlords/tenants. There are attempts on behalf of real estate agencies as well as individuals to create such blacklists; however, their publication is considered a violation of privacy law. Therefore, the lists remain informal, limited to a number of individuals who agree to share their negative experience, or internal to real estate agencies. Real estate agencies may claim to verify of tenants based on constantly updated black lists, but there is no reliable information on the completeness of these lists.

2.2. The rental agreement

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

Tenancy contracts need to be concluded in writing in order to be valid, in both the public and the private rental sector. In line with the civil law practice, the requirement for written form is considered to be met if the declarations of the parties are signed by the corresponding party (these do not need to be in one single document). Agreement by postal correspondence, telegrams and telefax may also be recognized as a contract concluded in writing.

Apart from the written form, the Hungarian legislation does not provide for further formal requirements for the conclusion of the tenancy contract. There is no fee stamp required and contracts do not need to be registered. At the same time, it is of course

in principle mandatory for the landlord to declare the incomes from the tenancy contract in the context of the regular tax declarations.

The parties have the option to conclude the contract in front of a notary public, which makes it directly enforceable. This costs about one or two months' rent.

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

Hungarian tenancy law does not define mandatory minimum requirements of a tenancy contract. However, for the valid conclusion of a contract, the parties need to agree in the essential terms. The most basic ones are the identification of the dwelling (typically the address) and the amount of monthly rent.

The legal environment of private renting is flexible to the extent that in some cases even these may be omitted; however, it is recommended to have at least as much clearly stated in the contract. Other aspects of the tenancy may be agreed in the contract, although it is not required for its validity.

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

Tenancy contracts may be time limited or open-ended, according to the parties' agreement. The law does not provide for mandatory maximum or minimum duration, and there is no provision on the prolongation of tenancy contracts either.

The main difference between limited time and open-ended contracts lay in the possibilities for termination and enforcement: open-ended contracts can be terminated by virtue of law any time with appropriate notice, while this option is not available for tenancy contracts for a determined period. In line with general practice, however, the parties may agree to provide for such an option in time limited contracts, too. Another significant difference is that in the case of time limited contracts, eviction may be directly initiated after the expiry of the term.

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

Hungarian tenancy law does not specify the indications necessary for specifying the obligation of rent payment. In any case, it is recommended to agree on the periodicity of rent payment (typically per month), the due date of rent payment and the method of payment. It is also recommended to fix the method and regularity of payment of the utilities.

- Repairs, furnishings, and other usual content of importance to tenant

In Hungarian tenancy law, parties have a large freedom to agree on the maintenance and furnishings of the dwelling, as well as and other details of the tenancy relationship.

- Is it legal for the landlord to shift the costs for certain kinds of repairs (if yes, which?) to the tenant?

Under Hungarian tenancy law, the parties may freely agree on the sharing of responsibilities for the maintenance of the building, the dwelling and its equipment.

As a rule, the landlord needs to ensure the maintenance of the building, the continuous running of the central devices of the building and the fitting of defects in the premises in common use and in their equipment. The parties may, however, decide otherwise, in which case the tenant is entitled to rent reduction.

The bearing of the costs of maintenance, renewal, and replacement of the floors, windows and the equipment of the dwelling is subject to the agreement of the parties. In lack of such an agreement, the costs of maintenance and renewal are borne by the tenant, the costs of replacement and exchange by the landlord.

In the case of municipal rentals on a social basis, the maintenance, renewal and replacement obligations mentioned above are borne by the tenant, who will be entitled to a corresponding rent reduction.

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

As a main rule, the landlord is expected to provide major appliances. According to tenancy law, the landlord is bound to hand over the dwelling to the tenant together with the appliances corresponding to the comfort category of the dwelling, in a state suitable for proper use. The dwelling is suitable for proper use if the parts of the central equipment of the building located in the dwelling and the appliances of the dwelling are functioning.

The parties may however agree that instead of the landlord, the tenant makes the dwelling suitable for proper use and equips it with the appliances corresponding to its comfort category. This agreement needs to lay down the reimbursement of the related costs and its conditions,

The furnished or unfurnished state of the dwelling is however entirely left to the discretion of the parties. Landlords are advertising the dwelling in a furnished or unfurnished state. In the case of furnished dwellings, the details of the furniture may be discussed among the parties and landlords are often willing to try to accommodate the tenants' wishes.

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

An inventory of furnishings and of other equipment is not mandatory, but it is recommended to avoid difficulties at the end of the tenancy relationship. Typically, an inventory may be prepared by the landlord and annexed to the contract upon agreement of the tenant.

- Any other usual contractual clauses of relevance to the tenant

In line with the main governing principle of freedom of contract, private tenancy agreements may address any aspect of relevance to the parties. The clauses included by landlords are usually formed by the landlord's previous experience with tenants and typically covers issues such as deposit, termination options, and consequences of termination (undertaking by the tenant to move out), allowed uses and details of the use (possibility to keep pets, make noises), possibility to accommodate other persons and to sublet, cases of compulsory notification of the landlord, etc.

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

In the case of private dwellings, the tenant may only accommodate his or her minor child and the grandchild born during their cohabitation without the agreement of the landlord. For other persons moving in with the tenant, the written consent of the landlord is needed. In the case of joint tenancy or co-tenancy, the written consent of the other joint tenant or co-tenant is also needed.

The tenants of municipal dwellings can freely accommodate their closest relatives, meaning their spouse, children, their accommodated child's children, or their parents. In all other cases, the consent of the municipality is required and the conditions for the consent are provided in the relevant municipal decrees. The persons accepted to move in with the tenant are lawful users of the dwelling, although they are themselves not in the position of the tenant and are not in a legal relationship with the landlord; and their right to use the dwelling depends on the terms of the tenancy contract.

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

In the case of private dwellings, there is no such obligation. However, in line with the freedom of contract, the parties may provide so in the tenancy agreement.

In municipal dwellings, the municipal decree may provide that the tenant is obliged to live in the dwelling. In this case, the tenant must notify the landlord if he/she intends to take a leave for more than two months. Unless the failure to notify can be justified, undeclared absence could be grounds for the termination of the contract, which is justified by the strong demand for municipal (affordable) housing.

- Is a change of parties legal in the following cases?
 - divorce (and equivalents such as separation of non-married and same sex couples);

Divorce or separation may indeed affect the tenancy agreement. In these cases too, Hungarian legislation gives priority to the agreement of the parties, guaranteeing at

the same time the right of use of the dwelling of the common minor child.

If the parties cannot agree, they can demand the decision of a civil court. In case the parties were joint tenants, the main rule is the sharing of the use of the dwelling among the parties (this means that the parties may use certain rooms and other premises exclusively, others jointly). In case one of the parties was the individual tenant, the main rule is that the Court grants this party the right to use the dwelling. The shared use of the dwelling is nonetheless also possible in certain circumstances, in particular in order to ensure the habitation of the minor child.

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

With regard to an apartment shared among students, Hungarian law does not contain any specific rules; instead, the general rules regarding shared tenancies apply. Sharing a dwelling is possible in the form of joint tenancy (when all tenants are entitled to use the whole dwelling and they conclude a joint agreement with the landlord) or co-tenancy (when tenants may use a specific room and certain premises of the dwelling exclusively, others jointly and they conclude individual agreements with the landlord).

In both cases, the moving in of a new tenant is only possible upon agreement with the landlord (in the case of joint tenancy, by amending the contract, in the case of co-tenancy, by concluding a new co-tenancy agreement with the landlord).

- death of tenant;

In the case of private tenancy, Hungarian law does not foresee an automatic right of continuation in the event of the death of the tenant. Such rights are only foreseen in the case of municipal dwellings. In this case, as a rule, those persons who had the right to move in with the tenant and who lived with the tenant at the time of his/her death may continue the tenancy (the spouse, the tenant's child and the child of the co-habiting child, the tenant's parent, in this order if they don't agree otherwise).

Under certain conditions, upon agreement of the landlord, the maintainer may also continue the tenancy of both private and public dwellings. In this case, the maintainer has priority over the other persons entitled to continue the tenancy. In either case, the person continuing the tenancy is obliged to ensure the use of the dwelling for those who lived rightfully in the dwelling at the time of the death of the tenant.

- bankruptcy of the landlord;

In the case of bankruptcy of the landlord, in theory, the tenant may continue to use the dwelling, unless the agreement between the landlord and the mortgagor specifies that the dwelling has to be auctioned in an inhabited state and the tenancy agreement was concluded despite this provision. However, in practice, landlords would seek to terminate the tenancy agreement in such a case, as the inhabited state significantly lowers the market price of the dwelling.

- Subletting: Under what conditions is subletting allowed? How can an

abuse of subletting (when the tenant is offered not an ordinary lease contract but only a sublease contract) be counteracted?

In Hungary, in the everyday language, subletting is often used as a synonym of lease. Under Hungarian law, however, the legal term of subletting refers to the sublease of the dwelling or part of the dwelling by the tenant.

The tenant is permitted to sublet the apartment or part of it upon the agreement of the landlord. In order to be valid, the sublease contract needs to be concluded in writing. In the case of municipal dwellings, the conditions of agreeing to subletting are defined in the relevant municipal decree.

In view of the priority of the principle of freedom of contract and the lack of significant tenant protection, the phenomenon of abuse of subletting is not a problem in Hungary.

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

In principle, yes, the sale of the dwelling in itself does not affect tenancy, unless it is specified otherwise in the tenancy contract (e.g. a contract clause could state that the tenancy is terminated with the sale of the dwelling).

However, the market price of an inhabited dwelling is significantly lower, and therefore landlords would typically seek to terminate the tenancy contract in the case of sale. Tenancy agreements often contain a general right of termination by the landlord, which could be used in such a case. In the alternative, a landlord would typically endeavor to agree with the tenant in an amount of compensation for earlier leave.

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

In Hungary, there is no unified legal framework regulating the system of public services. Therefore, there is no general definition or categorization of these services either. The relevant rules are contained in the sector laws (e.g. Act 209 of 2011 on Water Public Utility Supply, Act 18 of 2005 on District Heating, Act 86 of 2007 on Electricity). In addition, the conditions are provided in the general non-negotiable service agreements of the providers.

The usual utilities that can be considered “basic” are the supply of gas, electricity, water and sewage services, district heating and waste management (the latter two may qualify as communal services); and the maintenance of the building (condominium fee). Additional services may include phone (mobile phone), television, radio and internet services, postal services, etc.

As a result of the fragmented regulation, there are also differences among the different utilities as regards the position of consumer. In the case of gas and

electricity, the consumer is the direct user of the services. In the case of drinking water supply, district heating and waste management, the consumer is the community of inhabitants of the dwelling, and the owner of the flat is the “separate user” or “fee payer”.

In practice, the landlord and the tenant can agree if one or the other will contract with the utility providers. Landlords will however typically prefer to remain the contracting party for a number of reasons (e.g. control over consumption, avoidance of additional administrative fees, and in many cases tax evasion). Landlords have a strong incentive to closely follow the payment of utilities as in reality, irrespective of the option chosen, the owner will be held responsible for the arrears made by the tenant.

Utility services could either be paid directly by the tenants, in which case the tenant pays by payment order, and presents the proof of payment to the landlord; or they could be paid by the landlord, who will then show the paid orders to the tenant. In any case, both solutions suppose a regular direct contact between the landlord and the tenant.

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

Hungarian tenancy law does not address the payment of utilities which is therefore subject to the agreement of the parties. The landlord can lawfully demand that the tenant cover all the costs of the utilities that they use while living in the dwelling. In the case of condominiums, this usually also means the ‘common cost’ of condominiums, which covers the general management, cleaning, maintenance of the shared parts of the building etc. The ‘common cost’ also often contains a part paid into the building renovation fund, which is typically a long term goal benefiting the owner. Although in the strict sense, this part of the fee is not related to the actual use by the tenant, in practice the full amount of ‘common cost’ is charged on the tenant.

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

As mentioned previously, in Hungary, the payment of service fees is subject to the agreement of the parties. In line with the general practice, the waste collection fees, as fees relating to the use of the dwelling are borne by the tenant. Additional costs not directly related to the actual use would primarily be addressed to the landlord (e.g. a contribution to road repair) and typically also borne by the owner.

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

As above, the sharing of the payment of common costs of a condominium is not regulated by law. Accordingly, landlords usually charge the whole amount on the tenants, although it may include fees to be used for longer term goals beyond the maintenance of the building.

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

The lawful amount is, as of March 2014, up to three months' rent. In practice, landlords often accept a lower amount, e.g. 1-2 months' rent. On the high end of the market though, some landlords may charge significantly higher deposits (e.g. up to 6 months' rent). As of March 2014, the law provides that in this case, the tenant may turn to court to lower the excessive amount of deposit.

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

There is no specific regulation in place regarding the management of the deposit during the tenancy. It is therefore up to the parties to agree on the management including on the beneficiary of the interests, In lack of such an agreement, the landlord is free to decide on these issues.

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

The legislation does not exclude that the parties agree on the provision of additional guarantees in the case of tenancy relationships (e.g. a personal guarantor). However, it is not common to have recourse to other guarantees that the deposit,

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

3. During the tenancy

3.1. Tenant's rights

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

'Defect' of a dwelling does not have a general definition in Hungary. The landlord has to warrant that the dwelling corresponds to the provisions of the contract during tenancy. Furthermore, as mentioned previously, as a main rule, the landlord needs to ensure the maintenance of the building and its central devices, and the fitting of defects in the premises in common use and in their equipment; and – unless otherwise agreed by the parties - bear the costs of replacement and exchange of the floors and tiles, doors, windows and the equipment of the dwelling.

In lack of a legal regulation of defects, the agreement of the parties and a case-by-case assessment is relevant. Mould and humidity would typically qualify as a defect. Exposure to noise could also qualify as a defect in particular if the level of noise would affect the proper use of the dwelling (e.g. if it goes beyond the limits of acceptable noise defined in the legislation on environmental noise levels). In the case of occupation by third parties, the tenant is entitled to demand protection of possession on its own right, in a non-litigious procedure.

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

In line with the general provisions on warranty, in the case of defects, the tenant may ask for repair, request an appropriate lowering of the rent payment, correct the defect on the cost of the landlord or – in the case of an important defect - terminate the tenancy relationship.

In line with the provisions of tenancy law and court practice, if a tenant notices a warranty defect in the rented dwelling, he/she has to inform the landlord in writing about it and request the landlord to repair the defect. If the landlord does not fix the defect communicated to him within the appropriate deadline specified by the tenant in the written notice, the tenant has the right to fix the defect, and demand compensation from the landlord.

With regard to the maintenance obligation of the landlord outside the scope of warranty, Hungarian tenancy law provides that the landlord needs to carry out his/her maintenance obligations:

- in the case of life threatening defects, defects endangering the condition of the building, and the defects practically impeding the proper use of the dwelling or of the neighbouring dwelling without delay,
- in the case of other defects at the time of the maintenance or renewal of the building.

In case the landlord does not correct the defects requiring immediate intervention, the tenant may do so and request the reimbursement of the costs in one sum from the landlord.

In case of other defects, if the landlord does not carry out his/her maintenance obligation despite the request from the tenant, at the time of the maintenance or renewal of the dwelling, the tenant may ask the court to oblige the landlord to correct the defect, or may carry out the works instead and on the expenses of the landlord.

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

As mentioned above, in line with the landlord's warranty obligation, he/she needs to do all repairs necessary to ensure that the dwelling corresponds to the contractual provisions, Furthermore, unless the parties agree otherwise, the landlord needs to ensure the maintenance of the building and its central devices, and the fitting of defects in the premises in common use and in their equipment; and – unless otherwise agreed by the parties - bear the costs of replacement and exchange of the floors and tiles, doors, windows and the equipment of the dwelling.

It follows from the previous answer that in lack of relevant provisions of the tenancy contract, the landlord is not bound to specific deadlines to fix a defect that only

means an inconvenience to the tenant (e.g. a dripping tap, even if it drives up the water utility charges). The formal or informal agreement of the parties is decisive on such issues.

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

Under Hungarian tenancy law, tenants may only make repairs at their own expenses in the circumstances mentioned above. In these cases, tenants are entitled to ask for the reimbursement of the justified costs from the landlord but may not unilaterally deduct repair costs from the rent.

In line with the principle of freedom of agreement, however, the parties may foresee more extensive rights of the tenant to make repairs at his/her own expense, and provide for the right of the tenant to deduct corresponding costs from the rent payment.

- Alterations of the dwelling
 - Is the tenant allowed to make other changes to the dwelling?
 - In particular, adaptations for disability (e.g. building an elevator, ensuring access for wheelchairs etc.)
 - Affixing antennas and dishes
 - Repainting and drilling the walls (to hang pictures etc.)

As mentioned above, with the exception of defects requiring immediate intervention, the tenant is in principle not entitled to make changes to the dwelling on its own initiative, without the agreement of the landlord, unless the tenancy contract provides otherwise. This applies to all types of permanent changes, including adaptations for disability, affixing antennas and repainting walls.

In the case of small-scale and reversible changes related to the use of the dwelling (e.g. drilling the walls), it is also advisable to reach a general agreement with the landlord at the start of the tenancy relationship.

- Uses of the dwelling
 - Are the following uses allowed or prohibited?
 - keeping domestic animals
 - producing smells
 - receiving guests over night
 - fixing pamphlets outside
 - small-scale commercial activity

Hungarian tenancy law merely provides that the tenant and the persons living together with the tenant must use the dwelling in a proper manner and in line with the tenancy contract.

In practice, keeping animals and using the dwelling for commercial purposes would only be possible upon agreement of the landlord. Receiving guests overnight would typically be comprised in the proper use of the dwelling. Fixing pamphlets does not seem problematic either, unless by virtue of their content, they disturb the neighbours

to an extent contrary to the requirements of cohabitation. Producing smells would create a problem if it goes beyond proper use and disturbs neighbours to a great extent. In case the tenant behaves in a way flagrantly contrary to the requirements of cohabitation, the landlord may terminate the tenancy relationship.

3.2. Landlord's rights

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

In private rental, there is no rent control in force. The parties are free to agree in the amount of rent which needs to be stated in the contract. Hungarian tenancy law foresees that if the parties cannot agree, they may ask the court to determine the amount of rent. This is however not typical at the beginning of a tenancy relationship: if the parties cannot agree on the rent, the contract would not be concluded.

In municipal rental, there is no rent control either, but the different categories of dwellings from the point of view of the level of rent (rental based on social grounds, cost based and market based rental) and the criteria for determining the amount of rent in each case are defined by tenancy law. The exact level of rent is defined in the pertaining municipal decree.

- Rent and the implementation of rent increases
 - When is a rent increase legal? In particular:
 - Are there restrictions on how many times the rent may be increased in a certain period?
 - Is there a possible cap or ceiling (fixed by statute or jurisprudence) which determines the maximum rent that may be charged lawfully?

In private rental, rent increases are not regulated either. Similarly to the rent, rent increases are subject to the free agreement of the parties. In practice, most tenancy contracts are short term, and the parties rarely agree in a gradual increase method.

In municipal rental, there are no general rules on rent increases. The relevant provisions are defined in the pertaining municipal decree.

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

Hungarian tenancy law does not regulate rent increases. It merely provides that if the parties cannot agree on the modification of the rent, they may request the court to determine the rent increase. In line with court practice, this possibility may only be used, however, if the general civil law conditions of contract amendment by the court are met.

In practice, if the rent increase is not provided in the tenancy agreement, the modification of the rent would depend on the negotiation of the parties. If the negotiations are unsuccessful, the likely outcome is the termination of the tenancy relationship. In the case the landlord intends to increase rent for time limited tenancy

agreements, he/she would typically make the renewal of the tenancy relationship subject to the increase. In the past years, however, rent levels remained generally stable due to the stagnation of the construction and the housing market.

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

The landlord has the right and the duty to control the proper use of the dwelling and the respect of the tenancy agreement and may for this purpose enter the premises. The regularity of such controls depends on the tenancy agreement: the legislation foresees at least one occasion per year, or several occasions according to the provisions of the contract (or, in the case of municipal dwellings, the municipal decree).

In this case, the tenant is obliged to ensure entry to the dwelling at an appropriate time and to tolerate the control. The same way, the landlord has right to entry in case the correction of a defect in the dwelling is necessary due to an extraordinary harmful event, or in case of danger.

In other cases, however, the landlord may only lawfully enter the premises with the tenant's permission. In case of non-respect of this obligation, the tenant may request non-litigious protection of his/her possession against the landlord.

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

This matter is not regulated in Hungary. Therefore, nothing prevents the landlord to keep a set of keys and keeping keys is the general practice of landlords. However, as mentioned above, outside the cases of control and emergency repairs, the landlord may only enter the dwelling with the tenant's consent.

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

No, this practice would be illegal. The tenant is entitled to the protection of his/her possession against everybody, even against the landlord. If the tenant seriously breaches the contract, e.g. does not pay the rent, the landlord needs to first call for payment and may then terminate the contract respecting the relevant deadlines. In case the tenant refuses to leave despite termination by the landlord, eviction may only be ordered by the courts once termination was confirmed by a final court decision. Eviction is then carried out by a judicial executor.

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

The landlord has a statutory lien over the property of the tenant in the dwelling in order to secure the payment of the rent and the costs. As long as such lien exists, the landlord may prohibit the transportation of such property from the dwelling. In line with the general rules on the enforcement of a lien, this means that if a tenant accumulates rent arrears towards the landlord or utility arrears towards the service

providers, the landlord may initiate the sale of the asset or propose to take the asset to compensate for the arrears.

4. Ending the tenancy

4.1. Termination by the tenant

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

In the case of open ended contracts, either of the parties may terminate the contract until the 15th day of the month, to take effect on the last day of the following month. In case the termination does not respect this deadline, the tenancy relationship shall be regarded terminated on the last day of the second month following the termination.

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

Hungarian tenancy law does not address the right of termination of the tenant in the case of time limited tenancy agreements. The parties may define the relevant conditions in the tenancy agreement and it is indeed common and recommended to do so.

Furthermore, in line with the rules on warranty, if the landlord does not make sure that the dwelling corresponds to the provisions of the contract and he defect is significant, the tenant is entitled to terminate the agreement. Difficulty with the neighbours would most probably not qualify for such a defect. The bad state of the dwelling, however, may lead to justified termination under the warranty rules.

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

Hungarian tenancy law does not provide for this option. Parties may however include such clause in the tenancy agreement. In lack thereof, the issue would be subject to the negotiation of the parties. This means that even if the tenant finds a suitable replacement tenant, in the absence of relevant contract provision, he/she may only leave earlier if the landlord agrees.

4.2. Termination by the landlord

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

As mentioned above, in the case of open ended contracts, any of the parties may terminate the tenancy contract until the 15th day of the month, to take effect on the last day of the following month. In case the termination does not respect this deadline, the tenancy relationship shall be regarded terminated on the last day of the

second month following the termination.

- Must the landlord resort to court?

No, in the case of open ended contracts, the landlord may terminate the contract with a simple notice. However, if the tenant refuses to leave the dwelling and the parties cannot agree, the landlord needs to resort to court to confirm the legality of termination and order the emptying of the dwelling by the tenant.

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

In Hungarian tenancy law, as a rule, eviction may only be ordered following court procedure (with the exception of time limited tenancies where the term has expired and directly enforceable undertakings by the tenant). In the course of the eviction procedure, there is no longer a possibility for the tenant to raise objections on the substance of the matter. Execution may however be suspended one time upon the request of the tenant, for a period up to 6 months. Furthermore, each year, there is a winter moratorium in place for the eviction of natural persons, usually in the period between 1 December and 1 March (in 2013, this period was extended from 9 November 2013 to 31 April 2014).

- Under what circumstances may the landlord terminate a tenancy before the end of the rental term?
 - Are there any defences available for the tenant in that case?

Hungarian tenancy law does not provide for a right of ordinary termination of the landlord in the case of time limited tenancy agreements. It is however common for landlords to include such rights in the tenancy contract. In this case, the conditions of the contractual provisions apply.

Furthermore, tenancy law provides for the possibility of the landlord to terminate the tenancy agreement for non-compliance. Accordingly, the landlord may terminate the tenancy relationship following prior request to the tenant, with a termination period of at least 15 days, taking effect on the last day of the month following termination, if the tenant or a person living with the tenant behaves in a way flagrantly contrary to the requirements of cohabitation with the landlord or the neighbours, or if they use the dwelling or the area for common use improperly or contrary to the content of the contract.

The termination by the landlord does not need to be preceded by a request to the tenant if the behaviour in question is so grave that the landlord cannot be expected to maintain the tenancy relationship. In this case, the termination needs to be communicated within 8 days of becoming aware of the behaviour.

The landlord may also terminate the tenancy agreement in the case of lack of rent payment. Also in this case, the landlord first needs to request the tenant in writing to pay, with a warning on the consequences. If the tenant does not comply with the request within eight days, the landlord may terminate the tenancy relationship within further eight days.

The legislation does not provide for defences of the tenant. However, if the tenant disputes the legality of termination, he/she may turn to court. As mentioned above, eviction may not be ordered without final court decision confirming the legality of termination.

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

If the tenant refuses to leave the dwelling after the expiry of the term of tenancy, the landlord may initiate a judicial execution procedure to evict the tenant. In this case, eviction may be ordered in a non-litigious procedure and is carried out by a judicial executor.

4.3. Return of the deposit

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

Hungarian tenancy law does not contain specific rules on the return of the deposit. In line with the general rules on deposit (a form of lien), the deposit needs to be returned when the secured claim and the legal relationship serving as a basis for the secured obligations (in this case, the tenancy relationship) ends. This typically happens simultaneously to the handover of the dwelling by the tenant.

- What deductions can the landlord make from the security deposit?
 - In the case of a furnished dwelling: may the landlord make a deduction for damages due to the ordinary use of furniture?

Hungarian tenancy law does not address the allowed uses of the security deposit. However, in line with the general legal provisions, the function of deposit is to ensure direct compensation in case the tenant fails to fulfil a contractual obligation (e.g. does not pay the rent or causes damages beyond ordinary use). Therefore, unless specifically provided by the contract, the deposit may not be used to compensate for the consequences of ordinary use.

4.4. Adjudicating a dispute

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

In Hungary, ordinary civil courts are responsible for the adjudication for tenancy disputes. There are no specialized courts for this type of cases.

- Is an accelerated form of procedure used for the adjudication of

tenancy cases?

Tenancy disputes are handled in accordance with normal procedures; no specific possibility for acceleration is foreseen in these cases. Unfortunately, this means that litigation may take several years despite legislative efforts to limit the possibilities to unduly prolong the procedures.

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

In Hungary, there is no compulsory or institutionalized alternative dispute resolution, but the parties may decide to resort to private mediation services. In fact, in the case of tenancy disputes, lawyers are in most cases advising their clients to try to find a common agreement.

5. Additional information

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

The conditions of becoming tenant in a public dwelling (most often owned by a municipality or a ministry) are regulated in the individual municipal or ministerial decree. While ministry or other central government organisation owned apartments are usually allocated to the employees of the organisation in question, municipal dwellings are let out according to a mix of social and economic conditions, in three categories: lease based on social situation, cost based and market based lease.

In principle, municipal dwellings are available to EU and EEA citizens; however, a vast majority of municipal decrees prescribes preference for persons who have been living in the municipality for a number of years; and a justifiable need for public sector tenancy is expected even in cost based or market rent municipal apartments. In the end, it is very unlikely for most foreign citizens to obtain a municipal tenancy. The most likely candidates could be immigrants who settle in one particular municipality, although they too would probably be crowded out by local low income households, due to the scarcity of municipal dwellings.

Housing allowance is tied to an income limit – in 2014, this is around HUF 71,250, or about EUR 230 per statistical unit. (Statistical units: in a one person household, the allowance would coincide with the EUR 230 limit, in a 2 adult household 230 has to be multiplied by 1,9; for 2 adults and a child, by 2,7 and so on; the law considers that in a larger household, members can allocate resources more reasonably). This allowance is regulated by the social law, and is targeted towards the lowest income households. A candidate for the allowance has to submit an application to the municipal notarial office, who will assess eligibility.

- Is any kind of insurance recommendable to a tenant?

As the ultimate interest in the state of the dwelling lies with the landlord, insurances against damages to the apartment may be recommended for them, rather than for

the tenants. However, responsibility for the safety of the tenant's possessions inside the dwelling remains with the tenant, so if he/she keeps any objects of value in the apartment, he/she might want to consider an insurance scheme for the movable possessions.

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

Legal aid services in non-litigious matters as well as in litigations are available to the socially disadvantaged. For example, among other situations, legal aid services are available for persons with a monthly income not exceeding the minimum amount of pension, i.e. 28.500 Forint (approximately 91.3 Euro).

- To which organizations, institutions etc. may a tenant turn to have his/her rights protected? [please indicate addresses, email addresses and phone numbers]

The following organisations provide general legal advice to fairly straightforward cases. In more complicated situations, they will suggest the tenant contact a lawyer. However, in the most widespread cases, they may be helpful.

1. General (governmental) legal aid service:
Jogi Segítségnyújtó Szolgálat <http://kih.gov.hu/ugyfelszolgalat3>
2. Equal Treatment Authority (Egyenlő Bánásmód Hatóság):
1024 Budapest, Margit krt. 85.
Tel.: (06-1)336-7843 | Fax: (06-1)336-7445
ebh@ebh.gov.hu
3. Hungarian Civil Liberties Union: Társaság a Szabadságjogokért (TASZ)
1084 Budapest, Víg u. 28.
Tel.: (06-1)209-0046 | Fax: (06-1)279-0755
jogsegely@tasz.hu