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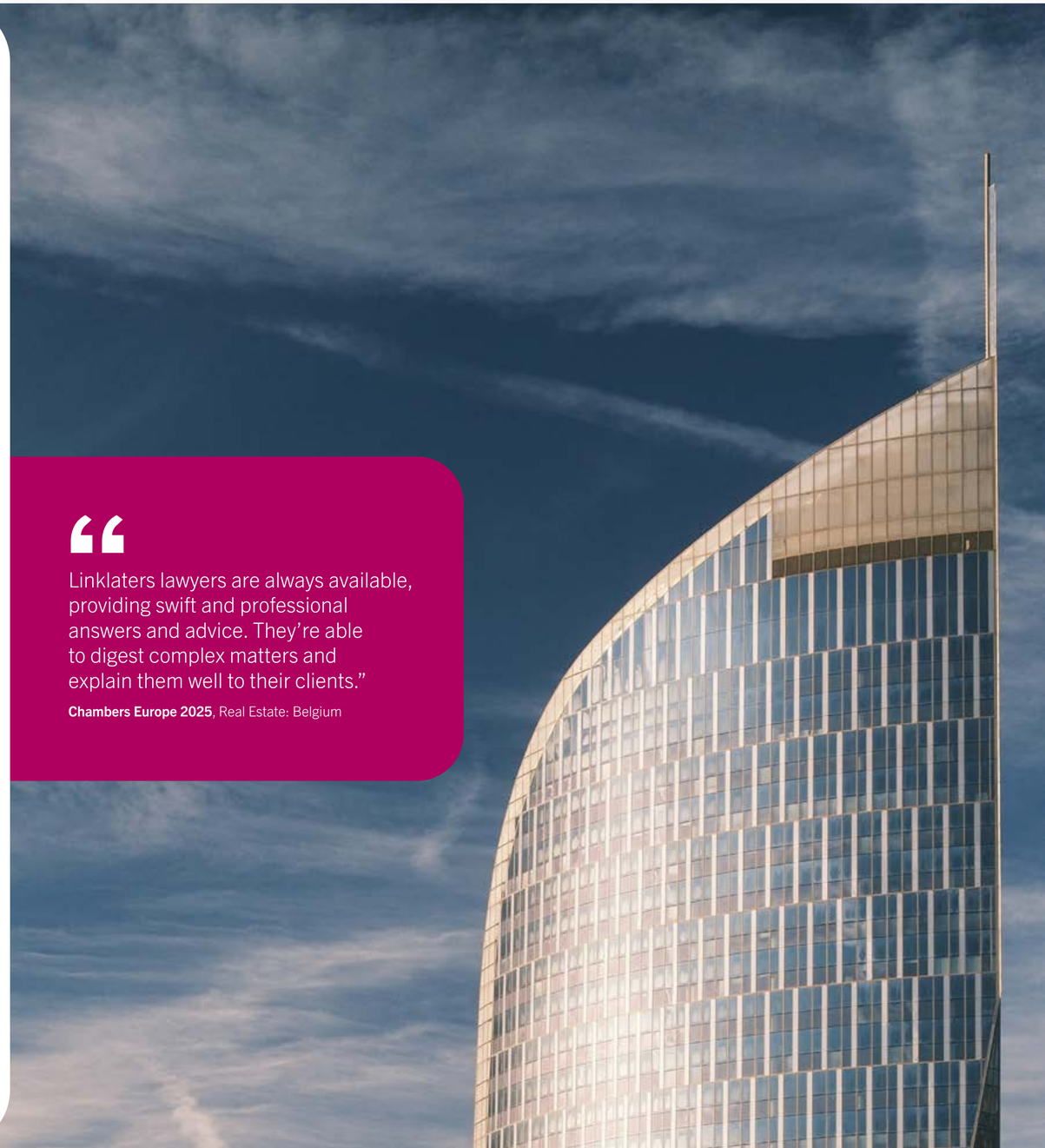
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Chambers Europe 2025, Real Estate: Belgium

Reform amending the law of 11 February 2013 organising the profession of real estate agent





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Individuals must often undertake specific tasks involving their own immovable assets or the assets of others, such as those belonging to companies, or associations. Selling, purchasing or leasing real estate are daily activities in the real estate market. However, when performed for third-parties, such activities fall under the law of 11 February 2013 organising the profession of real estate agent (the "Law").

On 11 December 2023, the federal parliament has adopted a new legislation amending the Law. This reform, published on22 January 2024, entered into force on 1st February 2024.Its main objective is to relax the criteria for legal entities to register as real estate agent ("**Agent**").

This article will provide a short summary of the key aspects of the Law and spotlight the amendments introduced by the reform.

What is a real estate agent?

The title of real estate agent is legally protected, in the same way as professions such as architect, lawyer, and doctor. Not everyone can pretend to be an Agent and some requirements must be met to obtain the licence and be registered on the list of Agents in Belgium.

The person must:

- hold a degree of a certain level [1];
- apply for registration with the IPI/BIV in the list of Agents;
- take a competence test organised by the Professional Institute for Real Estate Agents' ("**IPI/BIV**");
- follow a traineeship of 200 days or 1500 hours under the supervision of an Agent; and then
- pass a practical aptitude test within three years of registration with the IPI/BIV.s.

What are the activities covered?

The Law covers three types of activities which are restricted and can only be performed by Agents: brokerage, syndic, and management activities.

A. Brokerage activities

First, the Law covers brokerage activities, which are defined as providing a decisive assistance to third parties with a view to concluding a contract for the sale, purchase, exchange, rental or transfer of immovable property, real estate rights or goodwill. This covers activities such as the marketing or the negotiation of sale or renting of real estate assets.

B. Syndic activities

Secondly, syndic activities are defined as activities in connection with the administration and maintenance of the common parts of buildings or groups of buildings in forced co-ownership, in accordance with articles 3.78 et seq. of the Civil Code.

C. Management activities

Lastly, the Law covers management activities. These are defined as managing real estate assets or real estate rights (*rights in rem*) on behalf of third parties. This covers activities such as accounting management, administrative tasks, or technical property management.

Why register a legal entity as Agent?

Numerous legal entities may be required to engage in certain covered activities. Property companies (Propcos) are examples of such legal entities. At a certain point it may be useful to register a legal entity as an Agent in order to hire employees to perform covered activities without having to register them. A legal entity registered to the IPI/BIV is considered as a natural person registered.

The Law, back in 2013, allowed for the first time legal entities to register, although subject to strict conditions. This innovation was done to bring the conditions for practising the profession into line with European requirements.

[1] In substance, a higher education degree with at least a bachelor's degree (in no specific field) or evidence of formal qualifications from another Member State giving access in that country to the profession of real estate agent or enabling that activity to be conducted there.

Reform and impact

Since 1 February 2024, the requirements for legal entities to register in one of the IPI/BIV columns are as follows:

1. more than fifty per cent (50%+1) of all the members of the management body (such as the board of directors) who act in the name and on behalf of the legal entity are natural persons authorised to practise as Agents, and/or legal entities authorised to practise as Agents and whose permanent representative within the meaning of article 2:55 of the Belgian Code on Companies and Associations is herself/himself authorised to practise as an Agent;
2. in accordance with the Belgian Code on Companies and Associations, the corporate purpose as reflected in the articles of association must list the professional activities that fall within the scope of the profession of Agent and, where applicable, the other activities that may be conducted, which may not be incompatible with the profession of Agent; and
3. the legal entity does not hold shares in other legal entities whose corporate purpose and/or activities are incompatible with the profession of Agent.

Thanks to this reform, the condition that all the managers, directors, or members of the executive committee of the legal entity have to be qualified as Agents has been reduced to a lighter requirement. The reform also deleted the requirements pursuant to which (i) 60% of the shares (and corresponding voting rights) must be held by Agents and (ii) the shares in public limited liability companies and limited partnerships must be registered.

Other takeaways from the reform

In addition to easing the requirements to register legal entities as Agents, the reform introduced an alternative to the mandatory traineeship. Individuals can now fulfil this requirement by demonstrating that they spent six (6) of the past ten (10) years' acquiring relevant professional experience in a sector connected to real estate.

The Law now also contains a provision that forbids suspended or impeached persons from performing covered activities within a legal entity registered as an Agent.

Conclusions

This brief article serves as a useful opportunity to examine the legislation that governs Agents. There is however a breadth of additional topics, such as exceptions, related professions, the practice of real estate agents from other countries, and sanctions which could also significantly influence one's business operations and were not discussed herein.



Brussels Goes Green (Part II)

Minimum EPB score and renovation obligations





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On 27 April 2023, the Brussels Government adopted the Regional Air-Climate and Energy Plan, containing concrete actions with an indicative timetable to reduce greenhouse gas emissions, mitigate climate change and increase renewable energy in the upcoming decades.[1]

On 23 February 2024, the Brussels Parliament enacted part of said policy into law by approving a new ordinance amending the ordinance of 2 May 2013 containing the Brussels Air, Climate and Energy Management Code in order to implement the so-called Renolution-strategy, which is the Brussels building renovation strategy (the "Ordinance").

Key in this Ordinance are the new EPB requirements and the minimum EPB score to be obtained for residential units. The Ordinance gives owners and landlords of the most energy-inefficient homes a concrete deadline to carry out energy-saving works. If they refuse or neglect to do so, financial sanctions can be imposed.

What are the obligations?

General obligation

Every holder of a right *in rem* on an EPB-unit located in the Brussels Region must have a valid EPB certificate or have it drawn up by an EPB expert within five years after the entry into force of the Ordinance, irrespective of any transfer of ownership or conclusion of a lease.

A "holder of a right *in rem*" is defined as the person who holds one of the following rights: a right of (co-)ownership, usufruct, long-term lease or right to build.

Moreover, it should be taken into account that the validity of an EPB certificate expires after 10 years, making it an ongoing rather than a one-off obligation.

Specific renovation obligations for residential units

Pursuant to the Ordinance, residential EPB-units in the Brussels Region should have an EPB score of at least:

- **E** (< 276 kWh/m^2 per year), by 2033 at the latest; and
- **C** (< 151 kWh/m^2 per year), within 20 years from the entry into force of the relevant provision of the Ordinance.

The Brussels Government is still to decide the entry into force of the above obligations. Nevertheless, if your house or apartment has a score of F or G today, be warned and prepared to renovate in the near future.

Who is responsible for complying with the above minimum EPB scores and thus executing the renovation works if required?

Logically, the holders of a right *in rem* on the EPB-unit should comply with these obligations, but potentially also the co-owners' association if the EPB-unit is part of a co-ownership. This will be the case when the summary report to be prepared by the appointed EPB expert in a building that is subject to a co-ownership, has identified elements in the common parts that may affect the energy performance. Where the EPB requirements have not been met, the co-owners' association will be deemed to have failed to fulfil its obligation. It can only reverse this presumption by demonstrating that it has exercised due care and has not committed any fault. This new system thus includes the obligation for the co-owners' association to carry out renovation works with respect to the common parts of the building.

What are the exceptions?

Buildings protected under the heritage protection legislation will be allowed to follow a separate, more lenient regime, and thus should not need to meet the above deadlines.

The Ordinance also states that owners who did not meet the required EPB score by the required deadline might be able to invoke *force majeure* as defined in Article 5.226 of the Civil Code for their non-compliance with the legal standards.

[1] For a complete overview of these concrete actions with the indicative timetable, please read our article from October 2023.

Force majeure implies that an unforeseen and unavoidable event occurs that makes it impossible for someone to fulfil their obligations.

As an example of this, the Ordinance mentions a shortage of materials or labour in connection with an economic crisis.

What are the sanctions in case of non-compliance?

Owners of properties with an EPB score below E (as of 2033) or below C (20 years after the entry into force of said obligation in the Ordinance) face significant fines. Fines will be calculated based on the deviation from the maximum allowed amount of kWh/m^2/year (which for residential units will be 275 kWh/m^2/year as of 2033 and 150 kWh/m^2/year as of the second deadline). The calculation based on the factual deviation and the significant level of fines should deter owners from refusing to conduct the necessary energy-saving/renovation works for the sole reason that these works bring additional costs. Even more so because the fines will have to be paid in two segments. The second segment of the fine will only have to be paid if the owner fails to conduct the necessary works within two years as from the notification of the decision to impose an administrative fine. If the owner has executed (part of) the works on time, then the second segment of the fine will be (partially) waived.

Other interesting rules

Some of the other obligations and prohibitions provided in the Ordinance include:

> When the sum of the gross surface areas of EPB-units frequently visited by the public in the same building exceeds 500m^2, the EPB certificate(s) shall be posted in a noticeable space clearly visible to the public; and

> Boilers installed after 1 June 2025 must be powered exclusively by a renewable liquid fuel. As of 2030, this requirement will also be imposed in case of major renovations. As a consequence, the installation of fossil fuel-fired heating appliances will become prohibited.

What about the other regions?

In the Flemish Region, a set of rules regarding renovation obligations for non-residential, as well as for residential units has been in force since 1 January 2022 and 1 January 2023 respectively. For more detailed information, we refer to our article from March 2023.[2]

The Walloon Region does not yet have any renovation obligations in place, but the Walloon Government has announced its intention to target the energy consumption of buildings in "*La stratégie wallonne à long terme pour la renovation des bâtiments*", which aims to achieve a CO_2-neutral Wallonia by 2050 at the latest.

[2] For a complete overview of the renovation obligations in Flanders, please read our article from March 2023.



The future of leases

Analysing the impact of Book 7 of the Civil Code on common law leases

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On 16 April 2024, a bill (proposition de loi – wetsvoorstel) concerning the inclusion of Book 7 'Special Contracts' into the Civil Code (the **Book 7**) was submitted to the Chamber of Representatives.

As its name suggests, the provisions of Book 7 regulate the law on special contracts (such as sales, mandates and leases). Without fundamentally overhauling existing law, Book 7 is structured around four main guidelines: (i) a **simplification** of the law on special contracts, (ii) a **restructuring** of the provisions of the old Civil Code, (iii) **establishing coherence** among the various special contracts, and (iv) a **comparative perspective**, as Book 7 draws inspiration from the law of neighbouring countries and international texts.

The purpose of this contribution is to highlight the impact of Book 7 on common law leases (baux de droit commun – gemeenrechtelijke huurovereenkomsten) and the main changes compared to the old Civil Code.

Point of attention: the content of this article is a legislative foresight as the bill has not yet been approved by the Chamber of Representatives. Once adopted, Book 7 is supposed to enter into force one year after its publication in the Belgian State Gazette.

The government has also decided to end the federal interest deduction for properties other than the main residence.

Finally, the Federal Government Agreement also indicates the government's support for Regions to combat share deals involving real estate companies, which do not result in the collection of registration fees.

General principles of Book 7

It is first to be noted that the Book 7 provisions are supplementary, unless it appears from the provision itself or its scope that it cannot be deviated from. This means that parties may agree to deviate from the law to apply their own agreement.

On its transitory regime, like Book 5, Book 7 will apply to all legal acts and legal facts taking place after its entry into force except the ones connected with an obligation created before the entry into force of Book 7 (unless otherwise agreed by the parties).

Landlord's obligations (Chapter 2)

Chapter 2 on the landlord's obligations introduces two noteworthy evolutions.

Obligation to deliver a conform good

Amongst the various obligations of the landlord stated in Article 7.3.3 of Book 7, the obligation for the landlord to deliver a conform good is asserted, as previously stated in Article 1720 of the old Civil Code. Landlords are required to deliver a good that conforms to the agreed contract (original delivery) and must maintain it in a conform state (ongoing conformity) according to Article 7.3.4. Costs relating to the maintenance in a conform state are also to be borne by the landlord, as stipulated in Article 7.3.9. Book 7 finally specifies that, in case of a breach, an action to claim non-conformity will be limited to two years from the termination of the lease agreement.

The obligation to deliver a conform good should be taken into account in future lease agreements, at the original delivery, be it at the signing or later. However, it is to be expected that landlords, thanks to the supplementary nature of Book 7, will attempt to waive any recourse based on Article 7.3.6, §3. Indeed, this Article implies that the landlord is liable for any conformity defects, even those of which they could not have been aware.

In addition, landlords will probably negotiate to deviate from the obligation to maintain conformity throughout the lease period, aiming to reallocate such burden to their tenants. Any such deviations should then be explicit and leave no room for ambiguity.

Indemnity for tenant's modifications

One of the innovations in Book 7 is Article 7.3.10, which addresses the obligation of the landlord to indemnify the tenant should they have made modifications or transformations to the premises.

The authors of Book 7 have differentiated between situations where the tenant's modifications consist of works that can be removed and those that cannot.

On the one hand, if the works can be removed, the landlord may simply request their removal, in which case no indemnity will be owed.

However, if the landlord opts to retain them, an indemnity will be due to the tenant by virtue of the unjust enrichment of the landlord – a concept discussed in Articles 5.135 to 5.137 of the Civil Code. Such indemnity shall be equivalent to the added value to the property but cannot, under any circumstances, exceed the tenant's cost of these works.

On the other hand, if the works cannot be removed, a different criterion is applied to determine whether an indemnity is due to the tenant.

If the landlord did not authorise the modification, no indemnity will be owed.

But if the landlord authorised the modifications, an indemnity equal to the added value to the property, which again cannot exceed the tenant's costs, will be claimed by virtue of unjust enrichment.

It is expected that parties will provide an explicit waiver to this Article and agree in advance on the regime for modifications and transformations at the end of the lease.

Tenant's obligations (Chapter 3)

The impact of Book 7 on the tenant's obligations becomes clearer in the following changes proposed in Chapter 3 of the bill.

Inventory of fixtures

One of the most impactful changes is the new rules on the inventory of fixtures, which would become mandatory under Book 7. Pursuant to Article 7.3.27, the parties would become obliged to draw up an inventory of fixtures upon entering the premises. This should be done no later than one month after the *delivery* of the premises. In contrast, under the current regime, this should be done during the first month of the *occupancy* at the latest. Furthermore, it would become mandatory to draw up an inventory of fixtures at the end of the lease if either party would request this.

Obligation to furnish the premises

A second novelty relates to the obligation to furnish the premises. Article 7.3.28 explicitly provides that this obligation may be replaced by providing 'sufficient securities' for the fulfilment of this obligation. Examples of such 'securities' are provided in the parliamentary works, referring to "*huurwaarborg, zakelijke zekerheid of borgstelling*" /"*garantie locative, sûreté réelle ou caution*".

Maintenance and repair obligations of the tenant

The obligation for minor maintenance works to be made by the tenant has become explicit under Book 7 in Article 7.3.22. Said article offers a legal basis for the King to establish a list of minor maintenance duties, thereby creating more clarity on the precise scope of this obligation. Article 7.3.23 grants a similar power to the King in relation to the repair obligations of the tenant. However, it should be noted that this provision is supplementary and thus may be modified in a lease agreement.

Unilateral termination of the lease

With the introduction of Book 5 of the Civil Code and the possibility granted therein to unilaterally terminate an agreement by a written notice (Article 5.93) or by relying on a termination clause (Article 5.92), the question arose whether landlords could now rely on said Articles to terminate their common law lease agreements. Article 7.3.30 clearly quashes this possibility. According to Article 7.3.30, only the tenant is allowed to terminate a lease unilaterally based on the above Articles. Furthermore, Article 7.3.30 explicitly stipulates that it is a rule of mandatory law. Consequently, the parties cannot deviate from the enshrined rule in their lease agreement

Duration and termination of leases (Chapter 4) and subleasing, lease assignment and alienation of the premises (Chapter 5)

Overall, Chapters 4 and 5 retain the rules of the old Civil Code but add some clarity. For instance, Article 7.3.34 clarifies that a verbal lease is assumed to have an indefinite duration, a rule implicitly present in the old Civil Code.

This increase in clarity also comes from terminological changes. As an illustration, Article 7.3.35, which deals with tacit lease renewals, changes the terminology from "reconduction – wederverhuring" to "renouvellement – hernieuwing". This provision is aligned with the terminology used in Article 5.78 of the Civil Code (tacit renewals of contracts) and in commercial leases.

Within these two Chapters, the main changes from the old Civil Code are as follows.

Tacit renewal of a lease

The tacit lease renewals rule remains the same, in the sense that any tacit renewal will result in a new lease that lasts for the same duration as the original one (Article 7.3.35).

On another point, the rule according to which the tacit renewal established after a first fixed-term (written) lease amounted to a verbal lease is not maintained.

Nullity of a lease

Article 7.3.37, which is mandatory in favour of the tenant, provides that nullity by notification from the landlord to the tenant is not permitted. Book 7 remains, however, silent on the possibility of allowing or excluding nullity by a unilateral notice on the part of the tenant. We believe that such termination by the tenant would be possible.

Alienation of the leased property

A lease that has obtained "date certaine – vaste datum" before the alienation of the property by the landlord has itself obtained "date certaine – vaste datum" is automatically transferred to the buyer. This rule was present in the old Civil Code and is maintained in Book 7. In such circumstances, and only if it is provided in the lease agreement, the buyer of the premises may terminate the lease if he/she (i) gives the tenant three months' notice and (ii) pays compensation equivalent to three months' rent (Article 7.3.39).

This rule is mandatory in favour of the tenant, and it is therefore not possible to contractually deviate from it, unlike the provisions of the old Civil Code.

Brussels Goes Green (Part III)

Green energy certificates, greenhouse gas emissions rights and energy-saving measures





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On 13 November 2024, the Brussels Government adopted a draft ordinance amending various provisions regarding energy, climate and waste, which aims to implement Directive (EU) 2023/959.

This draft ordinance aims to shape the future of energy and environmental policy in the Brussels Region. In that regard, it seeks to bring the EU's greenhouse gas emissions trading system up to date. In addition, it intends to boost the market for green energy certificates, ensuring a more efficient and sustainable energy future. Moreover, it plans to solidify energy-saving measures introduced during the December 2022 energy crisis to help companies lower their gas and electricity usage.

Greenhouse gas emissions trading system

New definitions shall be inserted in article 3.1.1 of the Brussels Air, Climate and Energy Control Code. Noteworthy is the new definition of a "regulated entity" (*"entité réglementée"/ "gereglementeerde entiteit"*). This term refers to every legal entity, except for the end user of the fuels, that is subject to taxes on fuels released and used for burning in sectors falling under ETS 2. The ETS 2 sectors encompass the building and road transport sectors.

As from 1 January 2025, every such "regulated entity" with its registered seat located in the territory of the Brussels Region should hold a greenhouse gas emissions permit issued by Brussels Environment. This permit will cover all emissions related to the release of fuel for consumption by this entity, in the sectors covered by ETS 2, regardless of where these emissions occur.

Additionally, each year, every regulated entity shall report its previous year's released emissions to Brussels Environment. These emission reports must be reviewed by an external body. Failure to submit a satisfactorily reviewed report shall result in a prohibition on transferring emission allowances until the situation is regularised.

Moreover, at the latest from 1 January 2028, regulated entities shall annually surrender ETS 2 emission allowances. The amount of allowances shall equal the carbon dioxide emissions from the fuel they released for consumption in the previous calendar year, within the sectors covered by ETS 2. The surrendered emission allowances will then be cancelled. In the case of non-compliance with this obligation to surrender emission allowances, administrative fines may be imposed on the regulated entities.

Green energy certificates

A new Chapter 7 "Energy efficiency measures" shall be inserted in Book 1 of the Brussels Air, Climate and Energy Control Code to solidify certain energy-saving measures, which were originally set out in the Government Decision of 15 December 2022 as temporary measures to reduce the demand for gas and electricity. It concerns the following measures:

- to regulate the hours during which illuminated signs may be lit;
- to extend the previous measure to the interior lighting of shops and offices;
- to ensure the doors of shops with heating or air-conditioning systems are closed;
- to prohibit all burner-type heating and air-conditioning devices in open spaces; and
- to limit the lighting hours of all advertisements between 11 p.m. and 6 a.m., with the exception of information signs.

What are the exceptions?

Buildings protected under the heritage protection legislation will be allowed to follow a separate, more lenient regime, and thus should not need to meet the above deadlines.

The Ordinance also states that owners who did not meet the required EPB score by the required deadline might be able to invoke *force majeure* as defined in Article 5.226 of the Civil Code for their non-compliance with the legal standards.

Conclusion

The draft ordinance of the Brussels Government proposes to align local policies with EU directives, strengthening the greenhouse gas emissions trading system and promoting green energy. Furthermore, it aims to make energy-saving measures from the 2022 crisis permanent, positioning Brussels for a sustainable future and encouraging responsible consumption

Federal Government Agreement 2025–2029

Key measures impacting the real estate sector



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A new federal government means new measures for the real estate sector

Following nearly eight months of negotiations post the 9 June 2024 elections, the newly appointed Prime Minister Bart De Wever announced the formation of a new Belgian federal government on 31 January 2025, with the official start on 3 February 2025.

The federal government agreement 2025-2029 ("the **Federal Government Agreement**") mentions several reforms relevant to the real estate sector. Some of these measures were previously highlighted in the different versions of the "super note" issued by Bart De Wever.

Below is a concise overview of the primary announced amendments impacting real estate, covering aspects of tax law, public and environmental law, as well as civil law.

Tax law amendments

Regarding **Value Added Tax** ("**VAT**"), we note the following three points:

- **Heating:** the VAT rate for the delivery and installation of heat pumps will be reduced from 21% to 6% for the next five years. The VAT on fossil fuel boilers will rise from 6% to 21% for renovations of homes over 10 years old;
- **Demolition and reconstruction:** in the construction sector, the VAT reduction to 6% for demolition and reconstruction will extend to deliveries. For deliveries, the size criterion is tightened from 200m^2 to 175m^2;
- **Renovation and sustainability:** the government also announced that it will draft a clear definition of what constitutes renovation and is exploring how to eventually introduce a sustainability condition in upcoming European legislation without increasing administrative burdens.

The Federal Government Agreement outlines indefinite transferability of the investment deduction. The green investment deduction will be streamlined and made more accessible, especially for investments in energy transition. Harmonised enhanced investment deduction rates for energy, mobility, and environmental projects will be set at 40%.

The government has also decided to end the federal interest deduction for properties other than the main residence.

Finally, the Federal Government Agreement also indicates the government's support for Regions to combat share deals involving real estate companies, which do not result in the collection of registration fees.

Measures related to public and environmental matters

Regarding public and environmental related topics, the Federal Government Agreement outlines several objectives related to – namely – PFAS contamination, energy performance of buildings, sustainability, and measures related to the *Régie des Bâtiments – Regie der Gebouwen*.

- **PFAS contamination.** The government is committed to phasing out the use of PFAS chemicals across Europe. This effort involves collaboration with regional authorities towards a unified European regulatory framework. In addition, the government will support regional efforts in decontaminating historically contaminated sites and plans to implement a sector-funded PFAS compensation fund (where such fund would provide compensation for damages and victims of PFAS contamination).
- **Energy efficiency of buildings.** The government highlights the simplification of the decision-making processes for co-ownership associations in shared apartment buildings, allowing for a simple majority quorum when deciding on energy interventions, such as the installation of solar panels and charging stations. Other measures are also being considered, including the encouragement to develop multi-year investment plans and enhance financing possibilities for energy-efficient renovations.
- **Sustainability.** The government prioritises circular economy and sustainable development, in collaboration with the regional authorities. This focus is expected to also cover sectors such as construction, particularly in areas involving raw materials and waste management.
- **Public buildings.** The key objective for the government is rendering the entirety of the buildings managed by the *Régie des Bâtiments – Regie der Gebouwen* climate-neutral by 2050, with energy audits serving as a guiding tool. Collaboration with the private sector through DBFM projects or alternatives will also be pursued where necessary. The Federal Government Agreement also outlines other objectives related to the *Régie des Bâtiments – Regie der Gebouwen*, including establishing an annual reporting procedure to track efficiency progress, the sale or changing the use of unused buildings, establishing an inventory listing owned, possessed, managed, and/or used buildings etc.

Changes concerning the Breyne legislation and property sales

Anticipated amendments to the Breyne legislation (regulating the construction of housing in Belgium) aim to address existing gaps, enforce stricter oversight by the Economic Inspection, and optimise professional bans to proactively protect consumers from dishonest commercial practices.

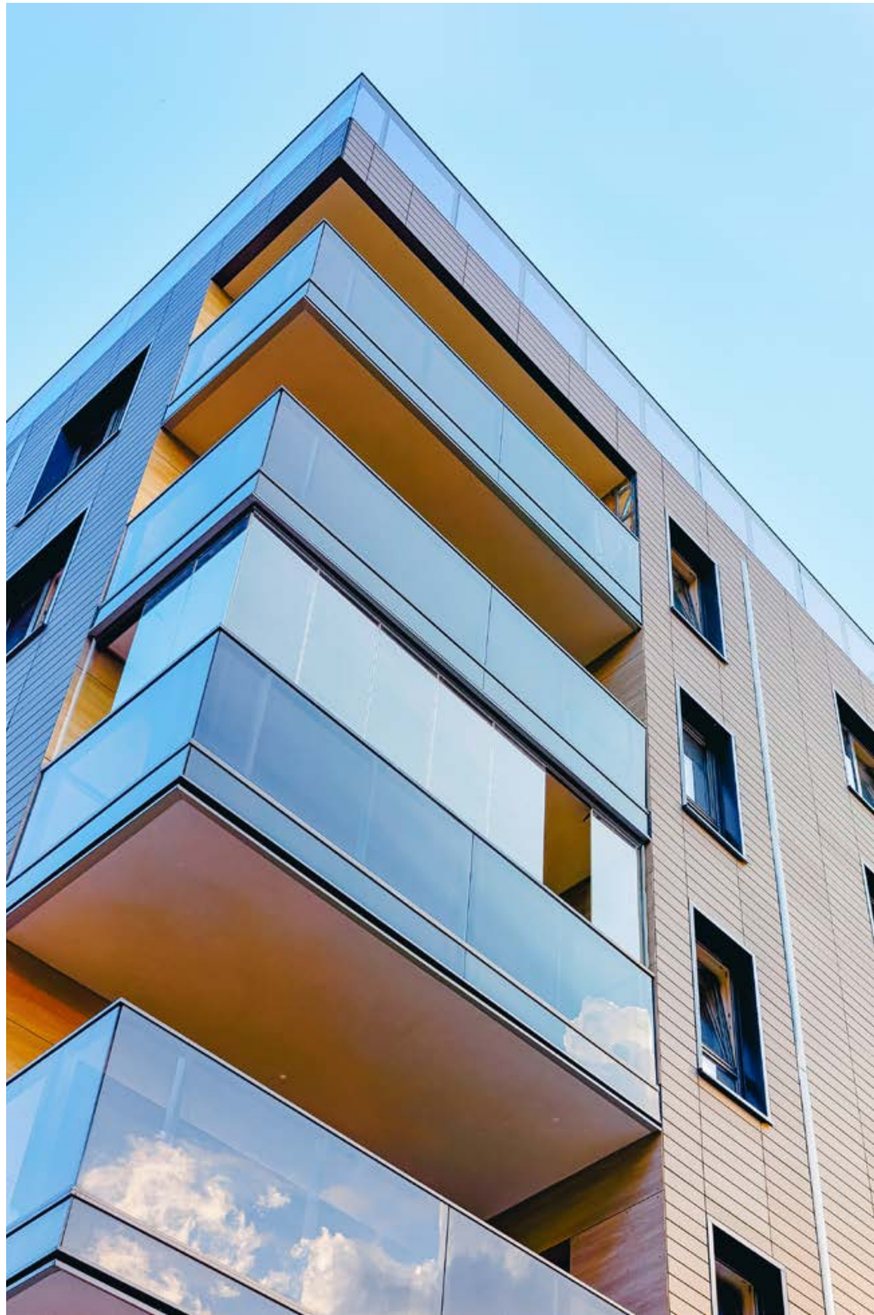
As outlined in the August super note, mortgage takers will receive better protection: the law will now provide that the sales contract will automatically include a condition precedent until necessary financing is secured. Without this condition, the contract will not be valid.

The energy performance of a building will also have an increased impact on mortgages: besides integrating energy performance criteria into banks' risk management, the Federal Government Agreement recommends granting mortgage lenders access to the Energy Performance Certificate ("**EPC**") database. In coordination with the National Bank of Belgium, the government will explore measures to relax mortgage conditions for properties boasting high energy performance.

Withdrawals from the Individual Pension Commitment ("**EIP**") to fund real estate investments will no longer be allowed, except for one's own and sole residence.

Conclusion

Announcing changes in tax legislation, public and environmental matters, as well as measures that will enhance, among other things, consumer protections in the construction or sale of a property, the Federal Government Agreement presents several reforms that will shape Belgium's real estate landscape in the coming years.



Step back in the sustainability-push for forced co-ownership

April 2025

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In September 2023, Members of the Chamber of Representatives proposed a draft law that aimed at addressing **the issue of sustainability** in Belgium's building stock. Approximately 25% of residents in Belgium live in apartments, many of which are part of buildings built over 35 years ago. So far, only 4% of apartments (and 1% of houses) have been given an EPC A-label.

The **forced co-ownership regime** is often seen as an additional obstacle to coming to agreements on what should be done, how and when and starting necessary work.

The initial draft law suggested **several ambitious solutions** to ease the complexity of the decision-making process within the general meeting of co-owners and to ensure that the co-ownership associations take steps **towards improving durability**, such as the establishment of a multi-year maintenance plan or modifying rules for reserve funds.

18 months later, in an amended draft law dated 3 April 2025*, the legislator **revisited the issues**, significantly **narrowing the scope of the measures and solutions** intended to enhance sustainability.

In our blog, we are assessing the current Draft Law in the light of the initial draft law.

* Proposition de loi modifiant le Code civil en ce qui concerne la copropriété forcée d'immeubles ou de groupes d'immeubles afin d'éliminer les obstacles à l'amélioration de la durabilité des appartements – Wetsvoorstel tot wijziging van het Burgerlijk Wetboek met betrekking tot de gedwongen mede-eigendom van gebouwen of groepen van gebouwen, teneinde drempels voor de verduurzaming van appartementen weg te nemen ("**Draft Law**"?)

What are the obstacles to sustainability measures in forced co-ownership?

The legislator recognises the challenges posed by the decision-making process within the general assembly, especially when combined with the financial constraints faced by certain co-owners, which can hinder the implementation of energy efficiency improvements like solar panels or heat pumps.

To address these issues comprehensively, the legislator engaged in consultations with the sector to gain insights into the role of the trustee (syndic/syndicus), the decision-making dynamics, and strategies for optimising the use of the reserve fund before crafting tangible proposals.

What were the ambitious measures envisaged in the September 2023 Draft Law?

The initial Draft Law sought to simplify the decision-making process with the goal of improving sustainability for apartment buildings by:

- modifying rules for **reserve funds** to cover adequately energy efficiency works;
- requiring them to establish a **multi-year maintenance plan** composed of a statement of the building's energy and architectural condition, a description of all the maintenance work, as well as all the work required to obtain the highest-scoring EPC label, a 10-year plan containing all the foreseen investments and the financing models envisaged by the co-ownership association for certain scheduled works, whether for maintenance, energy or both;
- granting co-ownership associations the **right to enter into loans**; and
- updating rules on **decision-making processes**.

What measures remain in the amended Draft Law?

The legislator emphasises the need for a broader and better coordinated approach before new concepts such as the multi-year maintenance plan are introduced into the rules on forced co-ownership.

Taking **a more realistic and progressive approach**, the legislator focuses on **three measures at this stage**:

- the **inclusion of energy efficiency works in the list of items that can be paid for out of reserve funds** as a non-periodical expense;
- the **limitation of the option not to create a reserve funds** ("opt-out") to small forced co-ownership (composed of less than three blocks); and
- the **provision of additional information** – in the context of a sale of a block within a co-ownership – **on outstanding loans taken out by the co-ownership association** and their outstanding amount, as well as **certificates relating to the common parts of the buildings** (such as asbestos-free certificates and EPC certificates) which aims to formalise an existing practice.

Recent political notes

Key developments impacting the Real Estate sector in Belgium

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The Federal Parliament has recently unveiled a series of general political notes, outlining the government's legislative priorities for the upcoming term.

These notes, covering topics such as budget, justice and climate reforms, build on measures previously discussed in the 2025-2029 federal government agreement (for more information regarding these measures, please see our analysis: Federal Government Agreement 2025-2029: key measures impacting the real estate sector).

This article examines key elements from seven of these political notes – namely Budget, Justice, Consumers' Protection, Climate, Economy and State Property Management – and their potential implications for the real estate sector.

Budget Political Note and Finance Political Note: Leveraging EU priorities and abolition of federal housing tax benefits

The Budget and Finance Political Notes address several topics reflecting the government's intention to streamline and simplify property taxation, making it fairer, while also addressing Belgium's substantial budget deficit.

First, the Finance Political Note introduces significant reforms to property-related tax regimes. It proposes the abolition of both the deduction for ordinary interest and the federal reduction for additional interest on non-primary residences. The federal housing bonus is also set to be eliminated.

On the topic of VAT, the Finance Political Note confirms the extension of the reduced VAT rate of 6% for demolition and reconstruction projects to cover property deliveries. This measure, already enacted, is expected to enter into force on 1 July 2025. However, the reduced VAT rate will only apply where the total living area of the new home does not exceed 175 m^2.

The Budget Political Note highlights the Belgian government's commitment to aligning its policies with the EU's Multiannual Financial Framework (MFF). This alignment aims to leverage EU-supported reforms while advancing Belgium's green and digital transitions. For the real estate sector, this could translate into enhanced access to funding and regulatory support for initiatives such as energy-efficient building projects or the integration of digital tools for property management. The note also emphasises fostering cross-border infrastructure investments, particularly in areas such as energy facilities, which could create opportunities for large-scale property development and renovation projects.

Justice Political Note and Consumers' Protection Political Note: Strengthening legal protection and judicial efficiency

The Justice Political Note and the Consumers' Protection Political Note outline key reforms aimed at enhancing legal protection of consumers and improving the efficiency of the Belgian judicial system, with a particular focus on modernising laws and streamlining dispute resolution processes.

One of the most notable proposed reforms with regard to real estate is the modernisation of the Breyne Law. The reform aims to reduce unfair practices in construction and major renovation projects by addressing gaps in consumer protection and empowering the Economic Inspection to enforce stricter oversight. A working group will be established during the first year of the legislature to consult stakeholders, including the sector and consumer organisations. Developers and contractors may face stricter compliance requirements as a result.

Furthermore, a new legal requirement will ensure that sales agreements involving a mortgage loan automatically include a condition precedent clause. This clause will make the agreement conditional upon obtaining the necessary financing (e.g., mortgage loan). Without this clause, the agreement shall be deemed invalid.

Moreover, the parliamentary works of Books 7, 9 and 10 of the Civil Code will proceed, with a view to reforming the areas of specific contracts, security interests and limitation periods (for more insights regarding the reform of Book 7, please see Book 7 and its Impact on Leases).

Climate Political Note, Economy Political Note and State Property Management Political Note: Promoting a greener future

The Climate, Environmental Transition and Sustainable Development Political Note and the State Property Management Note propose ambitious measures aimed at accelerating Belgium's move toward sustainability, with direct implications for real estate.

Transitioning to a circular economy remains a central objective, supported by new rules promoting the use of sustainable construction materials. The voluntary Belgian (federal) Environmental Product Declaration (EPD) label will gradually become mandatory. Parallelly, lenders will receive access to an EPC database, enabling them to include the building's performance in their risk assessment.

The Economic Political Note also announces a Federal Action Plan for Circular Economy which would encourage sustainable materials use and impose waste reduction in construction and other sectors. These initiatives are likely to influence the selection of materials across the construction and renovation industries. The Consumers' Protection Political Note, on its side, states the government's intention to address misleading claims about the environmental performance of real estate offerings, ensuring accuracy in sustainability market and fighting greenwashing the sector.

Moreover, the Government has also highlighted significant tax reforms aimed at promoting sustainable property and, in particular, encouraging the wider use of electricity as an energy source. A reduced VAT rate of 6% on heat pumps, combined with an increased VAT rate of 21% on fossil fuel-based heating systems (i.e., central heating systems and coal), shall represent a clear incentive for both residential and commercial buildings to transition to greener alternatives. Excise duties will also be reallocated from fossil fuels to electricity while the reimbursement of excise duties on professional diesel will be reduced. Additionally, the government intends to phase out fossil fuel subsidies progressively.

On top of that, all federal government-owned buildings are expected to set an example through significant investments in improving their energy efficiency. Similar measures have already been implemented at a regional level (for more information regarding these measures in Brussels, please see Brussels goes green (part III)).

In that regard, the federal Government also plans to reduce federally leased office space by 15% by 2029. This initiative aims to optimise space usage, lower rental costs, and relocate federal public services to the existing State portfolio. The State Property Management Political Note also mentions the creation of an unique registry (cadastre/kadaster) containing data on the occupancy, energy performance and technical condition of state-owned buildings.

Other measures, such as installing solar panels, sustainable water use (filtration, treatment and recovery), conducting energy audits and implementing relighting projects, aim to achieve carbon neutrality by 2050 through energy-efficient initiatives. More specifically, the Government also plans to invest in 14 relighting projects, 194 charging stations and up to 16 solar projects in 2025 alone.

Finally, it is to be noted that the Economy Political Note suggests the introduction of a digital lift file containing information on the safety of lifts used (on a voluntary basis from September 2025 followed by an evaluation of this measure in 2026).

Conclusion

These recent political notes indicate the direction in reshaping Belgium's legal and economic frameworks by prioritising sustainability, consumer's protection and environmental transition. These developments are likely to impact the real estate sector in the near future, making it essential for stakeholders to prepare and adapt accordingly.

The Linklaters Real Estate team is here to help you navigate these changes with the expertise and insight needed to support your real estate goals. Stay updated on these and other developments by visiting our webpage, where you will find regular insights into the evolving legal landscape of Belgium's real estate sector.



Procedural pitfalls in real estate litigation

key lessons from the Justice of the Peace

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Two decisions from the Justice of the Peace – one from Woluwe-Saint-Pierre, the other from Thuin – recently published in the Journal des Juges de paix/Tijdschrift van de Vrederechters, provide important guidance on procedural requirements in real estate-related disputes. The first case addresses eviction proceedings under a residential lease in Brussels, while the second concerns anti-squat eviction measures. In both instances, procedural shortcomings led to the inadmissibility of the actions.

J.P. Woluwe-Saint-Pierre, 28 November 2023, J.J.P., 2025/5-6, 368

A landlord brought proceedings before the Justice of the Peace in Woluwe-Saint-Pierre, seeking the recovery of rent arrears, termination of a residential lease, and eviction of his/her tenant. The central question was whether the landlord's failure to serve a prior formal notice (*mise en demeure/ingebrekestelling*), as required by the Brussels Housing Code (*Code Bruxellois du Logement/Brusselse Huisvestingscode*), would render the claim inadmissible, even when the tenant did not appear in court.

The judge confirmed that under articles 233quater and 233quinquies of the Brussels Housing Code, landlords are required to provide formal notice and to attach proof of this notice to the court summons when seeking the eviction of a tenant, failing which the claim is void. This obligation upholds the fundamental right to housing, which is considered a matter of public order. Judges are therefore required to verify compliance with this safeguard on their own motion. In this case, the absence of formal notice led the judge to declare the landlord's claim void and inadmissible.

The key takeaway for landlords in Brussels is clear: failure to attach proof of prior formal notice when pursuing eviction within a residential lease context will result in the claim being declared inadmissible, regardless of whether the tenant attends the hearing or does not appear.

J.P. Thuin, 13 May 2024, J.J.P., 2025/5-6, 365

A municipality sought to evict individuals occupying its property without title under Article 1344octies of the Belgian Judicial Code, filing a unilateral petition. The municipality argued that it could not identify any of the occupants. The Justice of the Peace was asked to determine whether this procedural route was valid in circumstances where some occupants might in fact be identifiable.

The Justice of the Peace of Thuin clarified that a unilateral petition for eviction is admissible only where it is absolutely impossible to identify any of the individuals concerned by the eviction. If some occupants are known or can be identified, the claimant must initiate adversarial proceedings, at least with respect to those persons. Absolute necessity is assessed strictly. In this case, the municipality provided a report from the mayor on the steps taken to identify the persons occupying the premises, which proved unsuccessful, but evidence demonstrated that some occupants could indeed be identified. As a result, the Justice of the Peace declared the unilateral petition inadmissible.

This decision confirms that a unilateral petition for eviction of squatters is only permitted when not a single occupant can be identified, despite reasonable efforts. Where any individuals are identified or can be identified, adversarial proceedings must be brought against them; otherwise, the claim will be inadmissible.

Conclusion

Whether pursuing eviction of a tenant under a residential lease in Brussels or recovering possession from squatters, strict compliance with procedural safeguards – such as serving valid formal notice or choosing the right type of petition – is non-negotiable. Failure to observe these formalities will render the claim inadmissible.

These decisions underscore the importance of scrupulous compliance with procedural requirements from the outset of judicial proceedings in order to prevent unnecessary setbacks in court.

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